5 December 2017

between

GVC HOLDINGS PLC
as the Company and as
Obligors’ Agent for each of the other Obligors

DEUTSCHE BANK AG, LONDON BRANCH
and
NOMURA INTERNATIONAL PLC
as Increasing Incremental Facility Lenders

WILMINGTON TRUST (LONDON) LIMITED
as Agent and Security Agent

____________________________________

AMENDMENT AND RESTATEMENT AGREEMENT

related to a
senior term and revolving facilities agreement
dated 2 March 2017 and an intercreditor agreement dated
2 March 2017

____________________________________

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THIS AMENDMENT AND RESTATEMENT DEED (this “Agreement”) is dated on the date stated on the front of this Agreement and made between:

(1) **GVC HOLDINGS PLC**, a company incorporated under the laws of the Isle of Man, with its registered office at 32 Athol Street, Douglas, Isle of Man IMI 1JB and company number 004685V (the “Company”) (for itself and as agent for each of the other Obligors party to the Existing Facilities Agreement (as defined below));

(2) **DEUTSCHE BANK AG, LONDON BRANCH** and **NOMURA INTERNATIONAL PLC** as Increasing Incremental Facility Lenders (as defined below); and

(3) **WILMINGTON TRUST (LONDON) LIMITED** in its capacity as agent for the Lenders under the Existing Facilities Agreement (the “Agent”) and as security agent for the Secured Parties under the Existing Facilities Agreement (the “Security Agent”).

**RECITALS:**

(A) The Company, the Agent and the Security Agent (among others) entered into a senior term and revolving facilities agreement dated 2 March 2017 (the “Existing Facilities Agreement”).

(B) The Company, the Agent and the Security Agent (among others) entered into an intercreditor agreement dated 2 March 2017 (the “Existing Intercreditor Agreement”).

(C) Further to an Incremental Facility Notice dated on or about the date of this Agreement (the “Relevant Incremental Facility Notice”) in substantially the form attached as Schedule 4, the Consent Request and this Agreement, the Incremental Facility Lenders in relation thereto (the “Relevant Incremental Facility Lenders”) have agreed to provide an Incremental Facility (the “Relevant Incremental Facility”) on the terms set out in the Relevant Incremental Facility Notice.

(D) The parties to this Agreement and, where applicable, the relevant persons consenting to the Consent Request, have agreed that, to an extent a Relevant Incremental Facility Lender’s Incremental Facility Commitment is drawn to repay principal amounts outstanding to it under Facility B or the Revolving Facility, that Relevant Incremental Facility Lender’s obligation to fund under the Relevant Incremental Facility and its corresponding right to repayment of principal under the Existing Facilities Agreement shall be settled on a cashless basis (and the Relevant Incremental Facility Lenders providing an increase in their respective Relevant Incremental Facility Commitments over their Commitments on the date hereof are referred to herein as the “Increasing Incremental Facility Lenders”). For the avoidance of doubt, the Company shall pay (or procure payment of) all accrued but unpaid interest and any applicable Break Costs on any outstanding Loans not settled on such cashless basis (and the payment of accrued but unpaid interest on other outstanding Loans is provided for in Clause 2.2(g) below).

(E) Pursuant to the Consent Request referred to below, the Majority Lenders have consented to the amendments contemplated hereby that require Majority Lender consent.

(F) Pursuant to the Consent Request and the terms hereof, as from the Amendment and Restatement Effective Date all of the Lenders have consented to the amendment and restatements contemplated by this Agreement.

(G) The Agent accordingly is authorised to enter into this Agreement pursuant to clause 40.2(b) (Required Consents) of the Existing Facilities Agreement.
The Security Agent is authorised to enter into this Agreement pursuant to clause 21.3(a) (Effectiveness) of the Existing Intercreditor Agreement.

The Company is authorised to enter into this Agreement as agent for each of the other Obligors pursuant to clause 2.5 (Obligors' Agent) and clause 40.2(c) (Required Consents) of the Existing Facilities Agreement.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Agreement:

“Consent Request” means the letter dated 27 November 2017 from the Company to the Agent and the Security Agent in relation to the transactions contemplated by this Agreement.

“Effective Date” means the first Business Day that is or follows the day upon which the Agent notifies the Company in writing that it has received (or waived receipt of) the documents and evidence set out in Schedule 1 (Conditions Precedent to the Effective Date) to this Agreement, each satisfactory in form and substance to the Agent (acting on the instructions of the Global Coordinators (as defined in the Consent Request), acting reasonably).

“English Security Documents” means:

(a) a supplemental charge over the shares of Sportingbet Holdings Limited to be made between Sportingbet Limited and the Security Agent; and

(b) a supplemental charge over the shares of Sportingbet Limited to be made between the Company and the Security Agent.

“Facility B Lender” means each Lender under Facility B.

“Revolving Facility Lender” means each Lender under the Revolving Facility.

1.2 Construction

(a) Unless otherwise defined in this Agreement, terms defined in the Existing Facilities Agreement shall have the same meaning when used in this Agreement (including in the recitals to this Agreement).

(b) Clauses 1.2 (Construction) and clause 1.3 (Third Party Rights) of the Existing Facilities Agreement will be deemed to be set out in full in this Agreement, but as if references in such clauses to “this Agreement” were references to this Agreement.

1.5 Finance Document

The Agent and the Company hereby designate this Agreement as a “Finance Document” for purposes of the Existing Facilities Agreement (including the Existing Facilities Agreement as amended and/or amended and restated by this Agreement).

1.3 Deed

The parties to this Agreement intend that this Agreement shall take effect as a deed, notwithstanding that a party to it may only execute it under hand.
2. **AMENDMENT OF THE EXISTING FACILITIES AGREEMENT AND EXISTING INTERCREDITOR AGREEMENT**

With effect from (and including) the Effective Date, the Existing Facilities Agreement is amended as stated in clause 2.1 below and the Relevant Incremental Facility is established as stated in clause 2.2 below.

2.1 **Step 1 – certain amendments**

In relation to Facility B and the Revolving Facility, the Existing Facilities Agreement is amended to:

(a) permit under clauses 9.2 (*Voluntary Prepayment of Loans*) and 9.3 (*Voluntary Cancellation*) of the Existing Facilities Agreement prepayment and cancellation (in whole or in part) of Facility B and the Revolving Facility, in each case on one Business Days’ notice (including, if required, during an Interest Period) and to permit the notice of such prepayment and cancellation to be contained in the Utilisation Request to be delivered in respect of Facility B (as defined below) and therefore conditioned on receipt of the proceeds of Facility B;

(b) permit prepayments of Facility B and/or the Revolving Facility in amounts of less than €1,000,000;

(c) permit the Relevant Incremental Facility to be used to prepay and/or replace the Revolving Facility, in addition to the other purposes set out in paragraph (e) of Clause 7.5 (*Restrictions on Incremental Facility Terms and fees*) of the Existing Facilities Agreement;

(d) eliminate the requirement:

(i) to deliver an “Incremental Facility Lender Certificate” under paragraph (a)(iii) or to accede to the Intercreditor Agreement under paragraph (a)(ii) of Clause 7.6 (*Conditions to establishment*) for any Relevant Incremental Facility Lender that is an existing Lender under the Existing Facilities Agreement;

(ii) for any Relevant Incremental Facility Lender that is not an Increasing Incremental Facility Lender to sign the Relevant Incremental Facility Notice; and

(iii) to give 15 Business Days’ notice of the Relevant Incremental Facility under Clause 7.2 (*Delivery of Incremental Facility Notice*);

(e) to permit entry into the Relevant Incremental Facility Notice in substantially the form set out in Schedule 4; and

(f) so that the Establishment Date for the Relevant Incremental Facility is the Effective Date.

2.2 **Step 2 – establishment of Relevant Incremental Facility and drawing to repay outstandings under Facility B and the Revolving Facility**

(a) On the date of this Agreement, the Relevant Incremental Facility Notice for a new Facility B1 (“Facility B1”) has been delivered to the Agent and Security Agent by the Company and Deutsche Bank AG, London Branch and Nomura International plc as the Increasing Incremental Facility Lenders providing for commitments in an
aggregate principal amount equal to the sum of the following (together, the “Facility B1 Commitments”):

(i) the Facility B Lenders who have consented to the requests set out in the Consent Request, and accordingly represents a principal amount equal to such Facility B Lenders’ Facility B Commitments;

(ii) the Revolving Facility Lenders who have consented to the requests set out in the Consent Request, and accordingly represents a principal amount equal to such Revolving Facility Lenders’ Revolving Facility Commitments;

(iii) an aggregate principal amount equal to that portion of Facility B Commitments and the Revolving Facility Commitments in respect of which the Facility B Lenders and Revolving Facility Lenders, respectively, have not consented to the requests set out in the Consent Request; and

(iv) an amount equal to €50,000,000.

Pursuant to paragraph 4 of the Consent Request, only Deutsche Bank AG, London Branch and Nomura International plc are required to sign the Relevant Incremental Facility Notice, provided that all the Relevant Incremental Facility Lenders have consented thereto.

(b) The parties to this Agreement agree that:

(i) the Company may submit a Utilisation Request for a Loan under Facility B1 notwithstanding that the Effective Date has not yet occurred; and

(ii) the Specified Time for such Utilisation Request shall be 9.30am on the date falling one Business Day prior to the proposed Utilisation Date,

and shall (provided that any such Utilisation Request otherwise complies with the requirements of the Existing Facilities Agreement (as amended by this Agreement assuming for this purpose that the Effective Date has occurred)) treat such Utilisation Request as having been delivered under the Relevant Incremental Facility under the Existing Facilities Agreement (as amended by this Agreement assuming for this purpose that the Effective Date has occurred).

(c) The Company agrees that clause 18.2(c) (Other Indemnities) of the Existing Facilities Agreement shall apply to the Utilisation Request for Facility B1 (whether or not the Effective Date takes place) as if such clause referred to such Utilisation Request and the conditions referred to in such paragraph refer to conditions or requirements under this Agreement.

(d) The principal amount requested in the Utilisation Request for the Effective Date shall be equal to the Facility B1 Commitments.

(e) Such Utilisation Request must irrevocably direct the Agent to apply the proceeds of such Utilisation in prepayment and cancellation of Facility B and the Revolving Facility and the balance may be applied to fund cash on the balance sheet of the Group.

(f) To the extent any Relevant Incremental Facility Lender is to receive repayments of principal under Facility B or the Revolving Facility from the proceeds of such Utilisation, such Relevant Incremental Facility Lender’s participation in the new Loans under Facility B1 shall be treated as having been made available and applied
by the Company in accordance with paragraph (e) above and that Relevant Incremental Facility Lender will not be required to make a payment under clause 34.1 (Payments to the Agent) of the Existing Facilities Agreement in respect of its participation in that Relevant Incremental Facility Loan to the extent of such repayments.

(g) To the extent the Effective Date is not the last day of the then prevailing Interest Period for a Loan, the initial Interest Period under the Relevant Incremental Facility shall be until the end of that then prevailing Interest Period with the applicable interest rate continuing unchanged until the end of that initial Interest Period; provided that the interest rate applicable to the Loans made by the Increasing Incremental Facility Lenders for such initial Interest Period shall be as specified in the Existing Facilities Agreement (as amended and restated by this Agreement) for the Margin in relation to a Facility B Loan.

2.3 Step 3 – amendment and restatement

(a) With effect immediately after the prepayment and cancellation in full of Facility B and the Revolving Facility in accordance with the terms of the Existing Facilities Agreement and this Agreement (the “Amendment and Restatement Effective Date”), the Existing Facilities Agreement is hereby amended and restated so that it shall read and be construed for all purposes as set out in Schedule 2 (Amended and Restated Facilities Agreement) and for the avoidance of doubt, such amended and restated Existing Facilities Agreement shall supersede and replace in its entirety the Existing Facilities Agreement (including the amendments set out in Clause 2.2 and, for the avoidance of doubt, the Relevant Incremental Facility shall be established as the new Facility B and Revolving Facility under the amended and restated Existing Facilities Agreement).

(b) With effect immediately from the Amendment and Restatement Effective Date the Existing Intercreditor Agreement is hereby amended and restated so that it shall read and be construed for all purposes as set out in Schedule 3 (Amended and Restated Intercreditor Agreement) and for the avoidance of doubt, such amended and restated Existing Intercreditor Agreement shall supersede and replace in its entirety the Existing Intercreditor Agreement.

(c) If the Amendment and Restatement Effective Date does not take place, the Existing Facilities Agreement and Existing Intercreditor Agreement shall continue in full force and effect.

2.4 Further assurance

The Obligors’ Agent shall, at the request of the Agent and at its own expense, do all such acts and things necessary or desirable to give effect to the amendments effected or to be effected pursuant to this Agreement.

2.5 No Novation

Each of the parties to this Agreement confirms that the amendment and restatement of the Existing Facilities Agreement or the Existing Intercreditor Agreement pursuant to this Agreement shall not constitute a novation of the Existing Facilities Agreement or the Existing Intercreditor Agreement.

3. AGREEMENTS BY OBLIGORS
(a) The Company (for itself and as Obligors’ Agent on behalf of each other Obligor) agrees and acknowledges that, save as expressly amended or amended and restated by this Agreement, the Existing Facilities Agreement, the Existing Intercreditor Agreement and each Finance Document to which it is a party shall continue in full force and effect (including without limitation after giving effect to any of Clauses 2.1, 2.2 or 2.3 above).

(b) The Company (for itself and as Obligors’ Agent on behalf of each other Obligor) agrees that the guarantee and indemnity contained in clause 19 (Guarantee and Indemnity) of the Existing Facilities Agreement shall, on and after the date of this Agreement, continue in full force and effect and extend to the liabilities and obligations under the Existing Facilities Agreement, the Existing Intercreditor Agreement and the other Finance Documents including as amended or amended and restated by this Agreement (including without limitation after giving effect to any of Clauses 2.1, 2.2 and 2.3 above).

(c) The Company (for itself and as Obligors’ Agent on behalf of each other Obligor) confirms that, with effect from (and including) the Effective Date the Secured Obligations shall include all of the liabilities and obligations towards any of the Secured Parties under or in connection with the Debt Documents (each as defined in the Existing Intercreditor Agreement), including the Existing Facilities Agreement and the Existing Intercreditor Agreement as amended or amended and restated by this Agreement (including without limitation after giving effect to any of Clauses 2.1, 2.2 and 2.3 above).

(d) Without limiting the generality of the foregoing, the Company agrees that within 20 Business Days after the Amendment and Restatement Effective Date, the Company shall procure the following to be delivered to the Agent:

(i) copies of each English Security Document, duly executed by the parties thereto;

(ii) a copy, duly executed by all parties thereto, of a Guernsey law release and reassignment agreement in respect of the Guernsey law Security Interest Agreement dated 2 March 2017 made between Interactive Sports (C.I.) Limited (the “Grantor”) and the Security Agent pursuant to which the Grantor granted security over all of the Grantor’s rights, title and interest in and to the one ordinary share of £1.00 in Longfrie Limited to the Security Agent, together with a duly executed notice and acknowledgement of reassignment and a duly executed certificate of discharge under the Security Interests (Guernsey) Law, 1993;

(iii) a copy, duly executed by all parties thereto (contemporaneously with the release referred to in clause 3(d)(ii) above), of a Guernsey law security interest agreement to be made between the Grantor and the Security Agent pursuant to which the Grantor will grant security over all of the Grantor’s rights, title and interest in and to the one ordinary share of £1.00 in Longfrie Limited to the Security Agent, together with the relevant share certificate, blank stock transfer form, annotated register of members and a duly executed notice and acknowledgement of such assignment;

(iv) a duly executed copy of either: (i) a Bermuda law governed deed of confirmation or (ii) a Bermuda law governed amendment and restatement agreement relating to the Bermuda law governed charge over shares dated 2 March 2017 and made between bwin.party holdings Limited and Wilmington
Trust (London) Limited (in its capacity as trustee for and on behalf of the Secured Creditors) in respect of the shares in PartyGaming Finance Limited;

(v) a duly executed copy of either: (i) a Bermuda law governed deed of confirmation or (ii) a Bermuda law governed amendment and restatement agreement relating to the Bermuda law governed charge over shares dated 2 March 2017 and made between ElectraWorks Limited and Wilmington Trust (London) Limited (in its capacity as trustee for and on behalf of the Secured Creditors) in respect of the shares in PartyGaming IA Limited;

(vi) a legal opinion of Appleby (Guernsey) LLP, legal advisors to the Lenders in Guernsey in relation to the laws of (i) the Island of Guernsey and (ii) Alderney;

(vii) a legal opinion of Appleby (Bermuda) Limited, legal advisors to the Lenders in Bermuda; and

(viii) a legal opinion of Appleby (Isle of Man) LLC, legal advisors to the Lenders in Isle of Man.

4. REPRESENTATIONS AND WARRANTIES

4.1 Representations

The Company (for itself and as Obligors’ Agent on behalf of each other Obligor) makes each of the Repeating Representations (as defined in the Existing Facilities Agreement as amended and restated by this Agreement), in each case as if the clauses containing those representations and warranties were set out in full in this Agreement and as if references to “this Agreement” in those clauses were references to this Agreement.

4.2 Repetition

The representations and warranties in this Clause 4 are made on the date of this Agreement and shall be deemed to be repeated on the Effective Date and the Amendment and Restatement Effective Date in each case by reference to the facts and circumstances existing on that date. Such representations shall survive the execution of this Agreement.

5. MISCELLANEOUS

5.1 Counterparts

This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

5.2 Partial Invalidity

If, any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect under any law the validity, legality or enforceability of the remaining provisions shall not be affected or impaired in any way.

5.3 Remedies and Waivers

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
6. **GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law and the Company submits to the jurisdiction of the English courts in the terms set out in clause 45 (*Enforcement*) of the Existing Facilities Agreement (as if references in that Clause 45 to “this Agreement” were references to this Agreement).

**IN WITNESS** whereof this Agreement has been duly executed as a deed and is delivered on the date first above written.
SCHEDULE 1

CONDITIONS PRECEDENT TO THE EFFECTIVE DATE

1. CORPORATE AUTHORIZATION DOCUMENTS

(a) A certificate in the agreed form from the Obligors’ Agent signed by an authorized signatory attaching a copy of the constitutional documents of each of the Obligors (or a confirmation that the constitutional documents of each of the Obligors have not been amended since they were previously delivered to the Agent) and certifying that

(i) the borrower, guaranteeing or securing as contemplated by this Agreement would not cause any borrowing, guaranteeing, security or similar limit binding on any Obligor to be exceeded and (ii) each copy document relating to it in this Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the Effective Date.

(b) A copy of the minutes of a meeting of the board of directors of the Obligors’ Agent recording resolutions passed at such meeting:

(i) approving the terms of and the transactions contemplated by this Agreement and/or the Relevant Incremental Facility and resolving that it execute this Agreement and/or the Relevant Incremental Facility Notice;

(ii) authorising a specified person or persons to execute this Agreement and the Relevant Incremental Facility Notice on its behalf; and

(iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with this Agreement and the Relevant Incremental Facility.

(c) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above who signs this Agreement, the certificate described in paragraph (a) above, the Relevant Incremental Facility Notice or any other Finance Document in connection with this Agreement.

2. LEGAL OPINION

(a) A legal opinion of White & Case LLP, legal advisors to the Lenders in England and Wales.

(b) A legal opinion of Appleby (Isle of Man) LLC, legal advisors to the Lenders in the Isle of Man.
SCHEDULE 2
FORM OF AMENDED AND RESTATED FACILITIES AGREEMENT

Dated 2 March 2017
(as amended and restated pursuant to the Amendment and Restatement Agreement)

Senior Term and Revolving
Facilities Agreement
between

GVC Holdings PLC
as Company

The Financial Institutions set out herein
as Original Lenders

Deutsche Bank AG, London Branch
and
Nomura International plc
as bookrunners and mandated lead arrangers

Wilmington Trust (London) Limited
as Agent

Wilmington Trust (London) Limited
As Security Agent

and others
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Schedule 11 Agreed Security Principles

SCHEDULE 12 Additional Facility
This Agreement is dated 2 March 2017 (as amended and restated pursuant to the Amendment and Restatement Agreement) and made:

Between

(1) GVC Holdings PLC, a company incorporated under the laws of the Isle of Man, with its registered office at 32 Athol Street, Douglas, Isle of Man IM1 1JB and company number 004685V (the “Company”);

(2) GVC Holdings PLC, a company incorporated under the laws of the Isle of Man, with its registered office at 32 Athol Street, Douglas, Isle of Man IM1 1JB and company number 004685V as original borrower (the “Original Borrower”);

(3) The Subsidiaries of the Company listed in Part 1 of Schedule 1 (The Original Parties) as original guarantors (together with the Company, the “Original Guarantors”);

(4) Nomura International plc and Deutsche Bank AG, London Branch as bookrunners and mandated lead arrangers (the “Mandated Lead Arrangers”);

(5) The Financial Institutions listed in Part 2 of Schedule 1 (The Original Parties) as lenders (the “Original Lenders”);

(6) Wilmington Trust (London) Limited as agent of the other Finance Parties (the “Agent”); and

(7) Wilmington Trust (London) Limited as security trustee for the Secured Parties (the “Security Agent”).

It is agreed as follows:

1 Definitions and Interpretation

1.1 Definitions

In this Agreement:

"Acceleration Event" means an Event of Default in respect of which notice has been served by the Agent under paragraphs (a)(i)(B), (C), (D) or (E) or (b)(i)(B) or (C) of Clause 26.13 (Acceleration), provided that in respect of any notice served by the Agent under paragraphs (a)(i)(C) or (E) or (b)(i)(C) of that Clause, demand has been made under that paragraph.

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

"Accounting Principles" means, in the case of the Company, IFRS or, in the case of any other Obligor or any other member of the Group, IFRS or, if such Obligor or member of the Group does not report on an IFRS basis, generally accepted accounting principles in such Obligor’s or other member of the Group’s jurisdiction of incorporation, in each case to the extent applicable to the relevant financial statements and as applied by the Company from time to time.

"Acquired Indebtedness" means, in respect of any person:
(a) Financial Indebtedness of any other person existing at the time such other person is merged or consolidated with or into or became a member of the Group or Subsidiary of such specified person whether or not such Financial Indebtedness is incurred in connection with, or in contemplation of, such other person merging or consolidating with or into, or becoming a member of the Group or a Subsidiary of such specified person; and

(b) indebtedness encumbering any asset acquired by such specified person,

provided that any Financial Indebtedness of such person that is extinguished, redeemed, defeased, retired or otherwise repaid at the time of or immediately upon consummation of the transaction pursuant to which such other person becomes a member of the Group or a Subsidiary of such specified person will not be Acquired Indebtedness. Acquired Indebtedness shall be deemed to have been incurred, with respect to paragraph (a) above, on the date such person becomes a member of the Group and, with respect to paragraph (b) above, on the date of consummation of such acquisition of such assets.

“Acquired Person or Asset” means a person or any of its Subsidiaries that becomes a Restricted Subsidiary, a person that merges with or into or consolidates or otherwise combines with any Restricted Subsidiary, assets of any such persons or assets otherwise acquired after the Amendment and Restatement Effective Date.

"Acquisition Indebtedness" means Financial Indebtedness incurred to finance an acquisition.

"Act" means the United Kingdom Companies Act 2006.

"Additional Borrower" means a person which becomes an Additional Borrower in accordance with Clause 29 (Changes to the Obligors).

"Additional Facility" means one or more additional facilities made available pursuant to Clause 2.2 (Additional Facility) which are documented under this Agreement including as new or existing facility commitment(s) and/or as an additional tranche or class of, or an increase of, or an extension of, any existing Facility or a previously incurred Additional Facility (including, in each case, term or revolving facilities).

"Additional Facility Borrower" means any member of the Group that is specified as a borrower under an Additional Facility in the applicable Additional Facility Notice and that (a) is a Borrower under this Agreement or (b) accedes as an Additional Borrower in accordance with Clause 29 (Changes to the Obligors), unless, in each case, it has ceased to be a Borrower in accordance with Clause 29 (Changes to the Obligors).

"Additional Facility Commencement Date" means, in respect of an Additional Facility, the date elected by the Company and specified as the Additional Facility Commencement Date in the Additional Facility Notice relating to that Additional Facility, which date specified therein may only be either the date the Additional Facility is committed, whether or not subject to any conditions to drawing, or the date any amount thereof is first utilised; provided that if the Additional Facility Commencement is the date of such commitment, the amount of such Additional Facility shall then, for the purposes of any future testing of any ratio under this Agreement, be deemed to have been incurred in full under such ratio or basket (even if not yet incurred) on the date of such commitment.
“Additional Facility Commitment” means:

(a) in relation to an Additional Facility Lender, the amount in the Base Currency set out in each Additional Facility Notice signed by that Additional Facility Lender and the amount of any other Additional Facility Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (Additional Facility) or Clause 2.3 (Increase); and

(b) in relation to any other Lender, the amount in the Base Currency of any Additional Facility Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (Additional Facility) or Clause 2.3 (Increase), to the extent:

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

(ii) not deemed to be zero pursuant to Clause 28 (Debt Purchase Transactions).

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

“Additional Facility Lender Accession Notice” means a notice substantially in the form set out in Part I of Schedule 12 (Additional Facility) or any other form agreed between the Agent and the Company (each acting reasonably).

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

“Additional Facility Notice” means, in respect of an Additional Facility, a notice substantially in the form set out in Part II of Schedule 12 (Additional Facility) (or any other form agreed between the Agent and the Company (each acting reasonably)) delivered by the Company to the Agent in accordance with Clause 2.2 (Additional Facility).

“Additional Guarantor” means an entity which becomes an Additional Guarantor in accordance with Clause 29 (Changes to the Obligors).

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

"Adjusted EBITDA" means, in respect of any Relevant Period, EBITDA for that Relevant Period, adjusted by:

(a)

(i) including the operating profit before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of a member of the Group (or attributable to a business) acquired during the Relevant Period for that part of the Relevant Period prior to its becoming a member of the Group or (as the case may be) prior to the acquisition of the business; and

(ii) taking into account the full run-rate effect of all synergies and cost savings (A) projected by the Company in good faith expected to be made within the
18 Month period commencing on the date of such acquisition or (B) (to the extent applicable and without duplication) as are otherwise publicly disclosed (including prior to the Amendment and Restatement Effective Date) by the Company (or the target of any Permitted Acquisition) in accordance with its reporting requirements (such synergies and cost savings, the "Benefit"), assuming such acquisition occurred on the first day of the Relevant Period, provided that any such synergies and cost savings referred to in sub-paragraph (ii)(A) above shall be subject to certification by the Group's chief executive officer or the Group's chief financial officer and provided further that no synergies or cost savings shall be included as a Benefit to the extent duplicative of any other synergies and cost savings that are included in the calculation of Adjusted EBITDA with respect to such Relevant Period; and

(b) excluding the operating profit before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA), but adding back any operating losses (calculated on the same basis as EBITDA), in each case, attributable to any member of the Group (or attributable to that business), disposed of during the Relevant Period prior to such disposal occurring.

"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

"Agreed Certain Funds Obligor" means the Company and any member of the Group designated as an Agreed Certain Funds Obligor by the Company and the relevant Additional Facility Lenders who have agreed to provide an Agreed Certain Funds Utilisation in accordance with the provisions of Clause 4.5 (Loans under an Additional Facility during the Agreed Certain Funds Period).

"Agreed Certain Funds Period" means, in respect of an Additional Facility which all of the Additional Facility Lenders providing such Additional Facility have agreed shall be provided on a “certain funds basis” in accordance with the provisions of Clause 4.5 (Loans under an Additional Facility during the Agreed Certain Funds Period), the period specified in the relevant Additional Facility Notice.

"Agreed Certain Funds Utilisation" means, in respect of an Additional Facility which all of the Additional Facility Lenders providing such additional Facility have agreed shall be provided on a “certain funds basis” in accordance with the provisions of Clause 4.5 (Loans under an Additional Facility during the Agreed Certain Funds Period), a Utilisation made or to be made under the relevant Additional Facility during the Agreed Certain Funds Period solely for any of the purposes agreed with the relevant Additional Facility Lenders providing such Additional Facility.

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

"Agreed Security Principles" means the principles set out in Schedule 11 (Agreed Security Principles)
"Alternative Reference Bank Rate" means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Alternative Reference Banks:

(a) in relation to BBSW or EURIBOR:

(i) (other than where paragraph (ii) below applies) as the rate at which the relevant Alternative Reference Bank believes one prime bank is quoting to another prime bank for interbank term deposits in euro within the Participating Member States or the United Kingdom or, as relevant, Australian dollars within the Commonwealth of Australia for the relevant period or

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

(b) in relation to LIBOR:

(i) if:

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

(B) it consists of a single figure,

the rate (applied to the relevant Alternative 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 Alternative Reference Bank could fund itself in the relevant currency for the relevant period with reference to the unsecured wholesale funding market

"Alternative Reference Banks" means, in relation to BBSW or EURIBOR or LIBOR, the principal offices of such entities (other than the Reference Banks) as may be appointed by the Agent in consultation with the Company or such other entities as may be appointed by the Agent in consultation with the Company

"Amendment and Restatement Agreement" means the amendment and restatement agreement entered into between, amongst others, the Company, the Agent and the Security Agent on 5 December 2017.

“Amendment and Restatement Effective Date” has the meaning given to it in the Amendment and Restatement Agreement.

"Ancillary Borrower" means any Borrower and any Restricted Subsidiary that becomes a borrower of an Ancillary Facility with the approval of the relevant Lender pursuant to Clause 7.9 (Subsidiaries of the Company)
"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 net of any credit balances on any account of any Borrower of an Ancillary Facility with the Ancillary Lender making available that Ancillary Facility to the extent that the credit balances are freely available to be set off by that Ancillary Lender against liabilities owed to it by that Borrower under that Ancillary Facility and in each case as determined by such Ancillary Lender, acting reasonably and in accordance with the relevant Ancillary Document, or (if not provided for in the relevant Ancillary Document), after consultation with the relevant Borrower, in accordance with its normal banking practice and in accordance with the relevant Ancillary Document.

For the purposes of this definition:

(a) in relation to any utilisation denominated in the Base Currency, the amount of that Utilisation (determined as described in paragraphs (a) and (b) above) shall be used; and
(b) in relation to any utilisation not denominated in the Base Currency, the equivalent (calculated as specified in the relevant Ancillary Document or, if not so specified, as
the relevant Ancillary Lender may specify, in each case in accordance with its usual practice at that time for calculating that equivalent in the Base Currency (acting reasonably) of the amount of that Utilisation (determined as described in paragraphs (a) and (b) above) shall be used.

"Annual Financial Statements" means the financial statements delivered pursuant to Clause 23.1(a) (Financial Statements)

"Anti-Corruption Laws" means the UK Bribery Act 2010, the Isle of Man Bribery Act 2013, U.S. Foreign Corrupt Practices Act of 1977, as amended, and any other applicable anti-bribery and anti-corruption laws and regulations

"Anti-Money Laundering and Anti-Terrorism Laws" means any requirements of law relating to terrorism, economic sanctions or money laundering, including, without limitation, (a) the Money Laundering Control Act of 1986 (i.e., 18 U.S.C. §§ 1956 and 1957), (b) the Bank Secrecy Act of 1970 (31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959), and the implementing regulations promulgated thereunder, (c) the USA PATRIOT Act and the implementing regulations promulgated thereunder, (d) the laws, regulations and Executive Orders administered by the United States Department of the OFAC, (e) any law prohibiting or directed against terrorist activities or the financing or support of terrorist activities (e.g., 18 U.S.C. §§ 2339A and 2339B), and (f) any similar laws enacted in the United States, the United Kingdom, the Isle of Man, Gibraltar or any other jurisdictions in which the parties to this Agreement operate, as any of the foregoing laws have been, or shall hereafter be, amended, renewed, extended, or replaced and all other present and future legal requirements of any governmental authority governing, addressing, relating to, or attempting to eliminate, terrorist acts and acts of war and any regulations promulgated pursuant thereto.

"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/Creditor Representative Accession Undertaking as defined in, and for the purposes of, the Intercreditor Agreement

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

"Availability Period" means:

(a) in relation to Facility B, the period from and including the date of this Agreement to and including the Amendment and Restatement Effective Date;

(c) 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

(d) in relation to any Additional Facility Commitments, the period specified in the notice delivered by the Company in accordance with Clause 2.2 (Additional Facility) for those Additional Facility Commitments.
"Available Commitment" means, in relation to a Facility, a Lender's Commitment under that Facility minus (subject to Clause 7.8 (Affiliates of Lenders as Ancillary Lenders) and 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 Utilisation, 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 Lenders' 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:

(a) that Lender's (or its Affiliate's) participation in any Loans under the Revolving Facility that are due to be repaid or prepaid on or prior to the proposed Utilisation Date and

(b) 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.

"Available Incremental Amount" means an amount equal to the aggregate of:

(a) the greater of (i) €100 million and (ii) an amount equal to 50 per cent. of Adjusted EBITDA for the most recently completed Relevant Period for which annual, semi-annual or quarterly financial statements are available under Clause 23.1 (Financial Statements) (after giving pro forma effect to the relevant transactions); plus

(b) the aggregate amount of all voluntary prepayments of the Facilities, any Debt Purchase Transactions entered into by the Group pursuant to Clause 28 (Debt Purchase Transactions), any prepayment and/or cancellation under Clause 41.7 (Replacement of Lender) and any other reduction in the Total Commitments permitted under this Agreement and made prior to the date of the incurrence of the relevant Financial Indebtedness; plus

(c) an unlimited amount at any time (including, for the avoidance of doubt and at the option of the Company, together with, following or prior to utilisation of any available amount set out in paragraphs (a) and/or (b) above) provided that:
(i) in the case of Financial Indebtedness that constitutes Pari Passu Liabilities under the Intercreditor Agreement, Leverage for the most recently completed Relevant Period for which annual, semi-annual or quarterly financial statements are available under Clause 23.1 (Financial Statements) preceding the date of incurrence (after giving pro forma effect to the incurrence of the relevant Financial Indebtedness and any other transactions that result from such incurrence or issuance, including pro forma application of the net proceeds therefrom) does not exceed 3.50:1 (or, at the election of the Company if such Financial Indebtedness is Acquisition Indebtedness, does not exceed Leverage immediately prior to the incurrence of such Financial Indebtedness); or

(ii) in the case of Financial Indebtedness that does not constitute Pari Passu Liabilities under the Intercreditor Agreement, the Fixed Charge Coverage Ratio for the most recently completed Relevant Period for which annual, semi-annual or quarterly financial statements are available under Clause 23.1 (Financial Statements) preceding the date of incurrence (after giving pro forma effect to the incurrence of the relevant Financial Indebtedness and any other transactions that result from such incurrence or issuance, including pro forma application of the net proceeds therefrom) is at least 2.00:1 (or, at the election of the Company if such Financial Indebtedness is Acquisition Indebtedness, such Fixed Charge Coverage Ratio does not decrease from that immediately prior to the incurrence of such Financial Indebtedness).

For the avoidance of doubt, the Available Incremental Amount shall not serve to cap or otherwise limit any Refinancing Debt.

“Bank Levy” means any amount payable by any Finance Party or any of its Affiliates on the basis of, or in relation to, its balance sheet or capital base or any part of that person or its liabilities or minimum regulatory capital or any combination thereof (including, without limitation, the UK bank levy as set out in the Finance Act 2011, the French *taxe bancaire de risque systémique* as set out in Article 235 ter ZE of the French Code Général des impôts and the French *taxe pour le financement du fonds de soutien aux collectivités territoriales* as set out in Article 235 ter ZE bis of the French Code Général des impôts, the German bank levy as set out in the German Restructuring Fund Act 2010 (*Restrukturierungsfondsgesetz*), the Dutch *bankenbelasting* as set out in the bank levy act (*Wet bankenbelasting*), the Austrian bank levy as set out in the Austrian Stability Duty Act (*Stabilitätsgesetz*), the Spanish bank levy (*Impuesto sobre los Depósitos en las Entidades de Crédito*) as set out in the Law 16/2012 of 27 December 2012) and any other levy or tax in any jurisdiction levied on a similar basis or for a similar purpose or any financial activities taxes (or other taxes) of a kind contemplated in the European Commission consultation paper on financial sector taxation dated 22 February 2011 which has been enacted and/or which has been formally announced as proposed as at the Amendment and Restatement Effective Date.

“Base Currency” means euro.

“Base Currency Amount” means:
(a) in relation to a Loan, the amount specified in the Utilisation Request delivered by the Borrower for that Utilisation (or, if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is three Business Days before the Utilisation Date or, if later, on the date the Agent receives the Utilisation Request in accordance with the terms of this Agreement);

(b) in relation to an Ancillary Commitment, the amount specified as such in the notice delivered to the Agent by the Company 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); and

(c) in relation to an Additional Facility Commitment, the amount specified as such in the Additional Facility Notice delivered to the Agent by the Company pursuant to Clause 2.2 (Additional Facility) (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 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 Utilisation, or utilisation under an Ancillary Facility or (as the case may be) cancellation or reduction of an Ancillary Facility.

"BBSW" means, in relation to any Loan in Australian dollars:

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

(b) as otherwise determined pursuant to Clause 14.1 (Unavailability of Screen Rate),

and if, in either case, that rate is less than zero, BBSW shall be deemed to be zero.

"Borrower" means:

(a) in the case of Facility B, the Original Borrower;

(b) in the case of the Revolving Facility, the Original Borrower or an Additional Borrower unless it has ceased to be a Borrower in accordance with Clause 29 (Changes to the Obligors); and

(c) in the case of an Additional Facility, the relevant Additional Facility Borrower.

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

(a) any Treasury Transaction (except that 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 (or to the extent it relates to a guarantee of any of the items referred to in this paragraph (a));
(b) any indebtedness under any operating lease under the Accounting Principles in effect on the Amendment and Restatement Effective Date (without application of any election thereunder to treat Finance Leases as operating leases);

(c) in relation to the minority interests line in the balance sheet of the Company;

(d) any Financial Indebtedness represented by shares (except for shares redeemable mandatorily or at the option of the holder prior to the latest Termination Date of the Facilities);

(e) all contingent liabilities under a guarantee, indemnity, performance bond, standby or documentary letter of credit issued in the ordinary course of trading unless the underlying liability covered by such instrument has become due and payable and remains unpaid; and

(f) any cash collateralised guarantee.

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

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

(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.

"Bridging Debt" means any Financial Indebtedness which is incurred with an initial maturity of, or about, one year or less as a bridge to the incurrence of any other indebtedness which is permitted by the terms of this Agreement which is in the form of bonds, notes or other equivalent security issuances, and which shall be:

(a) repaid in full with the proceeds of such bonds, notes or other equivalent securities; or

(b) converted or exchanged on or about (or prior to) one year from the incurrence of the relevant Bridging Debt on terms customary for an instrument of this type into term loans or other bonds, notes or other equivalent securities.

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, New York, the Isle of Man, Gibraltar and Malta, and:

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

(b) (in relation to any date for payment or purchase of euro) any TARGET Day.
“Bwin Acquisition Costs” means the costs, fees and expenses incurred by the Company in connection with the acquisition of all the shares in the capital of bwin.party digital entertainment PLC, to the extent such costs, fees and expenses are treated as an Exceptional Item in the financial statements of the Company in accordance with the Accounting Principles.

"Change of Control" means:

(a) any person or group of persons acting in concert (as defined in the Takeover Code), other than a Holding Company whose shareholders are or are to be substantially similar to the pre-existing shareholders of the Company or any Holding Company of the Company, becoming interested (within the meaning of Part 22 of the Companies Act 2006) in (i) more than 50% of the issued or allotted ordinary share capital of the Company or (ii) shares in the capital of the Company carrying more than 50% of the voting rights normally exercisable at a general meeting of the Company; or

(b) the direct or indirect sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidated), in one or a series of related transactions, of all or substantially all of the assets of the Company and its Restricted Subsidiaries as a whole to any person.

For the avoidance of doubt, no Permitted Transaction shall constitute a Change of Control.

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

"Closing Date" means the date upon which the initial Utilisation of Facility B (as in existence prior to the Amendment and Restatement Effective Date) occurred.


"Commitment" means a Facility B Commitment and/or a Revolving Facility Commitment and/or an Additional Facility Commitment.

"Company’s Auditors" means any firm appointed by the Company to act as its statutory auditors.

"Compliance Certificate" means a certificate substantially in the form set out in Schedule 10 (Form of Compliance Certificate).

"Confidential Information" means all information relating to the Company, any Obligor, the 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 member of the Group or any of its advisers: or

(b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group 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 42.1 (Confidentiality) or

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

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

(ii) any Funding Rate or Reference Bank Quotation.

"Confidentiality Undertaking" means a confidentiality undertaking substantially in a recommended form of the LMA Confidentiality Undertaking or in any other form agreed between the Company and the Agent.

"Consolidated Financial Interest Expense" means, for any period (in each case, determined on the basis of the Accounting Principles), the consolidated net interest income/expense of the Group related to Financial Indebtedness and (a) including: (i) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances, (ii) the interest component of Finance Leases and (iii) net payments, if any, pursuant to interest rate Treasury Transactions with respect to Financial Indebtedness but (b) excluding: (i) any pension liability interest cost, (ii) amortisation of discount, debt issuance cost and premium, commissions, discounts and other fees and charges owed or paid with respect to financings or other liabilities, (iii) costs associated with any Treasury Transaction, (iv) any expense resulting from the discounting of any Financial Indebtedness in connection with the application of purchase accounting in connection with any acquisition and (viii) any withholding tax (or gross up obligation) on interest receivable, received payable or paid.

"Contingent Obligations" means, with respect to any person, any obligation of such person guaranteeing in any manner, whether directly or indirectly, any operating lease, dividend or other obligation that does not constitute Financial Indebtedness ("primary obligations") of any other person (the "primary obligor"), including any obligation of such person, whether or not contingent:

(a) to purchase any such primary obligation or any property constituting direct or indirect security therefor;

(b) to advance or supply funds:
(i) for the purchase or payment of any such primary obligation; or

(ii) to maintain the working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

"CTA" means the Corporation Tax Act 2009

“Current Assets” means, at any time, the consolidated current assets (other than cash and cash equivalents, the current portion of current and deferred Taxes based on income, profits or capital, permitted loans made to third parties, assets held for sale, pension assets, deferred bank fees and derivative financial instruments and management fee receivables) of the Company and its Restricted Subsidiaries under the Accounting Principles.

“Current Liabilities” means, at any time, the consolidated current liabilities of the Company and its Restricted Subsidiaries at such time under the Accounting Principles, but excluding, without duplication:

(a) the current portion of any long-term or funded Financial Indebtedness;

(b) all Financial Indebtedness consisting of (i) Utilisations and (ii) utilisations under any Ancillary Facility or any other revolving credit or similar facility;

(c) the current portion of interest expense;

(d) the current portion of any Finance Lease;

(e) the current portion of current and deferred Taxes based on income, profit or capital;

(f) liabilities in respect of unpaid earn-outs or deferred acquisition costs;

(g) the current portion of any other long-term liabilities;

(h) current accrual costs associated with any restructuring or business optimization (including accrued severance and accrued facility closure costs);

(i) liabilities in respect of funds of third parties on deposit with the Company or any of its Restricted Subsidiaries;

(j) any liabilities recorded in connection with stock-based awards, partnership interest-based awards, awards of profits interests, deferred compensation awards and similar incentive based compensation awards or arrangements;

(k) any other liabilities that are not Financial Indebtedness and will not be settled in cash or cash equivalents during the next succeeding twelve month period after such date;

(l) the effects from applying purchase accounting;

(m) any accrued professional liability risks; and
(n) restricted marketable securities,

provided that, for purposes of calculating Excess Cash Flow, increases or decreases in working capital (1) arising from acquisitions or disposals by the Group shall be measured from the date on which such acquisition or disposal occurred until the first anniversary of such acquisition or disposal with respect to the person subject to such acquisition or disposal and (2) shall exclude (I) the impact of non-cash adjustments contemplated in the Excess Cash Flow calculation, (II) the impact of adjusting items in the definition of Adjusted EBITDA and (III) any changes in current assets or current liabilities as a result of (x) the effect of fluctuations in the amount of accrued or contingent obligations, assets or liabilities under any hedging agreements or other derivative obligations, (y) any reclassification, other than as a result of the passage of time, in accordance with the Accounting Principles of assets or liabilities, as applicable, between current and noncurrent or (z) the effects of acquisition method accounting.

"Customer Liabilities" means liabilities owed to the retail customers of the Group's online gaming and online betting business.

"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 for Financial Indebtedness or any Financial Indebtedness

"Default" means an Event of Default or any event or circumstance specified in Clause 26 (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, provided that any such event or circumstance which requires the satisfaction of a condition as to materiality before it becomes an Event of Default shall not be a Default unless that condition is satisfied; provided further that an event or circumstance specified in Clause 26.2 (Financial Covenants) shall not constitute a Default, except for the purposes of:

(a) Clause 1.2(f) (Construction);
(b) Clause 4.2 (Further Conditions Precedent) insofar as such Clause relates to a Utilisation of the Revolving Facility only;
(c) Clause 18.2 (Other Indemnities);
(d) Clause 18.3 (Indemnity to the Agent);
(e) Clause 23.5 (Notification of Default);
(f) Clause 25.18 (Access);
(g) Clause 26 (Events of Default);
(h) Clause 27 (Changes to the Lenders) to the extent only that such Clause related to the ability of a Lender under the Revolving Facility to assign or transfer any of its rights and/or obligations;
(i) Clause 29.5 (Resignation of a Guarantor); and
(j) Clause 31 (Role of the Agent, the Mandated Lead Arrangers, the Reference Banks and the Alternative Reference Banks).

"Defaulting Lender" means any Lender (other than a member of the Group):
(a) which has failed to make its participation in a Loan available (or has notified the Agent or the Company (which has notified the Agent) that it will not make its participation in a Loan available) by the Utilisation Date of that Loan in accordance with Clause 5.4 (Lenders' Participation)
(b) which has otherwise rescinded or repudiated a Finance Document or
(c) with respect to which (or any Holding Company of which) an Insolvency Event has occurred and is continuing,

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

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

"Designated Gross Amount" has the meaning given to that term in Clause 7.2 (Availability).

"Designated Net Amount" has the meaning given to that term in Clause 7.2 (Availability).

"Designated Person" means a person:
(a) listed in the annex to, or otherwise subject to the provisions of, the US Executive Order no. 13224 of 23 September, 2001 entitled Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism;
(b) named as a “Specially Designated National and Blocked Person” ("SDN") on the most current list published by OFAC at its official website or any replacement website or other replacement official publication of such list;
(c) in which an SDN has 50% or greater ownership interest or that is otherwise controlled by an SDN;

(d) listed on the Consolidated List of Financial Sanctions Targets issued by Her Majesty’s Treasury or listed in the annexes to any of the restrictive measures adopted by the European Union in the framework of the Common Foreign and Security Policy or, additionally, by the United Kingdom; or

(e) with which any Finance Party is prohibited from dealing or otherwise engaging in any transaction by any Sanctions.

"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 a Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties or

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

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

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

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

"EBITDA" means, in respect of any Relevant Period, the consolidated operating profit of the Group before taxation:

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

(b) not including any accrued interest owing to any member of the Group

(c) after adding back any amount attributable to the amortisation, depreciation or impairment of assets of members of the Group (and taking no account of the reversal of any previous impairment charge made in that Relevant Period);

(d) before taking into account any Exceptional Items

(e) before deducting any Transaction Costs;

(f) not including the Group's share of the profits or losses (after finance costs and tax) of Non-Group Entities;
(g) **before taking into account** any unrealised gains or losses on any derivative instrument (other than any derivative instrument which is accounted for on a hedge accounting basis);

(h) **excluding** the charge to profit represented by the expensing of share options;

(i) **before taking into account** any charges arising by virtue of IAS 19 (Employee benefits); and

(j) **before taking into account** any gain arising from any Debt Purchase Transactions, in each case, to the extent added, deducted or taken into account, as the case may be, for the purposes of determining operating profits of the Group before taxation and provided that in respect of any Relevant Period for which Annual Financial Statements are delivered pursuant to this Agreement EBITDA shall be as reported in such financial statements.

“Effective Yield” shall mean, as of any date of determination, the sum of (without double counting):

(a) the higher of:

   (i) the LIBOR or, as the case may be, EURIBOR rate on such date for a deposit in the applicable currency with a maturity of one month; and

   (ii) the LIBOR or, as the case may be, EURIBOR floor, if any, with respect to the relevant Financial Indebtedness as of such date;

(b) the relevant interest rate margin as of such date; and

(c) the amount of any applicable original issue discount and upfront fees payable on the relevant Financial Indebtedness (converted to yield assuming a three-year average life and without any present value discount) but excluding the effect of any arrangement, structuring, syndication, underwriting or other fees payable in connection therewith that are not shared with all lenders or holders of such new or replacement loans.

"EURIBOR" means, in relation to any Loan in the Base Currency:

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

(b) as otherwise determined pursuant to Clause 14.1 (Unavailability of Screen Rate),

and if, in either case, that rate is less than zero, EURIBOR shall be deemed to be zero.

"Event of Default" means any event or circumstance specified as such in Clause 26 (Events of Default), provided that an event or circumstance specified in Clause 26.2 (Financial Covenants) shall not constitute an Event of Default, except for the purposes of:

(a) Clause 1.2(f) (Construction);
(b) Clause 4.2 (Further Conditions Precedent) insofar as such Clause relates to a Utilisation of the Revolving Facility only;

(c) Clause 18.2 (Other Indemnities);

(d) Clause 18.3 (Indemnity to the Agent);

(e) Clause 23.5 (Notification of Default);

(f) Clause 25.18 (Access);

(g) Clause 26 (Events of Default);

(h) Clause 27 (Changes to the Lenders) to the extent only that such Clause related to the ability of a Lender under the Revolving Facility to assign or transfer any of its rights and/or obligations;

(i) Clause 29.5 (Resignation of a Guarantor); and

(j) Clause 31 (Role of the Agent, the Mandated Lead Arrangers, the Reference Banks and the Alternative Reference Banks).

"Exceptional Items" means any exceptional, one-off, non-recurring or extraordinary items and/or any material items of an unusual or non-recurring nature which represent gains or losses including those arising on:

(a) the restructuring of the activities of an entity and reversals of any provisions for the cost of restructuring;

(b) relocation, redundancy, entry into any compromise agreement or restructuring costs associated with an individual or group of employees or any other associated costs in relation to such activities;

(c) actual or preparatory costs incurred in connection with any investment, acquisition, disposal, exit, flotation, debt or equity financing, litigation, claims, investigations or settlements (and in each case whether or not successful);

(d) the early termination of a lease or the sale of a lease;

(e) disposals, revaluations, write-downs or impairment of non-current assets or any reversal of any write down or impairment; and

(f) disposals of assets associated with discontinued operations.

"Excess Cash Flow" means, for any Relevant Period ending on or about the last day of the relevant Financial Year, an amount equal to the excess of:

(a) the sum, without duplication, of (in each case, for the Company and its Restricted Subsidiaries on a consolidated basis):

   (i) EBITDA for such period;
(ii) an amount equal to all non-cash charges to the extent deducted in arriving at such EBITDA and cash receipts to the extent excluded in arriving at such EBITDA;

(iii) decreases in Working Capital for such period (except as a result of (A) the reclassification of items from short-term to long-term or vice versa or (B) any such decreases arising from acquisitions or disposals completed during such period or the application of purchase accounting);

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

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

(vi) cash receipts in respect of Exceptional Items.

over:

(b) the sum, without duplication, of:

(i) an amount equal to the amount of all non-cash credits included in arriving at such EBITDA and cash charges to the extent excluded in arriving at such EBITDA;

(ii) without duplication of amounts deducted pursuant to paragraph (xii) below in prior Financial Years, the amount of capital expenditures or acquisitions of intellectual property made in cash or accrued during such period or, at the option of the Company, following the end of such period and prior to the date on which the relevant Excess Cash Flow payment is due (provided such amount is then ignored in determining Excess Cash Flow for the following Financial Year), to the extent that such capital expenditures or acquisitions were not financed with any of the proceeds received from the incurrence of long-term Financial Indebtedness other than Financial Indebtedness that is revolving indebtedness (unless such Financial Indebtedness has been repaid other than with the proceeds of long-term Financial Indebtedness);

(iii) Consolidated Financial Interest Expense;

(iv) any mandatory prepayments or (to the extent not available for redrawing and to the extent the prepayment is not funded by other Permitted Financial Indebtedness) voluntary prepayments of Permitted Financial Indebtedness made during such period;

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

(vi) increases in Working Capital for such period (except as a result of (A) the reclassification of items from short-term to long-term or vice versa or (B) any
such decreases arising from acquisitions or disposals completed during such period or the application of purchase accounting);

(vii) cash payments by any member of the Group during such period in respect of deferred purchase price and/or earn out obligations and long-term liabilities of the Group other than Financial Indebtedness (including such Financial Indebtedness specified in paragraph (b)(iii) above);

(viii) the amount of distributions made by the Company in cash during such period or, at the option of the Company, following the end of such period and prior to the date on which the relevant Excess Cash Flow payment is due (provided such amount is then ignored in determining Excess Cash Flow for the following Financial Year), to the extent such distributions were not financed with any of the proceeds received from the incurrence of long-term Financial Indebtedness other than Financial Indebtedness that is revolving indebtedness;

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

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

(xi) without duplication of amounts deducted from Excess Cash Flow in other periods, (A) the aggregate consideration required to be paid in cash by any member of the Group pursuant to binding contracts, commitments, letters of intent or purchase orders (the “Contract Consideration”) entered into prior to or during such period and (B) any planned cash expenditures by any member of the Group (the “Planned Expenditures”), in the case of each of paragraphs (A) and (B) above, relating to Permitted Acquisitions (or Investments similar to those made for Permitted Acquisitions), capital expenditures or acquisitions of intellectual property to be consummated or made, or restructuring costs anticipated to be paid, during the period of four consecutive Financial Quarters of the Company following the end of such period (except to the extent financed with any of the proceeds received from the incurrence of long-term Financial Indebtedness (other than Financial Indebtedness that is revolving indebtedness), provided that to the extent that the aggregate amount of cash actually utilised to finance such Permitted Acquisitions (or Investments similar to those made for Permitted Acquisitions), capital expenditures, acquisitions of intellectual property or restructuring costs during such following period of four consecutive Financial Quarters is less than the Contract Consideration and Planned Expenditures, the amount of such shortfall shall be added to the calculation of Excess Cash Flow, at the end of such period of four consecutive Financial Quarters;

(xii) the amount of taxes or tax reserves set aside or unpaid (without duplication) in such period;
(xiii) cash expenditures made in respect of hedging or derivative arrangements during such period to the extent not deducted (or to the extent excluded) in arriving at such EBITDA;

(xiv) in respect of the financial year ending 31 December 2018, Bwin Acquisition Costs actually paid in that Financial Year in an aggregate amount not exceeding €25,000,000;

(xv) decreases in current and non-current deferred revenue to the extent included or not deducted in arriving at such EBITDA; and

(xvi) cash payments in respect of Exceptional Items.

"Excluded Swap Obligation" means, with respect to any Guarantor, any Swap Obligation if, and only to the extent that, all or a portion of the guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the US Commodity Exchange Act or any rule, regulation, or order of the US Commodity Futures Trading Commission (or the application or official interpretation of any thereof). If a Swap Obligation arises under a master agreement governing more than one Swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to Swaps for which such guarantee or security interest is or becomes illegal.

"Facility" means Facility B, the Revolving Facility or an Additional Facility.

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

"Facility B Commitment" means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility B Commitment" in Part 2 of Schedule 1 (The Original Parties) and the amount of any other Facility B Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (Additional Facility) or Clause 2.3 (Increase); and

(b) in relation to any other Lender, the principal amount in the Base Currency of any Facility B Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (Additional Facility) or Clause 2.3 (Increase), to the extent:

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

(ii) not deemed to be zero pursuant to Clause 28 (Debt Purchase Transactions).

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

"Facility Office" means the office or offices notified by a 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.

"FATCA" means:

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

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

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

"FATCA Application Date" means:

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

(b) in relation to a "withholdable payment" described in section 1473(1)(A)(ii) of the Code (which relates to "gross proceeds" from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or

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

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

"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 Mandated Lead Arrangers and the Company (or the Agent and the Company or the Security Agent and the Company) setting out any of the fees referred to in Clause 15 (Fees); and

(b) any agreement setting out fees payable to a Finance Party referred to in paragraphs (xii) of Clause 2.2 (Additional Facility), (h) to (i) inclusive of Clause 2.3 (Increase) or Clause 15.5 (Interest, commission and fees on Ancillary Facilities) or under any other Finance Document.
“Fixed Charge Coverage Ratio” means, as of any date of determination, the ratio of (x) the aggregate amount of Adjusted EBITDA for the most recently completed Relevant Period for which annual, semi-annual or quarterly financial statements are available under Clause 23.1 (Financial Statements) to (y) the aggregate amount of Consolidated Financial Interest Expenses for that Relevant Period.

"Finance Document" means this Agreement, the Amendment and Restatement Agreement, the Intercreditor Agreement, any Fee Letter, any Accession Deed, any Ancillary Document, any Hedging Agreement, any Increase Confirmation, each Additional Facility Notice, any Resignation Letter, any Transaction Security Document, any Utilisation Request, any Selection Notice and any other document designated as such by the Agent and the Company provided that where the term "Finance Document" is used in, and construed for the purposes of, this Agreement or the Intercreditor Agreement, a Hedging Agreement shall be a Finance Document only for the purposes of:

(a) the definition of Default;
(b) the definition of Material Adverse Effect;
(c) paragraph (b) of the definition of Permitted Transaction;
(d) the definition of Transaction Security Document
(e) Clause 1.2(a)(iv) (Construction)
(f) Clause 21 (Guarantee and Indemnity) and
(g) Clause 26 (Events of Default) (other than Clause 26.13 (Acceleration))

“Finance Lease” means any lease or hire purchase contract which would, in accordance with the Original Accounting Principles absent any election to the contrary, be treated as a finance or capital lease.

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

(a) the definition of Secured Parties;
(b) Clause 1.2(a) (Construction);
(c) paragraph (c) of the definition of Material Adverse Effect;
(d) Clause 25.21 (Further Assurance); and
(e) Clause 33 (Conduct of Business by the Finance Parties).

"Financial Half-Year" means the half-year period ending on 30 June and 31 December in each year.
"Financial Quarter" means the period commencing on the day after a Quarter Date and ending on the next Quarter Date.

"Financial Year" means the annual accounting period of the Group ending on 31 December in each year.

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

(a) moneys borrowed;

(b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;

(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument

(d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the Accounting Principles, be treated as a balance sheet liability (other than (i) any liability in respect of a lease or hire purchase contract which would, in accordance with the Accounting Principles in force prior to 1 January 2019 and absent a voluntary election to treat otherwise, have been treated as an operating lease and (ii) for the avoidance of doubt, any rental obligations under any leases of real property)

(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis or where recourse is limited to customary warranties and indemnities);

(f) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before the Termination Date for Facility B;

(g) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 180 days after the date of supply;

(h) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition required to be accounted for as a borrowing under the Accounting Principles;

(i) 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)

(j) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability of an entity which is not a member of the Group which liability would fall within one of the other paragraphs of this definition and
(k) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above (and, when calculating the value of such guarantee, the amount of any guarantee limit or cap shall be taken into account),

and so that where the amount of the Financial Indebtedness falls to be calculated, no amount shall be taken into account more than once in the same calculation and, where the amount is to be calculated on a consolidated basis in respect of the Group, monies borrowed or raised, or other indebtedness, as between members of the Group shall be excluded.

The amount of Financial Indebtedness of any person at any time in the case of a revolving credit or similar facility (including the Revolving Facility) shall be the total amounts of cash funds borrowed and then outstanding and the contingent amount of any letters of credit or bank facilities issued thereunder (including under Ancillary Facilities or similar facilities) supporting Financial Indebtedness (without double counting). In relation to any Financial Indebtedness in respect of bank accounts subject to netting, cash pooling, net balance, balance transfer or similar arrangements, only the net balance shall be used. The amount of Financial Indebtedness of any person at any date shall be determined as set forth above or as otherwise provided in this Agreement, and shall equal the amount thereof that would appear on a balance sheet of such person (excluding any notes thereto) prepared on the basis of the Accounting Principles.

Notwithstanding the above provisions, in no event shall the following constitute Financial Indebtedness:

(i) any lease, concession, license of property or other arrangement (or guarantee thereof) which would be considered an operating lease under the Accounting Principles as in effect on the Amendment and Restatement Effective Date (without an election to the contrary);

(ii) Financial Indebtedness arising under Treasury Transactions except to the extent included in paragraph (i) above;

(iii) obligations under any license, permit or other approval (or guarantees given in respect of such obligations) incurred prior to the Amendment and Restatement Effective Date in the ordinary course of business;

(iv) Contingent Obligations in respect of obligations of member of the Group incurred in the ordinary course of business or in respect of obligations of a member of the Group under or in respect of a Permitted Disposal;

(v) any rental lease obligations consistent with those in relation to the Group’s sites as at the Amendment and Restatement Effective Date which could, under applicable Accounting Principles, be required to be treated as a finance lease or on-balance sheet lease;

(vi) in connection with the purchase by the Company or any Restricted Subsidiary of any business, any post-closing payment adjustments to which the seller (or an affiliate thereof) may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing (including, for
the avoidance of doubt, earn outs and other contingent consideration arrangements);

(vii) the Customer Liabilities;

(viii) any Trade Instruments on normal commercial terms or intra-day exposures; or

(ix) for the avoidance of doubt, any obligations in respect of workers’ compensation claims, any pension scheme operated by any member of the Group from time to time, early retirement or termination obligations, pension fund obligations or contributions or similar claims, obligations or contributions or social security or wage Taxes.

"Funding Rate" means any individual rate notified by a Lender to the Agent pursuant to Clause 14.4(a)(ii) (Cost of funds).

"Gaming Authority" means, in any jurisdiction in which the Company or any other member of the Group manages and conducts online gaming or gambling business or activities, the applicable gaming board, commission, or other governmental gaming or gambling regulatory body or agency which:

(a) has, or may at any time after the Amendment and Restatement Effective Date, have jurisdiction over the Company's or any other member of the Group's online gaming or gambling business or any successor to such authority or

(b) is, or may at any time after the Amendment and Restatement Effective Date, be responsible for interpreting, administering and enforcing Gaming Laws.

"Gaming Laws" means all applicable laws, rules, agreements, regulations, orders and statutes pursuant to which any Gaming Authority possesses regulatory, licensing or permitting authority over online gaming or gambling business and activities and all legally binding and enforceable rules, rulings, orders, ordinances and regulations of any Gaming Authority applicable to the online gaming or gambling business activities of the Company or any other member of the Group in any jurisdiction, as in effect from time to time, including legally binding and enforceable policies, license conditions and interpretations and the administration thereof by the Gaming Authorities.

"German Finance Party" means a Finance Party that qualifies as German resident (Inländer) in the meaning of section 2 paragraph 15 of the German Foreign Trade Act (Außenwirtschaftsgesetz) (including, without limitation, directors, managers, officers, agents and/or employees of such Finance Party).

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

“Group” means the Company and its Restricted Subsidiaries for the time being.

"Guarantor" means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 29 (Changes to the Obligors)
"Hedge Counterparty" means any entity which is or has become, a party to the Intercreditor Agreement as a Hedge Counterparty in accordance with the provisions of the Intercreditor Agreement.

"Hedging Agreement" means any master agreement, confirmation, schedule or other agreement in agreed form entered into or to be entered into by the Company and a Hedge Counterparty for the purpose of hedging liabilities and/or risks in relation to any Permitted Financial Indebtedness.

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

"IFRS" means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

"Increase" has the meaning given to that term in Clause 2.3 (Increase).

"Increase Confirmation" means a confirmation substantially in the form set out in Schedule 9 (Form of Increase Confirmation).

"Increase Lender" has the meaning given to that term in Clause 2.3 (Increase)

"Indemnified Person" has the meaning given to that term in Clause 18.2 (Other Indemnities).

"Industrial Competitor" means any person (or any of its Affiliates) which is a competitor of the Group in the business of the provision of online gaming and online betting and any controlling shareholder of a trade competitor of a member of the Group, provided that, for the avoidance of doubt, this shall not include any person or entity (or any of its Affiliates) which is a bank, financial institution or trust, fund or other entity whose principal business or a material activity of whom is arranging, underwriting or investing in debt.

"Information Memorandum" means the document in the form approved by the Company concerning the Group which, at the request of the Company and on behalf of the Original Obligors was prepared in relation to this transaction and distributed by Nomura International plc as Mandated Lead Arranger in connection with the original syndication of Facility B.

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

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

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

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

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

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

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

(ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;

(f) has exercised in respect of it one or more of the stabilisation powers pursuant to Part 1 of the Banking Act 2009 and/or has instituted against it a bank insolvency proceeding pursuant to Part 2 of the Banking Act 2009 or a bank administration proceeding pursuant to Part 3 of the Banking Act 2009;

(g) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

(h) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets (other than, for so long as it is required by law or regulation not to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in paragraph (d) above);

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

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

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

"Intellectual Property" means:

(a) any patents, trade-marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered and

(b) the benefit of all applications and rights to use such assets of each member of the Group (which may now or in the future subsist)
"Intercreditor Agreement" means the intercreditor agreement dated on or about the date of this Agreement and made between, among others, the Company, the Debtors (as defined in the Intercreditor Agreement), the Security Agent, the Agent, the Lenders, the Mandated Lead Arrangers and the Intra-group Lenders (each as defined in the Intercreditor Agreement), as amended, restated, supplemented, novated or replaced from time to time.

"Interest Period" means, in relation to a Loan, each period determined in accordance with Clause 13 (Interest Periods) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 12.3 (Default Interest).

"Interpolated Screen Rate" means, in relation to a 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.

“Investment” means, in respect of a Joint Venture or Unrestricted Subsidiary at any time, the making of any equity investment or similar in it (valued at the cash consideration paid in connection therewith), the making of any loan to it, the giving of any guarantee, indemnity or other credit support or security in respect of its obligations (valued by reference to the outstanding principal amount of any Financial Indebtedness supported thereby from time to time) or the transfer of other assets to it (valued at the date of the transfer, and equal to zero (if on at least arms’ length terms) or (if worse than arms’ length terms from the perspective of the Group) valued at the amount equal to the difference (if positive) between arms’ length consideration therefore and the agreed consideration received by the Group), in each case to the extent the transfer of such other assets or other contribution, if any, results in an actual loss of value to the Group.


“Joint Venture” means any joint venture entity or minority interest of a member of the Group, whether in or relating to a company, unincorporated firm, undertaking, association, joint venture or partnership or any other person in which a member of the Group directly or indirectly holds (or, upon making an initial investment, will hold) shares or other applicable ownership interests.

"Legal Opinion" means any legal opinion delivered to the Agent under Clause 4.1 (Initial Conditions Precedent) or Clause 29 (Changes to the Obligors).

"Legal Reservations" means:

(a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
(b) the time barring of claims under applicable limitation laws, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty may be void and defences of set-off and counterclaim;

(c) similar principles, rights and defences under the laws of any Relevant Jurisdiction;

(d) any other general principles which are set out as qualifications or reservations as to matters of law in the legal opinions delivered to any of the Finance Parties pursuant to Clause 4.1 (Initial Conditions Precedent) or Clause 29 (Changes to the Obligors); and

(e) in respect of any Guernsey or Isle of Man-incorporated Obligor only:

(i) security over assets situate in Guernsey or the Isle of Man (where applicable) will not be recognised by the Guernsey or the Isle of Man (where applicable) courts unless the manner in which it is given or created complies with the requirements of the laws of Guernsey or the Isle of Man (where applicable). To the extent that a Finance Document (except for any Guernsey or Isle of Man law security agreement) purports to create security over any of the Company's assets situate in Guernsey or the Isle of Man, they will not be effective to give security over such assets;

(ii) neither Guernsey nor the Isle of Man is a member of the European Union and European Union legislation is only extended to Guernsey or the Isle of Man in limited circumstances; and

(iii) the circumstances in which enforcement may be limited pursuant to paragraph (a) of this definition include désastre under the laws of Guernsey.

"Lender" means:

(a) any Original Lender; and

(b) any bank, financial institution, trust, fund or other entity which has become a Party as a Lender in accordance with Clause 2.2 (Additional Facility), Clause 2.3 (Increase) or 27 (Changes to the Lenders), which in each case has not ceased to be a Party in accordance with the terms of this Agreement

"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. Leverage shall be calculated in accordance with the Accounting Principles as applied in the Company's Original Financial Statements and tested by reference to each of the consolidated annual, semi-annual and quarterly financial statements delivered pursuant to Clauses 23.1(a), 23.1(b) and 23.1(c) (Financial Statements).

"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 14.1 (Unavailability of Screen Rate),

and if, in either case, that rate is less than zero, LIBOR shall be deemed to be zero.

"LMA" means the Loan Market Association.

"Loan" means a Facility B Loan or a Revolving Facility Loan or an Additional Facility Loan.

“Loan to Own Investor” means any person (including an Affiliate or a Related Fund of a Lender or any transferee which satisfies the requirements set out under Clause 27 (Changes to the Lenders)) whose principal business or material activity is in investment strategies whose primary purpose is the purchase of loans or other debt securities with the intention of (or view to) owning the equity or gaining control of a business (directly or indirectly), provided that:

(a) any Affiliate of such persons which are a deposit taking financial institution authorised by a financial services regulator to carry out the business of banking which holds a minimum rating equal to or better than BBB- or Baa3 (as applicable) according to at least two of Moody's Investors Services Limited, Standard and Poor’s Ratings Services or Fitch Ratings Ltd. which are managed and controlled independently where any information made available under the Finance Documents is not disclosed or made available to other Affiliates; and

(b) any Original Lender,

shall not, in each case, be a Loan to Own Investor.

"Major Default" means any circumstances constituting an Event of Default under any of Clause 26.1 (Non-Payment), Clause 26.3 (Other Obligations) insofar as it relates to a breach of a Major Undertaking, Clause 26.4 (Misrepresentation) insofar as it relates to a breach of any Major Representation, Clause 26.6 (Insolvency), Clause 26.7 (Insolvency Proceedings), Clause 26.8 ( Creditors' Process) or Clause 26.9 (Unlawfulness and invalidity), in each case as it relates to any Permitted Acquisition after the Amendment and Restatement Effective Date and the applicable Agreed Certain Fund Obligors only (and excluding: (x) any procurement obligations on the part of the Agreed Certain Funds Obligor with respect to any other member of the Group; and (y) any failure to comply, breach or Default by any other member of the Group).

"Major Representation" means a representation or warranty under any of Clause 22.1 (Status) to Clause 22.5 (Validity and Admissibility in Evidence) inclusive, in each case as it relates to any Permitted Acquisition after the Amendment and Restatement Effective Date and the applicable Agreed Certain Fund Obligors only (and excluding: (x) any procurement obligations on the part of the Agreed Certain Funds Obligor with respect to any other member of the Group; and (y) any failure to comply, breach or Default by any other member of the Group).

"Major Undertaking" means an undertaking under any of Clauses 25.6 (Merger) 25.10 (Negative Pledge) 25.11 (Disposals), 25.12 (Acquisitions), 25.13 (Joint Ventures), 25.14 (Loans or Credit), 25.15 (No Guarantees or Indemnities) and 25.16 (Financial Indebtedness) inclusive, in each case as it relates to any Permitted Acquisition after the Amendment and Restatement Effective Date and the applicable Agreed Certain Fund Obligors only (and excluding: (x) any procurement obligations on the part of the Agreed Certain Funds Obligor
with respect to any other member of the Group; and (y) any failure to comply, breach or Default by any other member of the Group).

"Majority Lenders" means:

(a) for the purposes of Clause 41.2(a) (Required Consents) in the context of a waiver in relation to a proposed Utilisation of the Revolving Facility of the condition in Clause 4.2 (Further Conditions Precedent) or the requirements of Clause 24 (Financial Covenant), a Lender or Lenders whose Revolving Facility Commitments (and for this purpose the amount of an Ancillary Lender’s Revolving Facility Commitments shall not be reduced by the amount of its Ancillary Commitment) aggregate more than 66\(^\frac{2}{3}\)\% of the Total Revolving Facility Commitments (or, if the Total Revolving Commitments have been reduced to zero, aggregated more than 66\(^\frac{2}{3}\)\% of the Total Commitments immediately prior to the reduction);

(b) in the case of a proposed amendment or waiver in relation to a proposed Utilisation of an Additional Facility of any of the conditions to funding set out in Clause 4.2 (Further Conditions Precedent), a Lender or Lenders whose Additional Facility Commitments in that Additional Facility (or, if the Total Commitments for that Additional Facility have been reduced to zero, aggregated more than 66\(^\frac{2}{3}\)\% of those Total Commitments immediately prior to the reduction) aggregate more than 66\(^\frac{2}{3}\)\% per cent. of the Additional Facility Commitments in that Additional Facility;

(c) (in any other case), a Lender or Lenders whose Commitments aggregate more than 66\(^\frac{2}{3}\)\% of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 66\(^\frac{2}{3}\)\% of the Total Commitments immediately prior to the reduction).

"Majority RCF Lenders" means, in relation to the Revolving Facility, a Lender or Lenders whose Revolving Facility Commitments (and for this purpose the amount of an Ancillary Lender’s Revolving Facility Commitments shall not be reduced by the amount of its Ancillary Commitment) aggregate more than 66\(^\frac{2}{3}\)\% of the Total Revolving Facility Commitments (or, if Total Revolving Facility Commitments have been reduced to zero, aggregated more than 66\(^\frac{2}{3}\)\% of those Total Revolving Facility Commitments immediately prior to that reduction).

"Margin" means:

(a) in relation to any Facility B Loan, 2.75% per annum;

(b) in relation to any Revolving Facility Loan, 2.75% per annum;

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

(d) in relation to any other Unpaid Sum, the highest rate specified above,

but if:

(e) no Event of Default has occurred and is continuing; and
(f) Leverage in respect of the most recently completed Relevant Period is within a range set out below (as certified by any one director or the chief financial officer of the Company, such certification to be provided no more frequently than once every Financial Quarter),

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

<table>
<thead>
<tr>
<th>Leverage</th>
<th>Facility B Margin</th>
<th>Revolving Facility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater than 3.00</td>
<td>3.00</td>
<td>3.00</td>
</tr>
<tr>
<td>Equal to or less than 3.00</td>
<td>2.75</td>
<td>2.75</td>
</tr>
</tbody>
</table>

However:

(i) any increase or decrease in the Margin for a Loan shall take effect on the date which is the first day of the next Interest Period for that Loan following receipt by the Agent of the Compliance Certificate for that Relevant Period pursuant to the terms of this Agreement;

(ii) if, following receipt by the Agent of the Compliance Certificate related to the relevant Annual Financial Statements, those statements and Compliance Certificate demonstrate that (1) the Margin for a Facility should have been reduced in accordance with the above table or (2) the Margin for a Facility should not have been reduced or should have been increased in accordance with the above table, then the provisions of paragraph (b) of Clause 12.2 (Payment of Interest) shall apply. The Agent’s (acting reasonably) determination of the adjustments payable shall be prima facie evidence of such adjustments and the Agent shall, if so requested by the Company, provide the Company with details of the calculation of such adjustments);

(iii) while an Event of Default is continuing, the Margin for each Loan under Facility B and the Revolving Facility shall be the highest percentage per annum set out above for a Loan under that Facility. Once that Event of Default has been remedied or waived, the Margin for each Loan will be recalculated on the basis of the most recently delivered Compliance Certificate and the terms of this definition shall apply (on the assumption that on the date of the most recently delivered Compliance Certificate, no Event of Default had occurred or was continuing) with any reduction in Margin resulting from such recalculation taking effect from the date of such remedy or waiver; and

(iv) for the purpose of determining the Margin, Leverage and Relevant Period shall be determined in accordance with the definitions of each such term set out in Clause 1.1 (Definitions).

"Material Adverse Effect" means a material adverse effect on:
(a) the consolidated business, assets or financial condition of the Group (taken as a whole);

(b) the ability of the Obligors (taken as a whole) to perform their payment obligations under the Finance Documents taking into account the resources available to the Group or

(c) subject to the Legal Reservations, the validity or enforceability of the Finance Documents or the rights or remedies of any Finance Party under any of the Finance Documents, in each case, which is not remedied within 20 Business Days of the earlier of (i) the Borrower becoming aware of such circumstance and (ii) the Agent notifying the Borrower of such circumstance

"Material Subsidiary" means at any time:

(a) an Obligor;

(b) the direct Holding Company of a Material Subsidiary specified in paragraph (b)(c) below; or

(c) a Restricted Subsidiary of the Company which has earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA but on an unconsolidated basis) representing 10% or more of aggregated EBITDA of the Group, calculated on a consolidated basis provided that, any entity having negative earnings before interest, tax, depreciation and amortisation shall be deemed to have zero earnings before interest, tax, depreciation and amortisation.

Compliance with the conditions set out in paragraph (c) above shall be determined by reference to the most recent Compliance Certificate supplied by the Company with the Annual Financial Statements and/or the latest audited financial statements of that Restricted Subsidiary, provided that if a Subsidiary has been acquired since the date as at which such Annual Financial Statements were prepared, the financial statements shall (until the audited accounts for the financial period in which such acquisition is made are published) be deemed to be adjusted in order to take into account the acquisition of that Subsidiary (that adjustment being as deemed appropriate by the directors of the Company).

"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 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 27 (Changes to the Lenders).

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

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

"Obligor" means a Borrower or a Guarantor.

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

"OFAC" means the Office of Foreign Assets Control of the US Department of the Treasury.

"Optional Currency" means AUD, euro, US dollars and a currency (other than the Base Currency) which complies with the conditions set out in Clause 4.4 (Conditions Relating to Optional Currencies).

"Original Financial Statements" means:

(a) the audited consolidated financial statements of the Group for the financial year ended 31 December 2016; and

(b) the unaudited consolidated financial statements of the Group for the financial half-year ended 30 June 2017.

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

"Pari Passu Liabilities" has the meaning given to that term in the Intercreditor Agreement.

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

"Party" means a party to this Agreement.

"Perfection Requirements" means the making or the procuring of appropriate registration, filings, recordings, enrolments, registrations, notarisations, notifications, acknowledgments, endorsements and stampings and payments in any jurisdiction (and any other actions and/or requirements to be made in any jurisdiction) in order to perfect, or for the validity or enforceability of, any Security created by the Transaction Security Documents including any such actions to achieve the relevant priority for such Transaction Security.

"Permitted Acquired Debt" means
(a) Acquired Indebtedness, provided that:

(i) such Financial Indebtedness is discharged within six Months of the date on which the Acquired Person or Asset becomes a Subsidiary or is otherwise acquired (as the case may be); or

(ii) the Company has confirmed to the Agent that:

(A) at the election of the Company in relation to all or part of any Permitted Acquired Debt, as at the Permitted Acquired Debt Commencement Date, after giving pro forma effect to the acquisition and/or incurrence of such Financial Indebtedness and any adjustment, the Fixed Charge Coverage Ratio does not decrease; or

(B) to the extent any Acquired Indebtedness included in the Fixed Charge Coverage Ratio results in a decrease below the level as at the relevant Permitted Acquired Debt Commencement Date, such excess amount otherwise constitutes Permitted Financial Indebtedness; and

(b) any Refinancing Debt of Acquired Indebtedness under paragraph (a) above.

"Permitted Acquired Debt Commencement Date" means in respect of any Acquired Indebtedness, as elected by the Company, either: (i) the date upon which the Acquired Person or Asset becomes or combines with a member of the Group or is otherwise acquired as the case may be; or (ii) the date upon which a member of the Group enters into a legally binding commitment for the relevant acquisition or such other transaction relating to such Acquired Indebtedness.

"Permitted Acquisition" means:

(a) an acquisition by a member of the Group of an asset sold, leased, licensed, transferred or otherwise disposed of by another member of the Group in circumstances constituting a Permitted Disposal. or a Permitted Transaction;

(b) an acquisition by a member of the Group of any shares which are a minority holding in any member of the Group provided that if the shares which are held already by a member of the Group are subject to Transaction Security, the shares so acquired will also become subject to Transaction Security (subject to the Agreed Security Principles) as soon as reasonably practicable and in any event within 30 days of such acquisition;

(c) an acquisition, investment or redemption of shares or other equity interests, securities, indebtedness or analogous interests (whether directly or indirect) of or in connection with any agreement or instrument issued for the benefit of current or former directors, employees, managers or consultants in respect of any management equity, incentive, benefit, termination or other similar arrangement;

(d) an acquisition of securities which are cash equivalent investments or short term investments;
(e) an acquisition pursuant to a Permitted Share Issue or any acquisition of shares or other debt or equity interests following the conversion of an intra-Group loan into any of them;

(f) the acquisition of, or subscription for, the issued share capital or membership interests of a limited liability company or partnership (including by way of formation) which has not traded prior to the date of the acquisition;

(g) an acquisition by way of an Investment in a Joint Venture that is a Permitted Joint Venture to the extent permitted under Clause 25.13 (Joint Ventures); and

(h) an acquisition of or investment in shares or equity interest in person where, following that acquisition or investment, the Group holds or beneficially owns more than 50 per cent. of the voting issued shares (or equivalent interests) in the relevant person or otherwise controls the relevant person (or a direct or indirect Holding Company of such person), where “control” means the Group has the ability to appoint directors which control a majority of the votes which may be cast at a meeting of the board of directors or analogous governing body of the relevant person) or such acquisition or investment is of or in respect of a business or undertaking (each such person, business or undertaking a “target”), in each case provided that:

(i) no Event of Default has occurred and is continuing on the date of the Group’s entry into a legally binding commitment to make the acquisition; and

(ii) the relevant target is not incorporated in, and does not conduct a material part of its business in, a country or territory that is, or whose government is, the target or the subject of country-wide or territory-wide Sanctions.

"Permitted Disposal" means any sale, lease, licence, transfer or other disposal (each, a "Disposal") of:

(a) shares and assets the subject of, and licences granted pursuant to, the Titan Transaction;

(b) assets made by a member of the Group in the ordinary course of trading;

(c) cash and/or cash equivalent investments in a manner not prohibited by the Finance Documents;

(d) assets (other than shares, businesses and undertakings) in exchange or replacement for other assets (other than cash or cash equivalent investments) which are, in the reasonable opinion of the entity effecting the disposal, comparable or superior as to type, quality and value, provided that if the asset disposed of is subject to Transaction Security the exchanged or replacement asset shall also become subject to equivalent Security under a Transaction Security Document (subject to the Agreed Security Principles and ignoring any hardening periods or guarantee limitations), unless the relevant asset is disposed of or transferred subject to the Transaction Security;

(e) an asset by a member of the Group to another member of the Group, provided that if the asset disposed of is subject to Transaction Security at the time of disposal it shall be disposed of on the basis that it shall remain subject to, or otherwise become
subject to, equivalent Security under a Transaction Security Document following disposal (subject to the Agreed Security Principles and ignoring any hardening periods or guarantee limitations), unless the relevant asset is disposed of or transferred subject to the Transaction Security;

(f) assets which are obsolete for the purpose for which such assets are normally utilised or which are no longer required for the purpose of the relevant person’s business or operations;

(g) assets arising as a result of a Permitted Share Issue or Permitted Security;

(h) assets as a result of a Permitted Transaction;

(i) assets that are seized, expropriated or acquired by compulsory purchase by or by the order of any central or local governmental agency or authority;

(j) disposals pursuant to the grant or termination of leasehold interests in, or licences of, property in the ordinary course of business;

(k) any disposal made by a member of a group or business acquired after the Amendment and Restatement Effective Date pursuant to a contractual arrangement already in existence on the date of consummation of such acquisition;

(l) any disposal of an intra-Group loan as a result of the conversion of such intra-Group loan into equity pursuant to paragraph (e) of Permitted Acquisition;

(m) any disposals of assets to a Joint Venture that is a Permitted Joint Venture permitted under Clause 25.13 (Joint Ventures) or of an interest in a Joint Venture to the extent required by the terms of the arrangements in relation to that Joint Venture between the Joint Venture parties;

(n) disposals of shares of, or sales of indebtedness or other securities of, Unrestricted Subsidiaries;

(o) any disposal or termination of Treasury Transactions or giving effect to a Debt Purchase Transaction;

(p) any disposal to which the Majority Lenders shall have given their prior written consent;

(q) disposals of fixed or long term assets other than shares (or the disposal of shares in a company whose material assets are limited to fixed or long term assets);

(r) any disposal of assets (including, any shares or other equity interests in or business, undertakings or divisions of any member of the Group) provided that no Event of Default has occurred and is continuing at the time the relevant member of the Group legally commits to the disposal of such asset and further provided that, if Leverage for the most recently completed Relevant Period for which annual, semi-annual or quarterly financial statements are available under Clause 23.1 (Financial Statements) preceding the date on which the relevant member of the Group legally commits to the disposal (after giving pro forma effect to the disposal, including pro forma application of the net proceeds therefrom) exceeds 2.00:1:
(i) any such disposal with a purchase price in excess of €15,000,000 is for fair market value (as reasonably determined by the Company) with at least 75 per cent. of the consideration for such disposal consisting of cash or cash equivalent investments at the time of such disposal and provided that for the purposes of the 75 per cent. cash consideration requirement the following items shall be deemed to be “cash”:

(A) the amount of any indebtedness or other liabilities (other than indebtedness owed to any member of the Group) of any member of the Group (as shown on such person’s most recent balance sheet or statement of financial position (or in the notes thereto)) that are assumed by the transferee of any such assets and for which the relevant member of the Group has been validly released by all relevant creditors in writing;

(B) the amount of any trade-in value applied to the purchase price of any replacement assets acquired in connection with such disposal;

(C) any shares or securities received by the Company or any other member of the Group from such transferee that are converted by such person into cash or cash equivalent investments (to the extent of the cash or cash equivalent investments received) within one hundred and eighty (180) days following the closing of the applicable disposal;

(D) the amount of any deferred consideration receivable in connection with the applicable disposal provided that such consideration once received will be in the form of cash and cash equivalent investments; and

(E) the fair market value (as determined by the Company in good faith) of non-cash consideration received by the Company or any other member of the Group in connection with any disposal that is designated as such in a certificate from the Company (signed by an authorised signatory), setting out the basis of such valuation (which will be reduced by the amount of cash and cash equivalent investments received in connection with a subsequent sale or conversion of such designated non-cash consideration into cash or cash equivalent investments) (the “Designated Non-Cash Consideration”) having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this paragraph that is at that time outstanding does not exceed €20,000,000 or, if higher, an amount equal to 10 per cent. of Adjusted EBITDA; and

(ii) the Net Disposal Proceeds of such disposal received by the Group are applied and/or reinvested as (and to the extent) required or permitted by Clause 10 (Mandatory Prepayment and Cancellation);
(s) disposals of accounts receivable in the ordinary course of business (including any discount and/or forgiveness thereof) or in connection with the collection or compromise of such accounts receivables;

(t) disposals and/or terminations of leases, subleases, licenses or sublicenses (including the provision of software under any open source license), which (i) do not materially interfere with the business of any member of the Group; or (ii) relate to closed facilities or the discontinuation of any product line;

(u) disposals of assets where the aggregate net cash consideration for the assets so disposed of (ignoring any earn out which may become payable) does not in any Financial Year in aggregate exceed the greater of €30,000,000 and 15 per cent. of Adjusted EBITDA; or

(v) with the prior written consent of the Agent (acting on the instructions of the Majority Lenders).

"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 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 trading, but not a foreign exchange transaction for investment or speculative purposes, or arising under any treasury transaction permitted by Clause 25.22 (Treasury Transactions);

(c) arising under the Finance Documents, a Permitted Loan or a Permitted Guarantee;

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

(e) incurred provided that:

(i) after giving pro forma effect thereto (including pro forma application of the proceeds thereof) the incurrence of such Financial Indebtedness pursuant to this paragraph (e) would not cause the Available Incremental Amount to be exceeded (such Financial Indebtedness being referred to as "Permitted Alternative Debt");

(ii) if such Permitted Alternative Debt is established as a term loan facility or revolving loan facility under this paragraph, its terms comply with any requirements of Clause 2.2(b)(i) (other than any requirement to rank pari passu with Facility B, which shall be at the election of the Company) as if references to the relevant Additional Facility were references to such Permitted Alternative Debt (and each Finance Party shall take such action and instruct the Agent and the Security Agent as set out in Clause 2.2(b)(vi) as if references to the relevant Additional Facility were references to such Permitted Alternative Debt);

(iii) if such Permitted Alternative Debt is to rank junior to Facility B either in priority of payment or in the proceeds of enforcement of any Transaction
Security, such Permitted Alternative Debt shall only be incurred by the Company;

(iv) such Permitted Alternative Debt:

(A) is incurred by a Guarantor;

(B) is subject to either the Intercreditor Agreement or a customary intercreditor agreement, the terms of which shall be reasonably satisfactory to the Agent and the Company; or

(C) has an outstanding principal amount that, when aggregated with the outstanding principal amount of any other Permitted Alternative Debt that does not comply with either of the conditions in paragraphs (A) or (B) above, does not exceed €100,000,000 (or its equivalent in other currencies) or, if higher, an amount equal to 50 per cent. of Adjusted EBITDA;

(f) Permitted Acquired Debt;

(g) Refinancing Debt;

(h) arising under, or in connection with, the issuance by the Company or any other member of the Group of debt securities (including, without any limitation, any listed bond or private placement or placements) provided that the Net Capital Markets Proceeds of such issuance are applied in accordance with Clause 10.3 (Net Disposal Proceeds and Net Capital Markets Proceeds)

(i) arising as a result of daylight exposures of any member of the Group in respect of banking arrangements entered into in the ordinary course of its treasury activities;

(j) under any earn out arrangement or other adjustment of purchase price, indemnification or similar obligation in relation to a Permitted Disposal or Permitted Acquisition (to the extent that the earn out arrangement itself constitutes Financial Indebtedness) up to a maximum amount not exceeding 20% of the consideration received in respect of such Permitted Disposal or consideration paid in respect of such Permitted Acquisition;

(k) (i) incurred in the ordinary course of business in respect of obligations of any member of the Group to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services provided such obligations are incurred in connection with open accounts extended by suppliers on customary trading terms in the ordinary course of business and not in connection with borrowing money; and (ii) in respect of letters of credit, bankers' acceptances, bank guaranties or similar instruments supporting trade payables, warehouse receipts or similar facilities entered into in the ordinary course of business;

(l) any Financial Indebtedness of any member of the Group consisting of (i) the financing of insurance premiums, (ii) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business and/or (iii) obligations to reacquire assets or inventory in connection with customer financing arrangements in the ordinary course of business;
(m) Financial Indebtedness (including obligations in respect of guarantees, letters of credit, banker’s acceptances bank guaranties, surety bonds, performance bonds or similar instruments with respect to such Financial Indebtedness) incurred by any member of the Group in respect of workers compensation claims, unemployment insurance (including premiums related thereto), other types of social security, pension obligations, vacation pay, health, disability or other employee benefits;

(n) Financial Indebtedness of any member of the Group representing deferred compensation or other similar arrangements to directors, officers, employees, members of management, managers, and consultants of any member of the Group in the ordinary course of business;

(o) unfunded pension fund and other employee benefit plan obligations and liabilities incurred by the Company or any Restricted Subsidiary in the ordinary course of business; and

(p) any other Financial Indebtedness, the principal outstanding amount of which does not in aggregate exceed €50,000,000 or, if higher, an amount equal to 25 per cent. of Adjusted EBITDA.

"Permitted Guarantee" means:

(a) any guarantee under the Finance Documents, of an Additional Facility or of Permitted Alternative Debt;

(b) any guarantee in respect of Permitted Financial Indebtedness;

(c) guarantees that constitute or are in respect of Permitted Acquired Debt, provided that such guarantees are granted by or in respect of the person or asset acquired, or are to support any grant of Permitted Security under paragraph (e) of the definition thereof provided such guarantees are limited recourse to the assets subject to such Permitted Security;

(d) any guarantee which, if it were a loan, would be a Permitted Loan to the extent the issuer of the relevant guarantee would have been entitled to make a loan in an equivalent amount under the definition of Permitted Loan to the person whose obligations are being guaranteed;

(e) guarantees of Treasury Transactions which are not prohibited under this Agreement;

(f) guarantees to landlords and counter-indemnities in favour of financial institutions which have guaranteed rent obligations of a member of the Group or guarantees or counter indemnities for the lease obligations of suppliers, customers, franchisees and licensees, in each case, in the ordinary course of business;

(g) the endorsement of negotiable instruments in the ordinary course of trading;

(h) guarantees guaranteeing performance by a member of the Group under any contract entered into in the ordinary course of business;

(i) guarantees and indemnities given in favour of directors and officers of any member of the Group in respect of their function as such;
(j) any guarantee given in respect of cash pooling, netting or set-off arrangements permitted pursuant to paragraph (b) of Permitted Security;

(k) indemnities given to professional advisers and consultants in the ordinary course of business;

(l) guarantees given to creditors of members of the Group pursuant to Permitted Transactions and capital reductions;

(m) guarantees and indemnities given pursuant to or in connection with the Acquisition Documents;

(n) guarantees given in connection with Permitted Disposals and Permitted Acquisitions up to a maximum amount equal to the consideration for that disposal or acquisition (as the case may be) and/or guarantees given by a member of the Group in respect of a former Subsidiary (at the time it was a Subsidiary and not in contemplation of it ceasing to be a Subsidiary) of that member of the Group where such member of the Group has received an indemnity in respect of the maximum aggregate amount of the liabilities under such guarantee;

(o) guarantees by any member of the Group in respect of obligations or Permitted Financial Indebtedness of another member of the Group;

(p) any guarantee or indemnity made in connection with a Joint Venture that is a Permitted Joint Venture which is permitted under Clause 25.13 (Joint Ventures);

(q) guarantees to which the Agent (acting on the instructions of the Majority Lenders) has given prior written consent;

(r) customary indemnities contained in mandate, engagement and commitment letters, facility agreements, purchase agreements and indentures, in each case entered into in respect of or in contemplation of Permitted Financial Indebtedness and/or Refinancing Debt;

(s) any guarantee or indemnity provided by a member of the Group for the obligations of another member of the Group in connection with a member of the Group claiming exemption from audit, the preparation and filing of its accounts or other similar exemptions (including under section 394C, 448C or 479C of the Companies Act 2006 or other similar or equivalent provisions);

(t) guarantees of (i) leases or of other obligations not constituting Financial Indebtedness and (ii) lease obligations of suppliers, customers, franchisees and licensees of any member of the Group, in each case, in the ordinary course of business;

(u) any guarantee or indemnity in respect of unfunded pension fund and other employee benefit plan obligations and liabilities to the extent that they are permitted to remain unfunded under applicable law; and

(v) any other guarantees, the aggregate principal outstanding amount guaranteed by which (when aggregated with all such other guarantees) does not exceed €50,000,000 or, if higher, an amount equal to 25 per cent. of Adjusted EBITDA at any time.
"Permitted Joint Venture" means:

(a) any Investment in a Joint Venture existing at the Amendment and Restatement Effective Date or made thereafter pursuant to any agreement existing on the Amendment and Restatement Effective Date; and

(b) any Investment in a Joint Venture where the aggregate of:

(i) all amounts subscribed for shares in, lent to or invested in all such Joint Ventures by any member of the Group;

(ii) the contingent liabilities of any member of the Group under any guarantee given in respect of the liabilities of any Joint Venture; and

(iii) the market value of any assets transferred by any member of the Group to any Joint Venture (other than assets provided on arm’s length terms),

net of profit distributions and returns on investments in cash (in each case after the Amendment and Restatement Effective Date), does not exceed over the life of the Facilities an amount equal to €100,000,000 or, if higher, 25 per cent. of Adjusted EBITDA (provided that any amount in respect of a Permitted Joint Venture which is taken into account when calculating whether such basket is exceeded shall be restored to such basket if that Permitted Joint Venture becomes a member of the Group and ceases to be a Joint Venture).

"Permitted Loan" means:

(a) Financial Indebtedness which is referred to in the definition of, or otherwise constitutes, Permitted Financial Indebtedness;

(b) any loan made by a member of the Group to any member of the Group;

(c) any trade credit extended by any member of the Group to any of its customers on normal commercial terms and in the ordinary course of its trading activities;

(d) any loan comprising deferred consideration in respect of a Permitted Disposal, up to a maximum amount not exceeding 40% of the consideration received in respect of such Permitted Disposal;

(e) loans required to be made by mandatory provisions of law;

(f) loans received (i) in connection with the bankruptcy or reorganization of any Person, (ii) in settlement of delinquent obligations of, or other disputes with, customers, suppliers and other account debtors arising in the ordinary course of business, (iii) upon foreclosure with respect to any secured loan or other transfer of title with respect to any secured loan and/or (iv) as a result of the settlement, compromise, resolution of litigation, arbitration or other disputes;

(g) loans to a Joint Venture that is a Permitted Joint Venture to the extent permitted by Clause 25.13 (Joint Ventures);

(h) loans to which the Majority Lenders have given their prior written consent;
(i) loans not otherwise permitted pursuant to the preceding paragraphs provided they are made in accordance with the corporate governance standards expected of a UK-listed company and provided further that any such loans with an aggregate principal amount of greater than €5,000,000 are approved by the board and certified by a responsible officer as complying with such corporate governance standards.

"Permitted Security" means:

(a) the following Security or Quasi-Security, except to the extent the principal amount secured by that Security or Quasi-Security exceeds the amount stated (if any):

(i) the debenture dated 12 July 2006 granted by PartyGaming IA Limited in favour of PartyGaming Holdings Limited (now bwin.party holdings Limited) and subsequently assigned to PartyGaming Finance Limited by way of Deed of Assignment dated 12 July 2006;

(ii) the mortgage over shares dated 12 July 2006 granted by ElectraWorks Limited in favour of PartyGaming Holdings Limited (now bwin.party holdings Limited) and subsequently assigned to PartyGaming Finance Limited by way of Deed of Assignment dated 12 July 2006; and

(iii) security by way of a security deposit of €1,320,000 made by Bwin Italia S.R.L into blocked accounts.

(b) any netting or set-off security arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of members of the Group, to the extent such netting, set-off or Security relates to, or is granted in support of, a loan permitted pursuant to paragraph (b) of the definition of "Permitted Loan";

(c) any payment or close-out netting or set-off arrangement pursuant to any hedging transaction entered into by a member of the Group for the purpose of:

(i) hedging any risk to which any member of the Group is exposed in its ordinary course of trading or

(ii) its interest rate or currency management operations which are carried out in the ordinary course of business and for non-speculative purposes only,

excluding, in each case, any Security or Quasi-Security under a credit support arrangement in relation to a hedging transaction;

(d) any lien or right of set-off arising by operation of law and in the ordinary course of business;

(e) any Security or Quasi Security over or affecting any Acquired Person or Asset, and subject to which such Acquired Person or Asset is acquired, provided that:

(i) such Security or Quasi Security was not created in contemplation of the acquisition of such asset by a member of the Group;
(ii) the amount thereby secured has not been increased in contemplation of, or since the date of, the acquisition of such asset by a member of the Group (other than as a result of capitalisation of interest and accrual of any default interest); and

(iii) such Security or Quasi Security is either:

(A) released within six Months of such acquisition (save to the extent that such Security or Quasi Security constitutes Permitted Security under another paragraph of this definition); or

(B) granted in respect of Permitted Acquired Debt;

(f) any Security or Quasi-Security entered into pursuant to any Finance Document (including for the avoidance of doubt any Additional Facility) or in connection with any Permitted Alternative Debt;

(g) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a member of the Group in the ordinary course of trading and on the supplier’s standard or usual terms and not arising as a result of any default or omission by any member of the Group;

(h) any Security or Quasi-Security arising under, or in connection with, any funds required to be held on trust for customers, pursuant to the regulatory requirements set out in any applicable law and/or regulation;

(i) any existing Security or Quasi-Security referred to in the most recently published audited consolidated financial statement of the Group as at the Amendment and Restatement Effective Date;

(j) any Security or Quasi-Security arising under, or in connection with, the requirements of any Gaming Laws or as otherwise required by any Gaming Authority and any cash collateral or other Security provided to an issuer of bank guarantees or letters of credit issued to satisfy any such requirements;

(k) any Security or Quasi-Security arising under, or in connection with, a Permitted Transaction;

(l) any Security or Quasi-Security granted in connection with Refinancing Debt;

(m) Security over cash paid into an escrow account by any third party or any member of the Group pursuant to any customary deposit or retention of purchase price arrangements entered into pursuant to any disposal or acquisition made by a member of the Group and which is permitted under this Agreement;

(n) Security constituting an escrow arrangement to which the proceeds from any issue of any Additional Facility or any Permitted Alternative Debt are subject to;

(o) Security over rental deposits placed by a member of the Group with a lessor pursuant to a property lease entered into in the ordinary course of business;
any Security arising pursuant to an order of attachment or injunction restraining disposal of assets or similar legal process arising in connection with court proceedings which are contested by any member of the Group in good faith by appropriate proceedings;

Security arising automatically by operation of law in favour of any taxation or any government authority or organisation in respect of taxes, assessments or governmental charges which are not yet due or the liability in respect of which is being contested by the relevant member of the Group in good faith by appropriate proceedings;

(i) Security created pursuant to a court order or judgment or as security for costs arising pursuant to court proceedings being contested by the relevant member of the Group in good faith by appropriate proceedings and (ii) any pledge and/or deposit securing any settlement of litigation;

Security granted in favour of creditors of the Group directly in relation to a Permitted Reorganisation or capital reduction of a member of the Group, to the extent necessary to ensure that the Permitted Reorganisation or capital reduction occurs;

any lien arising under the general terms and conditions of banks with whom any member of the Group maintains a banking relationship in the ordinary course of business;

any (i) Security over shares in a Permitted Joint Venture to secure obligations to other joint venture partners in that Joint Venture to the extent required to be provided by the terms of the relevant joint venture agreement and (ii) customary rights of first refusal and tag, drag and similar rights in joint venture agreements and agreements with respect to non-wholly owned Subsidiaries;

Security over insurance policies and the proceeds thereof security the financing of the premiums with respect thereto; and

any Security or Quasi-Security securing indebtedness the principal amount of which (when aggregated with the principal amount of any other indebtedness which has the benefit of Security or Quasi-Security given by any member of the Group other than any permitted under paragraphs (a) to (v) above, or which is required to be provided by the Company or any member of the Group exclusively in order to comply with regulatory requirements in any applicable jurisdiction), does not exceed the greater of €50,000,000 or 25 per cent. of Adjusted EBITDA (or its equivalent in another currency or currencies).

“Permitted Share Issue” means:

an issue of shares by a Restricted Subsidiary of the Company to its shareholders or to another member of the Group provided that either (i) the ownership interests (direct or indirect) of the Company in such Restricted Subsidiary prior to such issue is not diluted as a result; or (ii) the value attributable by the Company (acting in good faith) to any shares the issue of which results in any dilution is not greater than any amounts that if transferred to such shareholder that is not a member of the Group would constitute a Permitted Disposal or Permitted Loan and provided further that in
each case, in the event that the shares of such Restricted Subsidiary are subject to Transaction Security prior to such issue, such issued shares are subject to Transaction Security which is substantially the same as any other Transaction Security over shares in the same jurisdiction or, otherwise in accordance with the provisions of the Agreed Security Principles or otherwise in a manner satisfactory to the Majority Lenders (acting reasonably), and with respect to (i) above, the percentage of shares in such Restricted Subsidiary subject to Transaction Security is not diluted; and

(b) an issue of shares permitted pursuant to a Permitted Acquisition or as permitted under Clause 25.6 (Merger) or Clause 25.13 (Joint Ventures).

"Permitted Transaction" means:

(a) the Titan Transaction;

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

(c) the solvent liquidation or reorganisation of any member of the Group other than the Company so long as any payments or assets distributed as a result of such liquidation or reorganisation are distributed to other members of the Group;

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

(e) any conversion of a loan, credit or any other indebtedness outstanding which is permitted under any Finance Document into distributable reserves or share capital of any member of the Group or any other capitalisation, forgiveness, waiver, release or other discharge of that loan, credit or indebtedness, in each case on a cashless basis;

(f) any repurchase of shares in any person upon the exercise of warrants, options or other securities convertible into or exchangeable for shares if such shares represents all or a portion of the exercise price of such warrants, options or other securities convertible into or exchangeable for shares as part of a "cashless" exercise; or

(g) any transaction or payments arising on the exercise of any put or call options (or any equivalent right or obligation) in relation to any Permitted Joint Venture.

"Pre-Approved New Lender List" means the list of entities agreed in writing on or before the date of this Agreement by or on behalf of the Company and the Mandated Lead Arrangers.

"Qualifying Lender" has the meaning given to it in Clause 16 (Tax Gross-Up and Indemnities).

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

"Quasi-Security" means:
(a) the sale, transfer or other disposal of any assets by a member of the Group on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group;

(b) the sale, transfer or other disposal of any receivables on recourse terms;

(c) the entry 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

(d) the entry into any other preferential arrangement having a similar effect,
in each case, in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

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

(a) (if the currency is Sterling) the first day of that period;

(b) (if the currency is euro) two TARGET Days before the first day of that period;

(c) (if the currency is US dollars) two Business Days before the first day of that period;

(d) (if the currency is Australian dollars) two Business Days before the first day of that period; and

(e) (for any other currency) two Business Days before the first day of that period,

(unless market practice differs in the Relevant Market for that currency, in which case the Quotation Day for that currency will be determined by the 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 Reference Bank or an Alternative Reference Bank.

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

(a) in relation to BBSW, as the rate at which the relevant Reference Bank could borrow funds in the Relevant Market in Australian dollars for the relevant period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in Australian dollars and for that period;

(b) in relation to EURIBOR:

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

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

(c) in relation to LIBOR:

(i) if:

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

(B) it consists of a single figure,

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

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

"Reference Banks" means such entities as may be appointed by the Agent with the prior written consent of the Company, provided that no such bank may be appointed as a Reference Bank without its consent.

"Refinancing Debt" means any indebtedness of the Group to the extent incurred for the purpose of any refinancing, exchange, replacement, renewal or extension (including pursuant to any defeasance or discharge mechanism) of all or any part of any Financial Indebtedness of the Group, including any Facility, Additional Facility, any Permitted Alternative Debt or any Permitted Acquired Debt (and of any refinancing, exchange or replacement financing thereof from time to time) (the "Refinanced Debt") and all fees, underwriting discounts, premiums, costs and expenses, and any prepayment premium and discounts incurred in connection with any such refinancing, exchange or replacement, and any related stamp or other taxes, notarial or registration fees, provided that:

(a) the Refinancing Debt (unless it is Bridging Debt) has a final stated maturity at the time such Refinancing Debt is incurred that is the same as or later than the final stated maturity of the indebtedness being refinanced, exchanged, replaced, renewed or extended (including pursuant to any defeasance or discharge);

(b) such Refinancing Debt is incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of the aggregate principal amount (or, if issued with original issue discount, the aggregate accreted value) then outstanding of the indebtedness being refinanced (plus, without duplication, any additional indebtedness incurred to pay interest or premiums required by the instruments governing such existing indebtedness and all fees, underwriting discounts, premiums, costs and expenses, and any prepayment premium and discounts incurred in connection with any such refinancing, exchange
or replacement, and any related stamp or other taxes, notarial or registration fees incurred in connection therewith);

(c) such Financial Indebtedness:

(i) is unsecured Financial Indebtedness or is secured on the same assets or on a substantially similar or equivalent basis and requirements as the Refinanced Debt;

(ii) has the same ranking and subordination as the Refinanced Debt; and

(iii) if the Refinanced Debt is already subordinated to the Facilities under the Intercreditor Agreement, is subordinated to the Facilities under the Intercreditor Agreement on terms at least as favourable to the Lenders as those contained in the documentation governing the Refinanced Debt.

"Related Fund" in relation to a fund or account (the "first fund"), means a fund or account which is managed or advised directly or indirectly 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) the jurisdiction under whose laws that Obligor is incorporated as at the Amendment and Restatement Effective Date;

(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, in relation to Australian dollars, the Sydney interbank market and, in relation to any other currency, the London interbank market

"Relevant Period" means each period of 12 Months, ending on or about the last day of the Financial Year and each period of 12 Months, ending on or about the last day of each Financial Quarter

"Repeating Representations" means each of the representations set out in Clauses 22.1 (Status) to 22.6 (Governing Law and Enforcement), Clause 22.7 (No Default), Clause 22.9 (Financial Statements), Clause 22.10 (Ranking) and Clause 22.13 (Sanctions)

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

"Repricing Event" means:
(a) the incurrence by any Borrower of any Financial Indebtedness in the form of term loans made available under credit facilities similar to the Facility B Loans made available under this Agreement:

(i) having an Effective Yield for the respective type of such Financial Indebtedness that is less than the Effective Yield for the Facility B Loans, but excluding Financial Indebtedness incurred in connection with a Change of Control or Transformative Acquisition (or a transaction, that if consummated, would have resulted in a Change of Control or Transformative Acquisition); and

(ii) some or all of the proceeds of which are used to prepay (or, in the case of a conversion, deemed to prepay or replace), in whole or in part, outstanding principal of the Facility B Loans; or

(b) any effective reduction in the Effective Yield for the Facility B Loans (including by way of amendment, waiver or otherwise), except for a reduction in connection with a Change of Control or Transformative Acquisition (or a transaction, that if consummated, would have resulted in a Change of Control or Transformative Acquisition),

provided that the primary purpose of such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver or other modification was to reduce the Effective Yield of such Facility B Loan. Any determination by the Company and the Agent with respect to whether a Repricing Event has occurred shall be conclusive and binding on all Lenders.

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

"Restricted Subsidiary" means each Subsidiary of the Company that is not an Unrestricted Subsidiary.

"Restricted Subsidiary Notice" has the meaning given to that term in Clause 30 (Designation of Unrestricted Subsidiaries).

"Revolving Facility" means the revolving credit facility made available under this Agreement as described in Clause 2.1(a)(ii).

"Revolving Facility Commitment" means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Revolving Facility Commitment" in Part 2 of Schedule 1 (The Original Parties) and the amount of any other Revolving Facility Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (Additional Facility) or 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 2.2 (Additional Facility) or Clause 2.3 (Increase),

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

(ii) not deemed to be zero pursuant to Clause 28 (Debt Purchase Transactions).

"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 (unless it arose as a result of the operation 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 Borrower for the purpose of refinancing that maturing Revolving Facility Loan

"Sanctions" means the sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by any of the Sanctions Authorities

"Sanctions Authority" means:

(a) the United States of America;

(b) the United Nations;

(c) the European Union;

(d) the United Kingdom;

(e) the Isle of Man; or

(f) the respective governmental authorities of any of the foregoing, including without limitation, OFAC, the US Department of State, Her Majesty's Treasury and the Isle of Man Treasury.

"Screen Rate" means:

(a) in relation to BBSW, the average bid rate administered by the Australian Financial Markets Association (or any other person which takes over the administration of that rate) for bills of exchange with a tenor equal to the relevant period displayed on page BBSW of the Thomson Reuters screen (or any replacement Reuters page which displays that rate)

(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), and
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)

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 Company

"Secured Parties" means the Security Agent, any Receive or Delegate and each of the Finance Parties from time to time.

"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) given in accordance with Clause 13 (Interest Periods) in relation to any Term Facility.

"Separate Loan" has the meaning given to that term in 8.1(f) (Repayment of Loans).

"Specified Time" means a day or time determined in accordance with Schedule 8 (Timetables).

"Subsidiary" means a subsidiary within the meaning of section 1159 of the Companies Act 2006.

"Super Majority Lenders" means a Lender or Lenders whose Commitments aggregate 80% or more of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated 80% or more of the Total Commitments immediately prior to the reduction).

“Swap Obligation” with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of section 1a(47) of the United States Commodity Exchange Act.

"Takeover Code" means the UK City Code on Takeovers and Merger.

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

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

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

"Term Facility" means Facility B or any Additional Facility that is not a revolving facility.
"Term Loan" means a Facility B Loan or Loan under an Additional Facility that is a Term Facility.

"Termination Date" means:

(a) in relation to Facility B, the date falling 6 years after the date of this Agreement; and

(b) in relation to the Revolving Facility, the date falling 5 years after the date of this Agreement; and

(c) in relation to an Additional Facility, the date specified as such in its Additional Facility Notice.

"Titan Transaction" means the transaction relating to the Turkish business of the Group as referred to in the press release relating to the disposal of Headlong Limited (incorporated in Malta under number C 60820) issued by the Company on 2 November 2017.

"Total Commitments" means the aggregate of the Total Facility B Commitments, the Total Revolving Facility Commitments and the Total Additional Facility Commitments.

"Total Facility B Commitments" means the aggregate of the Facility B Commitments, being €300,000,000 at the Amendment and Restatement Effective Date.

"Total Additional Facility Commitments", in relation to an Additional Facility, is the amount specified as such in its Additional Facility Notice.

"Total Net Debt" means, at any time, the aggregate amount of all obligations for or in respect of Borrowings less:

(a) cash (excluding an amount equal to Customer Liabilities);

(b) cash equivalent investments;

(c) short term investments; and

(d) net balances held by payment processors on behalf of any member of the Group, in each case as determined under the Accounting Principles.

"Total Revolving Facility Commitments" means the aggregate of the Revolving Facility Commitments, being €70,000,000 at the Amendment and Restatement Effective Date.

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

"Transaction Costs" means all fees, commissions, costs and expenses, breakage costs, redemption premia, make-whole costs, stamp, registration and other Taxes incurred by the Company or any other member of the Group in connection with the Amendment and Restatement Agreement, the Titan Transaction and/or any acquisition falling with paragraph (h) of the definition of "Permitted Acquisition".
"Transaction Security" means the Security created or expressed to be created in favour of the Security Agent pursuant to the Transaction Security Documents.

"Transaction Security Documents" means each of the documents listed as being a Transaction Security Document in paragraph 2(d) of Part 1 of Schedule 2 (Conditions Precedent) and any document required to be delivered to the Agent under paragraph 13 of Part 3 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 Company provided that if that other form does not contain the undertaking set out in the form set out in Schedule 4 (Form of Transfer Certificate) it shall not be a Creditor/Creditor Representative Accession Undertaking as defined in, and for the purposes of, the Intercreditor Agreement.

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

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

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

"Transformative Acquisition" means an acquisition by the Company or any Restricted Subsidiary that either:

(a) is not permitted by the terms of the Finance Documents immediately prior to the consummation of such acquisition; or

(b) if permitted by the terms of the Finance Documents immediately prior to the consummation of such acquisition, would not provide the Company and its Subsidiaries with adequate flexibility under the Finance Documents for the continuation and/or expansion of their combined operations following such consummation,

in each case, as determined by the Company acting in good faith.

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

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

“Unrestricted Subsidiary” has the meaning given to that term in Clause 30 (Designation of Unrestricted Subsidiaries).

“Unrestricted Subsidiary Investment Basket” means the aggregate of:

(a) €50,000,000 or, if higher, an amount equal to 25 per cent. of Adjusted EBITDA; plus
(b) the aggregate of all amounts received by the Group from, or in respect of, all Unrestricted Subsidiaries after the Amendment and Restatement Effective Date.

"Unrestricted Subsidiary Notice" has the meaning given to that term in Clause 30 (Designation of Unrestricted Subsidiaries).

"US" means the United States of America.

"Utilisation" means a utilisation of a Facility.

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

"Utilisation Request" means a notice substantially in the form set out in Part 1 of 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.

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

1.2 Construction

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

(i) the "Agent", the "Security Agent", any "Finance Party", any "Hedge Counterparty", any "Lender", any "Mandated Lead Arranger", any "Obligor", any "Secured Party" or any "Party" 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 Company 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 any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;

(v) a "group of Lenders" includes all the Lenders;
(vi) "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;

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

(viii) 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, department or of any regulatory, self-regulatory or other similar authority or organisation;

(ix) a provision of law is a reference to that provision as amended or re-enacted; and

(x) 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 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)

(i) Where the Agent is referred to in a Finance Document as acting "reasonably" or in a "reasonable" manner or as coming to an opinion or determination that is "reasonable" (or any similar or analogous wording is used), unless they are not required to do so, this shall mean that the Agent, as applicable, shall, where they have in fact sought such instructions, be acting or coming to an opinion or determination on the instructions of the Majority Lenders, or all the Lenders as applicable acting reasonably and the Agent shall be under no obligation to determine the reasonableness of such instructions from the Majority Lenders or all the Lenders as applicable or whether in giving such instructions the Majority Lenders or all the Lenders as applicable are acting in a reasonable manner; and

(ii) where agreement or approval, acceptability to or satisfaction with or approval of the Agent is referred to (or any similar or analogous wording is used) in relation to a matter not affecting the personal interests of the Agent (including for the avoidance of doubt, any satisfaction, or determination in relation to any condition precedent) this shall mean the agreement or approval, acceptability to or satisfaction with or approval of, (or similar where similar or analogous wording is used, as applicable) the Majority Lenders as notified by or on behalf of, the Majority Lenders to the Agent, and in each case, the Agent shall not be responsible for any liability occasioned or by any delay or failure on the part of the Majority Lenders to give, or have given on their behalf, any such notice or instructions or to form any such opinion.

(j) In ascertaining the Majority Lenders or the Super Majority Lenders or whether any given percentage of the Total Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents or for the purpose of the allocation of any repayment or prepayment or for the purposes of taking any step, decision, direction or exercise of discretion which is calculated by reference to drawn amounts, any Commitments not denominated in euro (the "Non-euro Commitments") shall be deemed to be converted into euro at the rate for the conversion of euro into the relevant currency of the Non-euro Commitment which the Company (acting reasonably and in good faith) has used and has notified to the Agent for the purposes of calculating the Available Incremental Amount as at the Additional Facility Commencement Date for the relevant Additional Facility, or if the Company has not notified the Agent of such conversion rate, the Agent's Spot Rate of Exchange on the date on which that Commitment was provided under this Agreement or, if earlier, the date the aggregate amount of the Non-euro Commitment of the Additional Facility was determined.
(k) A reference to “financial statements” shall include a reference to “management accounts”, as the context requires.

1.3 Currency Symbols and Definitions

"€", "EUR" and "euro" denote the single currency of the Participating Member States.

"$", "USD" and "US dollars" denote the lawful currency of the United States of America.

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

"AU$", "AUD" and "Australian dollars" denote the lawful currency of the Commonwealth of Australia.

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 to enjoy the benefit of any term of this Agreement.

(b) Subject to Clause 41.4 (Other Exceptions) but otherwise notwithstanding any term of any Finance Document the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

1.5 Exchange rate fluctuations

(a) Subject to paragraph (c) below, when applying any monetary limits, thresholds and other exceptions to the representations and warranties, undertakings, Defaults and Events of Defaults under the Finance Documents, the equivalent to an amount in euro shall be calculated at the rate for the conversion of euro into the relevant currency of the non-euro monetary limit, threshold and other exception at the Agent’s Spot Rate of Exchange 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, this paragraph (a) shall not apply to paragraph (b) of Clause 24.2 (Financial Testing).

(b) No Default, Event of Default or breach of any representation and warranty or undertaking under this Agreement or the other Finance Documents shall arise merely as a result of a subsequent change in the Base Currency equivalent or any other currency specified for any basket due to fluctuations in exchange rates.

(c) Paragraphs (a) and (b) above shall not apply to or in respect of the calculation of Leverage, EBITDA or Adjusted EBITDA or for the purpose of testing any financial covenant in Clause 24.1 (Financial Condition).

1.6 Personal Liability

If any Finance Document requires a director, secretary or other authorised officer of any member of the Group to make or give any certification or deliver any notice, that representation, statement, certification or notice shall (provided it is made or given in good faith and without fraud or wilful deceit) be made without personal liability on the part of such director, secretary or other authorised officer.
1.7 Intercreditor Agreement

This Agreement is subject to the Intercreditor Agreement. In the event of any inconsistency between this Agreement and the Intercreditor Agreement, the Intercreditor Agreement shall prevail.

1.8 Non-wholly owned Subsidiaries

Where any person (the “first person”) is required under this Agreement or any other Finance Document to ensure or procure certain acts, events or circumstances in relation to any other person (the “second person”) and the first person (together with its Affiliates) owns less than 80% in aggregate of the issued voting share capital (or instruments providing equivalent control) in the second person, the first person shall only be obliged to use its reasonable efforts, subject to all limitations and restrictions on the influence it may exercise as a shareholder over the second person, pursuant to any agreement with the other shareholders or pursuant to any applicable law which requires the consent of the other shareholders, and its obligation to ensure or procure shall not be construed as a guarantee for such acts, events or circumstances.
2 The Facilities

2.1 The Facilities

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

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

(ii) a multicurrency revolving credit facility in an aggregate amount of the Base Currency Amount which is equal to the Total Revolving Facility Commitments.

(b) As at the Amendment and Restatement Effective Date, Facility B has been made available to the Company. The Revolving Facility will be available to all the Borrowers.

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

2.2 Additional Facility

(a) Subject to the terms of this Clause 2.2, the Company may, at any time and from time to time on or following the Amendment and Restatement Effective Date, by delivering to the Agent a duly completed Additional Facility Notice that complies with paragraph (b) below, establish an Additional Facility by way of: (i) the introduction of a new additional commitment or facility as a Facility under this Agreement or (ii) an additional tranche of, or increase in, an existing Facility (including any previously incurred Additional Facility) under this Agreement.

(b) No consent of any Finance Party is required to establish an Additional Facility at any time (other than, in relation to an Additional Facility, the relevant Additional Facility Lenders making available the applicable Additional Facility) provided that (unless otherwise agreed by the Majority Lenders) each of the following applicable conditions are met:

(i) unless such Additional Facility is Bridging Debt, in relation to any Additional Facility denominated in euro which is incurred prior to the date falling 12 Months from the Amendment and Restatement Effective Date,

(A) and which is in the form of a term loan denominated in euro, the Effective Yield applicable to such Additional Facility does not exceed 1.00 per cent. per annum (calculated on a fully drawn basis) above the Effective Yield applicable to Facility B on the date on which the Additional Facility is incurred (including any increase to the Margin of Facility B that became effective prior to the Additional Facility Commencement Date and ignoring any step down on the ratchet in the definition of Margin which has been implemented prior to the Additional Facility Commencement Date) (the “MFN Rate”) unless the Margin on Facility B is increased (including, for the avoidance of
(B) and which is in the form of a revolving loan, the Effective Yield applicable to such Additional Facility does not exceed 1.00 per cent. per annum (calculated on a fully drawn basis) above the Effective Yield applicable to the Revolving Facility on the date on which the Additional Facility is incurred (including any increase to the Margin of Revolving Facility that became effective prior to the Additional Facility Commencement Date and ignoring any step down on the ratchet in the definition of Margin which has been implemented prior to the Additional Facility Commencement Date) (the “RCF MFN Rate”) unless the Margin on the Revolving Facility is increased (including, for the avoidance of doubt, at each level of the applicable Margin ratchet) by an amount equal to the amount by which the Effective Yield for such Additional Facility exceeds the RCF MFN Rate;

(C) the Additional Facility shall have a bullet maturity (except that any term loan may have amortisation of not more than 3% per annum) and the Termination Date for an Additional Facility that is (A) a term loan must fall on or after the Termination Date for Facility B, and (B) a revolving facility must fall on or after the Termination Date for the Revolving Facility, in each case as at the Amendment and Restatement Effective Date (or, if at such time the relevant Facility has been repaid in full or would be repaid in full after giving effect to the application of proceeds from the Additional Facility, any Termination Date);

(D) the Company has confirmed to the Agent that, at the election of the Company in relation to all or part of any Additional Facility, as at the Additional Facility Commencement Date (after giving pro forma effect to the proposed use of proceeds thereof and any other adjustment permitted by this Agreement) incurrence of such Additional Facility pursuant to this Clause 2.2 would not cause the Available Incremental Amount to be exceeded; and

(E) the Additional Facility if (x) a term loan, shall rank pari passu with Facility B and shall (except in respect of interest rates, fees and, subject as stated in paragraph (C) above, maturities and amortisation) be on the same terms as Facility B (mutatis mutandis), and (y) a revolving facility, shall rank pari passu with the Revolving Facility and shall (except in respect of interest rates, fees, maturities) be on the same terms as the Revolving Facility (mutatis mutandis).

(ii) The Additional Facility Notice shall not be regarded as having been duly completed unless it is signed by each party thereto and specifies the following matters in respect of such Additional Facility:
(A) the proposed borrower(s) and guarantor(s) in respect of the Additional Facility provided that any Additional Facility that is by way of an increase in Commitments under Facility B shall have the same Borrower and currency as Facility B;

(B) the person(s) to become Additional Facility Lenders in respect of the Additional Facility and the amount of the commitments of such Additional Facility allocated to each Additional Facility Lender;

(C) the aggregate amount of the commitments of the Additional Facility being made available and the currency and optional currencies which are available for utilisation under such Additional Facility;

(D) the rate of interest applicable to the Additional Facility (including any applicable margin, basis and/or margin ratchet);

(E) the Additional Facility Commencement Date and Availability Period for the Additional Facility; and

(F) the Termination Date, and any mandatory prepayment provisions (including whether the Additional Facility will share rateably or less than rateably in mandatory prepayments),

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

(iii) Subject to the conditions set out in paragraph (b) of this Clause 2.2 being satisfied, following receipt by the Agent of a duly completed Additional Facility Notice and with effect from the relevant Additional Facility Commencement Date (or any later date on which the conditions set out in paragraph (iv) below are satisfied) the relevant Additional Facility shall come into effect and be established in accordance with its terms and:

(A) the Additional Facility Lenders participating in the relevant Additional Facility shall make available that Additional Facility in the aggregate amount set out in the Additional Facility Notice;

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

(C) in relation to an Additional Facility Lender which is not already a Lender, each Additional Facility Lender under the relevant Additional Facility shall become a Party to this Agreement as a Lender;
(D) each Additional Facility Lender under the relevant Additional Facility and each of the other Finance Parties shall assume such obligations towards one another and acquire such rights against one another as those Additional Facility Lenders and those Finance Parties would have assumed and/or acquired had the Additional Facility Lenders been Original Lenders; and

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

(iv) The establishment of an Additional Facility will only be effective on:

(A) the execution of the Additional Facility Notice relating to such Additional Facility by the Company, the relevant Borrower(s) and the relevant Additional Facility Lender(s) and delivery of such executed notice to the Agent;

(B) in relation to an Additional Facility Lender which is not already a Lender, receipt by the Agent of an Additional Facility Lender Accession Notice from each person referred to in the relevant Additional Facility Notice as an Additional Facility Lender and accession of each Additional Facility Lender to the Intercreditor Agreement in the capacity of a “Pari Passu Lender” (as defined in the Intercreditor Agreement); and

(C) in relation to an Additional Facility Lender which is not already a Lender, the performance by the Agent of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to that Additional Facility Lender making available an Additional Facility, the completion of which the Agent shall promptly notify to the Company,

and no Utilisation Request in relation to an Additional Facility shall be valid unless prior to (or simultaneously with) the delivery of the relevant Utilisation request in relation to such Additional Facility, the requirements of this Clause 2.2 have been satisfied.

(v) Each Obligor:

(A) irrevocably authorises the Company to sign each Additional Facility Notice; and

(B) confirms that its guarantee and indemnity recorded in Clause 21 (Guarantee and Indemnity) (or any applicable Accession Deed or other Finance Documents) and all Transaction Security granted by it will, subject only to any applicable limitations on such guarantee and indemnity referred to in Clause 21 (Guarantee and Indemnity) and any Accession Deed pursuant to which it became an Obligor or the terms of the Transaction Security Documents, extend to include the Additional Facility Loans and any other obligations arising under or in respect of the Additional Facility Commitments.
(vi) Each Finance Party irrevocably authorises, empowers and instructs:

(A) the Agent (upon request of (and as reasonably requested by) the Company) as soon as reasonably practicable to acknowledge, execute and confirm acceptance of each Additional Facility Notice; and

(B) the Agent and the Security Agent (upon request of (and as reasonably requested by) the Company) as soon as reasonably practicable to acknowledge, execute and confirm acceptance of each Additional Facility Lender Accession Notice and if applicable, the documentation required for the Additional Facility Lender to accede to the Intercreditor Agreement and to execute any necessary amendments, confirmations, supplements or revisions to any Finance Document (including, to the extent required or desirable, the execution of new Transaction Security Documents for the purpose of creating lower ranking security for the benefit of the Additional Facility over the assets subject to Transaction Security (subject to the Intercreditor Agreement) as may be required to ensure the Additional Facility ranks, if legally possible, in accordance with the provisions set out in the Additional Facility Notice.

(vii) The Agent shall as soon as reasonably practicable send to the Company a copy of each executed Additional Facility Notice and, if applicable, Additional Facility Lender Accession Notice and if applicable, the documentation required for the Additional Facility Lender to accede to the Intercreditor Agreement.

(viii) Each Additional Facility Lender, by executing the relevant Additional Facility Notice confirms (for the avoidance of doubt) that the Agent has authority to execute on its behalf any consent, release, waiver or amendment that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the relevant Additional Facility becomes effective and that it is bound by that decision and by the operations of any other provisions of this Agreement in relation to such consent, release, waiver or amendment.

(ix) No Lender will have any obligation to participate in an Additional Facility (unless it has executed and delivered an Additional Facility Lender Accession Notice or otherwise become an Additional Facility Lender in respect of that Additional Facility). By signing an Additional Facility Notice as an Additional Facility Lender, each such entity agrees to commit the Additional Facility Commitments set out against its name in that Additional Facility Notice.

(x) The Agent may (after consultation with the Company) disclose the terms of any Additional Facility Notice to any of the other Finance Parties.

(xi) Clause 27.4 (Limitation of Responsibility of Existing Lenders) shall apply mutatis mutandis in this Clause 2.2 in relation to an Additional Facility Lender as if references in that Clause to:
(A) an Existing Lender were references to all the Lenders immediately prior to the establishment of the relevant Additional Facility;

(B) the New Lender were references to that Additional Facility Lender; and

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

(xii) The Company may pay to an Additional Facility Lender a fee in the amount and at the times agreed between the Company and the Additional Facility Lender in a Fee Letter. The Company shall also within 5 Business Days of demand pay to the Agent and the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by either of them in connection with the establishment of any Additional Facility.

(c) The establishment, terms or conditions or use of proceeds of any Additional Facility shall be governed by this Clause 2.2 which shall apply irrespective and notwithstanding any other provision of this Agreement (including Clause 9 (Illegality, Voluntary Prepayment and Cancellation), Clause 35.5 (Partial Payments), Clause 41 (Amendments and Waivers) and Schedule 11 (Agreed Security Principles)) and whether such Additional Facility is in place prior to the Additional Facility Commencement Date for the purposes of this Agreement.

2.3 Increase

(a) The Company may by giving prior notice to the Agent by no later than the date falling 30 Business Days’ after the effective date of a cancellation of:

(i) the Available Commitments of a Defaulting Lender in accordance with Clause 9.5 (Right of Cancellation in Relation to a Defaulting Lender); or

(ii) the Commitments of a Lender in accordance with Clause 9.4 (Right of Repayment and Cancellation in relation to a Single Lender); or

(iii) the Commitments of a Lender in accordance with Clause 9.1 (Illegality),

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

(A) the increased Commitments will be assumed by one or more Lenders or other banks, financial institutions, trusts, funds or other entities (each an "Increase Lender") selected by the Company (each of which shall not be a member of the Group and which satisfies all the Agent’s ‘know your customer’ or similar checks referred to in paragraph (b)(ii)(B) below, and each of which confirms its willingness to assume and does assume all the obligations of a Lender corresponding to that part of the increased Commitments which it is to assume, as if it had been an Original Lender (for the avoidance of doubt, no Party shall be obliged to assume the obligations of a
Lender pursuant to this Clause 2.3 without the prior consent of that Party));

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

(C) each Increase Lender shall become a Party as a Lender and any Increase Lender and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as that Increase Lender and those Finance Parties would have assumed and/or acquired had the Increase Lender been an Original Lender;

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

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

(b) An increase in the Total Commitments will only be effective on:

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

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

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

(B) the performance by the Agent of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assumption of the increased Commitments by that Increase Lender, the completion of which the Agent shall promptly notify to the Company and the Increase Lender.

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

(d) Unless the Agent otherwise agrees or the increased Commitment is assumed by an existing Lender, the Company shall, on the date upon which the increase takes effect, pay to the Agent (for its own account) a fee of €2,000 (or its equivalent in the relevant currency) and the Company shall within 5 Business Days of demand pay to the Agent and the Security Agent the amount of all costs and expenses (including legal fees)
reasonably incurred by either of them (and/or any Receiver or Delegate) in connection with any increase Commitments under this Clause (a).

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

(f) Clause 27.4 (Limitation of responsibility of Existing Lenders) shall apply mutatis mutandis in this Clause 2.3 (Increase) in relation to an Increase Lender as if references in that Clause to:

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

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

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

(g) The Finance Parties shall be required to enter into any amendment to the Finance Documents required by a Borrower in order to facilitate or reflect any of the matters contemplated by this Clause 2.3, provided that such amendment will not impose any personal obligations on the Agent or the Security Agent or adversely affect the personal rights, duties, liabilities, indemnifications or immunities of the Agent or the Security Agent under the Finance Documents. The Agent and the Security Agent are each authorised and instructed by each Finance Party (without any consent, sanction, authority or further confirmation from them) to execute any such amended or replacement Finance Documents (including, to the extent required or desirable, the execution of new Transaction Security Documents for the purpose of creating lower ranking security for the benefit of the Increase Lender over the assets subject to Transaction Security (subject to the Intercreditor Agreement) (and shall do so on the reasonable request of and at the cost of the Borrower).

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.
2.5 Lender Affiliates and Facility Office

(a) In respect of Utilisations to a particular Borrower ("Designated Loans") a Lender (a "Designating Lender") may at any time and from time to time designate (by written notice to the Agent and the Company) a substitute Facility Office from which it will make Designated Loans (a “Substitute Facility Office”) or nominate an Affiliate to act as the Lender of Designated Loans (a “Substitute Affiliate Lender”).

(b) A notice to nominate a Substitute Affiliate Lender must be countersigned by the relevant Substitute Affiliate Lender confirming it will be bound as a Lender under this Agreement in respect of the Designated Loans in respect of which it acts as Lender.

(c) Any Substitute Affiliate Lender that becomes a Party to this Agreement as a Lender under this Clause 2.5 (or any Lender that designates a Substitute Facility Office under this Clause 2.5) shall provide a status confirmation in accordance with Clause 16.5 in the form set out in paragraphs 7, 8 and 9 of Schedule 4 (to the extent relevant), with any necessary changes.

(d) The Designating Lender will act as the representative of any Substitute Affiliate Lender it nominates for all administrative purposes under this Agreement. The Obligors, the Agent and the other Finance Parties will be entitled to deal only with the Designating Lender, except that payments will be made in respect of Designated Loans to the Facility Office of the Substitute Affiliate Lender. In particular the Commitments of the Designating Lender will not be treated as reduced by the introduction of the Substitute Affiliate Lender for voting purposes under this Agreement or the other Finance Documents.

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

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

(g) If a Designating Lender designates a Substitute Affiliate Lender in accordance with this Clause 2.5:

(i) any Substitute Affiliate Lender shall be treated for the purposes of Clause 16.2 (Tax Gross-Up) as having become a Lender on the date that such Substitute Affiliate Lender’s designation by the Designating Lender becomes effective; and
(ii) the provisions of paragraph (a) of Clause 27.2 (Conditions of Assignment or Transfer) shall apply to, and in respect of, any Substitute Affiliate Lender.

(h) Notwithstanding anything in this Agreement, no Obligor shall be obligated to make any greater payment pursuant to Clause 16 (Tax Gross-Up and Indemnities) or Clause 17.1 (Increased Costs) than it would have been obligated to make if a Lender had not designated a Substitute Facility Office or Substitute Affiliate Lender, as the case may be.

2.6 Obligors’ Agent

(a) Each Obligor (other than the Company) by its execution of this Agreement or an Accession Deed irrevocably appoints the Company (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 Company on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions (including, in the case of the Borrower, Utilisation Requests), to agree any Additional Facility Terms and to deliver any Additional 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 Company,

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

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

3 Purpose

3.1 Purpose

(a) The Original Borrower shall apply all amounts borrowed by it under Facility B solely towards:
(i) purposes permitted by this Agreement as in effect immediately prior to the Amendment and Restatement Effective Date and for any payment contemplated by the Amendment and Restatement Agreement;

(ii) financing the payment of Transaction Costs (other than relating to the Titan Transaction); and

(iii) to the extent not required to satisfy amounts under sub paragraphs (i) and (ii) above, for general corporate purposes and/or working capital requirements of the Group.

(b) Each Borrower shall apply all amounts borrowed by it under the Revolving Facility towards the general corporate and working capital purposes of the Group.

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

All of the documents and other evidence listed in Part 1 (Conditions Precedent to Initial Utilisation) of Schedule 2 (Conditions Precedent) were satisfied and/or waived on or prior to the Closing Date.

4.2 Further Conditions Precedent

The Lenders will only be obliged to comply with Clause 5.4 (Lenders' Participation) in relation to a Loan if on the date of the Utilisation Request and on the proposed Utilisation Date:

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

(b) the Repeating Representations to be made by each Obligor are true in all material respects.

4.3 Maximum Number of Loans

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

(i) more than 1 Facility B Loan would be outstanding; or

(ii) 10 or more Revolving Facility Loans would be outstanding.

(b) A Borrower may not deliver a Utilisation Request under an Additional Facility if as a result of the proposed Utilisation more than the maximum number of Utilisations of that Additional Facility (as specified in the related Additional Facility Notice) would be outstanding.
(c) Any Loan made by a single Lender under Clause 6.2 (Unavailability of a currency) shall not be taken into account in this Clause 4.3.

(d) Any Separate Loan shall not be taken into account in this Clause 4.3.

4.4 Conditions Relating to Optional Currencies

(a) A currency will constitute an Optional Currency in relation to a Revolving Facility Loan if it is AUD, euro, US dollars or:

(i) it is readily available in the amount required and freely convertible into the Base Currency in the wholesale market for that currency on the Quotation Day and the Utilisation Date for that Loan; and

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

(b) If the Agent has received a written request from the Company for a currency to be approved under Clause 4.4(a)(ii), the Agent will confirm to the Company by the Specified Time:

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

(ii) if approval has been granted, the minimum amount for any subsequent Loan in that currency.

(c) A currency will constitute an Optional Currency in relation to an Additional Facility if and to the extent specified in the Additional Facility Notice for that Additional Facility.

4.5 Loans under an Additional Facility during the Agreed Certain Funds Period

(a) During the relevant Agreed Certain Funds Period the relevant Additional Facility Lenders will comply with Clause 5.4 (Lenders’ Participation), in relation to an Agreed Certain Funds Utilisation if:

(i) the Company and each of the relevant Additional Facility Lenders have agreed that the relevant Additional Facility shall be made available on a “certain funds basis” for a specified purpose in connection with a Permitted Acquisition or such other agreed purpose, for such period and on such terms or conditions (if any) as the Company and those Additional Facility Lenders shall agree and notify in writing to the Agent at least three (3) Business Days (or such shorter period agreed with the Agent) prior to the date of the Utilisation Request; and

(ii) and on the proposed Utilisation Date:

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

(B) (in the case of any Lender’s participation in any Loan) it has not became illegal for that Lender to make available that Loan.
During the relevant Agreed Certain Funds Period (save in circumstances where, pursuant to paragraph (a) above, the relevant Additional Facility Lenders are not obliged to comply with Clause 5.4 (Lenders’ Participation)) none of the relevant Additional Facility Lenders shall be entitled in respect of an Agreed Certain Funds Utilisation (and the corresponding Additional Facility Commitments to which it relates) to:

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

(ii) rescind, terminate or cancel this Agreement or any of the Facilities or exercise any similar right or remedy or make or enforce any claim under the Finance Documents it may have to the extent to do so would prevent or limit the making of an Agreed Certain Funds Utilisation;

(iii) refuse to participate in the making of an Agreed Certain Funds Utilisation;

(iv) exercise any right of set-off or counterclaim in respect of an Agreed Certain Funds Utilisation to the extent to do so would prevent or limit the making of an Agreed Certain Funds Utilisation; 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 an Agreed Certain Funds Utilisation,

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

5 Utilisation

5.1 Delivery of a Utilisation Request

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

5.2 Completion of a Utilisation Request

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

(i) it identifies the Facility to be utilised;

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

(iii) the currency and amount of the Utilisation comply with Clause 5.3 (Currency and Amount); and

(iv) the proposed Interest Period complies with Clause 13 (Interest Periods).
(b) Only one Loan may be requested in each Utilisation Request; provided that multiple Loans may be requested for any Utilisation in connection with a Permitted Acquisition.

5.3 Currency and Amount

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

(i) in relation to Facility B, the Base Currency;

(ii) in relation to the Revolving Facility, the Base Currency or an Optional Currency; and

(iii) in relation to an Additional Facility, a currency specified in the Additional Facility Notice for that Additional Facility.

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

(i) if the currency selected is the Base Currency, a minimum of €1,000,000 or, if less, the Available Facility applicable to the relevant Revolving Facility; or

(ii) if the currency selected is an Optional Currency, the minimum amount specified by the Agent pursuant to Clause 4.4(b)(ii) (Conditions Relating to Optional Currencies) or, if less, the Available Facility.

(c) The amount of the proposed Loan under an Additional Facility must be in such minimum amounts and multiples thereof as is stated in the Additional Facility Notice for that Additional Facility.

5.4 Lenders' Participation

(a) If the conditions set out in this Agreement have been met, and subject to Clause 8.1 (Repayment of 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 Clause 5.4(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 in each case in relation to the relevant Facility immediately prior to making the Loan.

(c) If a Revolving Facility Utilisation is made to repay Ancillary Outstandings, each Lender's participation in that Utilisation will be in an amount (as determined by the Agent) which will result as nearly as possible in the aggregate amount of its participation in the Revolving Facility Utilisations then outstanding bearing the same proportion to the aggregate amount of the Revolving Facility Utilisations 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 relevant Lender of the amount, currency and the Base Currency Amount of each Revolving Facility Loan, the amount of its participation in that Revolving Facility Loan and, if different,
the amount of that participation to be made available in accordance with Clause 35.1 (Payments to the Agent) by the Specified Time.

5.5 Cancellation of Commitments

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

6 Optional Currencies

6.1 Selection of currency

A Borrower (or the Company on its behalf) shall select the currency of a Utilisation of the Revolving Facility 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 Revolving Facility Loan in the proposed Optional Currency would contravene a law or regulation applicable to it,

the Agent will give notice to the relevant Borrower 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 Revolving Facility Loan in the Base Currency (in an amount equal to that Lender's proportion of the Base Currency Amount, or, in the case 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 Clause 5.4(b) (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 Lender agree and except as otherwise provided in this Agreement, the Lender may provide all or part of its Revolving Facility Commitment as an Ancillary Facility.

(b) An Ancillary Facility shall not be made available unless, not later than five Business Days prior to the Ancillary Commencement Date for an Ancillary Facility, the Agent has received from the Company:

(i) a notice in writing of the establishment of an Ancillary Facility and specifying:

(A) the proposed Borrower(s) (or Affiliates of a Borrower) which may use the Ancillary Facility;

(B) the proposed Ancillary Commencement Date and expiry date of the Ancillary Facility;

(C) the proposed type of Ancillary Facility to be provided;

(D) the proposed Ancillary Lender;

(E) the proposed Ancillary Commitment, the maximum amount of the Ancillary Facility and, in the case of a Multi-account Overdraft, its Designated Gross Amount and its Designated Net Amount; and

(F) the proposed currency of the Ancillary Facility (if not denominated in the Base Currency); and

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

(c) The Agent shall as soon as reasonably practicable notify the Ancillary Lender and the other Lenders of the establishment of an Ancillary Facility.

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

(i) the Lender concerned 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 Ancillary 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 38.3 (Day Count Convention) which shall not prevail for the purposes of calculating fees, interest or commission relating to an Ancillary Facility;

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

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

(d) Interest, commission and fees on Ancillary Facilities are dealt with in Clause 15.5 (Interest, commission and fees on Ancillary Facilities).

7.4 Repayment of Ancillary Facility

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

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

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

(i) required to reduce the Gross Outstandings of a Multi-account Overdraft to or towards an amount equal to its Net Outstandings;
(ii) the Total Revolving Facility Commitments have been cancelled in full or all outstanding Utilisations under the Revolving Facility have become due and payable in accordance with the terms of this Agreement;

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

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

7.5 Limitation on Ancillary Outstandings

Each Borrower shall procure that:

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

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

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

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

7.6 Adjustment for Ancillary Facilities upon acceleration

(a) In this Clause 7.6:

(i) "Revolving Outstandings" means, in relation to a Lender, the aggregate of the equivalent in the Base Currency of:

(A) its participation in each Revolving Facility Utilisation then outstanding (together with the aggregate amount of all accrued interest, fees and commission owed to it as a Lender under the Revolving Facility); and

(B) if the Lender is also an Ancillary Lender, the Ancillary Outstandings in respect of Ancillary Facilities provided by that Ancillary Lender (or by its Affiliate) (together with the aggregate amount of all accrued...
interest, fees and commission owed to it (or to its Affiliate) as an Ancillary Lender in respect of the Ancillary Facility); and

(ii) "Total Revolving Outstandings" means the aggregate of all Revolving Outstandings.

(b) If the Agent exercises any of its rights under Clause 26.13 (Acceleration) (other than declaring Utilisations to be due on demand), each Lender and each Ancillary Lender shall (subject to paragraph (g) below) promptly adjust (by making or receiving (as the case may be) corresponding transfers of rights and obligations under the Finance Documents relating to Revolving Outstandings) their claims in respect of amounts outstanding to them under the Revolving Facility and each Ancillary Facility to the extent necessary to ensure that after such transfers the Revolving Outstandings of each Lender bear the same proportion to the Total Revolving Outstandings as such Lender's Revolving Facility Commitment bears to the Total Revolving Facility Commitments, each as at the date the Agent exercises the relevant right(s) under Clause 26.13 (Acceleration).

(c) If an amount outstanding under an Ancillary Facility is a contingent liability and that contingent liability becomes an actual liability or is reduced to zero after the original adjustment is made under paragraph (b) above, then each Lender and Ancillary Lender will make a further adjustment (by making or receiving (as the case may be) corresponding transfers of rights and obligations under the Finance Documents relating to Revolving Outstandings to the extent necessary) to put themselves in the position they would have been in had the original adjustment been determined by reference to the actual liability or, as the case may be, zero liability and not the contingent liability.

(d) Any transfer of rights and obligations relating to Revolving Outstandings made pursuant to this Clause 7.6 shall be made for a purchase price in cash, payable at the time of transfer, in an amount equal to those Revolving Outstandings (less any accrued interest, fees and commission to which the transferor will remain entitled to receive notwithstanding that transfer, pursuant to Clause 27.9 (Pro Rata Interest Settlement)).

(e) Prior to the application of the provisions of Clause 7.6(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 Agent 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 Utilisation 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 Agent may reasonably request from time to time. Each Borrower consents to all such information being released to the Agent and the other Finance Parties.

7.8  **Affiliates of Lenders as Ancillary Lenders**

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

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

(c) An Affiliate of a Lender which becomes an Ancillary Lender shall accede to the Intercreditor Agreement as an Ancillary Lender and any person which so accedes to the Intercreditor Agreement shall, at the same time, become a Party as an Ancillary Lender in accordance with Clause 22.15 (Creditor/Agent Accession Undertaking) of the Intercreditor Agreement.

(d) If a Lender assigns all of its rights and benefits or transfers all of its rights and obligations to a New Lender, its 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 Lender which is not a party to that document, the relevant Lender shall ensure that the obligation is performed by its Affiliate.

7.9  **Subsidiaries of the Company**

(a) Subject to the terms of this Agreement, a Restricted Subsidiary of the Company may with the approval of the relevant Lender become a borrower with respect to an Ancillary Facility.

(b) The Company shall specify any relevant Ancillary Borrower in any notice delivered by the Company to the Agent pursuant to Clause 7.2(b)(i) (Availability).

(c) Where this Agreement or any other Finance Document imposes an obligation on an Ancillary Borrower under an Ancillary Facility and the relevant Borrower is an Affiliate of a Borrower which is not a party to that document, the relevant Borrower shall ensure that the obligation is performed by its Affiliate.

(d) Any reference in this Agreement or any other Finance Document to a Borrower being under no obligations (whether actual or contingent) as a Borrower under such
Finance Document shall be construed to include a reference to any Restricted Subsidiary of the Company being under no obligations under any Finance Document or Ancillary Document.

(e) If any Ancillary Facility has been established and the Company wishes that such Ancillary Facility can, in addition to or in place of the relevant Ancillary Borrower, be used by another member of the Group permitted to become an Ancillary Borrower with respect to that Ancillary Facility, the Company shall be entitled to specify any new and, as the case may be, resigning relevant Ancillary Borrower, by giving notice to the Agent not later than three Business Days prior to such changes taking effect, provided that such changes shall only take effect to the extent that the relevant proposed new Ancillary Borrower has otherwise complied with the requirements of Clause 7.9(a) above, including the required approval by the relevant Lender.

7.10 Revolving Facility Commitment amounts

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

(i) its Ancillary Commitment; or

(ii) the Ancillary Commitment of its Affiliate.

7.11 Amendments and Waivers – Ancillary Facilities

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

8 Repayment

8.1 Repayment of Loans

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

(b) Each Borrower of an Additional Facility Loan which is made available under a Term Facility shall repay that Additional Facility Loan borrowed by it:

(i) in relation to an Additional Facility which is repayable in instalments, in instalments by repaying on each applicable repayment date the amount set opposite that repayment date as set out in the relevant Additional Facility Notice; and

(ii) in relation to an Additional Facility which is not repayable in instalments, in full on the Termination Date applicable to that Additional Facility.

(c) Each Borrower of an Additional Facility which is made available as a revolving facility shall repay the relevant Additional Facility Loans under such Additional Facility in the
manner described in paragraphs (d) to (h) below as if such Additional Facility Loan were a Revolving Facility Loan.

(d) Subject to Clause 8.1(f), the Borrower under a drawn Revolving Facility Loan shall repay that Loan on the last day of its Interest Period.

(e) Without prejudice to each Borrower's obligation under Clause 8.1(d), if:

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

(A) on the same day that a maturing Revolving Facility Loan is due to be repaid by the 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 Borrower notifies the Agent to the contrary in the relevant Utilisation Request, be treated as if applied in or towards repayment of the maturing Revolving Facility Loan so that:

(A) if the amount of the maturing Revolving Facility Loan exceeds the aggregate amount of the new Revolving Facility Loans:

1) the Borrower will only be required to make a payment under Clause 35.1 (Payments to the Agent) in an amount 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 35.1 (Payments to the Agent) in respect of its participation in the new Revolving Facility Loans; and

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

1) the Borrower will not be required to make a payment under Clause 35.1 (Payments to the Agent); and
2) each Lender will be required to make a payment under Clause 35.1 (Payments to the Agent) in respect of its participation in the new Revolving Facility Loans only to the extent that its participation in the new Revolving Facility Loans exceeds that Lender's participation in the maturing Revolving Facility Loan and the remainder of that Lender's participation in the new Revolving Facility Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender's participation in the maturing Revolving Facility Loan.

(f) 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.

(g) Interest in respect of a Separate Loan will accrue for successive Interest Periods selected by the Borrower by the time and date specified by the Agent (acting reasonably) and will be payable by the Borrower to the Agent (for the account of that Defaulting Lender) on the last day of each Interest Period of that Loan.

(h) The terms of this Agreement relating to Revolving Facility Loans generally shall continue to apply to Separate Loans other than to the extent inconsistent with Clauses 8.1(f) to 8.1(g), in which case those paragraphs shall prevail in respect of any Separate Loan.

9 Illegality, Voluntary Prepayment and Cancellation

9.1 Illegality

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

(a) that Lender shall promptly notify the Agent upon becoming aware of that event setting out details thereof;

(b) upon the Agent notifying the Company, the 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 41.7 (Replacement of Lender), each Borrower shall repay that Lender's participation in the Loans made to that Borrower on the last day of the Interest Period for each Loan occurring after the Agent has notified the Company or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment(s) shall be cancelled in the amount of the participations repaid.
9.2 **Voluntary Prepayment of Loans**

(a) Subject to Clause 9.2(c), a Borrower may, if it gives the Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of a Loan (but, if in part, being an amount that reduces the Base Currency Amount of that Loan by a minimum amount of €1,000,000 or, in respect of a Revolving Facility Loan, by a minimum amount of €500,000).

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

(c) The Company may select the Loans to be prepaid pursuant to this Clause 9.2.

9.3 **Voluntary Cancellation**

The Company may, if it gives the Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum amount of €1,000,000) of an Available Facility. Any cancellation under this Clause 9.3 (Voluntary Cancellation) shall reduce the Commitments of the Lenders rateably under that Facility.

9.4 **Right of Repayment and Cancellation 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 16.2(c) (Tax Gross-Up); or

(ii) any Lender claims indemnification from the Company under Clause 16.3 (Tax Indemnity) or Clause 17.1 (Increased Costs); or

(iii) any Lender requests payment from the Company or any Obligor based on the occurrence of a Market Disruption Event,

the Company 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 Utilisations.

(b) On receipt of a notice of cancellation referred to in Clause 9.4(a), the Commitment(s) of that Lender shall immediately be reduced to zero.

(c) On the last day of each Interest Period which ends after the Company has given notice of cancellation under Clause 9.4(a) (or, if earlier, the date specified by the Company in that notice), each Borrower to which a Utilisation has been made shall repay that Lender's participation in that Utilisation together with all interest and other amounts accrued in favour of that Lender under the Finance Documents.

(d) Paragraphs (a) to (c) (inclusive) above do not limit the obligations of any Finance Party under Clause 19.1 (Mitigation)
9.5 Right of Cancellation in Relation to a Defaulting Lender

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

(b) On the notice referred to in Clause 9.5(a) 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 Clause 9.5(a), notify all the Lenders.

10 Mandatory Prepayment and Cancellation

10.1 Change of Control

Upon the occurrence of a Change of Control:

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

(b) a Lender shall not be obliged to fund a Utilisation (except for a Rollover Loan); and

(c) if a Lender so requires and notifies the Agent within 20 days of the Company notifying the Agent of the Change of Control, the Agent shall, by not less than 15 Business Days' notice to the Company, cancel the Commitment of that Lender and declare the participation of that Lender in all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents in respect of that Lender immediately due and payable, whereupon the Commitment of that Lender will be cancelled and all such outstanding amounts will become immediately due and payable.

10.2 Regulatory Event

(a) The Company shall promptly notify the Agent (which shall promptly notify the Lenders) of the occurrence of any of the circumstances described in paragraphs (i) to (iv) of the definition of Regulatory Breach.

(b) If a Regulatory Event occurs, the Company shall promptly notify the Agent (which shall promptly notify the Lenders of such occurrence).

(c) If a Regulatory Event occurs, then, until such time as the Regulatory Breach giving rise to the Regulatory Event has been cured:

(i) no dividends, fees or other distributions on or in respect of its share capital may be paid by the Company to its shareholders and the Company shall not redeem or repay any of its share capital; and

(ii) the applicable percentage of the Excess Cash Flow for the relevant Financial Year pursuant to Clause 10.4 (Excess Cash Flow) shall be deemed to be 100%.
(d) A Lender may not give a Regulatory Event Notice unless it has first notified the Company at least 10 Business Days in advance of its intention to give a Regulatory Event Notice. If a Lender notifies the Company of its intention to give a Regulatory Event Notice it will, during such 10 Business Day notice period, engage in discussions in good faith with the Company in order to assess whether a Regulatory Breach has occurred and to consider what action, if any, can be taken by the Company to remedy or manage such Regulatory Breach.

(e) If a Lender has delivered a Regulatory Event Notice to the Company, that Lender will continue to engage in discussions in good faith with the Company during the five Month period referred to in (a)(iii) below in order to consider what action, if any, can be taken by the Company to remedy or manage any Regulatory Breach referred to in the Regulatory Event Notice.

For the purposes of this Clause 10.2:

(a) a "Regulatory Event" will occur if:

(i) a Regulatory Breach has occurred;

(ii) a Lender has given a notice (a "Regulatory Event Notice") to the Company with details of the Regulatory Breach; and

(iii) the Regulatory Breach has not been cured within five Months after the date on which that Lender gave the Regulatory Event Notice;

(b) a Regulatory Breach will be "cured" if:

(i) the Regulatory Breach is no longer continuing and, to the extent applicable, the Group has implemented and maintains reasonable safeguards and procedures to prevent the Regulatory Breach from occurring again; or

(ii) in the case of a Regulatory Breach referred to in paragraph (v) of the definition thereof:

(A) the alleged breach of law referred to in paragraph (v)(A) of the definition is no longer continuing and, to the extent applicable, the Group has implemented and maintains reasonable safeguards and procedures to prevent the alleged breach of law from occurring again; or

(B) the alleged breach of law did not occur or it was not an actual breach of law;

(c) a "Regulatory Breach" will occur if, on or after the Amendment and Restatement Effective Date:

(i) a member of the Group breaches Online Gambling laws to the extent applicable to that member of the Group; or

(ii) the Group fails to implement and maintain commercially reasonable safeguards and procedures to exclude persons in any of the Prohibited
Jurisdictions from partaking in Online Gambling on the Group's websites; provided that no Regulatory Breach will occur under this paragraph (ii) if and to the extent that such safeguards and procedures are not required (or are no longer required) in order for members of the Group to comply with the internet gambling laws of the relevant jurisdiction; or

(iii) the operations of the Group in the Relevant Jurisdictions are not conducted at all times in material compliance with Money Laundering Laws, to the extent that those laws are applicable to those operations; or

(iv)

(A) a member of the Group does not have all the consents, licences and authorisations necessary to carry on its Online Gambling business (including, without limitation, any advertising and marketing of its Online Gambling business); or

(B) any such consent, licence or authorisation is not in full force and effect; or

(C) there are circumstances which indicate that any such consent, licence or authorisation is likely to be revoked or varied in whole or in part,

except in each case to the extent that such could not reasonably be expected to have a Material Adverse Effect; or

(v) a Finance Party receives a formal notice or order from a regulatory or judicial authority with authority over such Finance Party which alleges on reasonable grounds that:

(A) a member of the Group has, because of its Online Gambling activities, breached the laws prohibiting or restricting Online Gambling in the applicable jurisdiction; and

(B) it is or will become unlawful or contrary to a requirement, voluntary code or direction emanating from such authority (provided that it would be customary in the applicable jurisdiction for a bank to adhere to such requirement, voluntary code or direction) for any of the Finance Parties to perform any of its obligations under this Agreement or for any of the Finance Parties to allow to remain outstanding all or any of the Loans made by it under this Agreement,

provided that any breach, failure or non-compliance referred to in paragraphs (i) to (iii) above shall be deemed not to constitute a Regulatory Breach if, in the opinion of the relevant Lender (acting reasonably), it is minor or immaterial, having regard to the nature and extent of the Group's business and operations;

(d) "Online Gambling" means any form of online, internet or mobile phone gambling, gaming and betting services including, without limitation, remote gambling, mobile phone gambling, online sports betting and online fixed odds gaming;
(e) "Money Laundering Laws" means any laws in the Relevant Jurisdictions relating to money laundering, any regulations issued under any such laws and any related or similar regulations in the Relevant Jurisdictions applicable to the Group's business;

(f) "Prohibited Jurisdictions" means those jurisdictions from time to time (including the US (other than those US States which permit Online Gambling), Singapore, Israel, Hong Kong, Turkey and China) the laws of which prohibit or restrict Online Gambling;

(g) "Relevant Jurisdictions" means those jurisdictions (including the United Kingdom) in which a member of the Group provides Online Gambling and in which such member of the Group receives payments from persons who have placed wagers on any of the Group's internet websites; and

(h) a "US State" means a state or commonwealth of the United States and the District of Columbia.

10.3 Net Disposal Proceeds and Net Capital Markets Proceeds

(a) For the purposes of this Clause 10.3:

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

"Excluded Disposal Proceeds" means the proceeds derived from any Disposal:

(i) arising as a result of a Permitted Disposal (other than under paragraphs (f), (q), (r) and (u) of that definition);

(ii) which is an individual Disposal where the Net Disposal Proceeds from such Disposal are in an amount less than €20,000,000 or, if higher, an amount equal to 10 per cent. of Adjusted EBITDA;

(iii) which is a Permitted Disposal to the extent not otherwise excluded in this definition, where the Net Disposal Proceeds of such disposal are, within 12 Months of the later of (i) the date of completion of such Permitted Disposal and (ii) the receipt of such Net Disposal Proceeds, applied or committed to be applied by the Company (and if so committed to be applied, are actually applied within 18 Months of receipt) in the purchase of assets or reinvestment in the business of the Group, or to finance or refinance Permitted Acquisitions, capital expenditure, or otherwise applied in mandatory prepayment of the Facilities in accordance with Clause 11.10 (Application of Prepayments), or any Permitted Alternative Debt or any combination of the foregoing; or

(iv) the Net Disposal Proceeds from a Disposal which, when aggregated with the Net Disposal Proceeds of other Disposals made in the same Financial Year, up to a maximum aggregate amount of €50,000,000 or, if higher, an amount equal to 25 per cent. of Adjusted EBITDA (or its equivalent in other currencies) provided that the Net Disposal Proceeds of a Disposal under sub-paragraphs (i) to (iii) above shall be disregarded for the purposes of
calculating the amount of the Net Disposal Proceeds under this sub-
paragraph;

"Net Capital Markets Proceeds" means the proceeds from any issuance by the Company or any other member of the Group of debt securities (including, without any limitation, any listed bond or private placement or placements) to any person that is not a member of the Group made after the Amendment and Restatement Effective Date after deducting:

(i) any proceeds received from the issuance of Refinancing Debt;

(ii) any reasonable expenses which are incurred by any member of the Group with respect to that issuance to persons who are not members of the Group; and

(iii) any Tax incurred and required to be paid (or properly reserved for in accordance with the Accounting Principles) arising as a consequence of that issuance, on the basis of existing rates and taking account of any available credit, deduction or allowance.

"Net Disposal Proceeds" means the cash consideration receivable by any member of the Group (including any amount receivable in repayment of intercompany debt) for any Disposal made by any member of the Group except for Excluded Disposal Proceeds and after deducting:

(i) any reasonable fees, costs and expenses which are incurred by any member of the Group with respect to that Disposal to persons who are not members of the Group;

(ii) 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 applicable rates and taking account of any available credit, deduction or allowance that reduces the amount of Tax required to be paid by the seller) or transferring such proceeds to a Borrower in order to comply with this Clause 10.3;

(iii) any amount required to be applied in repayment or prepayment of any Financial Indebtedness other than the Facilities (including, without limitation, to an entity the subject of a disposal, amounts to be repaid or prepaid to the entity disposed of in respect of intra-Group indebtedness and any third party debt secured on the assets disposed of which is to be repaid or prepaid out of those proceeds) or amounts owed to partners in Permitted Joint Ventures as a consequence of that Disposal; and

(iv) any reasonable amounts retained to cover indemnities, contingent and other liabilities in connection with the Disposal.

(b) The Company shall prepay, or procure that a member of the Group prepays, the outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents, and cancel Available Commitments, in amounts equal to the amount of Net Disposal Proceeds or, as relevant, Net Capital Markets Proceeds at the times and in the order of application contemplation by Clause 10.5 (Application of Mandatory Prepayments and Cancellations).
10.4 **Excess Cash Flow**

The Company will ensure that as soon as reasonably practicable, and in any event within 10 (ten) Business Days of the delivery of the Annual Financial Statements for the relevant Financial Year (commencing with the first full Financial Year following the Amendment and Restatement Effective Date), an amount (if positive) equal to (x) the amount equal to the applicable percentage of the Excess Cash Flow for such Financial Year; less (y) €20,000,000 or, if higher, an amount equal to 10 per cent. of Adjusted EBITDA, voluntary prepayments, and Debt Purchase Transactions of the Term Facilities by the Group in that Financial Year and, in each case, if elected by the Company between the end of that Financial Year and the date on which the prepayment is to be made hereunder (provided that any such amount so deducted may not be deducted in any subsequent calculation), is applied in prepayment of the Facilities pursuant to Clause 10.5 (Application of Mandatory Prepayments and Cancellations), where the applicable percentage is set out in the table below opposite the applicable Leverage as demonstrated by the Annual Financial Statements for such Financial Year and, for this purpose, the Leverage shall be calculated taking into account any prepayment made under this Clause 10.4 until such time (if any) as such ratio falls to the next or subsequent level, whereupon that applicable percentage shall apply:

<table>
<thead>
<tr>
<th>Leverage</th>
<th>Percentage of Excess Cash Flow</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater than 3.50:1</td>
<td>25 per cent.</td>
</tr>
<tr>
<td>Equal to or lower than 3.50:1</td>
<td>0 per cent.</td>
</tr>
</tbody>
</table>

10.5 **Application of Mandatory Prepayments and Cancellations**

(a) Subject to paragraphs (b) to (h) inclusive below, a prepayment of the Loans or cancellation of Available Commitments made under Clause 10.3 (Net Disposal Proceeds and Net Capital Markets Proceeds) or Clause 10.4 (**Excess Cash Flow**) shall be applied in the following order:

(i) **first**, in prepayment **pro rata** of the Term Loans under Facility B and Term Loans under each Additional Facility and, at the option of the Company, any other Financial Indebtedness which ranks **pari passu** to Facility B as Pari Passu Liabilities under the Intercreditor Agreement;

(ii) **secondly**, in cancellation of the Available Commitment under Facility B and (other than during the Agreed Certain Funds Period in relation to such Additional Facility) any Additional Facility that is a Term Facility and, at the option of the Company, the available commitments for any other Financial Indebtedness (other than a revolving facility) which ranks **pari passu** to Facility B as Pari Passu Liabilities under the Intercreditor Agreement, in each case **pro rata** across such facilities (and the Available Commitments of the respective Lenders or lenders under each such Facility or facilities will be cancelled rateably);

(iii) **thirdly**, in cancellation of the Revolving Facility and, at the option of the Company, the available commitments under any other Financial Indebtedness which is a revolving facility and which ranks **pari passu** with the Revolving Facility as Pari Passu Liabilities under the Intercreditor Agreement,
in each case pro rata across such facilities (and the Available Commitments of the respective Lenders or lenders under each such Facility or facilities will be cancelled rateably);

(iv) **fourthly**, in permanent *pro rata* prepayment and cancellation of Revolving Facility Loans and, at the option of the Company, the available commitments under any other Financial Indebtedness which is a revolving facility and which ranks *pari passu* with the Revolving Facility as Pari Passu Liabilities under the Intercreditor Agreement, in each case pro rata across such facilities (and the Available Commitments of the respective Lenders or lenders under each such Facility or facilities will be cancelled rateably); and

(v) **fifthly**, in prepayment and cancellation of the Ancillary Outstandings and Ancillary Commitments and, at the option of the Company, the outstanding and commitment of any other ancillary facility which is *pari passu* to each Ancillary Facility as Pari Passu Liabilities under the Intercreditor Agreement, in each case pro rata across such facilities.

(b) Unless the Company makes an election under Clause 10.5(e) and subject to paragraph (h) below, the Borrower shall prepay the Loans, in the case of any prepayment relating to the amounts of Net Disposal Proceeds, as soon as reasonably practicable following receipt of those proceeds.

(c) The Borrower shall prepay the Loans, in the case of any prepayment relating to the amounts of Net Capital Markets Proceeds, within 10 Business Days of receipt by the Company, or the relevant member of the Group, of those proceeds.

(d) A prepayment under Clause 10.3 (Net Disposal Proceeds and Net Capital Markets Proceeds) or Clause 10.4 (Excess Cash Flow) shall prepay the Term Loans in amounts which reduce each Term Loan by the same proportion unless a Lender elects to waive all or part of its share of the prepayment under Clause 11.8 (Prepayment Elections) in which case the other Facility B Lenders will in addition be reduced pro rata by an aggregate amount equal to the waived prepayment.

(e) Subject to Clause 10.5(f), the Company may elect that any prepayment of Net Disposal Proceeds pursuant to the terms of Clause 10.3(b) or any prepayment pursuant to Clause 10.4 (Excess Cash Flow) be applied in prepayment of a Loan on the last day of the Interest Period. If the Company makes that election then a proportion of the Loan equal to the amount of the relevant prepayment will be due and payable on the last day of its Interest Period.

(f) If the Company has made an election under Clause 10.5(e) but an Event of Default has occurred and is continuing, that election shall no longer apply and a proportion of the Loan in respect of which the election was made equal to the amount of the relevant prepayment shall be immediately due and payable (unless the Majority Lenders otherwise agree in writing).

(g) Notwithstanding anything to the contrary in this Agreement, in the event any disposal proceeds are received by any member of the Group the entire issued share capital of which (or any other ownership interest in) is not owned directly or indirectly by the Company, the amount required to be applied in prepayment pursuant to this
Agreement in respect of such proceeds (after taking account of all applicable exceptions and exclusions but without double counting any such deduction) shall be further reduced by a percentage equal to the percentage of the share capital of (or other ownership interests in) that member of the Group which is not held by directly or indirectly by the Company.

(h) Each Obligor shall use all reasonable endeavours and take all reasonable steps to ensure that any transaction giving rise to a prepayment obligation or obligation to provide cash cover is structured in such a way that it will not be unlawful for the Obligors or other members of the Group to move the relevant proceeds received between members of the Group to enable a mandatory prepayment to be lawfully made, cash cover lawfully provided and the proceeds lawfully applied as provided under this Clause 10 and/or minimize the costs and Taxes of making such mandatory prepayment. If, however, after each Obligor has used all such reasonable endeavours and taken such reasonable steps:

(i) it will still be unlawful for such a prepayment to be made and the proceeds so applied; or

(ii) it will still be unlawful to make funds available to a member of the Group that could make such a prepayment; or

(iii) it will still result in any member of the Group making funds available to, or receiving funds from, another member of the Group to enable such a prepayment to be made incurring any costs or expenses (including any material tax liabilities) which will exceed 3 per cent. of the amount of such prepayment or it gives rise to a risk of liability for the entity concerned or its directors or officers; or

(iv) it will give rise to a risk of liability for its officers or directors (or gives rise to a risk of breach of fiduciary or statutory duties by any director or officer or a risk of personal liability),

then such prepayment and/or provision of cash cover shall not be required to be made, subject to an obligation to use other Group cash which is not subject to similar restrictions to prepay an equivalent amount where the use of such cash would not be materially prejudicial to overall Group liquidity or the availability of Group liquidity to members of the Group requiring funds and provided always that if the restriction preventing such payment/provision of cash cover or giving rise to such liability is subsequently removed, any relevant cash proceeds will promptly be applied in prepayment and/or provision of cash cover in accordance with this Clause 12 at the end of the relevant Interest Period(s) to the extent that such payment has not otherwise been made.

10.6 **Excluded Proceeds**

Where Excluded Disposal 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 Disposal Proceeds), the Company shall ensure that those amounts are used for that purpose within the requisite time periods or if such amounts have not been used by the end of the
applicable time period, apply such amount in mandatory prepayment in accordance with Clause 10.5 (Application of Mandatory Prepayments and Cancellations).

11 Restrictions

11.1 Notices of Cancellation or Prepayment

Any notice of cancellation or prepayment or authorisation or election given by any Party under Clause 9 (Illegality, Voluntary Prepayment and Cancellation) or Clause 10.5(c) (Application of Mandatory Prepayments and Cancellations) shall (subject to the terms of that Clause), unless a contrary indication appears in this Agreement, specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment. In the event that a Borrower delivers a conditional or revocable notice of voluntary cancellation and/or voluntary prepayment under this Agreement, which it shall be permitted to do, that Borrower shall be liable for any cost, loss or liability reasonably incurred by any Lender as a result of that prepayment not being made, if the relevant prepayment is not made (provided that any demand is accompanied by reasonable calculations or details of the amount demanded).

11.2 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 Clause 11.11 (Repricing Events), without premium or penalty.

11.3 No Reborrowing of the Term Facilities

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

11.4 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.

11.5 Prepayment in accordance with this 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.

11.6 No Reinstatement of Commitments

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

11.7 Agent’s Receipt of Notices

If the Agent receives a notice under Clause 9 (Illegality, Voluntary Prepayment and Cancellation) or an election under Clause 10.5(e) (Application of Mandatory Prepayments and Cancellations), it shall promptly forward a copy of that notice or that election to either the Company or the affected Lender, as appropriate.
11.8 Prepayment Elections

The Agent shall notify the Lenders as soon as possible of any proposed prepayment of any Loan under Clause 10.3 (Net Disposal Proceeds and Net Capital Markets Proceeds) or Clause 10.4 (Excess Cash Flow). A Lender may, if it gives the Agent not less than three Business Days’ prior notice, elect to waive all or a specified part of its share of any prepayment of a Term Facility (each such amount being a "Waived Prepayment Amount") if the Waived Prepayment Amount can be applied to reduce the participations of other Term Lenders who are expressly willing to accept an incremental prepayment of their participation in a Term Facility in respect of that prepayment (each such Lender being an "Accepting Lender"), in which case, the Agent shall apply the proceeds of the Waived Prepayment Amount against the Accepting Lenders' participations in the applicable Loans pro rata.

11.9 Effect of Repayment and Prepayment on Commitments

If all or part of any Lender's participation in a Term Loan is repaid or prepaid, an amount of that Lender's Commitments (equal to the Base Currency Amount of the amount of the participation which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment.

11.10 Application of Prepayments

Any prepayment of a Loan (other than a prepayment pursuant to Clause 9.1 (Illegality), Clause 10.1 (Change of Control) or Clause 9.3 (Voluntary Cancellation)) shall (subject to Clause 11.8 (Prepayment Elections)) be applied pro rata to each Lender's participation in that Loan.

11.11 Repricing Events

If any Facility B Loan is refinanced, repaid or repriced in connection with a Repricing Event before the date falling six (6) months after the Amendment and Restatement Effective Date, then, in addition to all other sums required to be paid under this Agreement in connection with such Repricing Event, including all accrued and unpaid interest and Break Costs (if any), the Company shall (within 5 (five) Business Days of such Repricing Event taking effect) pay (or procure the payment of) to the Agent (for the account of the Facility B Lenders pro rata to their participation in that Facility B Loan at the time of that Repricing Event) a prepayment fee equal to 1.00% of the principal amount prepaid, refinanced or repriced.

12 Costs of Utilisation

12.1 Calculation of Interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

(a) Margin; and

(b) LIBOR, or in relation to any Loan in euro, EURIBOR or in relation to any Loan in Australian dollars, BBSW.
12.2 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 Annual Financial Statements and related Compliance Certificate received by the Agent show a higher or lower Margin should have applied during a certain period then the Company shall (or shall ensure that the relevant Borrower shall) promptly pay to the Agent (or the next succeeding interest payment under the relevant Facility following receipt of the relevant financial statements by the Agent shall be reduced by) such amount as is necessary to put the Agent and the Lenders in the position that they should have been in had the appropriate rate of Margin been applied at the time provided that any such reduction shall only apply to the extent the Lender which received the overpayment of interest remains a Lender as at the date of such adjustment and, with respect to payments to Lenders, such payments shall only apply to Lenders who were participating in the relevant Facility both at the time to which the adjustments relate and the time when the adjustments are actually made.

12.3 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 Clause 12.3(b), is 1% 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 12.3 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 applicable to the overdue amount during that first Interest Period shall be 1% 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.

12.4 Notification of Rates of Interest

(a) The Agent shall promptly notify the Lenders and the relevant Borrower of the determination of a rate of interest under this Agreement.
(b) The Agent shall promptly notify the relevant Borrower of each Funding Rate relating to a Loan.

13 Interest Periods

13.1 Selection of Interest Periods

(a) A Borrower (or the Company on its behalf) may select an Interest Period for a Loan in the Utilisation Request for that Loan or (if that Loan is a Term Loan and has already been borrowed) in a Selection Notice.

(b) Each Selection Notice for a Term Loan is irrevocable and must be delivered to the Agent by the Borrower (or the Company on behalf of the Borrower) to which that Term Loan was made not later than the Specified Time.

(c) If a Borrower (or the Company) fails to deliver a Selection Notice to the Agent in accordance with Clause 13.1(b), the relevant Interest Period will be one Month.

(d) Subject to this Clause 13 (Interest Periods), a Borrower (or the Company) may select an Interest Period of one, three or six Months or of any other period agreed between the Company, the Agent and all the Lenders in relation to the relevant Loan. An Interest Period for a Loan shall not extend beyond the applicable Termination Date.

(e) Each Interest Period for a Term Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.

(f) A Revolving Facility Loan has one Interest Period only.

(g) A Borrower (or the Company on its behalf) may select an Interest Period of less than one Month in relation to a Term Facility if necessary or desirable to implement any interest rate hedging in relation to the Facilities or to facilitate a consolidation of loans in accordance with Clause 13.3 (Consolidation and division of Term Loans).

13.2 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).

13.3 Consolidation and division of Term Loans

(a) If two or more Interest Periods:

(i) relate to Facility B Loans to be made to the same Borrower; and

(ii) end on the same date,

those Facility B Loans will, unless that Facility B Borrower requests to the contrary in a Selection Notice for the next Interest Period or those Loans are denominated in different currencies, be consolidated into, and treated as, a single Facility B Loan on the last day of the Interest Period.
(b) If two or more Interest Periods:

  (i) relate to Additional Facility Loans to be made to the same Borrower by the same Lenders under the same Additional Facility; and

  (ii) end on the same date,

those Additional Facility Loans will, unless that Additional Facility Borrower requests to the contrary in a Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Additional Facility Loan on the last day of the Interest Period.

(c) Subject to Clause 4.3 (Maximum Number of Loans) and Clause 5.3 (Currency and Amount), if a Borrower (or the Company on its behalf) requests in a Selection Notice that a Term Loan be divided into two or more Term Loans under the relevant Facility, that Term Loan will, on the last day of its Interest Period, be so divided with Base Currency Amounts specified in that Selection Notice, having an aggregate Base Currency Amount equal to the Base Currency Amount of the relevant Term Loan immediately before its division.

14 Changes to the Calculation of Interest

14.1 Unavailability of Screen Rate

(a) Interpolated Screen Rate

If no Screen Rate is available for BBSW, LIBOR or EURIBOR (as applicable), for the Interest Period of a Loan, the applicable BBSW, LIBOR or EURIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan.

(b) Reference Bank Rate

If no Screen Rate is available for BBSW, LIBOR or EURIBOR (as applicable) for:

  (i) the currency of a Loan; or

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

the applicable BBSW, LIBOR or EURIBOR shall be the Reference Bank Rate as of the Specified Time and for a period equal in length to the Interest Period of that Loan.

(c) Alternative Reference Bank Rate

If Clause 14.1(b) applies but no Reference Bank Rate is available for the currency of the Loan or the relevant Interest Period, the applicable BBSW, LIBOR or EURIBOR shall be the Alternative Reference Bank Rate as of the Specified Time for the currency of the Loan and for a period equal in length to the Interest Period of that Loan.
14.2 Calculation of Reference Bank Rate and Alternative Reference Bank Rate

(a) Subject to Clause 14.2(b), if the applicable BBSW, LIBOR or EURIBOR in relation to a Loan is to be determined on the basis of a Reference Bank Rate but a Reference Bank does not supply a quotation by the Specified Time, the Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Reference Banks.

(b) If at or about noon on the Quotation Day, none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period.

(c) Subject to Clause 14.2(d), if the applicable BBSW, LIBOR or EURIBOR in relation to a Loan is to be determined on the basis of an Alternative Reference Bank Rate but an Alternative Reference Bank does not supply a quotation by the Specified Time, the Alternative Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Alternative Reference Banks.

(d) If before close of business in London on the date falling one Business Day after the Quotation Day, none or only one of the Alternative Reference Banks supplies a quotation, there shall be no Alternative Reference Bank Rate for the relevant Interest Period.

14.3 Market Disruption

(a) If BBSW, LIBOR or EURIBOR (as applicable) is determined otherwise than on the basis of an Alternative Reference Bank Rate and, before close of business in London on the Quotation Day for the relevant Interest Period, the Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 50% 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 BBSW, LIBOR or EURIBOR (as applicable), then the applicable BBSW, LIBOR or EURIBOR shall be the Alternative 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 and if no Alternative Reference Bank Rate is available for the currency of that Loan or the relevant Interest Period there shall be no BBSW, LIBOR or EURIBOR (as applicable) for that Loan and Clause 14.4 (Cost of funds) shall apply to that Loan for the relevant Interest Period.

(b) If BBSW, LIBOR or EURIBOR (as applicable) is determined on the basis of an Alternative Reference Bank Rate and before close of business in London on the date falling two Business Days after the Quotation Day for the relevant Interest Period of a Loan, the Agent receives notifications from a Lender or Lenders (whose participations in that Loan exceed 50% 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
BBSW, LIBOR or EURIBOR (as applicable) in relation to a Loan, then Clause 14.4 (Cost of funds) shall apply to that Loan for the relevant Interest Period.

14.4 Cost of funds

(a) If this Clause 14.4 (Cost of funds) applies, the rate of interest on each Lender's share of the relevant Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:

(i) the Margin; and

(ii) the rate notified to the Agent by that Lender as soon as practicable and in any event within five Business Days 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 Loan from whatever source it may reasonably select.

(b) If this Clause 14.4 (Cost of funds) applies and the Agent or the Company so requires, the Agent and the Company shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest.

(c) Any alternative basis agreed pursuant to Clause 14.4(b) shall, with the prior consent of all the Lenders and the Company, be binding on all Parties.

(d) If this Clause 14.4 (Cost of funds) applies pursuant to Clause 14.3 (Market Disruption) and:

(i) a Lender's Funding Rate is less than BBSW, LIBOR or EURIBOR (as applicable) in relation to a Loan; or

(ii) a Lender does not supply a quotation by the time specified 14.4(a)(ii),

the cost to that Lender of funding its participation in that Loan for that Interest Period shall be deemed, for the purposes of Clause 14.4(a), to be BBSW, LIBOR or EURIBOR (as applicable).

14.5 Notification to the Company

If Clause 14.4 (Cost of funds) applies or if BBSW, LIBOR or EURIBOR (as applicable) is to be determined on the basis of an Alternative Reference Bank Rate, the Agent shall, as soon as is practicable, notify the Company.

14.6 Break Costs

(a) The Borrower shall, within five Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by the 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 (and giving reasonable details of the calculation of) its Break Costs for any Interest Period in which they accrue and showing their calculations, a copy of which shall be provided to the Company.

15 Fees

15.1 Commitment Fees

(a) The Company shall pay (or procure there is paid) to the Agent (for the account of each Lender) a fee in the Base Currency computed at

(i) the rate of 30% of the Margin applicable to the Available Commitment under the Revolving Facility for the period commencing on the Amendment and Restatement Effective Date and ending on the last day of the Availability Period for the Revolving Facility; and

(ii) the rate and for the period (if any) specified in the relevant Additional Facility Notice on that Lender's Available Commitment under the relevant Additional Facility.

(b) The accrued commitment fee 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 in relation to the applicable Facility at the time the cancellation is effective.

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

15.2 Arrangement Fee

The Company shall pay to the relevant Mandated Lead Arrangers each of the fees set out in the Mandated Lead Arranger Fee Letter and any other Fee Letter in the amounts and at the times agreed therein.

15.3 Agency Fee

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

15.4 Security Agent Fee

The Company shall pay to the Security Agent (for its own account) a security agent fee in the amount and at the times agreed in a Fee Letter.

15.5 Interest, commission and fees on Ancillary Facilities

The rate and time of payment of interest, commission, fees and any other remuneration in respect of each Ancillary Facility shall be determined by agreement between the relevant
Ancillary Lender and the Borrower of that Ancillary Facility based upon normal market rates and terms.

16 Tax Gross-Up and Indemnities

16.1 Definitions

(a) In this Agreement:

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

(i) 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:

(A) where the Borrower is an Original Borrower, is filed with HM Revenue & Customs within 30 days of the date of this Agreement; or

(B) where the Borrower is an Additional Borrower, is filed with HM Revenue & Customs within 30 days of the date on which that Borrower becomes an Additional Borrower; or

(ii) where it relates to a Treaty Lender that is not an Original Lender, contains the scheme reference number and jurisdiction of tax residence stated in respect of that Lender in the documentation which it executes on becoming a Party as a Lender, and:

(A) where the Borrower is a Borrower as at the date on which that Treaty Lender becomes a Party as a Lender, is filed with HM Revenue & Customs within 30 days of that date; or

(B) where the Borrower is not a Borrower as at the date on which that Treaty Lender becomes a Party as a Lender, is filed with HM Revenue & Customs within 30 days of the date on which that Borrower becomes an Additional Borrower.

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

"Qualifying Lender" means:

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

(A) a Lender:

1) 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

2) 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

(B) a Lender which is:

1) a company resident in the United Kingdom for United Kingdom tax purposes;

2) a partnership each member of which is:

   a) a company so resident in the United Kingdom; or

   b) 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

3) 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

(C) a Treaty Lender; or

(ii) 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:

(i) a company resident in the United Kingdom for United Kingdom tax purposes;

(ii) a partnership each member of which is:

   (A) a company so resident in the United Kingdom; or
(B) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or

(iii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.

"Tax Credit" means a credit against, relief or remission for, or repayment of any Tax.

"Tax Deduction" means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

"Tax Payment" means either the increase in a payment made by an Obligor to a Finance Party under Clause 16.2 (Tax Gross-Up) or a payment under Clause 16.3 (Tax Indemnity).

"Treaty Lender" means a Lender which:

(i) is treated as a resident of a Treaty State for the purposes of the Treaty;

(ii) 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

(iii) meets all other conditions in the relevant Treaty for full exemption from tax imposed by the United Kingdom on interest, except that for this purpose it shall be assumed that there is no special relationship between the relevant Borrower and the Lender or between both of them and another person and that the following are satisfied:

(A) any condition which relates (expressly or by implication) to the amounts or terms of any Loan or terms of the Finance Documents or to any other matter which is outside the exclusive control of that Lender; and

(B) any necessary procedural formalities.

"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:

(i) an Original Lender listed as such in Part 2 of Schedule 1 (The Original Parties); and
(ii) a Lender which is not an Original Lender and which gives a Tax Confirmation in the documentation which it executes on becoming a Party as a Lender.

(b) Unless a contrary indication appears, in this Clause 16 (Tax Gross-Up and Indemnities) a reference to "determines" or "determined" means a determination made in the absolute discretion of the person making the determination.

(c) For the purpose of this Clause 16, a “Lender” and “Finance Party” shall be taken to include, for the avoidance of doubt, a Substitute Affiliate Lender that becomes a Party to this Agreement as a Lender under Clause 2.5.

16.2 Tax Gross-Up

(a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.

(b) The Company shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall 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 Company 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 16.2(c) by reason of a Tax Deduction on account of Tax imposed by the United Kingdom, if on the date on which the payment falls due:

(i) the payment could have been made to the relevant Lender without a Tax Deduction if the Lender had been a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or Treaty, or any published practice or published concession of any relevant taxing authority; or

(ii) the relevant Lender is a Qualifying Lender solely by virtue of paragraph (i)(B) 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 paragraph (i)(B) 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 Clause 16.2(g) or 16.2(h) (as applicable) below.

(e) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(f) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Agent for the Finance Party entitled to the payment a statement under section 975 of the ITA or other evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

(g) Subject to Clause 16.2(g)(ii), 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.

(i) a Treaty Lender which is an Original Lender and that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence opposite its name in Part 2 of Schedule 1 (The Original Parties); and

(ii) a Treaty Lender which is not an Original Lender and that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence in the documentation which it executes on becoming a Party as a Lender, and, having done so, that Lender shall be under no obligation pursuant to Clause 16.2(g)(i).
(h) If a Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with Clause 16.2(g)(ii) and:

(i) the Borrower making a payment to that Lender has not made a Borrower DTTP Filing in respect of that Lender; or

(ii) the Borrower making a payment to that Lender has made a Borrower DTTP Filing in respect of that Lender but:

(A) that Borrower DTTP Filing has been rejected by HM Revenue & Customs; or

(B) HM Revenue & Customs has not given the Borrower authority to make payments to that Lender without a Tax Deduction within 60 days of the date of the Borrower DTTP Filing,

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

(i) If a Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with Clause 16.2(g)(ii), no Obligor shall make a Borrower DTTP Filing or file any other form relating to the HMRC DT Treaty Passport scheme in respect of that Lender's Commitment or its participation in any Loan unless the Lender otherwise agrees.

(j) A Borrower shall, promptly on making a Borrower DTTP Filing, deliver a copy of the Borrower DTTP Filing to the Agent for delivery to the relevant Lender.

(k) A UK Non-Bank Lender which is an Original Lender gives a Tax Confirmation to the Company by entering into this Agreement.

(l) A UK Non-Bank Lender shall promptly notify the Company and the Agent if there is any change in the position from that set out in the Tax Confirmation.

16.3 Tax Indemnity

(a) The Company 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 16.3(a) 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 16.2 (Tax Gross-Up);

(B) would have been compensated for by an increased payment under Clause 16.2 (Tax Gross-Up) but was not so compensated solely because one of the exclusions in Clause 16.2(d) (Tax Gross-Up) applied;

(C) relates to a FATCA Deduction required to be made by a Party; or

(D) (for the avoidance of doubt) is suffered or incurred in respect of any Bank Levy (or any payment attributable to, or liability arising as a consequence of, a Bank Levy).

(c) A Protected Party making, or intending to make a claim under Clause 16.3(a) shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Company.

(d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 16.3 (Tax Indemnity), notify the Agent.

16.4 Tax Credit

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

(a) a Tax Credit is attributable to:

(i) an increased payment of which that Tax Payment forms part;

(ii) that Tax Payment; or

(iii) 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.

16.5 Lender status confirmation
(a) Each Lender which is not an Original Lender shall indicate, in the documentation which it executes on becoming a Party as a Lender, and for the benefit of the Agent and without liability to any Obligor, which of the following categories it falls in:

(i) not a Qualifying Lender:

(ii) a Qualifying Lender (other than a Treaty Lender): or

(iii) a Treaty Lender.

(b) If such a Lender fails to indicate its status in accordance with this Clause 16.5 then that Lender shall be treated for the purposes of this Agreement (including by each Obligor) as if it is not a Qualifying Lender until such time as it notifies the Agent which category applies (and the Agent, upon receipt of such notification, shall inform the Company). For the avoidance of doubt, any documentation which a Lender executes on becoming a Party as a Lender shall not be invalidated by any failure of a Lender to comply with this Clause 16.5.

16.6 Stamp Taxes

The Company shall (or shall cause other members of the Group to) pay and, within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document except for any such Tax payable in respect of an assignment, novation, transfer or sub-participation of a Loan (or part thereof) by that Finance Party unless such assignment, novation, transfer or sub-participation is entered into at the written request of a Borrower (or the Company on its behalf), including for the avoidance of doubt pursuant to Clause 19 (Mitigation by the Lenders) or Clause 41.7 (Replacement of Lender), or occurs following an Event of Default which is continuing.

16.7 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 Clause 16.7(b), 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 Clause 16.7(b)(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 16.7 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.

16.8 FATCA Information

(a) Subject to Clause 16.8(c), 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 Clause 16.8(a)(i) 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) Clause 16.8(a) shall not oblige any Finance Party to do anything, and Clause 16.8(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 Clause 16.8(a)(i) or 16.8(a)(ii) (including, for the avoidance of doubt, where Clause 16.8(c) 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.

16.9 FATCA Deduction

(a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.

(b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Company and the Agent and the Agent shall notify the other Finance Parties.

17 Increased Costs

17.1 Increased Costs

(a) Subject to Clause 17.3 (Exceptions) the Company shall, within five Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or treaty after the Amendment and Restatement Effective Date (or, if later, and unless at such time the Majority Lenders are making a claim pursuant to this Clause, the date it became a Party) or (ii) compliance with any law or regulation or treaty made after the Amendment and Restatement Effective Date (or, if later, and unless at such time the Majority Lenders are making a claim pursuant to this Clause, the date it became a Party) or (iii) the implementation or application of, or compliance with, Basel III or CRD IV or any law or regulation that implements or applies Basel III or CRD IV.
In this Agreement:

(i) "Basel III" means:

(A) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;

(B) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement – Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and

(C) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III".

(ii) "CRD IV" means:

(A) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms; and


(iii) "Increased Costs" means:

(A) a reduction in the rate of return from a Facility or on a Finance Party's (or its Affiliate's) overall capital;

(B) an additional or increased cost; or

(C) a reduction of any amount due and payable under any Finance Document,

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

17.2 Increased Cost Claims
(a) A Finance Party intending to make a claim pursuant to Clause 17.1 (Increased Costs) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Company.

(b) Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs and setting out the calculation (in reasonable detail) of the amount of its Increased Costs and the basis of calculation of those costs (save that, in respect of the basis of calculation only, a Finance Party shall not be required to disclose such information to the extent that (i) disclosure to the Company would breach any law or regulation or (ii) such Finance Party (acting reasonably) considers such information to be confidential and in respect of which it is not reasonably practicable to obtain any necessary consent or approval in order to permit the disclosure of such information to the Company.

17.3 Exceptions

(a) Clause 17.1 (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 16.3 (Tax Indemnity) (or would have been compensated for under Clause 16.3 (Tax Indemnity)) but was not so compensated solely because any of the exclusions in Clause 16.3(b) (Tax Indemnity) applied);

(iv) compensated for by Clause 16.6 (Stamp Taxes) or Clause 16.7 (VAT) (or would have been so compensated for under those Clauses but was not so compensated solely because any of the exceptions set out in the relevant Clause applied);

(v) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation;

(vi) (for the avoidance of doubt) suffered or incurred in respect of any Bank Levy (or any payment attributable to, or any liability arising as a consequence of, a Bank Levy);

(vii) attributable to any penalty having been imposed by the relevant central bank or monetary or fiscal authority upon the Finance Party (or any Affiliate of it) making such claim by virtue of its having exceeded any country or sector borrowing limits or breached any directives imposed upon it;

(viii) incurred prior to the date which is 120 days prior to the date on which the Finance Party makes a claim in accordance with 17.2 (Increased cost claims);

(ix) attributable to Basel III or any other law or regulation which implements Basel III, in each case unless a Finance Party was or reasonably should have been aware of that Increased Cost on the date on which it became an Finance Party under this Agreement, provided that if the Increased Cost was not fully
quantifiable on or prior to the date on which it became a Finance Party, Clause 17.2 (Increased cost claims) shall apply to the amount of the Increased Cost which was not, or could not reasonably be expected to have been, quantifiable; or

(x) attributable to the 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 Amendment and Restatement Effective Date (but excluding any amendment arising out of Basel III) ("Basel II"), or any law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates).

(b) In this Clause 17.3 (Exceptions), a reference to a "Tax Deduction" has the same meaning given to that term in Clause 16.1 (Definitions).

18 Other Indemnities

18.1 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;

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within five Business Days of demand, indemnify the Mandated Lead Arrangers and each other Secured Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum provided that if the amount produced or payable as a result of the conversion is greater than the relevant Sum due, the relevant Finance Party will, unless an Acceleration Event has occurred and is continuing, refund any such excess amount to the relevant Obligor.

(b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

18.2 Other Indemnities

(a) The Company shall (or shall procure that an Obligor will), within five Business Days of demand, indemnify each Secured Party against any cost, loss or liability incurred by that Finance Party as a result of:
The occurrence of any Event of Default;

(a) the occurrence of any Event of Default;

(i) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 34 (Sharing among the Finance Parties);

(ii) funding, or making arrangements to fund, its participation in a Loan requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or

(iii) a Loan (or part of that Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower.

(b) The Company shall within five (5) Business Days of demand indemnify each Finance Party, each Affiliate of a Finance Party and each officer and employee of a Finance Party or its Affiliate (each an “Indemnified Person”) against any cost, expense, loss or liability (including without limitation, legal fees reasonably incurred) incurred by or awarded against such Indemnified Person in each case arising out of or in connection with any action, claim, investigation or proceeding (including, without limitation, any action, claim, investigation or proceeding to preserve or enforce rights), commenced or threatened, relating to the Acquisition or the use of proceeds here or the arranging of any Facility except to the extent such cost, expense, loss or liability resulted directly from fraud, the gross negligence or wilful misconduct of such Indemnified Person as determined by a court of competent jurisdiction in a final non-appealable decision.

(c) If any event occurs in respect of which indemnification under paragraph (b) may be sought from the Company, the relevant Indemnified Person shall notify the Company (where legally permissible to do so and without being under any obligation to so notify to the extent that it is not lawfully permitted to do so) promptly after the relevant Indemnified Person becomes aware of such event, consult with the Company in good faith and promptly with respect to the conduct of the relevant action, claim, investigation or proceeding (including, without limitation, any action, claim, investigation or proceeding to preserve or enforce rights), commenced or threatened, relating to the Acquisition or the use of proceeds here or the arranging of any Facility except to the extent such cost, expense, loss or liability resulted directly from fraud, the gross negligence or wilful misconduct of such Indemnified Person as determined by a court of competent jurisdiction in a final non-appealable decision.

The Company shall, within five Business Days of demand, indemnify the Agent against any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:

(a) investigating any event which it reasonably believes is a Default;
(b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;

(c) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; or

(d) any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 35.10 (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.

18.4 Cost Details

(a) Notwithstanding any other term of this Agreement or the other Finance Documents, and unless agreed otherwise in writing, no Obligor shall be required to pay any amount under any Finance Document (including any costs, indemnities or expenses) unless:

(i) it has first been provided with reasonable details of the circumstances giving rise to such payment and of the calculation of the relevant amount (including where applicable, details of hours worked, rates and individuals involved); and

(ii) it has received satisfactory evidence (acting reasonably) that such amounts (including any costs, indemnities and expenses) have been properly incurred.

(b) Paragraph (a) above shall not apply to any costs or expenses described under Clause 20.3 (Enforcement costs) or to any costs or expenses arising under the Finance Documents to the Agent or the Security Agent.

19 Mitigation by the Lenders

19.1 Mitigation

(a) Each Finance Party shall, in consultation with the Company, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 9.1 (Illegality), Clause 16 (Tax Gross-Up and Indemnities) or Clause 17 (Increased Costs) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

(b) Clause 19.1(a) does not in any way limit the obligations of any Obligor under the Finance Documents.

(c) Each Finance Party shall notify the Agent as soon as it becomes aware that any circumstances of the kind described in Clause 19.1(a) have arisen or may arise. The Agent shall notify the Company promptly of any such notification from a Finance Party.
19.2 Limitation of Liability

(a) The Company shall, within five Business Days of demand, indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 19.1 (Mitigation).

(b) A Finance Party is not obliged to take any steps under Clause 19.1 (Mitigation) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

20 Costs and Expenses

20.1 Transaction Expenses

The Company shall within five Business days of demand pay the Agent, the Mandated Lead Arrangers and the Security Agent the amount of all costs and expenses inclusive of VAT and disbursements (including agreed legal fees (subject to any agreed cap)) 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, syndication 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.

20.2 Amendment Costs

If:

(a) an Obligor requests an amendment, waiver or consent; or

(b) an amendment is required pursuant to Clause 35.9 (Change of Currency),

the Company shall, within five Business Days of demand, reimburse each of the Agent and the Security Agent for the amount of all costs and expenses (including legal fees (subject to any agreed cap)) 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.

20.3 Enforcement Costs

The Company shall, within five Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document and the Transaction Security and any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Transaction Security or enforcing these rights.

21 Guarantee and Indemnity

21.1 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 21 if the amount claimed had been recoverable on the basis of a guarantee.

21.2 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.

21.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Finance Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 21 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

21.4 Waiver of Defences

The obligations of each Guarantor under this Clause 21 will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Clause 21 (without limitation and whether or not known to it or any Finance Party) including:

(a) any time, waiver or consent granted to, or composition with, any Obligor or other person;

(b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;

(e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;

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

(g) any insolvency or similar proceedings.

21.5 Guarantor Intent

Without prejudice to the generality of Clause 21.4 (Waiver of Defences), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

21.6 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 21. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

21.7 Appropriations

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

(a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under this Clause 21.

21.8 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 21:

(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 21.1 (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 35 (Payment Mechanics).

21.9 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 in relation to the assets of the Retiring Guarantor.

21.10 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.

21.11 Guarantee Limitations

This guarantee does not apply to any liability to the extent that it would result in this guarantee constituting unlawful financial assistance within the meaning of sections 678 or 679 of the Companies Act 2006 (or any equivalent and applicable provisions under the laws of the jurisdiction under which laws that Guarantor is incorporated as at the Amendment and Restatement Effective Date) and, with respect to any Additional Guarantor, is subject to any limitations set out in the Accession Deed applicable to such Additional Guarantor.

21.12 Customary Law Waivers

(a) Each Obligor hereby irrevocably and unconditionally waives any such rights whatsoever that it may have under the laws of the Bailiwick of Guernsey or elsewhere at any time pursuant to the droit de division (whether or not now existing), in relation to any Finance Document and any other document, agreement or arrangement referred to in or relating to it.

(b) Each Obligor hereby irrevocably and unconditionally waives any right it may have whatsoever under the laws of the Bailiwick of Guernsey or elsewhere at any time (whether or not now existing) of first requiring any Finance Party (or any trustee or agent on their behalf) to proceed against or enforce any other rights or security against, or claim payment from, any person before enforcing any Finance Document and each Finance Document shall take effect without the benefit to any Obligor of the droit de discussion.

21.13 Excluded Swap Obligations

Notwithstanding anything to the contrary in any Finance Document, the guarantee of each Guarantor under this Clause 21 does not apply to any Excluded Swap Obligation of such Guarantor.

22 Representations

Each Obligor makes the representations and warranties set out in this Clause 22 to each Finance Party at the times set out in Clause 22.15 (Repetition).

22.1 Status

It is a limited liability company, limited liability corporation, company limited by shares, public limited company or limited partnership duly incorporated, organised or established and validly existing under the law of its jurisdiction of incorporation and is able lawfully, to execute and deliver the Finance Documents and to perform its obligations under the Finance Documents to which it is a party, and all corporate or other action require to be taken by it in order to authorise the execution and delivery by it of the Finance Documents and the performance by it of its obligations under the Finance Documents has been duly taken.

22.2 Binding Obligations

Subject to the Legal Reservations and the Perfection Requirements:
(a) the obligations expressed to be assumed by it in each Finance Document to which it is a party are legal, valid, binding and enforceable obligations; and

(b) (without limiting the generality of Clause 22.2(a)), 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 in all material respects.

22.3 Non-Conflict with Other Obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents and the granting of the Transaction Security to which it is a party do not and will not conflict with:

(a) any law or regulation applicable to it in any material respect;
(b) the constitutional documents of any Obligor in any material respect; or
(c) any agreement or instrument binding upon it or any of its Material Subsidiaries or any of its or any of its Material Subsidiaries' assets in a manner or to an extent which would have a Material Adverse Effect.

22.4 Power and Authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

22.5 Validity and Admissibility in Evidence

Subject to the Legal Reservations and Perfection Requirements, all Authorisations required:

(a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and

(b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect.

22.6 Governing Law and Enforcement

Subject to the Legal Reservations and the Perfection Requirements,

(a) the choice of governing law of each Finance Document will be recognised and enforced in the jurisdiction of incorporation of each relevant Obligor and, in particular, (other than in respect of any Isle of Man law governed Finance Documents) it will be subject to the Judgments (Reciprocal Enforcement) (Isle of Man) Act 1968 in respect of any Isle of Man incorporated Obligor and/or (other than in respect of any Guernsey law governed Finance Documents) the Judgments (Reciprocal Enforcement) (Guernsey) Law 1957 in respect of any island of Guernsey incorporated Obligor; 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
jurisdiction of incorporation and, in particular, (other than in respect of any Isle of Man
law governed Finance Documents) it will be subject to the Judgments (Reciprocal
Enforcement) (Isle of Man) Act 1968 in respect of any Isle of Man incorporated
Obligor and/or (other than in respect of any Guernsey law governed Finance
Documents) the Judgments (Reciprocal Enforcement) (Guernsey) Law 1957 in
respect of any island of Guernsey incorporated Obligor.

22.7 No Default

(a) No Event of Default is continuing or would result from the making of any Utilisation.

(b) No other event or circumstance is outstanding which constitutes a default under any
other agreement or instrument which is binding on it or any of its Restricted
Subsidiaries or to which its (or any of its Restricted Subsidiaries') assets are subject
has or would have a Material Adverse Effect.

22.8 No Misleading Information

(a) Any material factual information contained in the Information Memorandum provided
by or on behalf of any member of the Group and contained in the Information
Memorandum was true and accurate in all material respects as at the date it was
provided or as at the date (if any) at which it is stated.

(b) No event or circumstance has occurred or arisen and no information has been
omitted from the Information Memorandum that results in the information contained in
the Information Memorandum (taken as a whole) being untrue or misleading in any
material respect.

22.9 Financial Statements

Its most recent financial statements delivered pursuant to Clause 23.1 (Financial Statements)
have been prepared in accordance with the Accounting Principles (subject to Clause 23.3
(Requirements as to Financial Statements) as applied in the Original Financial Statements
and (if audited) give a true and fair view or (if unaudited) fairly present its consolidated
financial condition as at the end of, and consolidated results of operation for, the period to
which they relate; in each case in relation to quarterly or half yearly financial statements, (a)
having regard to the fact that such financial statements are prepared for management
purposes and to the extent appropriate for quarter or half yearly financial not subject to audit
procedures, and (b) subject to year-end adjustments and (c) save as set out therein.

22.10 Ranking

Its payment obligations under the Finance Documents rank at least pari passu with the claims
of all its other unsecured and unsubordinated creditors, except for obligations mandatorily
preferred by law applying to companies generally.

22.11 No Proceedings

Save as disclosed in writing to the Agent prior to the date of this Agreement, no litigation,
arbitration or administrative proceedings of or before any court, arbitral body or agency which
are reasonably likely to be adversely determined and, if adversely determined, would have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against it or any of its Restricted Subsidiaries.

22.12 Anti-Corruption Law

Except as disclosed against this warranty to the Agent prior to the date of this Agreement, each member of the Group has conducted its businesses in compliance with the applicable Anti-Corruption Laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

22.13 Sanctions

(a) None of the Company, any of its Restricted Subsidiaries, nor (to the best of its knowledge) any director or officer, or any employee, agent or Affiliate, of the Company or any of its Restricted Subsidiaries:

(i) is a Person that is, or is owned or controlled by Persons that are, the target or the subject of any Sanctions; or

(ii) is located, organised or resident in a country or territory that is, or whose government is, the target or the subject of country-wide or territory-wide Sanctions (currently, Cuba, Iran, North Korea, Sudan, the region of Crimea, and Syria).

(b) The representations and warranties in paragraph (a) above will not, and will not be deemed to be, given or made for the benefit of any German Finance Party, in each case if and to the extent that the making of, or compliance with, or, as the case may be, receipt and acceptance or benefit of, the representations or warranties would breach or conflict with section 7 of the German Foreign Trade Ordinance (Verordnung zur Durchführung des Außenwirtschaftsgesetzes), any provision of the Council of the European Union Regulation No. 2271/96 (or any national legislation enacted pursuant to it) or any similar applicable anti-boycott law or regulation.

22.14 Centre of Main Interests and Establishments

For the purposes of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the "Regulation") and if incorporated in the European Union, 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(10) of the Regulation) in any other jurisdiction.

22.15 Repetition

(a) The Repeating Representations shall be deemed to be repeated by reference to (unless otherwise so specified in the applicable representation) the facts and circumstances existing on such date on each Utilisation Date and on the first day of each Interest Period.

(b) The Repeating Representations shall in addition be repeated in relation to the relevant Additional Obligor on each date on which it becomes an Obligor.
(c) The representations and warranties set out in Clause 22.9 (Financial Statements) in respect of each set of financial statements delivered as contemplated by Clause 23.1 (Financial Statements) to this Agreement shall only be made once in respect of each set of financial statements, on the date such financial statements are delivered to the Agent.

(d) Each representation or warranty deemed to be made after the date of this Agreement shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

23 Information Undertakings

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

23.1 Financial Statements

The Company shall supply to the Agent in sufficient copies for all the Lenders:

(a) as soon as the same become available, but in any event within 150 days after the end of each of its Financial Years, its audited consolidated financial statements for that Financial Year;

(b) as soon as the same become available, but in any event within 90 days after the end of each of its Financial Half-Year, its audited (if prepared) or unaudited consolidated financial statements for that Financial Half-Year; and

(c) as soon as the same become available, but in any event within 60 days after the end of each of its Financial Quarters (other than the final Financial Quarter in a Financial Year and the Financial Quarter in a Financial Half Year) to occur following the date falling six Months from Completion, its unaudited consolidated management accounts for that Financial Quarter.

23.2 Compliance Certificate

(a) The Company shall supply a Compliance Certificate to the Agent with each set of its financial statements delivered pursuant to Clauses 23.1(a) and 23.1(c) (Financial Statements).

(b) Each Compliance Certificate shall, amongst other things, set out (in reasonable detail):

(i) only with respect to a Compliance Certificate supplied with the Annual Financial Statements, a certificate setting out (in reasonable detail) computations as to which of its Restricted Subsidiaries are Material Subsidiaries and confirming whether or not the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of the Guarantors (calculated on an unconsolidated basis and prior to accounting for any intra-group items and investments in Subsidiaries of any member of the Group) exceeds 75% of EBITDA;
(ii) only with respect to a Compliance Certificate supplied with the Annual Financial Statements for the first full Financial Year after the Amendment and Restatement Effective Date, a confirmation of the Excess Cash Flow;

(iii) confirming the Margin and setting out (in reasonable detail) computations as to the calculation of the Margin as set out in the definition of Margin;

(iv) certifying whether or not the relevant Quarter Date is a Test Date and, if so, setting out (in reasonable detail) computations as to compliance with Clause 24 (Financial Covenant); and

(v) details of any material adjustments made for the applicable Relevant Period to exclude the results of any Unrestricted Subsidiary when calculating compliance with the financial covenant in Clause 24.1 (Financial Condition) for that period (in each case to the extent that such financial covenant is required to be satisfied).

(c) Each Compliance Certificate shall be signed by any one director or the chief financial officer of the Company.

(d) For the avoidance of doubt, each Compliance Certificate provided to the Agent pursuant the terms of this Clause 23.2 shall be made available only to each Lender that has a Revolving Facility Commitment at such time.

23.3 Requirements as to Financial Statements

(a) Each set of financial statements delivered by the Company pursuant to Clause 23.1 (Financial Statements) shall be certified by a director of the relevant company as fairly representing its financial condition as at the date as at which those financial statements were drawn up.

(b) The Company shall procure that each set of financial statements of the Company delivered pursuant to Clause 23.1 (Financial Statements) is prepared using the Accounting Principles, accounting practices and financial reference periods consistent with those applied in the preparation of its Original Financial Statements unless, in relation to any set of financial statements, it notifies in writing the Agent that there has been a change in the Accounting Principles, the accounting practices or reference periods and its auditors (or, if appropriate, the auditors of the Obligor) deliver to the Agent:

(i) a description of any change necessary for those financial statements to reflect the Accounting Principles, accounting practices and reference periods upon which in the case of the Company, its Original Financial Statements were prepared and, in the case of each other Obligor, that Obligor's Original Financial Statements were prepared; and

(ii) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine:

(A) the Margin as set out in the definition thereof;
whether Leverage has been complied with on the occurrence of certain events (including, without limitation, incurrence of certain Permitted Financial Indebtedness or occurrence of certain Permitted Disposals); and

and to make an accurate comparison between the financial position indicated in those financial statements (as the case may be) and in the case of the Company, its Original Financial Statements and, in the case of each other Obligor, that Obligor's Original Financial Statements.

Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.

(c) If the Company notifies the Agent of a material change in accordance with paragraph (b) above or a change of financial year end in accordance with paragraph (c) above then:

(i) on request of the Agent or the Company, the Company and the Agent (on behalf of the Lenders) shall negotiate in good faith with a view to agreeing such amendments (if any) to this Agreement (including to Clause 24 (Financial Covenant) and/or the definitions of any or all of the terms used therein and, in the case of any change of financial year end, any threshold or term calculated by reference to a financial year) as may be necessary to give the Lenders and the Obligors comparable protection to that contemplated at the Amendment and Restatement Effective Date (as regards financial ratios, by reference to the Original Accounting Principles in effect at that date);

(ii) if amendments are agreed by the Company and the Agent in writing within 60 days of such notification to the Agent (or such persons agree that no such amendments are required), those amendments shall take effect and be binding on all Parties in accordance with the terms of that agreement and any change in the accounting principles, the accounting practices or the reference periods referred to shall, to the extent relevant, become part of the Original Accounting Principles on that basis (subject to any further application of this paragraph (c));

(d) if such amendments are not so agreed within 60 days (and it is not agreed that no such amendments are required), the Company shall either:

(i) ensure that each set of financial statements delivered under this Clause 23 (to the extent required to be prepared in accordance with the Accounting Principles) are (aa) accompanied by details of any material adjustments as need to be made to reflect the Original Accounting Principles (as most recently agreed under this Clause 23) and/or a financial year end of on or about 31 December (as the case may be) or (bb) prepared on the basis most recently agreed under this Clause 23; or

(ii) instruct the Company's Auditors (or such other accounting firm as may be agreed upon by the Company and the Agent, both acting reasonably) to determine the amendments (if any) to this Agreement (including to Clause 24
(Financial Covenant) and/or the definitions of any or all of the terms used therein) which they (acting as experts and not as arbitrators) consider appropriate to give the Lenders and the Obligors comparable protection to that contemplated at the Amendment and Restatement Effective Date (as regards financial ratios, by reference to the Accounting Principles in effect at that date) and those amendments (if any) shall take effect and be binding on all Parties when so determined by the Company’s Auditors or, as the case may be, such other accounting firm; and

(iii) in the case of any change of financial year end, if no amendments are agreed within 60 days pursuant to paragraph (ii) above (and it is not agreed that no such amendments are required), any basket or other threshold calculated by reference to a financial year shall continue to be calculated assuming no change of financial year end.

(e) Notwithstanding anything to the contrary in this Agreement, in respect of any Annual Financial Statements, Quarterly Financial Statements and Monthly Financial Statements, the scope of all financial statements delivered pursuant to Clause 23.1 (Financial Statements) may reflect current reporting practices of the Group.

(f) Notwithstanding anything to the contrary in this Agreement, the Group may change its reporting currency for its Annual Financial Statements, Quarterly Financial Statements and Monthly Financial Statements from euros to Sterling on a one time only basis, and such change shall not be deemed a change for purposes of Clause 23.1 (Requirements as to Financial Statements).

23.4 Information: Miscellaneous

The Company shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

(a) promptly, copies of all material documents dispatched by the Company or any Obligors to its creditors generally (or any class of them);

(b) all documents dispatched by the Company to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;

(c) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings and any other matters (including, without limitation any change of management) which are current, threatened or pending against any member of the Group, and which could reasonably be expected to be adversely determined and if adversely determined would have a Material Adverse Effect; and

(d) promptly, such further information regarding the financial condition, business and operations of the Group and/or any member of the Group as any Finance Party (through the Agent) may reasonably request (other than any information which the Company is precluded by law or regulation from disclosing (provided that the Company shall use all reasonable endeavours to obtain any Authorisation required for the disclosure thereof to the Agent)).

23.5 Notification of Default
(a) The Company shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless it is aware that a notification has already been provided by another Obligor).

(b) Promptly upon a request by the Agent (but only if the Agent and/or the Majority Lenders reasonably suspect a Default is continuing or may have occurred), the Company shall supply to the Agent a certificate signed by any one director or senior officer or the chief financial officer of the Company 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).

23.6 Restrictions

Notwithstanding any other term of the Finance Documents all reporting and other information requirements in the Finance Documents shall be subject to any legal or regulatory restrictions relating to the supply of information concerning the Group or otherwise binding on any member of the Group.

23.7 Public/Private Information

(a) The Company acknowledges that:

(i) the Agent will make available to the Finance Parties all materials and/or information provided to it by or on behalf of any member of the Group which relates to the Group, the Finance Documents or the Facilities under the Finance Documents (collectively, the "Borrower Materials") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "Platform"); and

(ii) certain of the Lenders (each a "Public Lender") may have personnel who do not wish to receive material non-public information (other than information that is customarily provided in a typical European bond offering) which may be included in the Borrower Materials.

(b) The Company hereby agrees that:

23.8 all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof;

23.9 by marking Borrower Materials "PUBLIC", the Company shall be deemed to have authorised the Agent and the Finance Parties to treat such Borrower Materials as not containing any material non-public information;

23.10 all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information"; and

the Agent shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information".
23.11 Use of Websites

(a) The Company may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the "Website Lenders") who accept this method of communication by posting this information onto an electronic website designated by the Company and the Agent (the "Designated Website") if:

(i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;

(ii) both the Company and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and

(iii) the information is in a format previously agreed between the Company and the Agent.

If any Lender (a "Paper Form Lender") does not agree to the delivery of information electronically then the Agent shall notify the Company accordingly and the Company shall supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Company shall 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 Company and the Agent.

(c) The Company shall promptly upon becoming aware of its occurrence notify the Agent if:

(i) the Designated Website cannot be accessed due to technical failure;

(ii) the password specifications for the Designated Website change;

(iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;

(iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or

(v) the Company becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Company notifies the Agent under Clause 23.11(c)(i) or 23.11(c)(v), all information to be provided by the Company under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

(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 Company shall comply with any such request within 10 Business Days.

23.12 "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 Amendment and Restatement Effective Date;

(ii) any change in the status of an Obligor or the composition of the shareholders of an Obligor after the Amendment and Restatement Effective Date; or

(iii) a proposed assignment or transfer by a Lender of any of its rights and 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 Clause 23.12(a)(iii), 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 Clause 23.12(a)(iii), on behalf of any prospective new Lender) in order for the Agent, such Lender or, in the case of the event described in Clause 23.12(a)(iii), 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 Company 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 Restricted Subsidiaries becomes an Additional Guarantor pursuant to Clause 29.4 (Additional Guarantors).

(d) Following the giving of any notice pursuant to Clause 23.12(c), if the accession of such Additional Guarantor 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 Company shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or 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 Restricted Subsidiary to this Agreement as an Additional Guarantor.

24  Financial Covenant

24.1  Financial Condition

(a) The undertaking in this Clause 24.1 shall (unless otherwise indicated in this Agreement) remain in force from the Amendment and Restatement Effective Date for so long as any amount is outstanding under the Revolving Facility or any Revolving Facility Commitment is in force.

(b) Only for the benefit of the Lenders who hold Revolving Facility Commitments (in their capacity as a Revolving Facility Lender), the Company shall ensure that Leverage on the last day of each Relevant Period ending on a Test Date will not exceed 4.00:1.

(c) In this Agreement, "Test Date" means each Quarter Date, commencing with the Quarter Date at the end of the first full Financial Quarter to occur after the Amendment and Restatement Effective Date, or if such date is not a Business Day, the Company may elect that such date shall be the next Business Day or the immediately preceding Business Day provided that a date shall only constitute a Test Date if at 5.00 p.m. (London time) on such date the aggregate outstanding Loans under the Revolving Facility exceed 35% of the higher of (i) the Total Revolving Commitments on the Amendment and Restatement Effective Date and (ii) the Total Revolving Commitments on the Test Date.

(d) For the avoidance of doubt, in relation to any Facility other than the Revolving Facility, failure to satisfy the undertaking in paragraph (b) above shall not be (or be deemed to) directly or indirectly constitute, or result in a breach of any, representation, warranty, undertaking or other term in the Finance Documents or a Default or an Event of Default.

24.2  Financial Testing

(a) Leverage, for the purposes of any calculation or test in relation thereto, including for the purposes of the financial covenant set out in Clause 24.1 (Financial Condition) shall be calculated in accordance with the Accounting Principles as applied in the Company's Original Financial Statements and tested by reference to each of the financial statements delivered pursuant to Clauses 23.1(a) and 23.1(c) (Financial Statements) and each Compliance Certificate delivered pursuant to Clause 23.2 (Compliance Certificate).

(b) For the purposes of calculating any financial covenant or ratio (including financial definitions or component thereof) or related, usage, ratchet or permission, the interest rate and/or exchange rate with respect to any Financial Indebtedness shall be consistent with the interest rate and/or exchange rate methodology applied in the financial statements delivered pursuant to Clause 23.1 (Financial Statements).
25 **General Undertakings**

The undertakings in this Clause 24 remain in force from the Amendment and Restatement Effective Date for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

25.1 **Authorisations**

Each Obligor shall promptly:

(a) obtain, comply with and do all that is necessary to maintain in full force and effect; and

(b) (upon written request) supply certified copies to the Agent of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it (i) to perform its obligations under the Finance Documents; (ii) to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document; and (iii) to carry on its business where failure to do so would have a Material Adverse Effect.

25.2 **Compliance with Laws**

Each Obligor shall (and the Company shall ensure that each member of the Group shall) comply in all respects with all laws to which it is subject, if failure so to comply would have a Material Adverse Effect.

25.3 **Anti-Corruption Law**

(a) No Obligor shall (and the Company shall ensure that no other member of the Group will) directly or indirectly use the proceeds of any Facility for any purpose which would breach any Anti-Corruption Laws, applicable to it.

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

(i) conduct its businesses in compliance with the applicable Anti-Corruption Laws; and

(ii) maintain and enforce policies and procedures designed to promote and achieve compliance with such laws.

25.4 **Sanctions**

(a) The Company will not directly or indirectly knowingly use the proceeds of the Loans or lend, contribute or otherwise make available such proceeds to any Restricted Subsidiary, joint venture partner or other person:

(i) to fund any activities or business of or with any person, or in any country or territory, that, at the time of such funding is, or whose government is, the target or the subject of Sanctions in violation of Sanctions; or
in any other manner that would result in a violation of Sanctions by any person (including any person participating in the Loans whether as an underwriter, advisor, investor or otherwise).

(b) The undertakings and covenants in paragraph (a) above will not, and will not be deemed to, be given or made for the benefit of any German Finance Party, in each case if and to the extent that the granting of, or compliance with, or, as the case may be, receipt and acceptance or benefit of, the undertakings and covenants would breach or conflict with section 7 of the German Foreign Trade Ordinance (Verordnung zur Durchführung des Außenwirtschaftsgesetzes), any provision of the Council of the European Union Regulation No. 2271/96 (or any national legislation enacted pursuant to it) or any similar applicable anti-boycott law or regulation.

25.5 Anti-Money Laundering and Anti-Terrorism Laws

(a) The Company shall not:

(i) knowingly, acting in good faith, conduct any business or engage in any transaction or dealing with or for the benefit of any Designated Person, including the making or receiving of any contribution of funds, goods or services to, from or for the benefit of any Designated Person;

(ii) deal in, otherwise engage in any transaction relating to, any property or interests in property blocked or subject to blocking pursuant to any Sanctions applicable to it;

(iii) use any of the proceeds of the transactions contemplated by this Agreement to finance, promote or otherwise support in any manner any illegal activity in the Relevant Jurisdiction of the Company, Obligor or relevant Affiliate, including, without limitation, any violation of the Anti-Money Laundering and Anti-Terrorism Laws or any specified unlawful activity as that term is defined in the Money Laundering Control Act of 1986, 18 U.S.C. §§ 1956 and 1957 applicable to it; or

(iv) violate, attempt to violate, or engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, any of the Anti-Money Laundering and Anti-Terrorism Laws applicable to it.

(b) The Company shall take reasonable steps to procure that:

(i) none of the Obligors, nor any of their Affiliates (excluding shareholders of the Company) or agents, shall knowingly:

(A) conduct any business or engage in any transaction or dealing with or for the benefit of any Designated Person, including the making or receiving of any contribution of funds, goods or services to, from or for the benefit of any Designated Person;

(B) deal in, otherwise engage in any transaction relating to, any property or interests in property blocked or subject to blocking pursuant to any Sanctions applicable to it;
(C) use any of the proceeds of the transactions contemplated by this Agreement to finance, promote or otherwise support in any manner any illegal activity in the Relevant Jurisdiction of the Company, Obligor or relevant Affiliate, including, without limitation, any violation of the Anti-Money Laundering and Anti-Terrorism Laws or any specified unlawful activity as that term is defined in the Money Laundering Control Act of 1986, 18 U.S.C. §§ 1956 and 1957 applicable to it; or

(D) violate, attempt to violate, or engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, any of the Anti-Money Laundering and Anti-Terrorism Laws applicable to it; and

(ii) none of the Obligors, nor any Affiliate (excluding shareholders of the Company) of any of the Obligors, nor any officer, director or principal shareholder or owner of any of the Obligors, nor any of the Obligors’ respective agents acting or benefiting in any capacity in connection with a Facility, shall be or shall become a Designated Person.

25.6 Merger

No Obligor shall enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction other than any Permitted Transaction or any sale, lease, transfer or other disposal permitted pursuant to Clause 25.11 (Disposals).

25.7 Share Capital

Other than the Company, no Obligor shall (and the Company shall ensure that no other member of the Group will) issue any shares except a Permitted Share Issue where (if the existing shares of the Restricted Subsidiary are the subject of the Transaction Security) the newly issued shares held by members of the Group also become subject to the Transaction Security on the same terms.

25.8 Financial Assistance

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

25.9 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.

25.10 Negative Pledge

(a) No Obligor shall (and the Company shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets.
(b) Clauses 25.10(a) above does not apply to any Security, which is:

(i) Permitted Security; or

(ii) a Permitted Transaction.

25.11 Disposals

(a) No Obligor shall (and the Company shall ensure that no other member of the Group will), enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.

(b) Clause 25.11(a) does not apply to any sale, lease, license, transfer or other disposal which is:

(i) a Permitted Disposal; or

(ii) a Permitted Transaction.

25.12 Acquisitions

(a) Except as permitted under Clause 25.12(b), no Obligor shall (and the Company shall ensure that no other member of the Group will):

(i) acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them); or

(ii) incorporate a company.

(b) Clause 25.12(a) does not apply to an acquisition of a company, of shares, securities or a business or undertaking (or, in each case, any interest in any of them) or the incorporation of a company which is:

(i) a Permitted Acquisition;

(ii) a Permitted Joint Venture; or

(iii) a Permitted Transaction.

25.13 Joint Ventures

No Obligor shall (and the Company shall ensure that no other member of the Group will) enter into, invest in or acquire or permit to subsist any shares, stocks or similar ownership interest in a Joint Venture, or transfer any assets to (other than on arms’ length terms) or lend to or give any guarantee, indemnity or Security for or on behalf of a Joint Venture, other than a Permitted Joint Venture or a Permitted Transaction.

25.14 Loans or Credit

(a) Except as permitted under Clause 25.14(b), no Obligor shall (and the Company shall ensure that no other member of the Group will) be a creditor in respect of any Financial Indebtedness.
(b) Clause 25.14(a) does not apply to:

(i) a Permitted Loan; or

(ii) a Permitted Transaction.

25.15 No Guarantees or Indemnities

(a) Except as permitted under Clause 25.15(b), no Obligor shall (and the Company shall ensure that no other member of the Group will) incur or allow to remain outstanding any guarantee in respect of any obligation of any person.

(b) Clause 25.15(a) does not apply to a guarantee which is:

(i) a Permitted Guarantee; or

(ii) a Permitted Transaction.

25.16 Financial Indebtedness

(a) Except as permitted under Clause 25.16(b), no Obligor shall (and the Company shall ensure that no other member of the Group will) incur or allow to remain outstanding any Financial Indebtedness.

(b) Clause 25.16(a) does not apply to Financial Indebtedness which is:

(i) Permitted Financial Indebtedness; or

(ii) a Permitted Transaction.

25.17 People with Significant Control regime

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

(a) within the relevant timeframe, comply with any notice it receives pursuant to Part 21A of the Companies Act 2006 from any company incorporated in the United Kingdom whose shares are the subject of the Transaction Security; and

(b) promptly provide the Security Agent with a copy of that notice.

25.18 Access

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

25.19 Intellectual Property
(a) Each Obligor shall (and the Company shall procure that each other Material Company will):

(i) preserve and maintain the subsistence and validity of the Intellectual Property necessary for the business of the relevant Group member;

(ii) use reasonable endeavours to prevent any infringement in any material respect of the Intellectual Property;

(iii) make registrations and pay all registration fees and taxes necessary to maintain the Intellectual Property in full force and effect and record its interest in that Intellectual Property;

(iv) not use or permit the Intellectual Property to be used in a way or take any step or omit to take any step in respect of that Intellectual Property which may materially and adversely affect the existence or value of the Intellectual Property or imperil the right of any member of the Group to use such property; and

(v) not discontinue the use of the Intellectual Property,

where failure to do so, in the case of Clauses 25.19(a)(i) and 25.19(a)(ii) or, in the case of Clauses 25.19(a)(iv) and 25.19(a)(v), such use, permission to use, omission or discontinuation, would have a Material Adverse Effect.

(b) Failure to comply with any part of Clause 25.19(a) shall not be a breach of this Clause 25.19 to the extent that any dealing with Intellectual Property which would otherwise be a breach of Clause 25.19(a) is contemplated by the definition of Permitted Transaction.

25.20 Guarantors

(a) For purposes of this Clause 25.20, “Guarantor Coverage Test” means confirmation that the aggregate (without double counting) earnings before interest, tax depreciation and amortisation (calculated over the applicable Relevant Period on the same basis as EBITDA) of the members of the Group which are Guarantors equals or exceeds 75 per cent. of EBITDA of the Group (calculated on an unconsolidated basis and excluding goodwill, all intra-Group items and investments in Subsidiaries of any member of the Group) and disregarding in the denominator:

(i) the EBITDA of any member of the Group generating negative EBITDA which shall be deemed for these purposes to have zero EBITDA; and

(ii) the EBITDA of any member of the Group that is not required to (or cannot) become a Guarantor due to legal prohibitions or the provisions of the Agreed Security Principles.

(b) The Company shall ensure that, subject to the other provisions of this Clause 25.20 and the Agreed Security Principles, the Guarantor Coverage Test is satisfied on the date on which the Annual Financial Statements are required to be delivered pursuant to paragraph (a) of Clause 23.1 (Financial Statements) (commencing with the annual
financial statements delivered for the Financial Year ending 31 December 2018), by reference to such financial statements.

(c) If in accordance with the provisions of paragraph (b) above, the Guarantor Coverage Test is not satisfied, the Company shall ensure that within 90 days of such test date such other members of the Group (as the Company may elect in its sole discretion) shall, subject to and on terms consistent with the Agreed Security Principles, accede as Additional Guarantors to ensure that the Guarantor Coverage Test is satisfied (calculated as if such Additional Guarantors had been Guarantors at such test date). If the Guarantor Coverage Test is satisfied within such time period, no Default, Event of Default or other breach of this Agreement or the other Finance Documents shall arise in respect thereof.

(d) The Company shall ensure that, subject to and on terms consistent with the Agreed Security Principles, each member of the Group which is a Material Subsidiary (by reference to the most recent Annual Financial Statements (commencing with the Annual Financial Statements delivered for the Financial Year ending 31 December 2018) will accede as an Additional Guarantor within 90 days (or 120 days in respect of any jurisdiction in which no existing Obligor is located) of the date on which such financial statements for the relevant Financial Year are delivered to the Agent in accordance with this Agreement.

25.21 Further Assurance

(a) Subject to the Agreed Security Principles, each Obligor shall (and the Company shall procure that each other member of the Group will) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):

(i) to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law; and/or

(ii) if an Acceleration Event is continuing, to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.

(b) Each Obligor shall (and the Company shall procure that each other member of the Group will) take all such action as is available to it (including making all filings and registrations) 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.

25.22 Treasury Transactions
No Obligor shall (and the Company will procure that no other member of the Group will) enter into any Treasury Transaction, other than:

(a) the hedging transactions documented by the Hedging Agreements;

(b) spot and forward delivery foreign exchange contracts entered into in the ordinary course of business and not for speculative purposes; and

(c) any Treasury Transaction entered into for the hedging of actual or projected real exposures arising in the ordinary course of trading activities of a member of the Group not for speculative purposes.

25.23 Unrestricted Subsidiaries

Notwithstanding anything to the contrary in the Finance Documents:

(a) no Unrestricted Subsidiary shall be a member of the Group and consequently no Unrestricted Subsidiary shall be entitled to benefit from any basket or exception in the Finance Documents relating to transactions between members of the Group or be subject to the mandatory prepayment, representations and warranties, affirmative and negative covenants, financial covenant, Events of Default or other provisions of this Agreement or the other Finance Documents and the disposal of Investments in Unrestricted Subsidiaries shall not be restricted pursuant to this Agreement or any other Finance Document; and

(b) following the designation of any Restricted Subsidiary as an Unrestricted Subsidiary, in addition and without prejudice to the other baskets and exceptions in the Finance Documents relating to transactions with persons that are not members of the Group, members of the Group shall be permitted to make any Investment in any Unrestricted Subsidiary provided that:

(i) the maximum aggregate outstanding principal amount invested pursuant to this sub-paragraph (ii) shall not at any time exceed the Unrestricted Subsidiary Investment Basket or shall otherwise constitute a Permitted Transaction;

(ii) for the purpose of this paragraph, Investment shall include any acquisition of an ownership interest in, transfer of assets or loan to or grant of a guarantee or security in respect of obligations of, an Unrestricted Subsidiary, in each case without double counting, but, for the avoidance of doubt, shall not include transactions entered into or made on arm’s length terms in the ordinary course of trading and shall exclude capitalised interest; and

(iii) any reference to an “Investment” in this paragraph (ii) shall be a reference to that Investment as renewed, extended or otherwise replaced from time to time, however any increase in that Investment must be otherwise permitted under this paragraph (ii) or another provision of the Finance Documents;

(c) in the event that a person ceases to be an Unrestricted Subsidiary:

(i) any amounts which would prior to such cessation have utilised any capacity under the Unrestricted Subsidiary Investment Basket as a result of such
person being an Unrestricted Subsidiary shall be ignored for such purpose; and

(ii) any Investment made by an Unrestricted Subsidiary prior to the date on which such Unrestricted Subsidiary ceases to be an Unrestricted Subsidiary shall notwithstanding any other provision of this Agreement be permitted under the provisions of this Agreement so long as the relevant Investment was not made in contemplation of the designation of such Unrestricted Subsidiary ceasing to be an Unrestricted Subsidiary and becoming a member of the Group.

25.24 Conditions Subsequent

The Company shall use reasonable efforts to (i) obtain and maintain (but not obtain or maintain a specific rating) a long-term credit rating from at least two of Moody’s Investors Services Limited, Standard and Poor’s Ratings Services or Fitch Ratings Ltd and (ii) make public the long-term credit rating from at least one of such rating agencies as soon as reasonably practicable after the Amendment and Restatement Effective Date.

25.25 Centre of Main Interests

No Obligor incorporated in the European Union shall without the prior written consent of the Agent deliberately cause or allow its centre of main interests (as that term is used in the Regulation) to change in a manner which would materially adversely affect the Lenders.

25.26 Debt Service

The Company shall not, and shall procure that each other member of the Group will not, pay and/or prepay the Facilities and/or make any payments of any interest, fees, costs or expenses or other amounts in connection therewith from cash received directly from the Titan Transaction.

26 Events of Default

Each of the events or circumstances set out in Clause 26 is an Event of Default (save for Clause 26.13 (Acceleration)).

26.1 Non-Payment

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place and in the currency in which it is expressed to be payable unless:

(a) its failure to pay is caused by:

   (i) administrative or technical error; or

   (ii) a Disruption Event; and

(b) payment is made within five Business Days of its due date.

26.2 Financial Covenants
Any requirement of Clause 24 (Financial Covenant) is not satisfied.

26.3 Other Obligations

(a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 26.1 (Non-Payment) or Clause 26.2 (Financial Covenants)).

(b) No Event of Default under Clause 26.3(a) will occur if the failure to comply is capable of remedy and is remedied within 20 Business Days of the earlier of:

(i) the Agent giving notice to the Company; and

(ii) the Company becoming aware of the failure to comply.

26.4 Misrepresentation

Any representation 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 in any material respect when made or deemed to be made, unless the circumstances giving rise to such misrepresentation are capable of remedy and are remedied within 20 Business Days of the earlier of (a) the Agent giving notice to the Company; and (b) an Obligor becoming aware of the misrepresentation.

26.5 Cross Default

(a) Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.

(b) Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

(c) Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).

(d) In relation to Facility B and any Additional Facility, an Acceleration Event is continuing under paragraph (b) of Clause 26.13.

(e) No Event of Default will occur under paragraphs (a) to (c) (inclusive) of this Clause 26.5 if:

(i) the aggregate amount of such Financial Indebtedness or commitment for Financial Indebtedness falling within Clauses 26.5(a), 26.5(b) and 26.5(c) is less than €30,000,000 (or its equivalent in any other currency or currencies); or

(ii) in the case of the events or circumstances referred to in Clause 26.5(c) only, the creditor which effects a cancellation or suspension of a commitment and/or which has an entitlement to declare any Financial Indebtedness due
and payable for the purposes of such Clauses 26.5(c), is the Agent acting on the instructions of the Majority RCF Lenders in respect of the Revolving Facility Commitments and/or Loans pursuant to Clause 26.13(b) (Acceleration); or

(f) For purposes of this Clause 26.5, Financial Indebtedness does not include any Financial Indebtedness under a Permitted Transaction.

26.6 Insolvency

(a) An Obligor or a Material Subsidiary:

(i) is unable or admits inability to pay its debts as they fall due;

(ii) suspends making payments on any of its debts; or

(iii) 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) A moratorium is declared in respect of any indebtedness of any Obligor or any Material Subsidiary.

26.7 Insolvency Proceedings

Any corporate action, legal proceedings or other formal procedure or formal step is taken in relation to:

(a) 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 Obligor or any Material Subsidiary other than a solvent liquidation or reorganisation taking place with the consent of the Majority Lenders;

(b) a composition, compromise, assignment or arrangement is made with any creditor of any Obligor or any Material Subsidiary (excluding any Finance Party in its capacity as such);

(c) the appointment of a liquidator (other than in respect of a solvent liquidation of an Obligor or any Material Subsidiary, in each case, taking place with the consent of the Majority Lenders), receiver, administrator, compulsory manager or other similar officer in respect of any Obligor or any Material Subsidiary or all or substantially all of its or their assets; or

(d) enforcement of any Security over any assets of any Material Subsidiary or over the assets of any other member or members of the Group having an aggregate value of €30,000,000 (or its equivalent in any other currency or currencies) or more,

or any analogous procedure or step is taken in any jurisdiction and for the purposes of this Clause 26.7 (Insolvency Proceedings), each of (i) the commencement of proceedings towards the making of a declaration that the affairs of an Obligor are en état de désastre (or the making of such a declaration) and (ii) any steps being taken towards the making of an
application for a preliminary vesting order in saisie proceedings in the Bailiwick of Guernsey in respect of realty of an Obligor (or the making of such a preliminary vesting order), shall be deemed to be an "analogous procedure or step" in the Bailiwick of Guernsey.

This Clause 26.7 shall not apply to:

(i) any winding-up petition which is frivolous or vexatious or being contested in good faith and is discharged, stayed or dismissed within 20 days of commencement; or

(ii) any step or procedure contemplated by paragraph (c) of the definition of "Permitted Transaction".

26.8 Creditors’ Process

(a) Any expropriation, attachment, sequestration, saisie, distress or execution affects any asset or assets of an Obligor or any other member of the Group which is a Material Subsidiary having an aggregate value of €30,000,000 and is not discharged within 28 days.

(b) For the avoidance of doubt, paragraph (a) above shall not apply to any expropriation, attachment, sequestration, saisie, distress or execution affecting any cash collateral provided under, or in connection with, any guarantee given in relation to a Permitted Transaction.

26.9 Unlawfulness and invalidity

(a) It is or becomes unlawful for an Obligor (subject to any Legal Reservations) 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 becomes unlawful.

(b) Any obligation or obligations of any Obligor under any Finance Documents are not (subject to any 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) Any Finance Document or any Transaction Security or any subordination created under the Intercreditor Agreement ceases to be in full force and effect, or ceases to be legal, valid, binding or enforceable, or is alleged by a party to it (other than a Finance Party) to be ineffective.

26.10 Cessation of Business

Any Obligor or any Material Subsidiary suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or substantially all of its business except as a result of a Permitted Disposal or a Permitted Transaction.

26.11 Material Adverse Change

Any event or circumstance occurs which has a Material Adverse Effect.
26.12 Licences

Any Obligor or a Material Subsidiary fails to obtain or maintain any government and/or regulatory approval, consent or licence in respect of its business as carried out at the Amendment and Restatement Effective Date (or similar) (where such act or omission has a Material Adverse Effect).

26.13 Acceleration

(a) On and at any time after the occurrence of an Event of Default which is continuing (other than an Event of Default under Clause 26.2 (Financial Covenants)) the Agent may, and shall if so directed by the Majority Lenders:

(i) by notice to the Company:

(A) cancel the Total Commitments and/or Ancillary Commitments whereupon 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, whereupon they shall become immediately due and payable; and/or

(C) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders; and/or

(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; and/or

(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

(ii) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

(b) On and at any time after the occurrence of an Event of Default which is continuing under Clause 26.2 (Financial Covenants), the Agent may, and shall if so directed by the Majority RCF Lenders:

(i) by notice to the Company:

(A) cancel the Total Revolving Facility Commitments whereupon they shall immediately be cancelled;

(B) declare that all or part of the Revolving Facility Loans, together with accrued interest, and all other amounts accrued or outstanding under
the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or

(C) declare that all or part of the Revolving Facility Loans be payable on demand, whereupon they shall immediately become payable on demand by the Agent on the instructions of the Majority RCF Lenders.

26.14 Clean-up Period

Notwithstanding any other provision of any Finance Document, in respect of any Permitted Acquisition, for the period from the date of completion of that Permitted Acquisition until the date falling 120 days thereafter (the "Permitted Acquisition Clean-Up Period"), a matter or circumstance which would otherwise constitute an Event of Default, a breach of representation or warranty, 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 (as the case may be) if:

(a) it would have been (if it were not for this Clause 26.14) a breach of representation or warranty, a breach of covenant or an Event of Default only by reason of circumstances relating exclusively to the Company (or any of its Restricted Subsidiaries) or the business or undertaking which is the subject of the relevant acquisition (or any obligation to procure or ensure in relation to that company, Restricted Subsidiary, business or undertaking);

(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 Company or any Obligor that was an Obligor immediately prior to the relevant acquisition (for the avoidance of doubt, ignoring any failure to procure or ensure in relation to the relevant target or its Restricted Subsidiaries due to the existence of any minority shareholders); and

(d) it does not have a Material Adverse Effect.

If the relevant circumstances are continuing on or after the end of the Permitted Acquisition Clean-Up Period, there shall be a breach of representation or warranty, breach of covenant or Event of Default, as the case may be notwithstanding the above (and without prejudice to the rights and remedies of the Finance Parties).

27 Changes to the Lenders

27.1 Assignments and Transfers by the Lenders

Subject to this Clause 27 and to Clause 28 (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; or
(c) enter into a sub-participation or similar transaction (including by way of credit derivative) pursuant to which voting rights associated with the Existing Lender’s Commitments are transferred ("Voting Sub-participation"),

with or 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 provided that unless the Company otherwise consents, such bank or financial institution, trust, fund or entity is not an Industrial Competitor (the "New Lender").

For the avoidance of doubt, this Clause 27 does not apply to any sub-participation or similar transaction which is not a Voting Sub-participation.

27.2 Conditions of Assignment or Transfer

(a) Subject to Clause 27.2(b), the consent of the Company (as set out in Clause 27.2(c)) is required for an assignment or transfer or Voting Sub-participation by an Existing Lender, unless the assignment or transfer or Voting Sub-participation is:

(i) to any entity identified on the Pre-Approved New Lender List;

(ii) to another Lender or an Affiliate of a Lender; or

(iii) if the Existing Lender is a fund, to a fund which is a Related Fund of the Existing Lender; or

(iv) made at a time when an Event of Default is continuing.

(b) Notwithstanding the above, no transfer or assignment shall be made to a Loan to Own Investor (without the prior written consent of the Company (in its sole discretion), prior to the occurrence of an Event of Default under Clauses 26.1 (Non-Payment), 26.6 (Insolvency), 26.7 (Insolvency Proceedings) or 26.8 (Creditors' Process) which is continuing.

(c) The consent of the Company to an assignment or transfer or Voting Sub-participation must not be unreasonably withheld or delayed. The Company will be deemed to have given its consent ten Business Days after the Existing Lender has requested it unless consent is expressly refused by the Company within that time.

(d) For the purposes of this Clause 27, no Commitment shall be taken into account in assessing the Commitment(s) retained by an Existing Lender where the voting rights associated with such Commitment are transferred pursuant to a Voting Sub-participation or otherwise.

(e) Other than in the case of an assignment permitted by Clause 28.1(b) (Permitted Debt Purchase Transactions), an assignment will only be effective on:

(i) receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent (acting reasonably)) that the New Lender will assume the same obligations to the other Finance Parties and the other Secured Parties as it would have been under if it was an Original Lender;
(ii) the New Lender entering into the documentation required for it to accede as a party to the Intercreditor Agreement; and

(iii) performance by the Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender.

(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 and if the procedure set out in Clause 27.5 (Procedure for Transfer) is complied with.

(g) If:

(i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and

(ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 16 (Tax Gross-Up and Indemnities) or Clause 17 (Increased Costs),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

(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.

(i) Any assignment or transfer of part of the Existing Lender's rights and/or obligations must be a minimum Base Currency Amount of €1,000,000 (or, if less, all of its participation in Commitments and Loans) and (unless it is in respect of all of its participation in Commitments and Loans) must not result in the Existing Lender retaining an aggregate participation in Commitments and Loans (when aggregated with its Affiliates' and Related Funds' participation in Commitments and Loans) of a Base Currency Amount of less than €1,000,000.

(j) The Agent shall, within five Business Days of a reasonable request by any Party, provide a copy of the Pre-Approved New Lender List to that Party.

(k) If any assignment, transfer or sub participation occurs in breach of the provisions of this Clause 27, that assignment, transfer or sub-participation (as applicable) shall not be effective.

27.3 Assignment or Transfer Fee
(a) Subject to Clauses 27.3(b) and 27.3(c), the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of €3,000.

(b) Clause 27.3(a) shall not apply in respect of an assignment or transfer (i) made in the ordinary course of the primary syndication of a Facility; or (ii) to an Affiliate of a Lender; or (iii) if the Existing Lender is a fund, to a fund which is a Related Fund of the Existing Lender.

(c) Without prejudice to Clause 27.3(b), any fee set out in Clause 27.3(a) shall be payable only once in respect of any series of related transfers or assignments undertaken on the same day by an Existing Lender and its Affiliates and/or Related Funds.

27.4 Limitation of Responsibility of Existing Lenders

(a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

(i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents, the Transaction Security or any other documents;

(ii) the financial condition of any Obligor;

(iii) the performance and observance by any Obligor of its obligations under the Finance Documents or any other documents; or

(iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law are excluded.

(b) Each New Lender confirms to the Existing Lender and the other Finance Parties and the Secured Parties that it:

(i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender or any other Finance Party in connection with any Finance Document or the Transaction Security; and

(ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

(c) Nothing in any Finance Document obliges an Existing Lender to:

(i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 27; or
(ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

27.5 Procedure for Transfer

(a) Subject to the conditions set out in Clause 27.2 (Conditions of Assignment or Transfer) a transfer is effected in accordance with Clause 27.5(c) 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 Clause 27.5(b), 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) Subject to Clause 27.9 (Pro Rata Interest Settlement), on the Transfer Date:

(i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents and in respect of the Transaction Security each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (being the "Discharged Rights and Obligations");

(ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor or other member of the Group and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

(iii) the Agent, the Mandated Lead Arrangers, the Security Agent, the New Lender, the other Lenders and any relevant Ancillary Lender shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Mandated Lead Arrangers, the Security Agent and any relevant Ancillary Lender and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and

(iv) the New Lender shall become a Party as a "Lender".

27.6 Procedure for Assignment
(a) Subject to the conditions set out in Clause 27.2 (Conditions of Assignment or Transfer) an assignment may be effected in accordance with Clause 27.6(c) 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 Clause 27.6(b), 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) Subject to Clause 27.9 (Pro Rata Interest Settlement), on the Transfer Date:

(i) the Existing Lender will assign absolutely to the New Lender the 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 by each Obligor and the other Finance Parties from the obligations owed by it (the "Relevant Obligations") and 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 27.6 to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with Clause 27.5 (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 27.2 (Conditions of Assignment or Transfer).

27.7 Copy of Transfer Certificate or Assignment Agreement or Increase Confirmation to Company

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate, an Assignment Agreement or an Increase Confirmation, send to the Company a copy of that Transfer Certificate, Assignment Agreement or an Increase Confirmation.

27.8 Security over Lenders’ Rights

In addition to the other rights provided to Lenders under this Clause 27, 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 other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

27.9 Pro Rata Interest Settlement

(a) If the Agent has notified the Lenders that it is able to distribute interest payments on a “pro rata basis” to Existing Lenders and New Lenders then (in respect of any transfer pursuant to Clause 27.5 (Procedure for Transfer) or any assignment pursuant to Clause 27.6 (Procedure for Assignment) the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period):

(i) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date (“Accrued Amounts”) and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer than six Months, on the next of the dates which falls at six-Monthly intervals after the first day of that Interest Period); and

(ii) the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts so that, for the avoidance of doubt:

(A) when the Accrued Amounts become payable, those Accrued Amounts will be payable to the Existing Lender; and

(B) the amount payable to the New Lender on that date will be the amount which would, but for the application of this Clause 27.9, have been payable to it on that date, but after deduction of the Accrued Amounts.

(b) In this Clause 27.9 references to “Interest Period” shall be construed to include a reference to any other period for accrual of fees.

28 Debt Purchase Transactions

28.1 Permitted Debt Purchase Transactions
(a) No member of the Group or any Unrestricted Subsidiary shall (i) enter into any Debt Purchase Transaction in relation to any Facility, other than in relation to Term Loans only in accordance with the other provisions of this Clause 28 or (ii) beneficially own all or any part of the share capital of a company that is a Lender or a party to a Debt Purchase Transaction in relation to any Facility, of the type referred to in paragraphs (b) or (c) of the definition of "Debt Purchase Transaction".

(b) A member of the Group or any Unrestricted Subsidiary (the “Purchaser”) may purchase by way of assignment, pursuant to Clause 27 (Changes to the Lenders), a participation in any Term Loan 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 Clauses 28.1(c) and 28.1(d); and

(iii) such purchase is made at a time when no Default is continuing.

(c)

(i) A Debt Purchase Transaction referred to in Clause 28.1(b) may be entered into pursuant to a solicitation process (a "Solicitation Process") which is carried out as follows.

(ii) Prior to 11.00 a.m. on a given Business Day (the "Solicitation Day") the Purchaser or a financial institution acting on its behalf (the "Purchase Agent") will approach at the same time each Lender which participates in the relevant Term Facility to enable them to offer to sell to the Purchaser an amount of their participation in one or more Term Facilities. Any Lender wishing to make such an offer shall, by 11.00 a.m. on the second Business Day following such Solicitation Day, communicate to the Purchase Agent details of the amount of its participations, and in which Term Facilities, it is offering to sell and the price at which it is offering to sell such participations. Any such offer shall be irrevocable until 11.00 a.m. on the third Business Day following such Solicitation Day and shall be capable of acceptance by the Purchaser 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 Purchaser) will communicate to the relevant Lenders which offers have been accepted by 12 noon on the third Business Day following such Solicitation Day. In any event by 5.00 p.m. on the fourth Business Day following such Solicitation Date, the Purchaser shall notify the Agent of the amounts of the participations purchased through the relevant Solicitation Process, the identity of the Term Facilities to which they relate and the average price paid for the purchase of participations in each relevant Term Facility. The Agent shall promptly disclose such information to the Lenders.

(iii) Any purchase of participations in the Term Facilities pursuant to a Solicitation Process shall be completed and settled on or before the fifth Business Day after the relevant Solicitation Day.
(iv) In accepting any offers made pursuant to a Solicitation Process the Purchaser shall be free to select which offers and in which amounts it accepts but on the basis that in relation to a participation in a particular Term Facility it accepts offers in inverse order of the price offered (with the offer or offers at the lowest price being accepted first) and that if in respect of participations in a particular Term Facility it receives two or more offers at the same price it shall only accept such offers on a pro rata basis.

(d)

(i) A Debt Purchase Transaction referred to in Clause 28.1(b) may also be entered into pursuant to an open order process (an "Open Order Process") which is carried out as follows.

(ii) The Purchaser may by itself or through another Purchase Agent place an open order (an "Open Order") to purchase participations in one or more of the Term Facilities up to a set aggregate amount at a set price by notifying at the same time all the Lenders participating in the relevant Term Facilities of the same. Any Lender wishing to sell pursuant to an Open Order will, by 11.00 a.m. on any Business Day following the date on which the Open Order is placed but no earlier than the first Business Day, and no later than the fifth Business Day, following the date on which the Open Order is placed, communicate to the Purchase Agent details of the amount of its participations, and in which Term Facilities, it is offering to sell. Any such offer to sell shall be irrevocable until 11.00 a.m. on the Business Day following the date of such offer from the Lender and shall be capable of acceptance by the Purchaser on or before such time by it communicating such acceptance in writing to the relevant Lender.

(iii) Any purchase of participations in the Term Facilities pursuant to an Open Order Process shall be completed and settled by the Borrower 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 a Term Facility the Purchase Agent receives on the same Business Day two or more offers at the set price such that the maximum amount of such Term Facility to which an Open Order relates would be exceeded, the Purchaser shall only accept such offers on a pro rata basis.

(v) The Purchaser shall, by 5.00 p.m. on the sixth Business Day following the date on which an Open Order is placed, notify the Agent of the amounts of the participations purchased through such Open Order Process and the identity of the Term Facilities 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 28.1, notwithstanding any other term of this Agreement or the other Finance Documents:

(i) on completion of the relevant assignment pursuant to Clause 27 (Changes to the Lenders), the portions of the Term Loans to which it relates shall, unless there would be a material adverse tax impact as a result of such cancellation, be extinguished if the purchaser is the relevant Borrower;

(ii) such Debt Purchase Transaction and the related extinguishment referred to in Clause 28.1(f)(i) shall not constitute a prepayment of the relevant Term Facilities;

(iii) the member of the Group or Unrestricted Subsidiary which is the assignee shall be deemed to be an entity which fulfils the requirements of Clause 27.1 (Assignments and Transfers by the Lenders) to be a New Lender;

(iv) no member of the Group or Unrestricted Subsidiary shall be deemed to be in breach of any provision of Clause 25 (General Undertakings) solely by reason of such Debt Purchase Transaction;

(v) Clause 34 (Sharing among the Finance Parties) shall not be applicable to the consideration paid under such Debt Purchase Transaction; and

(vi) for the avoidance of doubt, any extinguishment of any part of the 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;

(vii) unless all amounts owing to the other Lenders under this Agreement will be paid in full at the same time as such prepayment, neither the Company or an Obligor or Purchaser will be entitled to receive any prepayment pursuant to this Agreement and the amount of any such prepayment which would have been so received by it shall be applied pro rata to prepay all other Lenders in the relevant Facility;

(viii) any enforcement proceeds or other amount received by the Company, an Unrestricted Subsidiary or a member of the Group as a result of a Debt Purchase Transaction (in the case of such other amount, in circumstances where the Company or the Obligors have failed to pay to the Lenders all amounts otherwise due and payable (the amount not so paid being a shortfall)) shall be held on trust for distribution to the other Finance Parties and the Purchaser shall promptly (and in any event within 10 (ten) Business Days) pay an amount equal to such enforcement proceeds or such shortfall, as the case may be, to the Security Agent for application in accordance with the Intercreditor Agreement;

(ix) any amount that is due to the Company or an Obligor or Purchaser that enters into a Debt Purchase Transaction and which is received by the Agent pursuant to Clause 33.6 (Partial payments) shall be applied as if such
payment were due under paragraph (a)(iv) of Clause 33.6 (Partial payments); and

(x) neither the Company, an Unrestricted Subsidiary nor a member of the Group which completes a Debt Purchase Transaction shall be permitted at any time to sell or transfer the subject matter of such Debt Purchase Transaction.

(g) Each Obligor or other Purchaser that becomes a Lender pursuant to this Clause 28 and each Purchaser that provides a Facility or has a Commitment transferred to it or a Commitment is assumed by it in accordance with this Agreement (including, without limitation, any Additional Facility) irrevocably acknowledges and agrees that:

(i) in relation to any meeting or conference call to which all the Lenders are invited to attend or participate, unless the Agent otherwise agrees, it shall not attend or participate in the same or be entitled to receive the agenda or any minutes of the same;

(ii) in its capacity as Lender, unless the Agent otherwise agrees, it shall not be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Agent or one or more of the Lenders;

(iii) in ascertaining the Majority Lenders, the Majority RCF Lenders or Super Majority Lenders or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments has been obtained to give an instruction or approve any request for a consent, waiver, amendment, or other vote under the Finance Documents such Commitment owned by such Purchaser shall be deemed to be zero; and

(iv) subject to paragraph (iii) above, for the purposes of Clause 41.3 (All Lender Matters), such Purchaser shall be deemed not to be a Lender,

provided that, in each case, such consent, waiver, amendment or other vote:

(A) does not result or is not intended to result in any Commitment of that Obligor or Purchaser under a particular Facility being treated in any manner which is inconsistent with the treatment proposed to be applied to any other Commitment under such Facility; or

(B) is not materially detrimental (in comparison to the other Finance Parties) to the rights and/or interests of that Obligor or Purchaser solely in its capacity as a Finance Party, and each Obligor or Purchaser (as applicable) upon becoming a Party expressly agrees and acknowledges that the operation of this paragraph shall not of itself be so detrimental to it in comparison to the other Finance Parties or otherwise

28.2 Company's notification to other Lenders of Debt Purchase Transactions

The Company shall, by 5.00 p.m. 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.
29 Changes to the Obligors

29.1 Assignments and Transfer by Obligors

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

29.2 Additional Borrowers

(a) Subject to compliance with the provisions of Clauses 23.12(c) and 23.12(d) ("Know Your Customer" Checks)), the Company may request that any of its wholly owned Restricted Subsidiaries becomes a Borrower. That Restricted Subsidiary shall become a Borrower if:

(i) it is incorporated in the same jurisdiction as an existing Borrower or otherwise if all the Lenders under the Facility in respect of which it is to become a Borrower approve the addition of that Restricted Subsidiary;

(ii) the Company and that Restricted Subsidiary deliver to the Agent a duly completed and executed Accession Deed;

(iii) the Restricted Subsidiary is (or becomes) a Guarantor prior to becoming a Borrower;

(iv) the Company confirms that no Default is continuing or would occur as a result of that Restricted Subsidiary becoming an Additional Borrower; and

(v) the Agent has received all of the documents and other evidence listed in 1 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 Company and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in 1 of Schedule 2 (Conditions Precedent).

(c) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in Clause 29.2(b), 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.

29.3 Resignation of a Borrower

(a) In this Clause 29.3, Clause 29.5 and Clause 29.7, “Third Party Disposal” means the disposal of an Obligor to a person which is not a member of the Group where that disposal is permitted under Clause 25.11 (Disposals) or made with the approval of the Majority Lenders (and the Company has confirmed this is the case).

(b) If a Borrower is the subject of a Third Party Disposal; or a Borrower or any member of the Group which is its Holding Company is the subject of a transaction permitted by this Agreement (a “Permitted Activity”) pursuant to which a Borrower or its Holding Company will cease to be a member of the Group; or a Borrower is the subject of a
Permitted Activity pursuant to which it is being liquidated, wound up, or dissolved (or pursuant to which it will otherwise cease to exist), the Company may request that such Borrower (other than the Company) ceases to be a Borrower by delivering to the Agent a Resignation Letter.

(c) The Agent shall accept a Resignation Letter and notify the Company and the other Finance Parties of its acceptance if:

(i) the Company has confirmed that no 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 29.5), its obligations in its capacity as Guarantor continue to be legal, valid, binding and enforceable and in full force and effect (subject to the Legal Reservations) and the amount guaranteed by it as a Guarantor is not decreased (and the Company has confirmed this is the case); and

(iv) the Company has confirmed that it shall ensure that any relevant Disposal Proceeds will be applied in accordance with Clause 10.3 (Net Disposal Proceeds and Net Capital Markets Proceeds).

(d) Upon notification by the Agent to the Company of its acceptance of the resignation of a Borrower, that company shall cease to be a Borrower and shall have no further rights or obligations under the Finance Documents as a Borrower except that the resignation shall not take effect (and the Borrower will continue to have rights and obligations under the Finance Documents) until the date on which the Third Party Disposal or Permitted Activity (as applicable) is consummated.

(e) The Agent may, at the cost and expense of the Company, require a legal opinion from counsel to the Lenders confirming the matters set out in Clause 29.3(c)(iii) 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.

29.4 Additional Guarantors

(a) Subject to compliance with the provisions of Clauses 23.12(c) and 23.12(d) ("Know Your Customer" Checks), the Company may request that any of its wholly owned Restricted Subsidiaries become an Additional Guarantor.

(b) A member of the Group shall become an Additional Guarantor if:

(i) the Company and the proposed Additional Guarantor deliver to the Agent a duly completed and executed Accession Deed; and

(ii) the Agent has received all of the documents and other evidence listed in 1 of Schedule 2 (Conditions Precedent) in relation to that Additional Guarantor, each in form and substance satisfactory to the Agent (acting reasonably).
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(c) The Agent shall notify the Company and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it (acting reasonably)) all the documents and other evidence listed in 1 of Schedule 2 (Conditions Precedent).

(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 Clause 29.4(c), 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.

29.5 Resignation of a Guarantor

(a) The Company may request that a Guarantor (other than the Company) ceases to be a Guarantor by delivering to the Agent a Resignation Letter if:

(i) that Guarantor is the subject of a Third Party Disposal; or that Guarantor or any member of the Group which is its Holding Company is the subject of a Permitted Activity pursuant to which that Guarantor or its Holding Company will cease to be a member of the Group; or that Guarantor is the subject of a Permitted Activity pursuant to which it is being liquidated, wound up, or dissolved (or pursuant to which it will otherwise cease to exist); or

(ii) the Super Majority Lenders have consented to the Company's request.

(b) The Agent shall accept a Resignation Letter and notify the Company and the Lenders of its acceptance if no Default is continuing or would result from the acceptance of the Resignation Letter (and the Company has confirmed this is the case).

29.6 Repetition of Representations

Delivery of an Accession Deed constitutes confirmation by the relevant Restricted Subsidiary that the Repeating Representations 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.

29.7 Resignation and release of Security on Disposal

If an Obligor (or its Holding Company) is or is proposed to be the subject of a Third Party Disposal or Permitted Activity then:

(a) where that Obligor created Transaction Security over any of its assets or business in favour of the Security Agent or Transaction Security was created over the Shares (or equivalent) of that Obligor, the Security Agent shall, at the cost and request of the Company, release those assets, business or shares (or equivalent) and issue certificates of non-crystallisation and in respect of the Transaction Security taken over the shares of Longfrie Limited, a certificate of discharge; and

(b) any resignation of that Obligor and related release of Transaction Security referred to in paragraph 29.7(a) above shall become effective only on the consummation of the Third Party Disposal or Permitted Activity (as applicable).
30 Designation of Unrestricted Subsidiaries

30.1 The Company may designate any Restricted Subsidiary as an Unrestricted Subsidiary for the purposes of the Finance Documents by delivery of a certificate in writing (signed by two directors or other authorised signatories of the Company) to the Agent (an “Unrestricted Subsidiary Notice”) certifying that:

(a) such person is not the Company or (subject to the operation of Clauses 29.3 (Resignation of a Borrower) and 29.5 (Resignation of a Guarantor)) any other Obligor or a Holding Company of an Obligor;

(b) the Company has confirmed in the Unrestricted Subsidiary Notice that:

(i) the Restricted Subsidiary to be designated as an Unrestricted Subsidiary does not own any equity interest in a Restricted Subsidiary; and

(ii) no Event of Default is continuing or would result from such designation (including under Clause 25.23 (Unrestricted Subsidiaries)),

and such Subsidiary shall become an “Unrestricted Subsidiary” from the date of receipt by the Agent of the Unrestricted Subsidiary Notice (or such later date as may be set out in that notice).

30.2 If a Subsidiary has been designated an Unrestricted Subsidiary, the Company shall be entitled to re-designate such Unrestricted Subsidiary as a Restricted Subsidiary if:

(a) the Company delivers a certificate in writing (signed by two directors or other authorised signatories of the Company) to the Agent (a “Restricted Subsidiary Notice”) to the effect that such Subsidiary shall cease to be an Unrestricted Subsidiary for the purposes of the Finance Documents and, provided that the Company has certified in the Restricted Subsidiary Notice that no Event of Default is continuing or would result from such designation (including under Clause 25.23 (Unrestricted Subsidiaries)); and

(b) any investments, guarantees, Financial Indebtedness or Security made or granted by such Unrestricted Subsidiary existing at the time of such re-designation are permitted under this Agreement,

and such Subsidiary shall become a Restricted Subsidiary from the date of receipt by the Agent of the Restricted Subsidiary Notice (or such later date as may be set out in that notice).

30.3 Any reference to an Unrestricted Subsidiary shall be deemed to include its Subsidiaries from time to time.

30.4 Any Unrestricted Subsidiary Notice or Restricted Subsidiary Notice shall confirm the amount of the Investment (as reasonably estimated and certified by two directors or other authorised signatories) in that Unrestricted Subsidiary on the date of such notice, which shall be in an amount equal to the portion of the fair market value of the net assets of such Unrestricted Subsidiary attributable to the Company’s equity interest therein as reasonably estimated by the Company.
Role of the Agent, the Mandated Lead Arrangers, the Reference Banks and the Alternative Reference Banks

31.1 Appointment of the Agent

(a) Each of the Mandated Lead Arrangers and the Lenders appoints the Agent to act as its agent under and in connection with the Finance Documents.

(b) Each of the Mandated Lead Arrangers and the Lenders authorises the Agent to perform the duties, obligations and responsibilities and 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; and

(B) 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 Clause 31.2(a)(i).

(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. 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 Clause 31.2(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 Clause 31.3(c), 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 27.7 (Copy of Transfer Certificate or Assignment Agreement or Increase Confirmation to Company), Clause 31.3(b) 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 Finance Parties.

(f) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent, the Security Agent or the Mandated Lead Arrangers) 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).

(h) The Agent shall provide to the Company within 3 Business Days of a request by the Company (but not more frequently than once per calendar month) a list (which may be in electronic form) setting out the names of the Lenders as at that Business Day, their respective Commitment, the address and fax number (and the department or officer, if any, for whose attention any communications are 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 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.

31.4 Role of the Mandated Lead Arrangers
Except as specifically provided in the Finance Documents, the Mandated Lead Arrangers have no obligations of any kind to any other Party under or in connection with any Finance Document.

31.5 No Fiduciary Duties

(a) Nothing in any Finance Document constitutes the Agent or any Mandated Lead Arranger as a trustee or fiduciary of any other person.

(b) None of the Agent, any Mandated Lead Arranger or any Ancillary Lender shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

31.6 Business with the Group

The Agent, each Mandated Lead Arranger and each Ancillary Lender may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

31.7 Rights and Discretions

(a) The Agent may:

(i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;

(ii) assume that:

(A) any instructions received by it from the Majority Lenders, any Lender 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 Clause 31.7(a)(ii)(A), 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 26.1 (Non-Payment));
(ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised; and

(iii) any notice or request made by the Company (other than a Utilisation Request or Selection Notice) is made on behalf of and with the consent and knowledge of all the Obligors.

(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 Clause 31.7(c) or Clause 31.7(e), 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) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor any Mandated Lead Arranger is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

(i) Notwithstanding any provision of any Finance Document to the contrary, the Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

31.8 Responsibility for Documentation

None of the Agent, any Mandated Lead Arranger nor 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, any Mandated Lead Arranger, an Ancillary Lender, an Obligor or any other person in or in connection with any Finance Document or the Information Memorandum 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.

31.9 No Duty to Monitor

The Agent shall not be bound to enquire:

(a) whether or not any Default has occurred;

(b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or

(c) whether any other event specified in any Finance Document has occurred.

31.10 Exclusion of Liability

(a) Without limiting Clause 31.10(b) (and without prejudice to any other provisions of any Finance Document excluding or limiting the liability of the Agent or any Ancillary Lender), neither the Agent nor any Ancillary Lender will be liable for:

(i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Transaction Security, unless directly caused by its gross negligence or wilful misconduct;

(ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document 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 other than by reason of its gross negligence or wilful misconduct; or

(iii) without prejudice to the generality of Clauses 31.10(a)(i) and 31.10(a)(ii), any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation, for 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:

(A) any act, event or circumstance not reasonably within its control; or
(B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

(b) No Party (other than the Agent or an Ancillary Lender, 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 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) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.

(d) Nothing in this Agreement shall oblige the Agent or any Mandated Lead Arranger to carry out:

(i) any "know your customer" or other checks in relation to any person; or

(ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender,

on behalf of any Lender and each Lender confirms to the Agent and the Mandated Lead Arrangers that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or a Mandated Lead Arranger.

(e) Without prejudice to any provision of any Finance Document excluding or limiting the Agent’s liability, any liability of the Agent arising under or in connection with any Finance Document or the Transaction Security shall be limited to the amount of actual loss which has been 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;
(f) If the Agent is requested to act by the Majority Lenders (or, if appropriate, the Lenders) on instructions or directions delivered by fax, email or other unsecured method of communication, the Agent shall have:

(i) no duty or obligation to verify or confirm that the person who sent such instruction or directions is, in fact a person authorised to give instructions or directions on behalf of the Majority Lenders (or, if appropriate, the Lenders); and

(ii) no liability for any losses, liabilities, costs or expenses incurred or sustained by the Majority Lenders (or, if appropriate, the Lenders), as a result of such reliance upon compliance with such instructions or directions.

31.11 Lenders' Indemnity to the Agent

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 35.10 (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).

31.12 Resignation of the Agent

(a) The Agent may resign and appoint one of its Affiliates as successor by giving notice to the Lenders and the Company.

(b) Alternatively the Agent may resign by giving 30 days’ notice to the Lenders and the Company, in which case the Majority Lenders (after consultation with the Company) may appoint a successor Agent.

(c) If the Majority Lenders have not appointed a successor Agent in accordance with clause 31.12(b) within 20 days after notice of resignation was given, the retiring Agent (after consultation with the Company) may appoint a successor Agent.

(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 Clause 31.12(c), 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 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 Company shall, within three Business Days of demand, reimburse the retiring Agent for the amount of all costs and expenses (including legal fees (subject to any agreed cap)) 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 Clause 31.12(e) but shall remain entitled to the benefit of Clause 18.3 (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) After consultation with the Company, the Majority Lenders may, by notice to the Agent, require it to resign in accordance with Clause 31.12(b). In this event, the Agent shall resign in accordance with Clause 31.12(b).

(i) The Agent shall resign in accordance with Clause 31.12(b) (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to Clause 31.12(c)) 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 16.8 (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 16.8 (FATCA Information) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or

   (iii) the Agent notifies the Company and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) a Lender or the Company 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 that Lender or the Company, by notice to the Agent, requires it to resign.

31.13 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.

31.14 Relationship with the Lenders

(a) Subject to Clause 27.9 (Pro Rata Interest Settlement), the Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:

(i) entitled to or liable for any payment due under any Finance Document on that day; and

(ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

(b) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 37.5 (Electronic Communication)) electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address (or such other information), department and officer by that Lender for the purposes of Clause 37.2 (Addresses) and Clause 37.5(a) (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.

31.15 Credit Appraisal by the Lenders and Ancillary Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender and Ancillary Lender confirms to the Agent, each Mandated Lead Arranger and each Ancillary Lender that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

(a) the financial condition, status and nature of each member of the Group;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
(c) whether that Lender or Ancillary Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, 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; and

(d) the adequacy, accuracy or completeness of the Information Memorandum 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.

31.16 Deduction from Amounts Payable by the Agent

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

31.17 Reliance and engagement letters

Each Finance Party and Secured Party confirmed that each Mandated Lead 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 Mandated Lead Arrangers or the Agent) the time of any reliance letter or engagement letters relating to 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.

31.18 Role of Reference Banks and Alternative Reference Banks

(a) No Reference Bank or Alternative Reference Bank is under any obligation to provide a quotation or any other information to the Agent.

(b) No Reference Bank or Alternative Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.

(c) No Party (other than the relevant Reference Bank or Alternative Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank or Alternative Reference Bank in respect of any claim it might have against that Reference Bank or Alternative Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to
any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank or Alternative Reference Bank may rely on this Clause 31.17 subject to Clause 1.4 (Third Party Rights) and the provisions of the Third Parties Act.

31.19 Third party Reference Banks and Alternative Reference Banks

A Reference Bank or Alternative Reference Bank which is not a Party may rely on Clause 31.17 (Reliance and engagement letters), Clause 41.3(b) (Other Exceptions) and Clause 43 (Confidentiality of Funding Rates and Reference Bank Quotations) subject to Clause 1.4 (Third Party Rights) and the provisions of the Third Parties Act.

32 The Role of the Security Agent

(a) The Security Agent shall, at all times, act in accordance with the terms set forth in the Intercreditor Agreement.

(b) The declaration of trust pursuant to which the Security Agent declares itself trustee of the Transaction Security, for which it will hold on trust for the Secured Parties, is contained in the Intercreditor Agreement.

(c) In acting or otherwise exercising its rights or performing its duties under any of the Finance Documents, the Security Agent shall act in accordance with the provisions of this Agreement and the Intercreditor Agreement and shall seek any instruction or direction from the Agent for any reason, in its sole discretion. In so acting, the Security Agent shall have the rights, benefits, protections, indemnities and immunities set out in this Agreement and the Intercreditor Agreement.

(d) In the event there is an inconsistency or conflict between the rights, duties, benefits, obligations, protections, immunities or indemnities of the Security Agent (the "Security Agent Provisions") as contained in this Agreement and/or the Intercreditor Agreement, on the one hand, and in any of the other Finance Documents, on the other hand, the Security Agent Provisions contained in this Agreement and/or the Intercreditor Agreement shall prevail and apply.

(e) The Security Agent Provisions contained in the Intercreditor Agreement and this Agreement are for the benefit of the Security Agent and shall survive the discharge or termination of the Intercreditor Agreement and this Agreement, and the resignation of the Security Agent.

(f) The Security Agent is hereby authorised by the Secured Parties to sign or countersign any Transfer Certificate, Assignment Agreement, Accession Deed, Increase Confirmation or similar document in connection with or related to any of the foregoing without investigation or inquiry, if, on its face, it appears to conform to the form contemplated in this Agreement or, if applicable, the same is signed by the Agent.

33 Conduct of Business by the Finance Parties

No provision of this Agreement will:

(a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
(b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or

(c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

34 Sharing among the Finance Parties

34.1 Payments to Finance Parties

(a) Subject to Clause 34.1(b) below, if a Finance Party (a "Recovering Finance Party") receives or recovers any amount from an Obligor other than in accordance with Clause 35 (Payment Mechanics) (a "Recovered Amount") and applies that amount to a payment due under the Finance Documents then:

(i) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;

(ii) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 35 (Payment Mechanics), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and

(iii) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the "Sharing Payment") equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 35.5 (Partial Payments).

(b) Clause 34.1(a) above shall not apply to any amount received or recovered by an Ancillary Lender in respect of any cash cover provided for the benefit of that Ancillary Lender.

34.2 Redistribution of Payments

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) (the "Sharing Finance Parties") in accordance with Clause 35.5 (Partial Payments) towards the obligations of that Obligor to the Sharing Finance Parties.

34.3 Recovering Finance Party's Rights

On a distribution by the Agent under Clause 34.2 (Redistribution of Payments) of a payment received by the Recovering Finance Party from an Obligor, as between the relevant Obligor and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Obligor.

34.4 Reversal of Redistribution
If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

(a) each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the "Redistributed Amount"); and

(b) as between the relevant Obligor and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor.

34.5 Exceptions

(a) This Clause 34 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.

(b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

(i) it notified that other Finance Party of the legal or arbitration proceedings; and

(ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

34.6 Ancillary Lenders

(a) This Clause 34 shall not apply to any receipt or recovery by a Lender in its capacity as an Ancillary Lender at any time prior to the Agent exercising any of its rights under Clause 26.13 (Acceleration).

(b) Following the exercise by the Agent of any of its rights under Clause 26.13 (Acceleration), this Clause 34 shall apply to all receipts or recoveries by Ancillary Lenders except to the extent that the receipt or recovery represents a reduction of the Gross Outstandings of a Multi-account Overdraft to or towards an amount equal to its Net Outstandings.

35 Payment Mechanics

35.1 Payments to the Agent

(a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, excluding a payment under the terms of an Ancillary Document, that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and
in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payment shall be made to such account in a principal financial centre in such Participating Member State or London, as specified by the Agent) and with such bank as the Agent, in each case, specifies.

35.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 35.3 (Distributions to an Obligor) and Clause 35.4 (Clawback and Pre-Funding) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may specify by not less than five Business Days' notice with a bank specified by that Party in the principal financial centre of a Participating Member State or London, as specified by that Party).

35.3 Distributions to an Obligor

The Agent may (with the consent of the Obligor or in accordance with Clause 36 (Set-Off)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

35.4 Clawback and Pre-Funding

(a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

(b) Unless Clause 35.4(c) applies, if the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

(c) If the Agent has notified the Lenders that it is willing to make available amounts for the account of the Borrower before receiving funds from the Lenders then if and to the extent that the Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrower:

(i) the Agent shall notify the Company of that Lender's identity and the Borrower to whom that sum was made available shall on demand refund it to the Agent; and

(ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower to whom that sum was made available, shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.
35.5 Partial Payments

(a) If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor under the Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under the Finance Documents 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 the Finance Documents;

(ii) secondly, in or towards payment pro rata of any accrued interest, fee or commission due but unpaid under this Agreement;

(iii) thirdly, in or towards payment pro rata of any principal due but unpaid under this Agreement; and

(iv) fourthly, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

(b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in Clauses 35.5(a)(ii) to 35.5(a)(iv).

(c) Clauses 35.5(a) and 35.5(b) will override any appropriation made by an Obligor.

35.6 No Set-Off by Obligors

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

35.7 Business Days

(a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

35.8 Currency of Account

(a) Subject to Clauses 35.8(b) and 35.8(c), the Base Currency is the currency of account and payment for any sum due from an Obligor under any Finance Document.

(b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

(c) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

35.9 Change of Currency
(a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Company); and

(ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).

(b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Company) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise to reflect the change in currency.

35.10 Disruption to Payment Systems, Etc.

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Company that a Disruption Event has occurred:

(a) the Agent may, and shall if requested to do so by the Company, consult with the Company with a view to agreeing with the Company such changes to the operation or administration of the Facilities as the Agent may deem necessary in the circumstances;

(b) the Agent shall not be obliged to consult with the Company in relation to any changes mentioned in Clause 35.10(a) if, in its reasonable 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 Clause 35.10(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 Company shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 41 (Amendments and Waivers);

(e) the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 35.10; and
the Agent shall notify the Finance Parties of all changes agreed pursuant to Clause 35.10(d).

36 Set-Off

(a) At any time after an Event of Default has occurred and 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 that set-off.

(b) Any credit balances taken into account by an Ancillary Lender when operating a net limit in respect of any overdraft under an Ancillary Facility shall on enforcement of the Finance Documents be applied first in reduction of the overdraft provided under that Ancillary Facility in accordance with its terms.

37 Notices

37.1 Communications in Writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

37.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

(a) in the case of the Company, that identified with its name below;

(b) in the case of each Lender, each Ancillary Lender or any other Obligor, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and

(c) in the case of the Agent or the Security Agent, that identified with its name below, or any substitute address or fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

37.3 Delivery

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(i) if by way of fax, when received in legible form; or

(ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address;
and, if a particular department or officer is specified as part of its address details provided under Clause 37.2 (Addresses), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Agent or the Security Agent will be effective only when actually received by the Agent or the 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 the Security Agent shall specify for this purpose).

(c) All notices from or to an Obligor shall be sent through the Agent.

(d) Any communication or document made or delivered to the Company in accordance with this Clause will be deemed to have been made or delivered to each of the Obligors.

(e) Any communication or document which becomes effective, in accordance with Clauses 37.3(a) to 37.3(d), after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

37.4 Notification of Address and Fax Number

Promptly upon changing its address or fax number, the Agent shall notify the other Parties.

37.5 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 Clause 37.5(a) 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 Clause 37.5(a) 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 the Security Agent shall specify for this purpose.

(d) Any electronic communication which becomes effective, in accordance with Clause 37.5(c), after 5:00 p.m. in the place in which the Party to whom the relevant
communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.

(e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 37.5.

37.6 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.

38 Calculations and Certificates

38.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are prima facie evidence of the matters to which they relate.

38.2 Certificates and Determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

38.3 Day Count Convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Market differs, in accordance with that market practice.

39 Partial Invalidity

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.
40 Remedies and Waivers

No failure to exercise, nor any delay in exercising, on the part of any Finance Party or Secured Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any Finance Document on the part of any Finance Party or Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

41 Amendments and Waivers

41.1 Intercreditor Agreement

This Clause 41 is subject to the terms of the Intercreditor Agreement.

41.2 Required Consents

(a) Subject to Clause 41.3 (All Lender Matters) and Clause 41.3(b) (Other Exceptions) any term of the Finance Documents (other than the Mandate Letter) may be amended or waived only with the consent of the Majority Lenders and the Obligors and any such amendment or waiver will be binding on all Parties.

(b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 41.

(c) Each Obligor agrees to any such amendment or waiver permitted by this Clause 41 which is agreed to by the Company. This includes any amendment or waiver which would, but for this Clause 41.2(c), require the consent of all of the Obligors.

41.3 All Lender Matters

(a) Subject to Clause 41.5 (Replacement of Screen Rate) an amendment or waiver or (in case of a Transaction Security Document) a consent of, or in relation to, any term of any Finance Document that has the effect of changing or which relates to:

   (i) the definition of "Majority Lenders" or "Majority RCF Lenders" or “Super Majority Lenders”) in Clause 1.1 (Definitions);

   (ii) an extension to the date of payment of any amount under the Finance Documents or a change of currency of payment of any amount under a Finance Document;

   (iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees, premia or commission payable;

   (iv) an increase in any Commitment, an extension of the Availability Period or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably under a Facility;
(v) a change to the Borrower or Guarantors other than in accordance with Clause 29 (Changes to the Obligors);

(vi) any provision which expressly requires the consent of all the Lenders; or

(vii) Clause 2.4 (Finance Parties' Rights and Obligations), Clause 10.1 (Change of Control), Clause 10.3 (Net Disposal Proceeds and Net Capital Markets Proceeds), Clause 10.4 (Excess Cash Flow), Clause 10.5 (Application of Mandatory Prepayments and Cancellations), Clause 11.8 (Prepayment Elections), Clause 11.10 (Application of Prepayments), Clause 27 (Changes to the Lenders), Clause 34 (Sharing among the Finance Parties), this Clause 41, Clause 45 (Governing Law) or Clause 46.1 (Jurisdiction);

(viii) any amendment to the order of priority or subordination under the Intercreditor Agreement,

shall not be made without the prior consent of all the Lenders unless such amendment or waiver is required to implement or reflect any Facility Change, Additional Facility or Permitted Alternative Debt.

(b) Other than as expressly permitted by the provisions of any Finance Document, an amendment or waiver or (in 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 the nature or scope of:

(i) the guarantee and indemnity granted under Clause 21 (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 Clauses 41.3(b)(ii) and 41.3(b)(iii), 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) shall not be made without the consent of the Super Majority Lenders unless such amendment or waiver is required to implement or reflect any Facility Change, Additional Facility or Permitted Alternative Debt.

41.4 **Other Exceptions**

(a) An amendment or waiver which relates to the rights or obligations of the Agent, the Security Agent, any Ancillary Lender, a Hedge Counterparty, a Mandated Lead Arranger or a Reference Bank (each in their capacity as such) may not be effected without the consent of the Agent, the Security Agent, that Ancillary Lender, that Hedge Counterparty, that Mandated Lead Arranger or that Reference Bank, as the case may be.

(b) Any amendment which relates to the rights of the Lenders to waive prepayment of Facility B or Facility under Clause 11.8 (Prepayment Elections) shall not be effected without the consent of the Lenders under Facility B.
(c) Any amendment or waiver which relates to Clause 26.2 (Financial Covenants) or Clause 24 (Financial Covenant) or, to the extent used in such Clause, any definition in Clause 1.1 (Definitions), may not be effected without the consent of the Majority RCF Lenders.

(d) A Facility Change may be approved with the consent of the Majority Lenders and each Lender that is assuming an additional Commitment or an increased Commitment in the relevant Loan or Facility or whose Commitment is being extended or redenominated or to whom any amount is due and payable which is being reduced, deferred or redenominated (as the case may be).

(e) For the purposes of this Agreement, “Facility Change” means an amendment, waiver or variation of the terms of some or all of the Finance Documents that results or is intended to result in:

(i) the introduction of an additional loan, commitment or facility into the Finance Documents (provided that any such additional loan, commitment or facility shall rank pari passu with or junior to the Facilities under the Finance Documents);

(ii) an increase in or addition of any Commitment, any extension of the availability period of any Commitment;

(iii) an extension to the date of payment of any principal, interest, fees, commission or other amount payable under the Finance Documents;

(iv) a reduction in any Margin or a reduction in any payment of principal, interest, fees, commission or other amount payable;

(v) a change in currency of payment of any principal, interest, fees, commission or other amount payable under the Finance Documents; and

(vi) any amendment to the Finance Documents (including changes to, the taking of or the release coupled with the immediate retaking of any guarantee or security) consequential on or required to implement or reflect anything described in paragraphs (i) to (v) above.

(f) Subject to the provisions of the Intercreditor Deed, no amendment or waiver of a term of any Hedging Agreement shall require the consent of any Finance Party other than the relevant Hedge Counterparty.

(g) Subject to compliance with paragraph (b) of Clause 7.3 (Terms of Ancillary Facilities), no amendment or waiver of a term of any Ancillary Document shall require the consent of any Finance Party other than the relevant Ancillary Lender.

(h) No amendment or waiver of a term of any Fee Letter shall require the consent of any Finance Party other than any such person which is party to that Finance Document.

(i) An Acceleration Event, Event of Default or Default may be revoked or, as the case may be, waived:
(i) in the case of an Acceleration Event continuing under or pursuant to paragraph (b) of Clause 26.13 (Acceleration) or an Event of Default or Default continuing under or pursuant to Clause 26.3 (Other Obligations), with the consent of the Majority Revolving Facility Lenders; and

(ii) in all other cases, with the consent of the Majority Lenders,

provided that no payment Event of Default may be waived without the consent of each Lender to which the relevant overdue payment is owing.

41.5 Replacement of Screen Rate

Subject to Clause 41.3(b) (Other Exceptions), if the Screen Rate is not available for a currency which can be selected for a Loan, any amendment or waiver which relates to providing for another benchmark rate to apply in relation to the currency of the Loan in place of that Screen Rate (or which relates to aligning any provision of a Finance Document to the use of that other benchmark rate) may be made with the consent of the Majority Lenders and the Obligors.

41.6 Excluded Commitments

If any Lender fails to respond to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document or any other vote of Lenders under the terms of this Agreement within 15 Business Days of that request being made; or (unless, the Company and the Agent agree to a longer time period in relation to any request):

(a) its Commitment(s) shall not be included for the purpose of calculating the Total Commitments under the relevant Facility when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments has been obtained to approve that request; and

(b) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

41.7 Replacement of Lender

(a) If:

(i) any Lender becomes a Non-Consenting Lender (as defined in Clause 41.7(d)); or

(ii) an Obligor becomes obliged to repay any amount in accordance with Clause 9.1 (Illegality) or to pay additional amounts pursuant to Clause 17 (Increased Costs), Clause 16.2 (Tax Gross-Up) or Clause 16.3 (Tax Indemnity) to any Lender;

(iii) any Finance Party invokes the benefit of Clause 14.3 (Market disruption); or

(iv) any Lender under the Revolving Facility making available letters of credit and/or bank guarantees under an Ancillary Facility fails to agree to a request
of the Company to change the pricing for providing such service within 30 days of a request from the Company for such a change,

then the Company may, on three Business Days' prior written notice (the "Replacement Notice") to the Agent and such Lender:

(A) replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 27 (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 Company, which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 27 (Changes to the Lenders) for a purchase price in cash payable at the time of transfer in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Utilisations and all accrued interest (to the extent that the Agent has not given a notification under Clause 27.9 (Pro Rata Interest Settlement)), Break Costs and other amounts payable in relation thereto under the Finance Documents; or

(B) prepay (or procure that another member of the Group prepays) on such dates as specified in the Replacement Notice, all or any part of such Lender's participation in the outstanding Utilisations or Ancillary Outstandings and all related accrued interest, Break Costs and other amounts payable in relation thereto under the Finance Documents in respect of such participation; and/or

(C) cancel all or part of the undrawn Commitments or Ancillary Commitments of that Replaced Lender on such dates as specified in the Replacement Notice.

(b) The replacement of a Lender pursuant to this Clause 41.7 shall be subject to the following conditions:

(i) the Company shall have no right to replace the Agent or Security Agent;

(ii) neither the Agent nor the Lender shall have any obligation to the Company to find a Replacement Lender;

(iii) in the event of a replacement of a Non-Consenting Lender such replacement must take place no later than 60 days after the date on which that Lender is deemed a Non-Consenting Lender;

(iv) in no event shall the Lender replaced under this Clause 41.7 be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Finance Documents; and

(v) the Lender shall only be obliged to transfer its rights and obligations pursuant to Clause 41.7(a) once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer.
(c) A Lender shall perform the checks described in Clause 41.7(b)(v) as soon as reasonably practicable following delivery of a notice referred to in Clause 41.7(a) and shall notify the Agent and the Company when it is satisfied that it has complied with those checks.

(d) In the event that:

(i) the Company or the Agent (at the request of the Company) 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 or the Super Majority Lenders; and

(iii) the Majority Lenders have consented or agreed to such waiver or amendment,

then any Lender who does not and continues not to consent or agree to such waiver or amendment shall be deemed a "Non-Consenting Lender".

41.8 Disenfranchisement of Defaulting Lenders

(a) For so long as a Defaulting Lender has any Available Commitment, in ascertaining:

(i) the 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 Clauses 41.8(a)(i) and 41.8(a)(ii).

(b) For the purposes of this Clause 41.8, the Agent may assume that the following Lenders are Defaulting Lenders:

(i) any Lender which has notified the Agent that it has become a Defaulting Lender;

(ii) any Lender in relation to which it is aware that any of the events or circumstances referred to in paragraphs (a), (b) or (c) of the definition of "Defaulting Lender" has occurred,
unless it has received notice to the contrary from the Lender concerned (together with any supporting evidence reasonably requested by the Agent) or the Agent is otherwise aware that the Lender has ceased to be a Defaulting Lender.

41.9 Replacement of a Defaulting Lender

(a) The Company may, at any time a Lender has become and continues to be a Defaulting Lender, by giving three 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 27 (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 27 (Changes to the Lenders) all (and not part only) of the undrawn Revolving Facility Commitment of the Lender;

(iii) require such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 27 (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 Company, 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 27 (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 Utilisation and all accrued interest (to the extent that the Agent has not given a notification under Clause 27.9 (Pro Rata Interest Settlement)), 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 Company and which does not exceed the amount described in Clause 41.9(a)(i).

(b) Any transfer of rights and obligations of a Defaulting Lender pursuant to this Clause 41.9 shall be subject to the following conditions:

(i) the Company shall have no right to replace the Agent or the Security Agent;

(ii) neither the Agent nor the Defaulting Lender shall have any obligation to the Company to find a Replacement Lender;

(iii) the transfer must take place no later than 90 days after the notice referred to in Clause 41.9(a);
(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 Clause 41.9(a) 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 Clause 41.9(b)(v) as soon as reasonably practicable following delivery of a notice referred to in Clause 41.9(a) and shall notify the Agent and the Company when it is satisfied that it has complied with those checks.

42 Confidential Information

42.1 Confidentiality

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 42.2 (Disclosure of Confidential Information) and Clause 42.3 (Disclosure to Numbering Service Providers), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

42.2 Disclosure of Confidential Information

Any Finance Party may disclose:

(a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Finance Party reasonably considers appropriate if any person to whom the Confidential Information is to be given pursuant to this Clause 42.2(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 Clause 42.2(b)(i) or 42.2(b)(ii) applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under Clause 31.14(b) (Relationship with the Lenders));

(iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in Clause 42.2(b)(i) or 42.2(b)(ii);

(v) to whom and to the extent that information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;

(vi) to whom and to the extent that information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes concerning the Finance Documents;

(c) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 27.8 (Security over Lenders' Rights):

(i) who is a Party; or

(ii) with the consent of the Company;

in each case, such Confidential Information as that Finance Party shall reasonably consider appropriate if:

(A) in relation to Clauses 42.2(b)(i), 42.2(b)(ii) and 42.2(b)(iii), 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 Clause 42.2(b)(iv), 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 Clauses 42.2(b)(v), 42.2(b)(vi) and 42.2(c), 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 reasonable opinion of that Finance Party, it is not practicable so to do in the circumstances;

(d) to any person appointed by that Finance Party or by a person to whom Clause 42.2(b)(i) or Clause 42.2(b)(ii) 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 Clause 42.2(d) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Company and the relevant Finance Party; and

(e) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

42.3 Disclosure to Numbering Service Providers

(a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facilities and/or one or more Obligors the following information:

(i) names of Obligors;

(ii) country of domicile of Obligors;

(iii) place of incorporation of Obligors;

(iv) date of this Agreement;

(v) Clause 45 (Governing Law);

(vi) the names of the Agent and the Mandated Lead Arrangers;

(vii) date of each amendment and restatement of this Agreement;

(viii) amounts of, and names of, the Facilities (and any tranches);

(ix) amount of Total Commitments;

(x) currency of the Facilities;

(xi) type of Facilities;

(xii) ranking of Facilities;
(xiii) Termination Date for Facilities;

(xiv) changes to any of the information previously supplied pursuant to Clause 42.3(a)(i) to 42.3(a)(xiii); and

(xv) such other information agreed between such Finance Party and the Company to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

(b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facilities and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.

(c) The Company represents that none of the information set out in Clauses 42.3(a)(i) to 42.3(a)(xv) is, nor will at any time be, unpublished price-sensitive information.

(d) The Agent shall notify the Company and the other Finance Parties of:

(i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facilities and/or one or more Obligors; and

(ii) the number or, as the case may be, numbers assigned to this Agreement, the Facilities and/or one or more Obligors by such numbering service provider.

42.4 Entire Agreement

This Clause 41 constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement whether express or implied, regarding Confidential Information.

42.5 Inside Information

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

42.6 Notification of Disclosure

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Company:

(a) of the circumstances of any disclosure of Confidential Information made pursuant to Clause 42.2(b)(v) (Disclosure of Confidential Information) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
(b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 42.

42.7 Continuing Obligations

The obligations in this Clause 42 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of 12 months from the earlier of:

(a) the date on which all amounts payable by the Obligors under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and

(b) the date on which such Finance Party otherwise ceases to be a Finance Party.

43 Confidentiality of Funding Rates and Reference Bank Quotations

43.1 Confidentiality and disclosure

(a) The 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 Clauses 43.1(b), 43.1(c) and 43.1(d) below.

(b) The Agent may disclose:

   (i) any Funding Rate (but not, for the avoidance of doubt, any Reference Bank Quotation) to the Borrower pursuant to Clause 12.4 (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 Reference Bank or Alternative 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 Clause 43.1(c)(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, Reference Bank or Alternative Reference Bank, as the case may be.

(d) The Agent's obligations in this Clause 43 relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under Clause 12.4 (Notification of Rates of Interest) provided that (other than pursuant to Clause 43.1(b)(i)) the Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.

43.2 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, Reference Bank or Alternative Reference Bank, as the case may be:

(i) of the circumstances of any disclosure made pursuant to Clause 43.1(b)(ii) (Confidentiality and disclosure) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

(ii) upon becoming aware that any information has been disclosed in breach of this Clause 43.

43.3 No Event of Default
No Event of Default will occur under Clause 26.3 (Other Obligations) by reason only of an Obligor's failure to comply with this Clause 43.

44 Counterparts

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

45 Governing Law

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

46 Enforcement

46.1 Jurisdiction

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a "Dispute").

(b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) This Clause 46.1 is for the benefit of the Finance Parties and Secured Parties only. As a result, no Finance Party or Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties and Secured Parties may take concurrent proceedings in any number of jurisdictions.

46.2 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 Sporting Odds Limited (incorporation number 03655231), 3rd Floor, 45 Moorfields, London EC2Y 9AE as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and

(b) agrees that failure by a process agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.

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 Borrower</th>
<th>Registration number (or equivalent, if any)</th>
</tr>
</thead>
<tbody>
<tr>
<td>GVC Holdings PLC</td>
<td>004685V (Isle of Man)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Original Guarantor</th>
<th>Registration number (or equivalent, if any)</th>
</tr>
</thead>
<tbody>
<tr>
<td>GVC Holdings PLC</td>
<td>004685V (Isle of Man)</td>
</tr>
<tr>
<td>bwin.party digital entertainment Limited</td>
<td>91225 (Gibraltar)</td>
</tr>
<tr>
<td>bwin.party holdings Limited</td>
<td>90956 (Gibraltar)</td>
</tr>
<tr>
<td>ElectraWorks Limited</td>
<td>94014 (Gibraltar)</td>
</tr>
<tr>
<td>Sportingbet Limited</td>
<td>03534726 (England)</td>
</tr>
<tr>
<td>Sportingbet Holdings Limited</td>
<td>7264739 (England)</td>
</tr>
<tr>
<td>Interactive Sports (C.I.) Limited</td>
<td>1622 (Alderney)</td>
</tr>
<tr>
<td>Longfrie Limited</td>
<td>54078 (Island of Guernsey)</td>
</tr>
<tr>
<td>PartyGaming Finance Limited</td>
<td>37937 (Bermuda)</td>
</tr>
<tr>
<td>PartyGaming IA Limited</td>
<td>37938 (Bermuda)</td>
</tr>
</tbody>
</table>
### Part 2 - The Original Lenders

<table>
<thead>
<tr>
<th>Name of Original Lender</th>
<th>Facility B Commitment</th>
<th>Revolving Facility Commitment</th>
<th>Treaty Passport scheme reference number and jurisdiction of tax residence (if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nomura International plc</td>
<td>€250,000,000</td>
<td>€10,000,000</td>
<td>N/A</td>
</tr>
<tr>
<td>Deutsche Bank AG, London Branch</td>
<td>-</td>
<td>€15,000,000</td>
<td>N/A</td>
</tr>
<tr>
<td>Mediobanca International (Luxembourg) S.A.</td>
<td>-</td>
<td>€25,000,000</td>
<td>48/M/315419/DTTP</td>
</tr>
<tr>
<td>The Governor and Company of The Bank of Ireland</td>
<td>-</td>
<td>€20,000,000</td>
<td>12/G/57971/DTTP</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>€250,000,000</strong></td>
<td><strong>€70,000,000</strong></td>
<td></td>
</tr>
</tbody>
</table>
Schedule 2

Conditions Precedent

Part 1 - Conditions Precedent to Initial Utilisation

1. Original Obligors
   (a) A certified true copy of the constitutional documents of the Company and each other Original Obligor.
   (b) A copy of a resolution of the board of directors of each Original Obligor:
       (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party;
       (ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;
       (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request and Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
       (iv) in the case of an Original Obligor other than the Company, authorising the Company 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 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 in each Original Guarantor (other than the Company for which this is not applicable), approving the terms of, and the transactions contemplated by, the Finance Documents to which the Original Guarantor is a party.
   (e) A certificate of the Company and each other Original Obligor (signed by a director) confirming that borrowing, guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on the Company or that Original Obligor to be exceeded.
   (f) A certificate of an authorised signatory of the Company or other relevant Original Obligor certifying that each copy document relating to it specified in this Part 1 of Schedule 2 (Conditions Precedent) is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement.

2. Finance Documents
   (a) This Agreement executed by the parties hereto.
   (b) The Intercreditor Agreement executed by the parties thereto.
   (c) Each Fee Letter executed by the parties thereto.
(d) At least two originals of the following Transaction Security Documents executed by the Original Obligors specified below opposite the relevant Transaction Security Document:

<table>
<thead>
<tr>
<th>Name of Original Obligor</th>
<th>Transaction Security Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>GVC Holdings PLC</td>
<td>1. Gibraltar law charge over the shares in bwin.party digital entertainment Limited</td>
</tr>
<tr>
<td></td>
<td>2. English law charge over the shares in Sportingbet Limited</td>
</tr>
<tr>
<td>bwin.party digital entertainment Limited</td>
<td>3. Gibraltar law charge over the shares in bwin.party holdings Limited</td>
</tr>
<tr>
<td>bwin.party holdings Limited</td>
<td>4. Bermuda law charge over the shares in PartyGaming Finance Limited</td>
</tr>
<tr>
<td></td>
<td>5. Gibraltar law charge over the shares in ElectraWorks Limited</td>
</tr>
<tr>
<td>ElectraWorks Limited</td>
<td>6. Bermuda law charge over the shares in PartyGaming IA Limited</td>
</tr>
<tr>
<td>Sportingbet Limited</td>
<td>7. English law charge over the shares in Sportingbet Holdings Limited</td>
</tr>
<tr>
<td>Interactive Sports (C.I.) Limited</td>
<td>8. Guernsey law security interest agreement over shares in Longfrie Limited</td>
</tr>
</tbody>
</table>

(e) A copy of all notices, letters and proxies required to be sent under the Transaction Security Documents executed by the relevant Original Obligors.

(f) All share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant Obligor in blank in relation to the assets subject to or expressed to be subject to the Transaction Security and other documents of title to be provided under the Transaction Security Documents and in relation to any Guernsey Obligor or Bermuda incorporated Obligor over whose shares security is to be taken, a certified copy of the register of members of such Obligor annotated to show the interest of the relevant Finance Party.

(g) Approval of the Bermuda Monetary Authority for (i) the creation of the Bermuda law charges over the shares in PartyGaming Finance Limited and PartyGaming IA Limited; and (ii) the transfer of the shares charged thereunder to the Security Agent upon enforcement of the security created by each such charge.

3. **Legal Opinions**

(a) A legal opinion of White & Case LLP, legal advisers to the Mandated Lead Arrangers and the Original Lenders as to matters of English law.
(b) A legal opinion of Appleby (Isle of Man) LLC, legal advisors to the Mandated Lead Arrangers and the Original Lenders as to matters of Isle of Man law.

(c) A legal opinion of Appleby (Guernsey) LLC, legal advisors to the Mandated Lead Arrangers and the Original Lenders as to matters of Guernsey law.

(d) A legal opinion of Appleby (Guernsey) LLP, legal advisors to the Mandated Lead Arrangers and the Original Lenders as to matters of Alderney law.

(e) A legal opinion of Hassans, legal advisors to the Mandated Lead Arrangers and the Original Lenders as to matters of Gibraltar law.

(f) A legal opinion of Appleby (Bermuda) Limited, legal advisors to the Mandated Lead Arrangers and the Original Lenders as to matters of Bermuda law.

4. **Other Documents and Evidence**

(a) Evidence that the fees, costs and expenses which are then due and payable by the Obligors under the Finance Documents have been paid or will be paid (it being understood that such condition shall be satisfied by the inclusion of such payments in the Funds Flow Statement).

(b) The Funds Flow Statement showing in reasonable detail the proposed movement of funds for the repayment of the Existing Financing Facility and the payment of fees, costs and expenses in connection with this Facility shall be provided to the Agent.

(c) Evidence that all existing debt, security and guarantees (which are not permitted by this Agreement) of the Company and each other Obligor has been or will be discharged on or prior to the Closing Date, including certified copies of the filing or deregistration applications or, if not available, certificate from the Company’s director confirming that such filing or deregistration applications have been duly submitted to all relevant registries, in each case, in respect of all existing debt, the discharge of which has not been reflected in the relevant registers on or prior to the Closing Date.

(d) Copies of all the documentation and other evidence or information required by the Mandated Lead Arrangers in order to satisfy its “know your customer” requirements and delivered by the Company.

(e) The Original Financial Statements.

(f) The Base Case Model.

(g) The Group Structure Chart.

(h) The Pre-Approved New Lender List.

(i) A certificate of the Company addressed to the Finance Parties confirming which companies within the Group are Material Companies and showing in reasonable detail that the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of the Original Guarantors (in each case calculated on an unconsolidated basis and prior to accounting for any intra-group items and investments in Subsidiaries of any member of the Group) exceeds 80% of the EBITDA.

(j) Evidence that the process agent referred to in Clause 46.2 (*Service of Process*), if not an Original Obligor, has accepted its appointment.
(k) If applicable, such reasonable documentary evidence as legal counsel to the Agent may require, that such Obligor has complied with any law in its jurisdiction relating to financial assistance or analogous process.

(l) The Utilisation Request duly signed.

(m) A copy of any other Authorisation or other document, opinion or assurance which the Agent considers to be necessary or desirable (if it has notified the Company accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.
Part 2 - Conditions Precedent Required to be Delivered by an Additional Obligor

1. An Accession Deed, duly executed by the Additional Obligor and the Company.

2. A copy of the constitutional documents of the Additional Obligor.

3. A copy of a resolution of the board or, if applicable, a committee of directors of the Additional Obligor:
   (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 a 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; and
   (d) authorising the Company to act as its agent in connection with the Finance Documents.

4. If applicable, a copy of a resolution of the board of directors of the relevant company, establishing the committee referred to in paragraph 3 above.

5. A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.

6. If required by law, 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.

7. A certificate of the Additional Obligor (signed by a director) confirming that borrowing, guaranteeing or securing as appropriate, the Total Commitments would not cause any borrowing, guaranteeing, security or similar limit binding on it to be exceeded.

8. A certificate of an authorised signatory of the Additional Obligor certifying that each copy document listed in this 1 of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of the Accession Deed.

9. If available, the latest audited financial statements of the Additional Obligor.

10. A legal opinion of the legal advisers to the Original Lenders and the Mandated Lead Arrangers as to English law.

11. If the Additional Obligor is incorporated in a jurisdiction other than England and Wales, a legal opinion of the legal advisers to the Mandated Lead Arrangers in the jurisdiction in which the Additional Obligor is incorporated.
12 If the proposed Additional Obligor is incorporated in a jurisdiction other than England and Wales, evidence that the process agent specified in Clause 46.2 (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, any security documents which are required by the Lenders.

14 If applicable, such reasonable documentary evidence as legal counsel to the Agent may require, that such Additional Obligor has complied with any law in its jurisdiction relating to financial assistance or analogous process.
Schedule 3

Requests

Part 1 - Utilisation Request

From: [*] as Borrower

To: [Agent]

Dated: [*]

[*] – [*] Facilities Agreement dated [*] 2017 (the "Agreement")

1 We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.

2 We wish to borrow a Loan on the following terms:

   Proposed Utilisation Date: [*] (or, if that is not a Business Day, the next Business Day)
   Facility to be utilised: [Facility B]/[Revolving Facility]/[Additional Facility]
   Currency of Loan: [*]
   Amount: [*]
   Interest Period: [*]

3 We confirm that each condition specified in Clause 4.2 (Further Conditions Precedent) [or, to the extent applicable, Clause 4.5 (Loans under an Additional Facility during the Agreed 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

Signed by)
[*]

..........................................................................................................................
Part 2 - Selection Notice

From: [*] as Borrower
To: [Agent]
Dated: [*]

[*] – [*] Facilities Agreement dated [*] 2017 (the "Agreement")

1 We refer to the Agreement. This is a Selection Notice. Terms defined in the 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 B]/[Revolving Facility]/[Additional Facility] Loan[s] with an Interest Period ending on [*].

3 [We request that the next Interest Period for the above [Facility B]/[Revolving Facility]/[Additional Facility] Loan[s]] is [*].**

4 This Selection Notice is irrevocable.

Yours faithfully

Signed by [*] ............................................................ .........

* Use this option if division of Additional Facility Loans is requested.

** Use this option if sub-division is not required or if Selection Notice relates to Facility B Loans.
Schedule 4

Form of Transfer Certificate

To: [*] as Agent and [*] as Security Agent

From: [The Existing Lender] (the "Existing Lender") and [The New Lender] (the "New Lender")

Dated: [*]

[*] – [*] Facilities Agreement dated [*] 2017 (the "Agreement")

1 We refer to the Agreement and to the Intercreditor Agreement (as defined in the Agreement). This letter shall take effect as a Transfer Certificate for the purpose of the Agreement and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.

2 We refer to Clause 27.5 (Procedure for Transfer):

3 The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation and in accordance with Clause 27.5 (Procedure for Transfer), all of the Existing Lender's rights and obligations under the Agreement and the other Finance Documents and in respect of the Transaction Security which relate to that portion of the Existing Lender's Commitment and participations in Loans under the Agreement as specified in the Schedule.

4 The proposed Transfer Date is [*].

5 The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 37.2 (Addresses) are set out in the Schedule.

6 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in Clause 27.4(c) (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; or

(b) a partnership each member of which is:

1. Delete as applicable - each New Lender is required to confirm which of these three categories it falls within.
(c) a company so resident in the United Kingdom; or

(d) 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

(e) 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.²

9 [The New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [*]) and is tax resident in [*]³, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax, and requests that the Company 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.]⁴

10 We refer to Clause 15.2 (Change of Pari Passu Lender under an Existing Pari Passu Facility) of the Intercreditor Agreement. In consideration of the New Lender being accepted as a Pari Passu 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 Pari Passu Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Pari Passu 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 Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.

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

13 This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

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

² Include if New Lender comes within paragraph (i)(B) of the definition of “Qualifying Lender” in Clause 16.1 (Definitions).
³ Insert jurisdiction of tax residence.
⁴ Include if New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Agreement.
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]
By: 

[New Lender]
By: 

This letter is accepted as a Transfer Certificate for the purposes of the Agreement by the Agent, and as a Creditor/Creditor Representative 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: 

EU-DOCS\18648279.18
Schedule 5
Form of Assignment Agreement

To: [*] as Agent, [*] as Security Agent and [*] as Company, for and on behalf of each Obligor

From: [the Existing Lender] (the "Existing Lender") and [the New Lender] (the "New Lender")

Dated: [*]

[*] – [*] Facilities Agreement dated [*] 2017 (the "Agreement")

1 We refer to the Agreement and to the Security Trust Deed (as defined in the Agreement). This letter shall take effect as Assignment Agreement for the purpose of the Agreement and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Agreement have the same meaning in this Assignment Agreement unless given a different meaning in this Assignment Agreement.

2 We refer to Clause 27.6 (Procedure for Assignment):

(a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Agreement and the other Finance Documents and in respect of the Transaction Security which relate to that portion of the Existing Lender's Commitments and participations in Loans under the Agreement as specified in the Schedule.

(b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitments and participations in Loans under the 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 Party to the Intercreditor Agreement as a Pari Passu Lender (as defined in the Intercreditor Agreement).

5 The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 37.2 (Addresses) are set out in the Schedule.

6 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in Clause 27.4(c) (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);]

EU-DOCS\18648279.18
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.\(^6\)

14 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 Company 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,

9 that it wishes that scheme to apply to the Facilities Agreement.\(^8\)

We refer to Clause 15.2 (Change of Pari Passu Lender under an Existing Pari Passu Facility) of the Intercreditor Agreement. In consideration of the New Lender being accepted as a Pari Passu 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 Pari Passu Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Pari Passu 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.

---

\(^5\) Delete as applicable – each New lender is required to confirm which of these three categories it falls within.

\(^6\) Include only if New Lender is a UK Non-Bank Lender – i.e., falls within paragraph (i)(B) of the definition of “Qualifying Lender” in Clause 16.1 (Definitions).

\(^7\) Insert jurisdiction of tax residence.

\(^8\) Include if New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Agreement.
This Assignment Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 27.7 (Copy of Transfer Certificate or Assignment Agreement or Increase Confirmation to Company), to the Company (on behalf of each Obligor) of the assignment referred to in this Assignment Agreement.

This Assignment 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.

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

This Assignment Agreement has been entered into on the date stated at the beginning of this Assignment 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

Rights to be assigned and obligations to be released and undertaken

[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 letter is accepted as an Assignment Agreement for the purposes of the Agreement by the Agent, and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent and the Transfer Date is confirmed as [*].

Signature of this Assignment Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to herein, 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: [Restricted Subsidiary] and [the Company]

Dated: [*]

[*] – [*] Facilities Agreement dated [*] 2017 (the “Agreement”)

1 We refer to the Agreement and to the Intercreditor Agreement. This deed (the "Accession Deed") shall take effect as an Accession Deed for the purposes of the 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 Agreement have the same meaning in paragraphs 1 to 2 of this Accession Deed unless given a different meaning in this Accession Deed.

2 [Restricted Subsidiary] agrees to become an Additional [Borrower]/[Guarantor] and to be bound by the terms of the Agreement and the other Finance Documents (other than the Intercreditor Agreement) as an Additional [Borrower]/[Guarantor] pursuant to [Clause 29.2 (Additional Borrowers)] Clause 29.4 (Additional Guarantors) of the Agreement. [Restricted Subsidiary] is a company duly incorporated under the laws of [name of relevant jurisdiction].

3 [The Company confirms that no Default or would occur as a result of [Restricted Subsidiary] becoming an Additional Borrower].

4 [Restricted Subsidiary’s] administrative details for the purposes of the Agreement and the Intercreditor Agreement are as follows:

Address: [*]
Fax No: [*]
Attention: [*]

5 [Restricted Subsidiary] (for the purposes of this paragraph 5, the "Acceding Debtor") intends to incur Liabilities (as defined in the Intercreditor Agreement) under the following documents:

[Insert details (date, parties and description) of relevant documents]

the “Relevant Documents”.

It is agreed as follows:

(a) Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Accession Deed, bear the same meaning when used in this paragraph 5.

(b) The Acceding Debtor and the Security Agent agree that the Security Agent shall hold:
(i) any Security in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents;

(ii) all proceeds of that Security; and

(iii) all obligations expressed to be undertaken by the Acceding Debtor to pay amounts in respect of the Liabilities to the Security Agent as trustee for the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding Debtor (in the Relevant Documents or otherwise) in favour of the Security Agent as trustee for the Secured Parties, on trust for the Secured Parties on the terms and conditions contained in the Intercreditor Agreement.

(c) The Acceding Debtor confirms that it intends to be party to the Intercreditor Agreement as a Debtor, undertakes to perform all the obligations expressed to be assumed by a Debtor under the Intercreditor Agreement and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as if it had been an original party to the Intercreditor Agreement.

(d) [In consideration of the Acceding Debtor being accepted as an Intra-group Lender for the purposes of the Intercreditor Agreement, the Acceding Debtor also confirms that it intends to be party to the Intercreditor Agreement as an Intra-group Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Intra-group Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement[9].

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

This Accession Deed has been signed on behalf of the Security Agent (for the purposes of paragraph 5 above only) and the Agent, signed on behalf of the Company and executed as a deed by [Restricted Subsidiary] and is delivered on the date stated above.

Executed as a deed by

[the Company]

acting by an authorised signatory

) Authorised signatory

) ............................................................ .............

) Authorised signatory

) ............................................................ .............

) ............................................................ .............

) ............................................................ .............

9 Include this paragraph in this Accession Deed if the Restricted Subsidiary is also to accede as an Intra-group Lender to the Intercreditor Agreement.
Executed as a deed by [Restricted Subsidiary] acting by two directors or by a director and its secretary

) ............................................................
) Director
) ............................................................
) Director/Secretary
The Security Agent

By:

The Agent

By:
Schedule 7

Form of Resignation Letter

To: [*] as Agent

From: [resigning Obligor] and [the Company]

Dated: [*]

[*] – [*] Facilities Agreement dated [*] 2017 (the "Agreement")

1 We refer to the Agreement. This is a Resignation Letter. Terms defined in the Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.

2 Pursuant to Clause 29.5 (Resignation of a Guarantor), we request that [resigning Obligor] be released from its obligations as a Guarantor under the Agreement and the Finance Documents (other than the Intercreditor Agreement).

3 We confirm that no Default is continuing or would result from the acceptance of this request.

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

[the Company]

By:
## Schedule 8

### Timetables

<table>
<thead>
<tr>
<th>Description</th>
<th>Loans in euro</th>
<th>Loans in Sterling</th>
<th>Loans in an Optional Currency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agent notifies the Company if a currency is approved as an Optional Currency in accordance with Clause 4.4 (Conditions Relating to Optional Currencies)</td>
<td>-</td>
<td>-</td>
<td>U-4</td>
</tr>
<tr>
<td>Delivery of a duly completed Utilisation Request (Clause 5.1 (Delivery of a Utilisation Request)) or a Selection Notice (Clause 13.1 (Selection of Interest Periods))</td>
<td>U-3 9.30 a.m.</td>
<td>U-2 9.30 a.m.</td>
<td>U-3 9.30 a.m.</td>
</tr>
<tr>
<td>BBSW, LIBOR or EURIBOR is fixed Quotation Day 11:00 a.m. (London time)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agent receives a notification from a Lender under Clause 6.2 (Unavailability of a currency)</td>
<td>Quotation Day U-1 9.30am</td>
<td>Quotation Day U-1 9.30am</td>
<td>Quotation Day 9.30am</td>
</tr>
<tr>
<td>Agent gives notice in accordance with Clause 6.2 (Unavailability of a currency)</td>
<td>Quotation Day U-1 5.30pm</td>
<td>Quotation Day U-1 5.30pm</td>
<td>Quotation Day 5.30pm</td>
</tr>
<tr>
<td>Reference Bank Rate calculated by reference to available quotations in accordance with Clause 14.2 (Calculation of Reference Bank Rate and Alternative Reference Bank Rate)</td>
<td>Quotation Day 11:30 a.m. (London time)</td>
<td>Quotation Day 11:30 a.m. (London time)</td>
<td>Quotation Day 11:30 a.m. (London time)</td>
</tr>
<tr>
<td>Alternative Reference Bank Rate calculated by reference to available quotations in accordance with Clause 14.2 (Calculation of Reference Bank Rate and Alternative Reference Bank Rate)</td>
<td>Quotation Day</td>
<td>Quotation Day</td>
<td>Quotation Day</td>
</tr>
</tbody>
</table>

"U" = date of utilisation or, if applicable, in the case of a Loan that has already been borrowed, the first day of the relevant Interest Period for that Loan
"U - X" = X Business Days prior to date of utilisation
Schedule 9

Form of Increase Confirmation

To: [*] as Agent and [*] as Security Agent

From: [the Increase Lender] (the "Increase Lender") and GVC Holdings PLC as Company, for and on behalf of each Obligor

Dated: [*]

[*] - [*] Facilities Agreement dated [*] 2017 (the "Agreement")

1 We refer to the Agreement and to the Intercreditor Agreement (as defined in the Agreement). This confirmation (the "Confirmation") shall take effect as an Increase Confirmation for the purpose of the Agreement and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Agreement have the same meaning in this Confirmation unless given a different meaning in this Confirmation.

2 We refer to Clause 2.3 (Increase) of the 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 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 Pari Passu Lender (as defined in the Intercreditor Agreement).

6 The Facility Office and address, fax number and attention details for notices to the Increase Lender for the purposes of Clause 37.2 (Addresses) of the Agreement are set out in the Schedule.

7 The Increase Lender expressly acknowledges the limitations on the Lenders' obligations referred to in paragraph (f) of Clause 2.3 (Increase) of the Agreement.

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;]
9 [The Increase Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

(a) a company resident in the United Kingdom for United Kingdom tax purposes;

(b) a partnership each member of which is:

(i) a company so resident in the United Kingdom; or

(ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or

(c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]\(^{11}\)

10 [The Increase Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [*]) and is tax resident in [*]\(^ {12}\), so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and notifies the Company that it wishes the scheme to apply to the Agreement.]\(^ {13}\)

11 This Confirmation 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 Confirmation.

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

13 This Confirmation has been entered into on the date stated at the beginning of this Confirmation.

**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.

---

\(^{10}\) Delete as applicable - each Increase Lender is required to confirm which of these three categories it falls within.

\(^{11}\) Include only if New Lender is a UK Non-Bank Lender i.e. falls within paragraph (i)(B) of the definition of Qualifying Lender in Clause 16.1 (Definitions).

\(^{12}\) Insert jurisdiction of tax residence.

\(^{13}\) This confirmation must be included if the Increase Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Agreement.
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:

Company
[*]
By:

Confirmation by the Agent and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent and the Increase Date is confirmed as [*].

Agent
By:

Security Agent
By:
Schedule 10

Form of Compliance Certificate

To: [*] as Agent
From: [*] as Company
Dated: [*]

[*] - [*] Facilities Agreement dated [*] 2017 (the "Agreement")

1 We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2 We confirm that in respect of the Relevant Period ended on [*] Leverage was [*]:1. [Therefore the covenant contained in Clause 24.1 (Financial Condition) [has]/[has not] been complied with] and the Facility B Margin should be [*]% p.a. and the Revolving Facility Margin should be [*]% p.a.

3 [We confirm that the following adjustments have been made to exclude the results of [Unrestricted Subsidiary]: [*]]

4 [We confirm that the Material Subsidiaries are:

[*].

5 [We confirm that as at the Relevant Period ended on [*], the aggregate contribution of the Guarantors was equal to [*] per cent. of Adjusted EBITDA and therefore the Guarantor Coverage Test set out in 25.20 (Guarantors) [has/has not] been met.]

6 [We confirm that Excess Cash Flow for the Financial Year ending [*] was [*]. As the Leverage is [*], the Excess Cash Flow to be applied in prepayment pursuant to Clause 10.4 (Excess Cash Flow) of the Facilities Agreement will be [*].]

Executed as a deed by [the Company] acting by an authorised signatory

Notes:

* This statement should only be made on a Test Date.

** Only applicable if the Compliance Certificate accompanies the Annual Financial Statements.

*** Only applicable if the Compliance Certificate accompanies the audited financial statements.
Schedule 11

Agreed Security Principles

A. CERTAIN PRINCIPLES

1. The Company and the Secured Parties have agreed and acknowledged that their rights and obligations under the Finance Documents in respect of (i) the giving or taking of guarantees for the Secured Liabilities, (ii) the giving or taking of Transaction Security (together with the guarantees described in paragraph (i), the “Transaction Credit Support”) and (iii) all the rights and obligations associated with giving or taking of the Transaction Credit Support, shall be subject to and limited by the Agreed Security Principles.

2. It is expressly acknowledged that the Transaction Security shall be comprised only of Security over the shares owned by the Group in any Material Subsidiary specified in paragraphs (b) or (c) of the definition of “Material Subsidiary” provided that:
   a. Longfrie Limited shall not be required to grant any Transaction Security; and
   b. Longfrie Limited shall not be required to become Guarantor under this Agreement.

3. Further:
   a. general legal and statutory limitations, regulatory restrictions, financial assistance, capital maintenance, corporate benefit, fraudulent preference, equitable subordination, "transfer pricing", "earnings stripping", "controlled foreign corporation" and other non-US tax, "exchange control restrictions" and/or thin capitalisation rules, laws or regulations (or analogous restrictions), tax restrictions, retention of title claims, employee approval requirements and similar principles may limit or prohibit the ability of a member of the Group to provide Transaction Credit Support or may require that Transaction Credit Support be limited by an amount or otherwise;
   b. if a limit as described in the previous paragraph is required (i) an Obligor will (subject to compliance with applicable fiduciary duties) use reasonable endeavours to assist in demonstrating that adequate corporate benefit accrues to it and to remedy or mitigate any other limitation including, without limitation, so far as legally possible carrying out any whitewash procedure (or similar) and (ii) the Transaction Credit Support provided will be limited to the maximum amount which the relevant Member of the Group may provide having regard to the applicable law, regulation or analogous restrictions (as the case may be);
   c. the giving of the Transaction Credit Support or perfection of any Transaction Security granted will not be required to the extent that any legal fees, registration fees, stamp duty, taxes or any other fees, costs, commissions or expenses directly associated with that Transaction Credit Support or perfection would be incurred or any tax deductibility or saving impacted which are disproportionate to the benefit obtained by the Lenders;
   d. where there is material incremental cost involved in creating Transaction Security over all assets owned by an Obligor in a particular category (e.g. real estate) the principle stated at paragraph (c) above shall apply and, subject to the Agreed Security Principles, only the material assets in that category (e.g. material real estate) shall be subject to security;
   e. any asset subject to a legal requirement, contract, lease, licence, instrument or other third party arrangement, which may prevent or condition the asset from being charged, secured or being subject to the applicable security document (including requiring a consent of any third party, supervisory board or works council (or equivalent)) and any asset which, if subject to the applicable security document, would give a third party the right to terminate or otherwise amend any rights, benefits
and/or obligations with respect to member of the Group in respect of the asset or require a member of the Group to take any action materially adverse to its interest or the interests of the Group or any other member of the Group, in each case will be excluded from a guarantee or security document provided that (i) reasonable endeavours to obtain consent to charging any asset (where otherwise prohibited) shall be used by the Group for up to 20 Business Days provided that the relevant member of the Group is satisfied that such endeavours will not involve placing relationships with third parties in jeopardy and (ii) promptly following the lifting of any such impediment, the relevant member of the Group shall charge, secure or make the asset in question subject to the applicable security document; and

f. (in each of the following cases, subject to the terms of the Intercreditor Agreement) no guarantee or security will be required to be given by or over any Acquired Person or Asset (and no consent shall be required to be sought with respect thereto) which are required to support Permitted Acquired Debt; no member of a target group or other entity acquired pursuant to a Permitted Acquisition shall be required to become a Guarantor or grant Transaction Security if prevented by the terms of the documentation governing that Permitted Acquired Debt or if becoming a Guarantor or the granting of any Transaction Security would give rise to an obligation (including any payment obligation) under or in relation thereto; and no Transaction Security will be granted over any asset secured for the benefit of any such Permitted Acquired Debt to the extent constituting Permitted Security.

4. It is expressly acknowledged that it may be either impossible or impractical to create guarantees or security over certain categories of assets in which event, such guarantees and security will not be taken over such assets.

5. A member of the Group will not be required to give Transaction Credit Support if it is not within the legal capacity of the relevant member of the Group or if the same would result in a risk to the officers of the relevant member of the Group of personal or criminal liability on their part (including for contravention of their fiduciary duties).

6. The terms of any Transaction Credit Support should not be such that it materially restricts the running of the business of, or materially adversely affects the tax arrangements of, the relevant member of the Group in the ordinary course as otherwise permitted by the Finance Documents.

7. The Transaction Security will be first ranking and over, to the extent possible under applicable law, present and future assets.

8. Without prejudice to any other requirements contained in this Agreement regarding the provision of information, information such as lists of assets, will be provided if (and only to the extent) required by local law to be provided in order to perfect or register the relevant Transaction Security and, unless required to be provided by local law more frequently, will be provided annually or, while an Event of Default is continuing, promptly following a reasonable request by the Security Agent.

9. The giving of a guarantee, the granting of security and/or the perfection of the security granted will not be required if (i) under the relevant local law it is not customary to do so and (ii) it would have a material adverse effect on the ability of the relevant member of the Group to conduct its operations and business in the ordinary course as otherwise permitted by the Finance Documents (including dealing with the secured assets and all contractual counterparties or amending, waiving or terminating (or allowing to lapse) any rights, benefits or obligations, in each case prior to an Acceleration Event), and any requirement under the Agreed Security Principles to seek consent of any person or take or not take any other action shall be subject to this paragraph 9.

10. Perfection action will only be required in jurisdictions whose law governs the relevant security interest.
11. With respect to any equity interest of any member of the Group the subject of Transaction Security, the pledge of which would require governmental Authorisation, the relevant member of the Group will use reasonable endeavours to obtain such Authorisation.

12. Each Transaction Security Document must contain a Clause which records that if there is a conflict between that Transaction Security Document and the Senior Facilities Agreement then (to the fullest extent permitted by law) the provisions of the Senior Facilities Agreement shall take priority over the provisions of that Transaction Security Document.

B. TERMS OF GUARANTEE AND SECURITY DOCUMENTS

1. The following principles will be reflected in the terms of any Transaction Credit Support taken:
   a. no claims will be made under the Transaction Credit Support, and the Transaction Security will not be enforceable, until an Acceleration Event has occurred;
   b. the Lenders will not have any rights to vote any of the ownership interests held by a member of the Group which are subject to Transaction Security or to block any funds being transferred between Members of the Group in accordance with the Finance Documents prior to the date on which an Acceleration Event has occurred; and
   c. the Transaction Security Documents should only operate to create Transaction Security rather than to impose new commercial obligations; accordingly, they will not contain representations or undertakings (such as in respect of insurance, further security, information or the payment of costs and expenses) additional to those contained in this Agreement unless inclusion of those provisions is required by law for the creation or perfection of the Transaction Security.

2. The Security Agent should only be able to exercise any power of attorney granted to it under a Transaction Security Document following the occurrence of an Acceleration Event which is continuing or five Business Days following a failure by the granting member of the Group to comply with a further assurance or perfection obligation under the relevant Transaction Security Document.

3. A Transaction Security Document should not operate so as to prevent transactions which are permitted under this Agreement or to require additional consents or authorisations.

4. Each Transaction Security Document must permit disposals where the disposal is permitted under this Agreement or the Intercreditor Agreement and must include assurances for the Security Agent to do all things reasonably requested to release Transaction Security over or in respect of the assets which are the subject of such a disposal.

5. Transaction Security Document will not provide for interest to accrue on any amount payable but unpaid thereunder in respect of which interest is accruing this Agreement.

C. PERFECTION OF SECURITY

1. Where required or customary:
   a. a Transaction Security Document will contain a power of attorney allowing the Security Agent to perform, on behalf of the security provider, its obligations under such Transaction Security Document in accordance with paragraph B(2) of these Agreed Security Principles; and
   b. documents of title relating to the assets charged will be required to be delivered to the Security Agent.

2. The Transaction Security will be perfected pursuant to local law requirements.
D. TRANSACTION CREDIT SUPPORT

1. Subject to the due execution of all relevant Transaction Security Documents, completion of relevant perfection formalities within statutorily prescribed time limits, payment of all registration fees and documentary taxes, any other rights arising by operation of law, obtaining any relevant local law legal opinions and subject to any qualifications which may be set out in this Agreement and any relevant legal opinions obtained and subject to the requirements of the Agreed Security Principles, it is further acknowledged that the Security Agent shall receive the benefit of an upstream, cross-stream and downstream guarantee and the Transaction Security will be granted to secure the Secured Liabilities subject to the Agreed Security Principles.

2. To the extent possible, the Transaction Security shall be given in favour of the Security Agent (for and on behalf of the Secured Parties) and not any Lender, Finance Party or Secured Party individually and the Security Agent will, subject to local law requirements, hold one set of Transaction Security for all of the Secured Parties. "Parallel debt" provisions will be used if necessary. To the extent possible, there should be no action required to be taken in relation to the Transaction Credit Support when any Lender assigns, transfers or sub-participates any of its participation in the Facilities to a new Lender.

3. Transaction Security over an asset shall be governed by the law of the jurisdiction in which that asset is located provided that (i) where the asset comprises a contract, the Transaction Security shall be governed by the governing law of that contract and (ii) except where it is inappropriate under applicable laws, Transaction Security over ownership interests shall be governed by the laws of the jurisdiction of incorporation of the person whose ownership interests will be subject to the Transaction Security.

4. A transferee or assignee Lender will be required to pay the reasonable costs of any re-execution, notarisation, re-registration, amendment or other Perfection Requirement for any security on any assignment or transfer to a new Lender.
To: [●] as Agent and [●] as Security agent

From: [Proposed Additional Facility Lender]

Dated: [●]

[●] – €[●] Senior Facilities Agreement dated [●] 2017 (as amended) (the “Facilities Agreement”)

1. We refer to the Facilities Agreement. This is an Additional Facility Lender Accession Notice for the purpose of the Facilities Agreement and a Creditor/Agent Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this Accession Notice unless given a different meaning in this Accession Notice.

2. [Name of Additional Facility Lender] (the “New Additional Facility Lender”) of [address/registered office] agrees to become an Additional Facility Lender and to be bound by the terms of the Facilities Agreement as a Lender under [insert details of relevant Additional Facility].

3. On the date the Additional Facility referred to above becomes effective in accordance with Clause 2.2 (Additional Facility) of the Facilities Agreement (the “Effective Date”), the New Additional Facility Lender shall become:

   (a) party to the Facilities Agreement as a Lender; and

   (b) party to the Intercreditor Agreement as a Pari Passu Lender (as defined therein).

   In consideration of the New Additional Facility Lender being accepted as a Pari Passu Lender for the purposes of the Intercreditor Agreement (and as defined therein), the New Additional Facility Lender confirms that, as from the Effective Date, it intends to be party to the Intercreditor Agreement as a Pari Passu Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Pari Passu Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

4. The New Additional Facility Lender assumes all the rights and obligations of a Lender in relation to the Commitments under the Facilities Agreement specified in the schedule to this Additional Facility Lender Accession Notice (the “Schedule”) in accordance with the terms of the Facilities Agreement.

5. [New Additional Facility Lender] administrative details for the purposes of the Facilities Agreement and the Intercreditor Agreement are as follows:

   Address: [●]

   Electronic mail address: [●]

   Attention: [●]

---

14 To be conformed to Clause 2.2/ICA.
6. [insert any other relevant details (if any)]

7. The New Additional Facility Lender confirms (without liability to the Company or any Obligor) that it is:

(a) [not a Qualifying Lender;]

(b) [a Qualifying Lender (other than a Treaty Lender); or]

(c) [a Treaty Lender (assuming the completion of all necessary procedural formalities).]  

8. [The New Additional Facility 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;

(i) a partnership each member of which is:

(ii) a company so resident in the United Kingdom; or

(b) 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 Additional Facility Lender confirms that it holds a passport under the HM Revenue & Customs 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 Company notify:

(a) each UK Borrower which is a Party as a Borrower as at the Transfer Date; and

(b) each Additional Borrower that is a UK Borrower which becomes an Additional Borrower after the Transfer Date.

that it wishes that scheme to apply to the Facilities Agreement.]  

10. It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

11. This Additional Facility Lender Accession Notice has been executed and delivered as a deed on the date stated at the beginning of this Additional Facility Lender Accession Notice and is governed by English law.

[Proposed Additional Facility Lender]

---

15 Delete as applicable. Each New Additional Facility Lender is required to confirm which of these three categories it falls within.

16 Include if new Additional Facility Lender comes within paragraph [●] of the definition of Qualifying Lender in Clause [●](●).

17 Insert jurisdiction of tax residence.

18 This confirmation must be included if the New Additional Facility Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.
By:

This Additional Facility Lender Accession Notice is accepted by the Agent and the Security Agent.

[Agent]
By:

[Security Agent]
By:
THE SCHEDULE
COMMITMENT TO BE ASSUMED

Administrative details of the New Additional Facility Lender

[insert details of Facility Office, address for notices and payment details etc.]

EXECUTED as a DEED
by [●]

_______________________________
Director/Secretary/Authorised Signatory

_______________________________
Director/Secretary/Authorised Signatory

EXECUTED AS A DEED by [New Additional Facility Lender]19
acting by [Name] ________________________

and

[Name] ________________________

acting under the authority of that company,
in the presence of:
Witness’s signature: ________________________

Name: [●]

Address: [●]

The accession Effective Date is confirmed by the Agent as [●].

[AGENT]

By: _________________________________

As Agent

and for and on behalf of each of the parties to the Agreement (other than the Company or the Obligors
and the New Additional Facility Lender)

19 Execution approach to be reviewed at the time of signing to ensure it is appropriate for the relevant Acceding Lender.
Part II
Form of Additional Facility Notice for Additional Facility

From: [the Company], [Borrower], [Additional Facility Lenders]
To: [●] as Agent
Dated: [●] – €[●] Senior Facilities Agreement dated [●] 2017 (as amended) (the “Facilities Agreement”)

1. We refer to the Facilities Agreement. This is an Additional Facility Notice in respect of an Additional Facility. Terms defined in the Facilities Agreement have the same meaning in this Additional Facility Notice unless given a different meaning in this Additional Facility Notice.

2. We wish to establish an Additional Facility on the following terms:

Borrower(s): [●]
Guarantor(s): [●]
Additional Facility Lenders (and allocated commitments): [●]
Aggregate amount of the commitments of the Additional Facility / Additional Facility Commitment: [●]
Base Currency: [●]
Other available/Optional Currencies (if any, as applicable): [●]
Interest rate and basis (if applicable) including Margin or margin ratchet: [●]
Additional Facility Commencement Date: [●]
Availability Period: [●]
Termination Date: [●]
Mandatory prepayment provisions (if any): [●]
Summary of security: [●]

Other: [●]²¹

²⁰ To be conformed to Clause 2.2/ICA.
²¹ Include any other applicable information requests or directions applicable to the Additional Facility or are required by Clause 2.2.
Yours faithfully

_____________________________

[the Company]

By:

Name:

Title:

Yours faithfully

_____________________________

[Borrower].

By:

Name:

Title:

Yours faithfully

_____________________________

[Additional Facility Lenders]

By:

Name:

Title:
SIGNATURES

The Company
GVC Holdings PLC

Address: 

Email: 
Fax: 
Attention: 

........................................................
........................................................
........................................................
The Borrower
GVC Holdings PLC

Address:

Email:
Fax:
Attention:
The Original Guarantors
GVC Holdings PLC

Address:

Email:
Fax:
Attention:
bwin.party digital entertainment Limited

in the presence of:

Address:

Email:

Fax:

Attention:
bwin.party holdings Limited

in the presence of:

Address: ................................................................

Email: ................................................................

Fax: ................................................................

Attention:................................................................

Name of Director: ..............................................
in the presence of:

Address: .................................................................

Email: ............................................................... 

Fax: ..............................................................

Attention: ..........................................................
PartyGaming IA Limited
The Original Lenders
Nomura International plc
The Governor and Company of the Bank of Ireland

Duly represented by:

Duly represented by:
The Mandated Lead Arrangers
Nomura International plc
Mediobanca-Banca di Credito Finanziario S.p.A.
The Governor and Company of the Bank of Ireland

Duly represented by:

Duly represented by:
The Agent
Wilmington Trust (London) Limited
The Security Agent
Wilmington Trust (London) Limited
SCHEDULE 3

FORM OF AMENDED AND RESTATED INTERCREDITOR AGREEMENT

2 March 2017
(as amended and restated pursuant to the Amendment and Restatement Agreement)

Intercreditor Agreement

between

Wilmington Trust (London) Limited
Senior Agent

Nomura International plc,
Deutsche Bank AG, London Branch,
Mediobanca International (Luxembourg) S.A.,
The Governor and Company of The Bank of Ireland
Senior Lenders

Wilmington Trust (London) Limited
Security Agent

GVC Holdings PLC
as Company

and others

INTERCREDITOR AGREEMENT
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ENFORCEMENT PRINCIPLES
This agreement (this “Agreement”) is dated 2 March 2017 (as amended and restated pursuant to an amendment and restatement agreement dated 5 December 2017 (the “Amendment and Restatement Agreement”)) and made between:

(1) Wilmington Trust (London) Limited as named on the signing pages as Senior Agent;

(2) the Financial Institutions named on the signing pages as Senior Lenders;

(3) Nomura International plc and Deutsche Bank AG, London Branch named on the signing parties as Senior Arrangers;

(4) GVC Holdings PLC a company incorporated under the laws of the Isle of Man, with its registered office at 32 Athol Street, Douglas, Isle of Man IM1 1JB and company number 004685V (the “Company”);

(5) the Companies named on the signing pages as Intra-Group Lenders (the “Original Intra-Group Lenders”);

(6) the Subsidiaries of the Company named on the signing pages as Debtors (together with the Company, the “Original Debtors”); and

(7) Wilmington Trust (London) Limited as security trustee for the Secured Parties (the “Security Agent”).

It is agreed as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

“1992 ISDA Master Agreement” means the Master Agreement (Multicurrency Cross-Border) as published by the International Swaps and Derivatives Association, Inc.;

“2002 ISDA Master Agreement” means the 2002 Master Agreement as published by the International Swaps and Derivatives Association, Inc.;

“Acceleration Event” means a Senior Acceleration Event, a Senior Secured Notes Acceleration Event, a Second Lien Acceleration Event or a Senior Unsecured Acceleration Event;

“Accession Undertaking” means a deed substantially in the form set out in Schedule 2 (Form of Creditor/Agent Accession Undertaking);

“Affiliate” has the meaning given to the term “Affiliate” in the Senior Facilities Agreement;

“Agent” means each of the Senior Agent, each Senior Secured Notes Trustee, each Second Lien Credit Representative, each Senior Unsecured Representative and the Security Agent;

“Agent Liabilities” means:

(a) all present and future liabilities and obligations whether actual or contingent, and whether incurred solely or jointly, of any Debtor to any Agent under the Debt Documents (but for the avoidance of doubt, excluding any such liabilities or obligations owed to the Security Agent in its capacity as the Parallel Debt Creditor); and
(b) the Senior Secured Security Agent Claim or Senior Unsecured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above;

“Agreed Security Principles” has the meaning given to the term “Agreed Security Principles” in the Senior Facilities Agreement;

“Ancillary Document” has the meaning given to the term “Ancillary Document” in the Senior Facilities Agreement;

“Ancillary Facility” has the meaning given to the term “Ancillary Facility” in the Senior Facilities Agreement;

“Ancillary Lender” means each Senior Lender (or Affiliate of a Senior Lender) which makes an Ancillary Facility available pursuant to the terms of the Senior Facilities Agreement;

“Appropriation” means the appropriation, foreclosure or similar process of the shares in the capital of a member of the Group by the Security Agent (or any Receiver or Delegate) which is effected (to the extent permitted under the relevant Security Document and applicable law) by enforcement of the Transaction Security.

“Arranger” means each Senior Arranger, each Second Lien Arranger and each Senior Unsecured Arranger;

“Arranger Liabilities” means:

(a) all present and future liabilities and obligations (whether actual and contingent and whether incurred solely or jointly) of any Debtor to any Arranger under the Debt Documents; and

(b) the Senior Secured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above;

“Available Commitment”:

(a) in relation to a Senior Lender, has the meaning given to the term “Available Commitment” in the Senior Facilities Agreement;

(b) in relation to a Second Lien Lender, has the meaning given to the term “Available Commitment” in the Second Lien Facilities Agreement; and

(c) in relation to a Senior Unsecured Lender, has the meaning given to the term “Available Commitment” in the Senior Unsecured Facilities Agreement;

“Borrowing Liabilities” means, in relation to a member of the Group, the liabilities and obligations (not being Guarantee Liabilities) it may have as a principal debtor to a Creditor or Debtor in respect of Liabilities arising under the Debt Documents (whether incurred solely or jointly and including, without limitation, liabilities and obligations as a Borrower under and as defined in the Senior Finance Documents, the Second Lien Loan Finance Documents and the Senior Unsecured Loan Finance Documents and liabilities and obligations as issuer or as a borrower (as applicable) under the Senior Secured Notes Finance Documents, the Senior Secured Notes Proceeds Loan Agreement, the Second Lien Notes Finance Documents, the Second Lien Notes Proceeds Loan Agreement, the Senior Unsecured Notes Finance Documents and the Senior Unsecured Proceeds Loan Agreement);

“Business Day” has the meaning given to the term “Business Day” in the Senior Facilities Agreement;
“Cash Management Agreement” means any agreement or arrangement pursuant to which a Cash Management Provider provides any treasury, cash pooling and/or other cash management services, including treasury, depository, overdraft, credit card processing, credit or debit card, purchase card, electronic funds transfer and the collection of cheques and direct debits, to a Debtor which is a member of the Group and which, in each case, (at the time it was entered into) does not result in a breach of any Senior Secured Finance Documents;

“Cash Management Discharge Date” means the first date on which all Cash Management Liabilities have been fully and finally discharged, whether or not as the result of an enforcement, and the Cash Management Providers (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under the Cash Management Agreements;

“Cash Management Liabilities” means:

(a) the Liabilities owed by any member of the Group to any Cash Management Provider under or in connection with any Cash Management Agreement; and

(b) the Senior Secured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above;

“Cash Management Provider” means any bank or financial institution which is a creditor of any Cash Management Liabilities and which (with the Company’s consent) becomes a Party pursuant to Clause 22.13 (New Cash Management Provider) as a Cash Management Provider and which has not ceased to be a Cash Management Provider in accordance with this Agreement;

“Cash Management Transfer” means a transfer of the Cash Management Liabilities as described in Clause 3.10 (Option to purchase: Senior Secured Notes Creditors).

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

“Close-Out Netting” means:

(a) in respect of a Hedging Agreement or a Hedging Ancillary Document based on a 1992 ISDA Master Agreement, any step involved in determining the amount payable in respect of an Early Termination Date (as defined in the 1992 ISDA Master Agreement) under section 6(e) of the 1992 ISDA Master Agreement before the application of any subsequent Set-off (as defined in the 1992 ISDA Master Agreement);

(b) in respect of a Hedging Agreement or a Hedging Ancillary Document based on a 2002 ISDA Master Agreement, any step involved in determining an Early Termination Amount (as defined in the 2002 ISDA Master Agreement) under section 6(e) of the 2002 ISDA Master Agreement before the application of any subsequent set-off under section 6(f) of the 2002 ISDA Master Agreement; and

(c) in respect of a Hedging Agreement or a Hedging Ancillary Document not based on an ISDA Master Agreement, any step involved on a termination of the hedging transactions under that Hedging Agreement pursuant to any provision of that Hedging Agreement which has a similar effect to either provision referenced in paragraph (a) and paragraph (b) above;

“Commitment” means a Senior Commitment, a Second Lien Commitment or a Senior Unsecured Commitment;
“Common Assurance” means any guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, the benefit of which (however conferred) is, to the extent legally possible and subject to any Agreed Security Principles, given to all the Senior Secured Parties in respect of their Senior Secured Liabilities and their Second Lien Liabilities;

“Common Currency” means euro;

“Common Currency Amount” means, in relation to an amount, that amount converted (to the extent not already denominated in the Common Currency) into the Common Currency at the Security Agent’s Spot Rate of Exchange on the Business Day prior to the relevant calculation;

“Common Transaction Security” means any Transaction Security which to the extent legally possible and subject to any Agreed Security Principles:

(a) is created in favour of the Security Agent as agent or trustee for the other Senior Secured Parties in respect of the Senior Secured Liabilities and the Second Lien Liabilities and (to the extent it is Senior Unsecured Shared Security), the Senior Unsecured Liabilities; or

(b) is created in favour, or for the benefit, of the Senior Secured Parties in respect of the Senior Secured Liabilities and the Second Lien Liabilities and (to the extent it is Senior Unsecured Shared Security), the Senior Unsecured Liabilities; or

(c) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as agent or trustee for the Senior Secured Parties and (in respect of Senior Unsecured Shared Security only) the Senior Unsecured Creditors, is created in favour of:

(i) all the Senior Secured Parties in respect of the Senior Secured Liabilities and the Second Lien Liabilities and (in respect of the Senior Unsecured Shared Security only) the Senior Unsecured Creditors; or

(ii) the Security Agent under a parallel debt or joint and several creditorship structure for the benefit of all the Senior Secured Parties and (in respect of the Senior Unsecured Shared Security only) the Senior Unsecured Creditors,

and which ranks in the order of priority contemplated in Clause 2.2 (Transaction Security) provided that Transaction Security may only be granted over an asset in favour of the Second Lien Creditors only (or the Security Agent as agent or trustee for the Second Lien Creditors only) or (in respect of Senior Unsecured Shared Security) the Senior Unsecured Creditors only (or the Security Agent as agent or trustee for the Senior Unsecured Creditors only) pursuant to a Security Document if, in each case, before or simultaneously with such Security Document being executed, Transaction Security is granted over the same asset in favour of the Senior Secured Creditors and, in the case of Senior Unsecured Shared Security, the Second Lien Creditors (or the Security Agent as agent or trustee for the Senior Secured Creditors and/or (if applicable) the Second Lien Creditors), and in all cases which ranks in the order of priority contemplated in Clause 2.2 (Transaction Security) and/or is expressed to be subject to the terms of this Agreement;

“Competitive Process” means a public or private auction or other competitive sale process in which more than one bidder participates or is invited to participate (including any person invited that is a Primary Creditor at the time of such invitation), which may or may not be conducted through a court or other legal proceeding, and which is conducted with the advice
of a reputable internationally recognised investment bank, firm of accountants or independent third party professional firm which is regularly engaged in such sale processes;

“Consent” means any consent, approval, release or waiver or agreement to any amendment;

“Credit Related Close-Out” means any Permitted Hedge Close-Out which is not a Non-Credit Related Close-Out;

“Credit Representative” means an Agent or a Notes Trustee;

“Creditor Conflict” means, at any time prior to the Senior Secured Discharge Date, a conflict between:

(a) the interests of any Senior Secured Creditor;

(b) the interests of any Second Lien Creditor; and

(c) the interests of any Senior Unsecured Creditor; and

at any time after the Senior Secured Discharge Date, a conflict between:

(i) the interests of any Second Lien Creditor; and

(ii) the interests of any Senior Unsecured Creditor;

“Creditor/Agent Accession Undertaking” means:

(a) an undertaking substantially in the form set out in Schedule 2 (Form of Creditor/Agent Accession Undertaking);

(b) a Transfer Certificate or an Assignment Agreement (each as defined in the relevant Facilities Agreement); or

(c) an Increase Confirmation or an Additional Facility Lender Accession Notice (as each such term is defined in the relevant Facilities Agreement),

as the context may require (and provided that, in the case of paragraphs (b) and (c) above, to the extent such document is in respect of an English law governed document or is governed by English law, such document includes accession wording to this Agreement substantially in the form set out in the undertaking referred to in paragraph (a) above); or

(d) in the case of an acceding Debtor which is expressed to accede as an Intra-Group Lender in the relevant Debtor Accession Deed, that Debtor Accession Deed;

“Creditors” means the Senior Lenders, the Second Lien Lenders, the Senior Unsecured Lenders, the Hedge Counterparties, the Agents, the Arrangers, the Senior Secured Noteholders, the Second Lien Noteholders, the Senior Unsecured Noteholders, the Cash Management Providers, the Intra-Group Lenders, the Senior Secured Notes Issuer (only in respect of any Senior Secured Notes Proceeds Loan Liabilities), the Second Lien Notes Issuer (only in respect of any Second Lien Notes Proceeds Loan Liabilities) and any Senior Unsecured Notes Borrower/Issuer SPV (only in its capacity as the creditor of any amounts constituting the proceeds of a Senior Unsecured Facility or Senior Unsecured Notes (as applicable) that have been on-lent by such Senior Unsecured Notes Borrower/Issuer SPV to the Company);

“Debt Document” means each of this Agreement, the Senior Secured Finance Documents, the Second Lien Finance Documents, the Senior Unsecured Finance Documents, the Security
Documents, any document, agreement or instrument evidencing the terms of the Intra-Group Liabilities or the Senior Secured Notes Proceeds Loan Liabilities or the Second Lien Notes Proceeds Loan Liabilities or the Senior Unsecured Proceeds Loan Liabilities and any other document designated as such by the Security Agent and the Company;

“Debtor” means each Original Debtor and any person which becomes a Party as a Debtor in accordance with the terms of Clause 22 (Changes to the Parties);

“Debtor Accession Deed” means:

(a) a deed substantially in the form set out in Schedule 1 (Form of Debtor Accession Deed); or

(b) (only in the case of a member of the Group which is acceding as a borrower or guarantor under the relevant Facilities Agreement) an Accession Deed (as defined in the relevant Facilities Agreement);

“Debtor Liabilities” means, in relation to a member of the Group, any liabilities owed to any Debtor (whether actual or contingent and whether incurred solely or jointly) by that member of the Group;

“Debtor Resignation Request” means a notice substantially in the form set out in Schedule 1 (Form of Debtor Resignation Request);

“Default” means an Event of Default or any event or circumstance which would (with the expiry of a grace period, the giving of notice or the making of any determination provided for in the relevant definition of event of default under the relevant Debt Document or any combination of the foregoing) be an Event of Default provided that any such event or circumstance which requires the satisfaction of a condition as to materiality before it becomes an Event of Default shall not be a Default or an Event of Default until such condition is satisfied;

“Defaulting Lender” means:

(a) in relation to a Senior Lender, a Senior Lender which is a Defaulting Lender under, and as defined in, the Senior Facilities Agreement; and

(b) in relation to a Second Lien Lender, a Second Lien Lender which is a Defaulting Lender under, and as defined in, the Second Lien Facilities Agreement; and

(c) in relation to a Senior Unsecured Lender, a Senior Unsecured Lender which is a Defaulting Lender under, and as defined in, the Senior Unsecured Facilities Agreement;

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

“Disposal Proceeds” has the meaning given to that term in Clause 16 (Proceeds of Disposals and Adjustment of Mandatory Prepayments);

“Distress Event” means any of:

(a) an Acceleration Event; or

(b) the enforcement of any Transaction Security;
“Distressed Disposal” means an Appropriation or a disposal of an asset or shares of a member of the Group which is:

(a) being effected at the request of an Instructing Group in circumstances where the Transaction Security has become enforceable;

(b) being effected by enforcement of the Transaction Security (including the disposal of any property of a member of the Group, the shares in which have been subject to an Appropriation); or

(c) if:

(i) the Senior Term Lender Discharge Date has not occurred, being effected after the occurrence of a Distress Event, by a Debtor to a person or persons which is not a member of the Group; and

(ii) the Senior Term Lender Discharge Date has occurred, subject to Transaction Security and which is being effected, after the occurrence of a Distress Event, by a Debtor to a person or persons which is not a member of the Group;

“Enforcement” means the enforcement of any Transaction Security, the requesting of a Distressed Disposal and/or the release or disposal of claims and/or Transaction Security on a Distressed Disposal under Clause 16.2 (Distressed Disposals), the giving of instructions as to actions with respect to the Transaction Security and/or the Charged Property following an Insolvency Event under Clause 11.7 (Security Agent instructions) and the taking of any other actions consequential on (or necessary to effect) any of those actions;

“Enforcement Action” means:

(a) in relation to any Liabilities:

(i) the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for a Primary Creditor to perform its obligations under, or of any voluntary or mandatory prepayment arising under, the Debt Documents);

(ii) the making of any declaration that any Liabilities are payable on demand;

(iii) the making of a demand in relation to a Liability that is payable on demand (other than the making of a demand for the payment of Agent Liabilities that are due at the time of such demand or a demand made by an Intra-Group Lender in relation to any Intra Group Liabilities which are on demand Liabilities);

(iv) the making of any demand against any member of the Group in relation to any Guarantee Liabilities of that member of the Group;

(v) the exercise of any right to require any member of the Group to acquire any Liability (including exercising any put or call option against any member of the Group for the redemption or purchase of any Liability but excluding any such right which arises as a result of clause 28.1 (Permitted Debt Purchase Transactions) of the Senior Facilities Agreement or any similar provisions in the Senior Secured Notes Finance Documents, the Second Lien Finance Documents or the Senior Unsecured Finance Documents and excluding any mandatory offer arising as a result of a change of control, asset sale or escrow
special mandatory redemption (howsoever described) as set out in the Notes Finance Documents);

(vi) the exercise of any right of set-off, account combination or payment netting against any member of the Group in respect of any Liabilities other than the exercise of any such right:

(A) as Close-Out Netting by a Hedge Counterparty or by a Hedging Ancillary Lender;

(B) as Payment Netting by a Hedge Counterparty or by a Hedging Ancillary Lender;

(C) as Inter-Hedging Agreement Netting by a Hedge Counterparty;

(D) as Inter-Hedging Ancillary Document Netting by a Hedging Ancillary Lender; and

(E) which is otherwise expressly permitted or not prohibited under the Senior Facilities Agreement, the Second Lien Facilities Agreement, the Senior Unsecured Facilities Agreement or otherwise not prohibited under the Senior Secured Notes Finance Documents, the Second Lien Notes Finance Documents or the Senior Unsecured Notes Finance Documents, in each case, to the extent that the exercise of that right gives effect to a Permitted Payment; and

(vii) the suing for, or commencing or joining of, any legal or arbitration proceedings against any member of the Group to recover any Liabilities;

(b) the premature termination or close-out of any hedging transaction under any Hedging Agreement save to the extent permitted by this Agreement;

(c) the taking of any steps to enforce or require the enforcement of any Transaction Security (including the crystallisation of any floating charge forming part of the Transaction Security);

(d) the entering into of any composition, compromise, assignment or similar arrangement with any member of the Group which owes any Liabilities, or has given any Security, guarantee or indemnity or other assurance against loss in respect of the Liabilities (other than any action permitted under Clause 22 (Changes to the Parties) or any debt buy-backs pursuant to open market debt repurchases, tender offers or exchange offers not undertaken as part of an announced restructuring or turnaround plan or while a Default was outstanding under the relevant Senior Secured Finance Documents, Second Lien Finance Documents or Senior Unsecured Finance Documents); or

(e) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator, judicial manager or similar officer) in relation to, the commencement of insolvency proceedings, the winding-up, dissolution, administration, judicial management or financial restructuring, of any member of the Group which owes any Liabilities, or has given any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, or any assets of such member of the Group’s assets or any suspension of payments or moratorium of any indebtedness of any such member of the Group, or any analogous procedure or step in any jurisdiction,

except that the following shall not constitute Enforcement Action:
(i) the taking of any action falling within paragraphs (a)(vii) or (e) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods; or

(ii) a Primary Creditor bringing legal proceedings against any person solely for the purpose of:

(A) obtaining injunctive relief (or any analogous remedy outside England and Wales) to restrain any actual or putative breach of any Debt Document to which it is party;

(B) obtaining specific performance (other than specific performance of an obligation to make a payment) with no claim for damages; or

(C) requesting judicial interpretation of any provision of any Debt Document to which it is party with no claim for damages; or

(iii) bringing legal proceedings against any person in connection with any securities violation, securities or listing regulations or common law fraud or to restrain any actual or putative breach of the Senior Secured Finance Documents or the Second Lien Finance Documents or the Senior Unsecured Finance Documents or for specific performance with no claims for damages;

“Enforcement Instructions” means, on or after the Senior Term Lender Discharge Date, instructions as to Enforcement (including the manner and timing of such Enforcement) given by the Majority Senior Creditors or the Majority Pari Passu Creditors to the Security Agent provided that instructions not to undertake an enforcement or an absence of instructions as to an enforcement shall not constitute “Enforcement Instructions”;

“Enforcement Objective” has the meaning given to that term in Schedule 4 (Enforcement Principles);

“Enforcement Principles” means the principles set out in Schedule 4 (Enforcement Principles);

“Enforcement Proceeds” means any amount paid to or otherwise realised by a Secured Party under or in connection with any Enforcement and, following the occurrence of a Distress Event, any other proceeds of, or arising from, any of the Charged Property;

“Entrenched Second Lien Loan Permitted Payments” means the payment of amounts referred to in sub-paragraphs (A)(I), (E), (F), (H), (I) and (J) of paragraph (a)(i) of Clause 7.5 (Permitted Second Lien Payments);

“Entrenched Second Lien Notes Permitted Payments” means the payment of amounts referred to in sub-paragraphs (IV), (V), (VI) and (VIII) of paragraph (b)(i)(A) of Clause 7.5 (Permitted Second Lien Payments);

“Event of Default” means any event or circumstance specified as such in any of the Senior Facilities Agreement, the Second Lien Facilities Agreement, the Senior Unsecured Facilities Agreement, a Senior Secured Notes Indenture, a Second Lien Notes Indenture or a Senior Unsecured Notes Indenture, as the context requires;
“Exposure” has the meaning given to that term in Clause 18.1 (Equalisation definitions);

“Facilities Agreement” means the Senior Facilities Agreement, the Second Lien Facilities Agreement and the Senior Unsecured Facilities Agreement;

“Final Discharge Date” means the later to occur of the Senior Secured Discharge Date, the Second Lien Discharge Date and the Senior Unsecured Discharge Date;

“Financial Indebtedness” has the meaning given to the term “Financial Indebtedness” in the Original Senior Facilities Agreement;

“Gross Outstandings” means, in relation to a Multi-account Overdraft Facility, the aggregate gross debit balance of overdrafts comprised in that Multi-account Overdraft Facility.

“Group” means the Company and each of its Restricted Subsidiaries from time to time;

“Group Company” means any company that is a member of the Group;

“Group Recoveries” has the meaning given to that term in Clause 17.1 (Order of application of Group Recoveries);

“Guarantee Liabilities” means, in relation to a member of the Group, the liabilities and obligations under the Debt Documents (present or future, actual or contingent and whether incurred solely or jointly) it may have to a Creditor or Debtor as or as a result of it being a guarantor or surety (including, without limitation, liabilities and obligations arising by way of guarantee, indemnity, surety, parallel debt, contribution or subrogation and in particular any guarantee, indemnity or surety arising under or in respect of the Senior Finance Documents, the Senior Secured Notes Finance Documents, the Second Lien Finance Documents or the Senior Unsecured Finance Documents);

“Guarantee Limitations” means, in respect of an Obligor (as defined in the Senior Facilities Agreement) and any payment (each a “relevant payment”) such Obligor is required to make to a Senior Secured Party in respect of its Guarantee Liabilities under the Senior Finance Documents, the limitations and restrictions applicable to that Obligor as set out in clause 21 (Guarantee and Indemnity) of the Senior Facilities Agreement and any accession to the Senior Facilities Agreement or this Agreement to the extent that such limitations and restrictions would apply to those relevant payments;

“Hedge Counterparty” means any person which becomes Party as a Hedge Counterparty pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking);

“Hedge Counterparty Obligations” means the obligations owed by any Hedge Counterparty to the Debtors under or in connection with the Hedging Agreements;

“Hedge Transfer” means a transfer to one or more of the Senior Secured Notes Creditors or the Second Lien Creditors or the Senior Unsecured Creditors (or to a nominee or nominees of such Senior Secured Notes Creditors or such Second Lien Creditors or such Senior Unsecured Creditors) of each Hedging Agreement together with:

(a) all the rights and benefits in respect of the Hedging Liabilities owed by the Debtors to each Hedge Counterparty; and

(b) all the Hedge Counterparty Obligations owed by each Hedge Counterparty to the Debtors,

in accordance with Clause 22.8 (Change of Hedge Counterparty) as described in, and subject to, Clause 3.11 (Hedge Transfer: Senior Secured Notes Creditors) or Clause 7.18 (Hedge Transfer: Second Lien Creditors).
"Hedged Currency" means the currency (other than euro) in which a portion of the Relevant Debt is denominated;

"Hedging Agreement" means:

(a) any master agreement, confirmation, schedule or other agreement (including, without limitation, any cap or collar agreements) entered into between a Debtor and a Hedge Counterparty in relation to a derivative or hedging arrangement for any purpose of hedging any interest rate exposures and/or foreign exchange exposures and/or operating exposures of the Group (including but not limited to energy prices and inflation risks);

(b) any commodity purchase contract, commodity futures or forward contract, commodities option contract or other similar contract (including commodities derivative agreements or arrangements) entered into between a Debtor and a Hedge Counterparty;

(c) any transaction entered into between a Debtor and a Hedge Counterparty pursuant to which payments which the Group would otherwise be required to make to a Hedge Counterparty in respect of the termination of an existing Hedging Agreement at the relevant time are instead committed to be paid by, in whole or in part, that Debtor in instalments over a period of time and on terms agreed between that Debtor and such Hedge Counterparty (including, without limitation, any pricing adjustment related to present value and any financing charges and swap costs incurred); and/or

(d) any Offsetting Hedge,

provided that, in each case, such arrangements were entered into by a Debtor in its ordinary course of business and not for speculative purposes and, in each case, the Company confirmed in writing that such Hedging Agreement was permitted (at the time the relevant Hedging Agreement is entered into (or, if such arrangements were entered into prior to the date on which the provider of such arrangements becomes a Hedge Counterparty, on the date on which the provider of such arrangements becomes a Hedge Counterparty in accordance with the terms of this Agreement)) by the Secured Debt Documents to share in the Transaction Security as contemplated by this Agreement. For the avoidance of doubt, any accounting treatment of any such hedging arrangements shall not be determinative of whether such hedging arrangements have been entered into for speculative purposes;

"Hedging Ancillary Document" means an Ancillary Document which relates to or evidences the terms of a Hedging Ancillary Facility;

"Hedging Ancillary Facility" means an Ancillary Facility which is made available by way of a hedging facility;

"Hedging Ancillary Lender" means an Ancillary Lender to the extent that that Ancillary Lender makes available a Hedging Ancillary Facility;

"Hedging Liabilities" means:

(a) prior to the Senior Term Lender Discharge Date:

(i) the Liabilities owed by any Debtor to the Hedge Counterparties under or in connection with the Hedging Agreements; and
(ii) the Senior Secured Security Agent Claim corresponding to the Liabilities referred to in paragraph (i) above; and

(b) on and from the Senior Term Lender Discharge Date, the Super Senior Hedging Liabilities and the Pari Passu Hedging Liabilities.

“Hedging Purchase Amount” means, in respect of a hedging transaction under a Hedging Agreement, the amount that would be payable to (expressed as a positive number) or by (expressed as a negative number) the relevant Hedge Counterparty on the relevant date if:

(a) in the case of a Hedging Agreement which is based on an ISDA Master Agreement:

(i) that date was an Early Termination Date (as defined in the relevant Hedging Agreement); and

(ii) the relevant Debtor was the Defaulting Party (under and as defined in the Hedging Agreement); or

(b) in the case of a Hedging Agreement which is not based on an ISDA Master Agreement:

(i) that date was the date on which an event similar in meaning and effect (under that Hedging Agreement) to an Early Termination Date (as defined in the ISDA Master Agreement) occurred under that Hedging Agreement; and

(ii) the relevant Debtor was in a position which is similar in meaning and effect to that of a Defaulting Party (under and as defined in the same ISDA Master Agreement),

in each case as certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement;

“Holding Company” has the meaning given to the term “Holding Company” in the Senior Facilities Agreement;

“Initial Enforcement Notice” has the meaning given to it in Clause 15.4 (Instructions to enforce).

“Initial Security Documents” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“Insolvency Event” means:

(a) in relation to any member of the Group (other than pursuant to a Permitted Transaction (as defined in the Senior Facilities Agreement)):

(i) any resolution is passed or order made for the winding-up, dissolution, administration, judicial management or reorganisation of that member of the Group, a moratorium is declared in relation to any indebtedness of that member of the Group or an administrator is appointed to that member of the Group;

(ii) any composition, compromise, assignment or arrangement is made with its creditors generally; or
the appointment of any liquidator, receiver, administrator, judicial manager, administrative receiver, compulsory manager or other similar officer in respect of that member of the Group or any of its respective assets; or

(b) any analogous procedure or step analogous to any of those set out under paragraph (a) above is taken in respect of a member of the Group in any jurisdiction,

and for the purposes of this definition, each of (i) the commencement of proceedings towards the making of a declaration that the affairs of any member of the Group are en état de désastre (or the making of such a declaration) and (ii) any steps being taken towards the making of an application for a preliminary vesting order in saisie proceedings in the Bailiwick of Guernsey in respect of realty of any member of the Group (or the making of such a preliminary vesting order), shall be deemed to be an “analogous procedure or step” in the Bailiwick of Guernsey;

“Instructing Group” means:

(a) if the Senior Term Lender Discharge Date has not occurred:

(i) prior to the Senior Secured Discharge Date, the Majority Senior Secured Creditors; and

(ii) on or after the Senior Secured Discharge Date but prior to the Second Lien Discharge Date, the Majority Second Lien Creditors; and

(iii) on or after the later of the Senior Secured Discharge Date and the Second Lien Discharge Date but prior to the Senior Unsecured Discharge Date, the Majority Senior Unsecured Creditors;

(b) at any time on or after the occurrence of the Senior Term Lender Discharge Date and:

(i) prior to the Senior Secured Discharge Date:

(A) subject to paragraph (B) below, the Majority Senior Creditors and the Majority Pari Passu Creditors; and

(B) in relation to instructions relating to Enforcement, the group of Primary Creditors entitled to give such instructions under Clause 15.4 (Instructions to enforce);

(ii) on or after the Senior Secured Discharge Date but prior to the Second Lien Discharge Date, the Majority Second Lien Creditors; and

(iii) on or after the later of the Senior Secured Discharge Date and the Second Lien Discharge Date but prior to the Senior Unsecured Discharge Date, the Majority Senior Unsecured Creditors;

“Intercreditor Amendment” means any amendment or waiver which is subject to Clause 28 (Consents, Amendments and Override);

“Inter-Hedging Agreement Netting” means the exercise of any right of set-off, account combination, close-out netting or payment netting (whether arising out of a cross agreement netting agreement or otherwise) by a Hedge Counterparty against liabilities owed to a Debtor by that Hedge Counterparty under a Hedging Agreement in respect of Hedging Liabilities owed to that Hedge Counterparty by that Debtor under another Hedging Agreement;
“Inter-Hedging Ancillary Document Netting” means the exercise of any right of set-off, account combination, close-out netting or payment netting (whether arising out of a cross agreement netting agreement or otherwise) by a Hedging Ancillary Lender against liabilities owed to a Debtor by that Hedging Ancillary Lender under a Hedging Ancillary Document in respect of Senior Lender Liabilities owed to that Hedging Ancillary Lender by that Debtor under another Hedging Ancillary Document;

“Intra-Group Lenders” means:

(a) each Original Intra-Group Lender; and

(b) each member of the Group which has made a loan available to, granted credit to or made any other financial arrangement having similar effect with another member of the Group and which becomes a party as an Intra-Group Lender in accordance with the terms of Clause 22 (Changes to the Parties);

provided that, for the avoidance of doubt, neither a Senior Secured Notes Issuer nor a Second Lien Notes Issuer nor a Senior Unsecured Borrower/Issuer SPV shall be an “Intra-Group Lender” in respect of any Senior Secured Notes Proceeds Loan Liabilities or Second Lien Notes Proceeds Loan Liabilities or Senior Unsecured Proceeds Loan Liabilities (as applicable);

“Intra-Group Liabilities” means the Liabilities owed by any member of the Group to any of the Intra-Group Lenders;

“ISDA Master Agreement” means a 1992 ISDA Master Agreement or a 2002 ISDA Master Agreement;

“Issuing Bank” has the meaning given to the term “Issuing Bank” in the Senior Facilities Agreement;

“Legal Reservations” has the meaning given to it in the Senior Facilities Agreement;

“Letter of Credit” has the meaning given to the term “Letter of Credit” in the Senior Facilities Agreement;

“Liabilities” means all present and future liabilities and obligations at any time of any member of the Group to any Creditor under the Debt Documents, both actual and contingent and whether incurred solely or jointly or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

(a) any refinancing, novation, deferral or extension;

(b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;

(c) any claim for damages or restitution; and

(d) any claim as a result of any recovery by any Debtor of a Payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings;
“Liabilities Acquisition” means, in relation to a person and to any Liabilities, a transaction where that person:

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

the rights and benefits in respect of those Liabilities;

“Majority Pari Passu Creditors” means, on or after the Senior Term Lender Discharge Date, those Senior Secured Noteholders and Pari Passu Hedge Counterparties whose Pari Passu Credit Participations at that time aggregate more than 50% of the total Pari Passu Credit Participations at that time;

“Majority Second Lien Creditors” means, at any time, those Second Lien Creditors whose Second Lien Credit Participations at that time aggregate more than 50% of the total Second Lien Credit Participations at that time;

“Majority Second Lien Lenders” has the meaning given to the term “Majority Lenders” in (and after having given effect to the terms of) the Second Lien Facilities Agreement. If, at any time, there is more than one Second Lien Facilities Agreement, any reference in this Agreement to the “Majority Second Lien Lenders” shall be construed so as to refer to the Majority Second Lien Lenders under each such Second Lien Facilities Agreement (in each case, construed in accordance with the foregoing provisions of this definition, to the extent applicable);

“Majority Senior Creditors” means, at any time, those Senior Creditors (other than the Cash Management Providers) whose Senior Credit Participations at that time aggregate 66⅔% or more of the total Senior Credit Participations at that time;

“Majority Senior Lenders” has the meaning given to the term “Majority Lenders” in the Senior Facilities Agreement after the application of:

(a) clause 41.6 (Excluded Commitments);
(b) clause 28 (Debt Purchase Transactions); and
(c) clause 41.8 (Disenfranchisement of Defaulting Lenders),

of the Senior Facilities Agreement;

If, at any time, there is more than one Senior Facilities Agreement, any reference in this Agreement to the “Majority Senior Creditors” shall be construed so as to refer to the “Majority Lenders” under each such Senior Facilities Agreement (in each case, construed in accordance with the foregoing provisions of this definition, to the extent applicable);

“Majority Senior Secured Creditors” means, at any time, those Senior Secured Creditors whose Senior Secured Credit Participations at that time aggregate more than 50% of the total Senior Secured Credit Participations at that time;

“Majority Senior Unsecured Creditors” means, at any time, those Senior Unsecured Creditors whose Senior Unsecured Credit Participations at that time aggregate more than 50% of the total Senior Unsecured Credit Participations at that time;
“Mandatory Prepayment” means a Senior Mandatory Prepayment or a Senior Secured Notes Mandatory Prepayment or a Second Lien Loan Mandatory Prepayment or a Second Lien Notes Mandatory Prepayment or a Senior Unsecured Loan Mandatory Prepayment or a Senior Unsecured Notes Mandatory Prepayment;

“Material Event of Default” means an Event of Default under the Senior Facilities Agreement in respect of clauses 26.2 (Financial Covenants), 26.3 (Other Obligations) (but only to the extent that the Senior Agent, acting on the instructions of the Majority Senior Lenders (acting reasonably), determines that the Event of Default has a Material Adverse Effect (as defined in the Senior Facilities Agreement)), 26.5 (Cross Default), 26.6 (Insolvency), 26.7 (Insolvency proceedings) or 26.8 (Creditors’ process) of the Senior Facilities Agreement;

“Multi-account Overdraft Facility” means an Ancillary Facility or Cash Management Agreement which is, or documents, an overdraft facility comprising more than one account;

“Multi-account Overdraft Liabilities” means:

(a) Liabilities arising under any Multi-account Overdraft Facility; and  
(b) the Senior Secured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above;

“Net Outstandings” means, in relation to a Multi-account Overdraft Facility, the aggregate debit balance of overdrafts comprised in that Multi-account Overdraft Facility, net of any credit balances on any account comprised in that Multi-account Overdraft Facility, to the extent that the credit balances are freely available to be set-off by the relevant Ancillary Lender or Cash Management Provider against Liabilities owed to it by the relevant Debtor under that Multi-account Overdraft Facility.

“New Second Lien Debt Liabilities” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“New Security” means all Security created or evidenced or expressed to be created or evidenced under or pursuant to the New Security Documents;

“New Security Documents” has the meaning given that term in Clause 19.6 (New Security);

“New Senior Debt Liabilities” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“New Senior Unsecured Debt Liabilities” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“Non-Credit Related Close-Out” means a Permitted Hedge Close-Out described in any of paragraphs (a)(i), (a)(iii), (a)(v), (a)(vi) or (a)(vii) of Clause 5.10 (Permitted enforcement: Hedge Counterparties);

“Non-Distressed Disposal” has the meaning given to that term in Clause 16.1 (Non-Distressed Disposals);

“Noteholders” means the Senior Secured Noteholders, the Second Lien Noteholders and the Senior Unsecured Noteholders;

“Notes Finance Documents” means:

(a) in respect of the Senior Secured Notes, the Senior Secured Notes Finance Documents;
(b) in respect of the Second Lien Notes, the Second Lien Notes Finance Documents; and
(c) in respect of the Senior Unsecured Notes, the Senior Unsecured Notes Finance Documents;

“Notes Indenture” means:
(a) in respect of the Senior Secured Notes, each Senior Secured Notes Indenture;
(b) in respect of the Second Lien Notes, each Second Lien Notes Indenture; and
(c) in respect of the Senior Unsecured Notes, each Senior Unsecured Notes Indenture;

“Notes Security Costs” means necessary costs and expenses of any holder of Security in relation to the protection, preservation or enforcement of such Security;

“Notes Trustee” means:
(a) in respect of the Senior Secured Notes, each Senior Secured Notes Trustee;
(b) in respect of the Second Lien Notes, each Second Lien Notes Trustee; and
(c) in respect of the Senior Unsecured Notes, each Senior Unsecured Notes Trustee;

“Notes Trustee Amounts” means the Senior Secured Notes Trustee Amounts, the Second Lien Notes Trustee Amounts and the Senior Unsecured Notes Trustee Amounts;

“Offsetting Hedge” means, with respect to one transaction under a Hedging Agreement (the “Primary Hedge”), another transaction under that Hedging Agreement which forms part of and is subject to the same Hedging Agreement as the Primary Hedge, and:
(a) the amounts due by one party (for the purposes of this definition only, "X") under the Offsetting Hedge are determined by reference to the same rate, measure or price as, and are offset in whole or in part by, the amounts payable by the other party (for the purposes of this definition only, "Y") under the Primary Hedge; and
(b) the amounts due by Y under the Offsetting Hedge are determined by reference to the same rate, measure or price as, and are offset in whole or in part by, the amounts payable by X under the Primary Hedge,

(where, for the avoidance of doubt, any partial offset results solely from a difference between the Primary Hedge and the Offsetting Hedge in terms of quantum of the notional amount/currency amount (as applicable) and/or quantum of the rate, measure or price specified).

“Original Senior Facilities Agreement” means the senior facilities agreement dated 2 March 2017 (as may be amended, amended and restated or supplemented from time to time) and made between, among others, the Company, the Senior Lenders, the Senior Agent and the Senior Arrangers;

“Original Senior Facilities Discharge Date” means the first date on which all Liabilities owed by the Debtors to the Senior Lenders under the Original Senior Facilities Agreement have been fully and finally discharged, whether or not as the result of an enforcement, and the Senior Lenders under the Original Senior Facilities Agreement (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under any of the Finance Documents (as defined in the Original Senior Facilities Agreement);
“Other Liabilities” means, in relation to a member of the Group, any trading and other liabilities and obligations (not being Borrowing Liabilities or Guarantee Liabilities) it may have to any Agent or any Arranger under the Debt Documents, Intra-Group Lender or Debtor or an SPV SSN Issuer (only in respect of the Senior Secured Notes Proceeds Loan) or an SPV 2LN Issuer (only in respect of the Second Lien Notes Proceeds Loan) or a Senior Unsecured Notes Issuer or a Senior Unsecured Borrower (in each case, only in respect of any Senior Unsecured Proceeds Loan);

“Parallel Debt” means (i) the Senior Secured Security Agent Claim under and as defined in Clause 20.3 (Senior Secured Security Agent Claim (Covenant to pay the Security Agent)); and (ii) the Senior Unsecured Security Agent Claim under as defined in Clause 20.4 (Senior Unsecured Security Agent Claim (Covenant to pay the Security Agent)).

“Parallel Debt Creditor” means the Security Agent in its capacity as creditor of the Parallel Debt.

“Pari Passu Creditor” means a Senior Secured Creditor.

“Pari Passu Credit Participations” means, on or after the Senior Term Lender Discharge Date:

(a) in relation to a Senior Secured Noteholder referred to in paragraph (a) of the definition thereof:
   (i) the aggregate outstanding principal amount of the Senior Secured Notes held by it, if any; and
   (ii) to the extent not falling within paragraph (a)(i) above, the aggregate outstanding principal amount of any Senior Secured Notes Liabilities in respect of which it is the creditor, if any;

(b) in relation to a Senior Secured Noteholder referred to in paragraph (b) of the definition thereof, its aggregate (drawn and undrawn) Pari Passu Loan Commitments, if any; and

(c) in relation to a Pari Passu Hedge Counterparty, in respect of any hedging transaction of that Pari Passu Hedge Counterparty under any Hedging Agreement constituting Pari Passu Hedging Liabilities that has, as of the date the calculation is made:
   (i) been terminated or closed out in accordance with the terms of this Agreement, the amount, if any, payable to it under any Hedging Agreement constituting Pari Passu Hedging Liabilities in respect of that termination or close-out as of the date of termination or close-out (and before taking into account any interest accrued on that amount since the date of termination or close-out) to the extent that amount is unpaid (that amount to be certified by the relevant Pari Passu Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement constituting Pari Passu Hedging Liabilities); and
   (ii) not been terminated or closed out, the amount, if any, which would be payable to it under that Hedging Agreement constituting Pari Passu Hedging Liabilities in respect of that hedging transaction, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the relevant Hedging Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant Hedging Agreement (or equivalent thereto in the case of a Hedging Agreement not based on an ISDA Master Agreement)), that amount, in each case, to be certified by the relevant
Pari Passu Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement constituting Pari Passu Hedging Liabilities;

“Pari Passu Debt Acceleration Event” means a Senior Acceleration Event or a Senior Secured Notes Acceleration Event.


“Pari Passu Hedge Counterparty” means, on or after the Senior Term Lender Discharge Date, each Hedge Counterparty to the extent it is owed Pari Passu Hedging Liabilities;

“Pari Passu Hedging Liabilities” means, on or after the Senior Term Lender Discharge Date, the Hedging Liabilities to the extent they are not Super Senior Hedging Liabilities;

“Pari Passu Loan Commitments” means any “Commitment” under and as defined in a Senior Secured Notes Indenture referred to in paragraph (b) of the definition thereof;

“Party” means a party to this Agreement;

“Payment” means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, repurchase, defeasance or discharge of those Liabilities (or other liabilities or obligations);

“Payment Netting” means:

(a) netting under section 2(c) of the relevant ISDA Master Agreement; and

(b) in respect of a Hedging Agreement or a Hedging Ancillary Document not based on an ISDA Master Agreement, netting pursuant to any provision of that Hedging Agreement or a Hedging Ancillary Document which has a similar effect to the provision referenced in paragraph (a) above;

“Perfection Requirements” has the meaning given to that term in the Senior Facilities Agreement;

“Permitted Administrative Costs” means the reasonable and ordinary course administrative and maintenance costs, expenses and taxes of any Senior Unsecured Notes Issuer (in acting as the issuer of Senior Unsecured Notes Liabilities) including any reporting or listing requirements;

“Permitted Cash Management Payment” means the Payments permitted by Clause 4.2 (Permitted Payments: Cash Management Liabilities);

“Permitted Hedge Close-Out” means, in relation to a hedging transaction under a Hedging Agreement, a termination or close-out of that hedging transaction which is permitted pursuant to Clause 5.10 (Permitted enforcement: Hedge Counterparties);

“Permitted Hedge Payments” means the Payments permitted by Clause 5.3 (Permitted Payments: Hedging Liabilities);

“Permitted Intra-Group Payments” means the Payments permitted by Clause 9.2 (Permitted Payments: Intra-Group Liabilities);

“Permitted Issuer/Borrower Activity” means:

(a) activities relating to maintenance of corporate existence;
(b) the ownership of cash, cash equivalents and other assets for the purpose of transferring those assets to any person (to the extent not prohibited by the terms of the Senior Finance Documents, the Second Lien Finance Documents or the Senior Unsecured Finance Documents (as applicable));

(c) the incurrence of any Liabilities to the extent permitted or not prohibited by the terms of the Debt Documents;

(d) any reasonable activity relating to the servicing, purchase, redemption, amendment, exchange, refinancing or retirement of the Senior Secured Notes or the Second Lien Notes or the Senior Unsecured Notes (as applicable);

(e) entering into and performing any rights or obligations in respect of (i) contracts and agreements with its officers, directors and employees, (ii) subscription or purchase agreements for securities or preferred equity certificates, public offering rights agreements, voting and other shareholder agreements, engagement letters, underwriting agreements, agreements with rating agencies and other agreements in respect of its securities or any offering, issuance or sale thereof and (iii) engagement letters and reliance letters in respect of legal, accounting and other advice or reports received or commissioned by it, in each case, provided such transactions and/or activities are permitted or not prohibited by the terms of the Debt Documents;

(f) activities that are directly related or reasonably incidental to such entity having equity securities listed on an internationally recognised exchange or traded on an internationally recognised market;

(g) other activities that are de minimis in nature and are permitted or not prohibited by the terms of the Debt Documents;

(h) ownership of any liabilities incurred or payments made by the relevant company in respect of its share capital and professional fees, employee costs, administration costs and Taxes in each case incurred in the ordinary course of its business as an issuer of Senior Secured Notes or Second Lien Notes or Senior Unsecured Notes or a Senior Unsecured Borrower (as applicable) and not expressly prohibited under this Agreement or the Debt Documents;

(i) incurring liabilities arising by operation of law;

(j) making claims (and the receipt of any related proceeds) for rebates or indemnification with respect to Taxes;

(k) activities in connection with any litigation or court or other proceedings that are, in each case, being contested in good faith;

(l) activities desirable to maintain Tax status;

(m) incurring liabilities for, or in connection with, Taxes; and

(n) the making of or receipt of any Payment permitted under this Agreement;

“Permitted Payment” means a Permitted Hedge Payment, a Permitted Cash Management Payment, a Permitted Intra-Group Payment, a Permitted Senior Unsecured Payment, a Permitted Senior Secured Credit Payment or a Permitted Second Lien Payment;

“Permitted Second Lien Payment” means each Payment permitted by Clause 7.5 (Permitted Second Lien Payments);
“Permitted Senior Secured Credit Payment” means the Payments permitted by Clause 3.1 (Payments of Senior Secured Creditor Liabilities);

“Permitted Senior Unsecured Payment” means the Payments permitted by Clause 8.3 (Permitted Senior Unsecured Payments);

“Post-Closing Secured Liability” means:

(a) any liability incurred under the Secured Debt Documents owed by any member of the Group which is increased, amended, redesignated, redenominated, extended, discharged or exchanged, repriced or otherwise modified after the date of this Agreement; or

(b) any new or additional liability owed by any member of the Group which arises under the Secured Debt Documents (including any new Secured Debt Documents or pursuant to any refinancing which is permitted under this Agreement) after the date of this Agreement, including (without limitation):

(i) any liability incurred under clause 2.3 (Increase) of the Senior Facilities Agreement or an equivalent thereto under the Second Lien Facilities Agreement;

(ii) any liability incurred under clause 2.2 (Additional Facility) of the Senior Facilities Agreement or an equivalent thereto under the Second Lien Facilities Agreement;

(iii) any liability incurred in connection with the implementation of any Facility Change under and in accordance with the Senior Facilities Agreement or an equivalent thereto under the Second Lien Facilities Agreement;

(iv) any liability incurred under any Hedging Agreement;

(v) any secured financing, refinancing or replacement liabilities referred to in Clause 2.5 (Additional and/or Refinancing Debt);

(vi) any secured financing of Senior Secured Creditor Liabilities, Second Lien Liabilities or Senior Unsecured Liabilities (as applicable and as described in Clause 19 (New/Refinancing of Primary Creditor Liabilities)); and/or

(vii) any other similar provision of any other Secured Debt Document.

“Primary Creditors” means:

(a) the Senior Secured Creditors;

(b) the Second Lien Creditors;

(c) the Parallel Debt Creditor; and

(d) the Senior Unsecured Creditors;

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

“Recourse Rights” means any and all rights (including accessory rights such as security interests), actions and claims that any Debtor may have against any other person (whether a Debtor or not), as a result of Enforcement Action in respect of any Transaction Security or
guarantee granted by it or otherwise as a result of the payment of such Liabilities in lieu of
another person, and including any right to be repaid or indemnified by, or to receive any
amount from that other person (whether prior to or after that enforcement or other payment),
any right of recourse by way of subrogation, contribution or any other similar right, action or
claim under any applicable law, whether arising by law, contract or otherwise.

“Relevant Ancillary Lender” means, in respect of any SFA Cash Cover, the Ancillary
Lender (if any) for which that SFA Cash Cover is provided;

“Relevant Debt” means Term Outstandings, the aggregate principal amount outstanding
under the Term Facilities under and as defined in a Second Lien Facilities Agreement or a
Senior Unsecured Facilities Agreement (as applicable), the aggregate principal amount of the
Senior Secured Notes Liabilities, Second Lien Notes Liabilities and Senior Unsecured Notes
Liabilities;

“Relevant Debt Outstanding” means, at any time, the aggregate of the amounts of principal
(not including any capitalised or deferred interest) then outstanding under Relevant Debt;

“Relevant Issuing Bank” means, in respect of any SFA Cash Cover, the Issuing Bank (if
any) for which that SFA Cash Cover is provided;

“Relevant Liabilities” means:

(a) in the case of a Creditor:

(i) the Arranger Liabilities owed to an Arranger ranking (in accordance with the
terms of this Agreement) pari passu with or in priority to that Creditor;

(ii) the Liabilities owed to Creditors ranking (in accordance with the terms of this
Agreement) pari passu with or in priority to that Creditor together with all
Agent Liabilities owed to the Agent of those Creditors; and

(iii) all present and future liabilities and obligations, actual and contingent, of the
Debtors to the Security Agent; and

(b) in the case of a Debtor, the Liabilities owed to the Creditors together with the Agent
Liabilities owed to the Agent of those Creditors, the Arranger Liabilities and all
present and future liabilities and obligations, actual and contingent, of the Debtors to
the Security Agent;

“Responsible Officer” means any officer within the corporate trust and agency department
(however described) of any Notes Trustee, including any director, associate director, vice
president, assistant vice president, assistant treasurer, trust officer or any other officer of such
Notes Trustee who customarily performs functions similar to those performed by such
officers, or to whom any corporate trust matter is referred because of such individual’s
knowledge of and familiarity with the particular subject and who shall have direct
responsibility for the administration of this Agreement and any Senior Secured Notes
Indenture, Second Lien Notes Indenture or Senior Unsecured Notes Indenture (as applicable)
to which that Notes Trustee is a party;

“Restricted Subsidiary” means each Subsidiary of the Company other than its Unrestricted
Subsidiaries.

“Retiring Security Agent” has the meaning given to that term in Clause 21 (Change of
Security Agent);
“Revolving Facility” has the meaning given to the term “Revolving Facility” in the Senior Facilities Agreement;

“Second Lien Acceleration Event” means:

(a) the Second Lien Agent, the Second Lien Notes Trustee or any of the Second Lien Noteholders exercising any of their rights (excluding placing amounts on demand but including making a demand on amounts placed on demand) to accelerate amounts outstanding under the Second Lien Facilities Agreement and/or the Second Lien Notes Indenture (as applicable); or

(b) any Second Lien Liabilities becoming due and payable by operation of any automatic acceleration provisions in any Second Lien Finance Documents;

“Second Lien Agent” means any facility agent in respect of the Second Lien Lender Liabilities that accedes as a Party in accordance with Clause 22 (Changes to the Parties);

“Second Lien Agent Liabilities” means:

(a) the Agent Liabilities owed by the Debtors to the Second Lien Agent under or in connection with the Second Lien Finance Documents; and

(b) the Senior Secured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above;

“Second Lien Borrower” has the meaning given to the term “Borrower” in any Second Lien Facilities Agreement or any equivalent definition having the same commercial effect provided that any such Borrower shall be the Company;

“Second Lien Commitment” has the meaning given to the term “Commitment” in the Second Lien Facilities Agreement (or any equivalent definition having the same commercial effect);

“Second Lien Credit Participation” means:

(a) in relation to a Second Lien Lender, its Second Lien Loan Credit Participation; and

(b) in relation to a Second Lien Noteholder, the principal amount of outstanding Second Lien Notes held by that Second Lien Noteholder;

“Second Lien Credit Representative(s)” means:

(a) prior to the Second Lien Lender Discharge Date, the Second Lien Agent; and

(b) on and from the first Second Lien Notes Issue Date, the Second Lien Notes Trustee(s) in respect of any Second Lien Notes that are outstanding;

“Second Lien Creditor” means a Second Lien Loan Creditor or a Second Lien Notes Creditor;

“Second Lien Creditor Liabilities Transfer” means a transfer of the Second Lien Liabilities to one or more of the Senior Unsecured Creditors (or to a nominee or nominees of such Senior Unsecured Creditors) as described in Clause 8.15 (Option to purchase: Senior Unsecured Creditors);

“Second Lien Debt Purchase Transaction” has the meaning given to the term “Debt Purchase Transaction” in the Second Lien Facilities Agreement;
“Second Lien Default” means a Second Lien Loan Default or a Second Lien Notes Default;

“Second Lien Discharge Date” means the latest of:

(a) the Second Lien Lender Discharge Date; and

(b) the Second Lien Notes Discharge Date;

“Second Lien Enforcement Notice” has the meaning given to that term in Clause 7.13 (Permited Second Lien Enforcement);

“Second Lien Event of Default” means a Second Lien Loan Event of Default or a Second Lien Notes Event of Default;

“Second Lien Facilities Agreement” means any second lien facilities agreement or agreements under which Second Lien Liabilities are made available and which:

(a) does not breach the terms of any Senior Secured Finance Document or any Second Lien Finance Document or any Senior Unsecured Finance Document at that time; and

(b) is designated as such by the Company by written notice to the Security Agent; and

(c) where each agent, arranger, and lender under that facilities agreement has become a Party as a Second Lien Agent, Second Lien Arranger or Second Lien Lender (as applicable) pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking),

and (unless the context requires otherwise) references in this Agreement to provisions of, or terms defined under, the Second Lien Facilities Agreement shall be construed as including reference to the corresponding provision(s) or term(s) (if any) from each Second Lien Facilities Agreement and references to “the” Second Lien Facilities Agreement shall include each Second Lien Facilities Agreement;

“Second Lien Facility” has the meaning given to the term “Facility” in the Second Lien Facilities Agreement;

“Second Lien Finance Documents” means the Second Lien Loan Finance Documents and the Second Lien Notes Finance Documents;

“Second Lien Guarantee” means each guarantee and/or indemnity by a Second Lien Guarantor to the Second Lien Creditors (or any of them) for the Second Lien Liabilities (or any of them) and/or for the obligations (or any of them) of any Issuer or borrower under any Second Lien Finance Document;

“Second Lien Guarantor” means each member of the Group which is or becomes a guarantor of any Second Lien Liabilities in accordance with a Second Lien Finance Document;

“Second Lien Lender Discharge Date” means the first date on which all Second Lien Lender Liabilities have been fully and finally discharged, whether or not as the result of an enforcement, and the Second Lien Lenders (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under any of the Second Lien Loan Finance Documents;

“Second Lien Lender Liabilities” means:

(a) the Liabilities owed by the Debtors to the Second Lien Lenders under the Second Lien Loan Finance Documents; and
(b) the Senior Secured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above;

“Second Lien Lenders” has the meaning given to the term “Lender” in the Second Lien Facilities Agreement;

“Second Lien Liabilities” means the Second Lien Lender Liabilities and the Second Lien Notes Liabilities;

“Second Lien Liabilities Outstandings” means the principal amount of outstanding Second Lien Liabilities held by the Second Lien Creditors;

“Second Lien Loan Credit Participation” means, in relation to a Second Lien Lender, the aggregate of its (drawn and undrawn) Second Lien Commitments;

“Second Lien Loan Creditors” means the Second Lien Lenders, the Second Lien Agent (on behalf of itself and the Second Lien Lenders which it represents) and the Security Agent;

“Second Lien Loan Default” means a Default under the Second Lien Facilities Agreement;

“Second Lien Loan Event of Default” means an Event of Default under the Second Lien Facilities Agreement;

“Second Lien Loan Finance Documents” has the meaning given to the term “Finance Documents” in the Second Lien Facilities Agreement;

“Second Lien Loan Finance Party” means the Finance Parties under and as defined in the Second Lien Facilities Agreement;

“Second Lien Loan Mandatory Prepayment” means a mandatory prepayment of any of the Second Lien Liabilities pursuant to the Second Lien Facilities Agreement which is permitted or not prohibited by the terms of the Debt Documents;

“Second Lien Loan Payment Default” means any Second Lien Loan Default arising by reason of any non-payment under a Second Lien Loan Finance Document other than in respect of an amount not (a) constituting principal, interest or fees and (b) exceeding EUR 1,000,000 (or its equivalent in other currencies);

“Second Lien New/Refinancing Agent” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“Second Lien New/Refinancing Liabilities” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities),

“Second Lien Noteholders” means the registered holders, from time to time, of the Second Lien Notes as determined in accordance with the Second Lien Notes Indenture(s) prior to the applicable Second Lien Notes Discharge Date;

“Second Lien Notes” means any high yield, exchange notes, securities or other debt instruments issued or to be issued by a Second Lien Notes Issuer to the extent not prohibited by the terms of the Debt Documents at the time of issue and which are designated by the Company as “Second Lien Notes” for the purposes of this Agreement on or before the date on which the Second Lien Notes Trustee(s) for such Second Lien Notes becomes a Party;

“Second Lien Notes Creditor” means each Second Lien Noteholder, the Second Lien Notes Trustee(s) and (in its capacity as creditor of the Senior Secured Security Agent Claim corresponding to the Second Lien Notes Liabilities) the Security Agent;
“Second Lien Notes Default” means a Second Lien Notes Event of Default or any event or circumstances which would (with the expiry of a grace period, the giving of notice provided for in the relevant definition of such Second Lien Notes Event of Default or the combination of the foregoing) be a Second Lien Notes Event of Default, provided that any such event or circumstance which requires any determination as to materiality before it may become a Second Lien Notes Event of Default shall not be a Second Lien Notes Default until such determination is made;

“Second Lien Notes Discharge Date” means the first date on which all the Second Lien Notes Liabilities have been fully and finally discharged, whether or not as the result of an enforcement, and the Second Lien Noteholders are under no further obligation to provide financial accommodation to any Issuer or to any of the Debtors under the Second Lien Notes Finance Documents or, as the context so requires, such discharge has occurred in relation to the Second Lien Notes Liabilities under the Second Lien Notes Indenture(s);

“Second Lien Notes Event of Default” means an event of default (however described) under the Second Lien Notes Indenture(s);

“Second Lien Notes Finance Documents” means the Second Lien Notes, the Second Lien Notes Indenture(s), the Second Lien Guarantees in respect of the Second Lien Notes, this Agreement, the Security Documents (to the extent only that such Security Documents secure Second Lien Notes Liabilities), and any other document entered into in connection with the Second Lien Notes (which, for the avoidance of doubt, excludes any document to the extent it sets out rights of the initial purchasers of Second Lien Notes (in their capacities as initial purchasers) against any member of the Group) and designated a Second Lien Notes Finance Document by the Company and the Second Lien Notes Trustee(s);

“Second Lien Notes Finance Party” means any Second Lien Notes Trustee (on behalf of itself and the Second Lien Noteholders which it represents) and the Security Agent;

“Second Lien Notes Indenture” means each indenture pursuant to which any Second Lien Notes are issued;

“Second Lien Notes Issue Date” means, in respect of the Second Lien Notes Indenture(s), the first date on which a Second Lien Note is issued pursuant to that Second Lien Notes Indenture;

“Second Lien Notes Issuer” means the issuer of the relevant Second Lien Notes provided that it is:

(a) the Company; or

(b) a limited liability company which is a special purpose vehicle incorporated for the issuance of the relevant Second Lien Notes as a direct wholly-owned Subsidiary of the Company and which (A) is a guarantor of the Senior Liabilities and (B) does not hold any shares in any other person and has no principal purpose, and does not conduct any business or own any other assets, other than (A) to issue, or for the purposes of, Second Lien Notes and activities related thereto or (B) any Permitted Issuer/Borrower Activities, and which accedes to this Agreement as a Second Lien Notes Issuer (both as a Debtor and a Creditor of Second Lien Notes Proceeds Loan Liabilities in accordance with Clause 22.3 (Accession of Second Lien Notes Issuer);

“Second Lien Notes Liabilities” means:

(a) the Liabilities owed by the Debtors to any Second Lien Notes Creditor under or in connection with the Second Lien Notes Finance Documents (in each case, whether
alone or jointly, or jointly and severally, with any other person, whether actually or
contingently, and whether as principal, surety or otherwise); and

(b) the Senior Secured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above,

provided however that the definition of “Second Lien Notes Liabilities” shall not include Second Lien Notes Trustee Amounts;

“Second Lien Notes Mandatory Prepayment” means a mandatory prepayment, repurchase or redemption (including any requirement to make an offer to repurchase) of any of the Second Lien Notes Liabilities which is of the same type as a Second Lien Loan Mandatory Prepayment;

“Second Lien Notes Payment Default” means any Second Lien Notes Default arising by reason of any non-payment under a Second Lien Notes Finance Document other than in respect of an amount not (a) constituting principal, interest or fees and (b) exceeding EUR 1,000,000 (or its equivalent in other currencies);

“Second Lien Notes Proceeds Loan” means any loan or promissory note pursuant to which any proceeds of any Second Lien Notes issued by a SPV 2LN Issuer are lent by that SPV 2LN Issuer to the Second Lien Notes Proceeds Loan Borrower;

“Second Lien Notes Proceeds Loan Agreement” means each agreement between a SPV 2LN Issuer and the Second Lien Notes Proceeds Loan Borrower evidencing the terms of a Second Lien Notes Proceeds Loan;

“Second Lien Notes Proceeds Loan Borrower” means the Company in its capacity as the borrower of a Second Lien Notes Proceeds Loan;

“Second Lien Notes Proceeds Loan Liabilities” means the Liabilities owed by the Second Lien Notes Proceeds Loan Borrower to a SPV 2LN Issuer under any Second Lien Notes Proceeds Loan Agreement;

“Second Lien Notes Refinancing Liabilities” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“Second Lien Notes Trustee” means any entity acting as trustee under any issue of Second Lien Notes and which accedes as a Party in accordance with Clause 22 (Changes to the Parties);

“Second Lien Notes Trustee Amounts” means, in relation to a Second Lien Notes Trustee, amounts payable to that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof under the Second Lien Notes Finance Documents, any provisions (including indemnity provisions) for costs and expenses in favour of that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof contained in Second Lien Notes Finance Documents, all compensation for services provided by that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof which is payable to that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof pursuant to the terms of the Second Lien Notes Finance Documents and all out-of-pocket costs and expenses properly incurred by that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof in carrying out its duties or performing any service pursuant to the terms of Second Lien Notes Finance Documents, including, without limitation (a) compensation for the costs and expenses of the collection by that Second Lien Notes Trustee of any amount payable to that Second Lien Notes Trustee for the benefit of the Second Lien Noteholders, and (b) costs
and expenses of that Second Lien Notes Trustee’s advisers, receivers, delegates, attorneys, agents or appointees (but excluding: (i) any payment in relation to any unpaid costs and expenses incurred in respect of any litigation initiated by that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee on behalf of that Second Lien Notes Trustee against any of the Senior Finance Parties; and (ii) any payment made, directly or indirectly, on or in respect of any amounts owing under any Second Lien Notes (including principal, interest, premium or any other amounts to any of the Second Lien Noteholders)) including VAT where applicable;

“Second Lien Payment Default” means any Second Lien Loan Payment Default or any Second Lien Notes Payment Default;

“Second Lien Payment Stop Notice” has the meaning given to that term in Clause 7.6 (Issue of Second Lien Payment Stop Notice);

“Second Lien Refinancing Lender Liabilities” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“Second Lien Standstill Period” has the meaning given to that term in Clause 7.14 (Second Lien Standstill Period);

“Secured Debt Documents” means the Senior Finance Documents, the Senior Secured Notes Finance Documents, the Second Lien Loan Finance Documents, the Second Lien Notes Finance Documents, the Senior Unsecured Finance Documents, the Cash Management Agreements and the Hedging Agreements;

“Secured New/Refinancing Liabilities” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“Secured Obligations” means:

(a) in the case of the Transaction Security other than Senior Unsecured Shared Security, all the Liabilities and all other present and future obligations at any time due, owing or incurred by any member of the Group and by each Debtor to any Senior Secured Party under the Secured Debt Documents (including its Liabilities in respect of any Senior Secured Security Agent Claim, but excluding its Liabilities in respect of any Senior Unsecured Security Agent Claim), both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity; and

(b) in the case of the Senior Unsecured Shared Security, all the Liabilities and all other present and future obligations at any time due, owing or incurred by any member of the Group and by each Debtor to any Secured Party under the Secured Debt Documents (including its Liabilities in respect of any Security Agent Claim), both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity;

“Secured Parties” means in relation to the Transaction Security, the Security Agent (including the Parallel Debt Creditor, if applicable), any Receiver or Delegate and each of the Agents, the Arrangers and the Primary Creditors from time to time but, in the case of each Agent, Arranger or Primary Creditor, only if it is a Party or (in the case of an Agent or a Primary Creditor) has acceded to this Agreement, in the appropriate capacity, pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking);

“Security” means a mortgage, land charge, charge, pledge, lien, assignment or transfer for security purposes or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;
“Security Agent Claims” means the Senior Secured Security Agent Claims and the Senior Unsecured Security Agent Claims;

“Security Agent’s Spot Rate of Exchange” means, in respect of the conversion of one currency (the “First Currency”) into another currency (the “Second Currency”), the Security Agent’s spot rate of exchange for the purchase of the Second Currency with the First Currency in the London foreign exchange market at or about 11.00 a.m. (London time) on a particular day, which shall be notified by the Security Agent in accordance with paragraph (d) of Clause 20.9 (Security Agent’s obligations);

“Security Documents” means:

(a) each of the Transaction Security Documents;
(b) each of the New Security Documents;
(c) any other document entered into at any time by any of the Debtors creating any Security in favour of any of the Secured Parties as security for any of the Secured Obligations; and
(d) any Security granted under any covenant for further assurance in any of the documents set out in paragraphs (a) to (c) above, which, in each case, to the extent legally possible:
   (i) is created in favour of the Security Agent as agent or trustee for the Secured Parties in respect of their Liabilities; or
   (ii) is created in favour, or for the benefit, of the Senior Secured Parties in respect of the Senior Secured Liabilities and the Second Lien Liabilities; or
   (iii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as agent or trustee for the Secured Parties, is created in favour of:
      (A) all the Secured Parties in respect of their Liabilities; and/or
      (B) the Security Agent under a parallel debt structure for the benefit of all the Secured Parties; and/or
(e) any amendment, extension or ratification of any of the foregoing documents;

“Security Property” means:

(a) the Transaction Security expressed to be granted in favour of the Security Agent as agent, trustee and/or as Parallel Debt Creditor for the Secured Parties (or pursuant to any joint and several creditorship or parallel debt provisions set out in Clause 20 (The Security Agent) for the benefit of the Secured Parties) or the relevant Secured Parties, as applicable, and all proceeds of that Transaction Security;
(b) all obligations expressed to be undertaken by a Debtor to pay amounts in respect of the Liabilities to the Security Agent as agent, trustee and/or as Parallel Debt Creditor for the Secured Parties (or pursuant to any joint and several creditorship or parallel debt provisions set out in Clause 20 (The Security Agent)) and secured by the Transaction Security together with all representations and warranties expressed to be given by a Debtor in favour of the Security Agent as agent, trustee and/or as Parallel Debt Creditor for (or otherwise for the benefit of) the Secured Parties;
(c) the Security Agent’s interest in any trust fund created pursuant to Clause 12 *(Turnover of Receipts)*; and

(d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Debt Documents to hold as trustee on trust for (or otherwise for the benefit of) the Secured Parties and/or which it holds in its own name as Parallel Debt Creditor;

“Senior Acceleration Event” means:

(a) on or prior to the Original Senior Facilities Discharge Date, an Acceleration Event (as defined in the Original Senior Facilities Agreement); and

(b) if applicable, (i) the Senior Agent in relation to any Additional Senior Facilities Agreement exercising any of its rights (excluding placing amounts on demand but including making a demand on amounts placed on demand) under any acceleration provision(s) of the Additional Senior Facilities Agreement or (ii) any automatic cancellation and/or acceleration under an Additional Senior Facilities Agreement following a Senior Event of Default;

“Senior Agent” means each Agent under and as defined in a Senior Facilities Agreement;

“Senior Agent Liabilities” means the Agent Liabilities owed by the Debtors to the relevant Senior Agent under or in connection with the related Senior Finance Documents;

“Senior Arranger” means any Mandated Lead Arranger under and as defined in the Senior Facilities Agreement;

“Senior Arranger Liabilities” means:

(a) all present and future liabilities and obligations (whether actual and contingent and whether incurred solely or jointly) of any Debtor to any Senior Arranger under or in connection with the Senior Finance Documents; and

(b) the Senior Secured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above;

“Senior Borrower” has the meaning given to the term “Borrower” in the Senior Facilities Agreement (and includes, for the avoidance of doubt, each borrower (however defined) under each Additional Senior Facilities Agreement);

“Senior Commitment” has the meaning given to the term “Commitment” in the Senior Facilities Agreement;

“Senior Credit Participation” means, in relation to a Senior Creditor, the aggregate of:

(a) prior to the Senior Term Lender Discharge Date:

(i) its aggregate (drawn and undrawn) Senior Commitments, if any; and

(ii) in respect of any hedging transaction of that Senior Creditor under any Hedging Agreement that has, as of the date the calculation is made, been terminated or closed out in accordance with the terms of this Agreement, the amount, if any, payable to it under any Hedging Agreement in respect of that termination or close-out as of the date of termination or close-out (and before taking into account any interest accrued on that amount since the date of termination or close-out) to the extent that amount is unpaid (that amount to
be certified by the relevant Senior Creditor and as calculated in accordance with the relevant Hedging Agreement; and

(iii) in respect of any hedging transaction of that Senior Creditor under any Hedging Agreement that has, as of the date the calculation is made, not been terminated or closed out, the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the relevant Hedging Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant Hedging Agreement (or equivalent thereto in the case of a Hedging Agreement not based on an ISDA Master Agreement)), that amount, in each case, to be certified by the relevant Senior Creditor and as calculated in accordance with the relevant Hedging Agreement; and

(b) on and following the Senior Term Lender Discharge Date:

(i) its aggregate (drawn and undrawn) Senior Commitments, if any;

(ii) in respect of any hedging transaction of that Senior Creditor under any Hedging Agreement constituting Super Senior Hedging Liabilities that has, as of the date the calculation is made, been terminated or closed out in accordance with the terms of this Agreement, the amount, if any, payable to it under any Hedging Agreement constituting Super Senior Hedging Liabilities in respect of that termination or close-out as of the date of termination or close-out (and before taking into account any interest accrued on that amount since the date of termination or close-out) to the extent that amount is unpaid (that amount to be certified by the relevant Senior Creditor and as calculated in accordance with the relevant Hedging Agreement constituting Super Senior Hedging Liabilities); and

(iii) in respect of any hedging transaction of that Senior Creditor under any Hedging Agreement constituting Super Senior Hedging Liabilities that has, as of the date the calculation is made, not been terminated or closed out, the amount, if any, which would be payable to it under that Hedging Agreement constituting Super Senior Hedging Liabilities in respect of that hedging transaction, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the relevant Hedging Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant Hedging Agreement (or equivalent thereto in the case of a Hedging Agreement not based on an ISDA Master Agreement)), that amount, in each case, to be certified by the relevant Senior Creditor and as calculated in accordance with the relevant Hedging Agreement constituting Super Senior Hedging Liabilities;

"Senior Creditors" means:

(a) prior to the Senior Term Lender Discharge Date, the Senior Lenders, the Cash Management Providers and the Hedge Counterparties; and

(b) on or after the Senior Term Lender Discharge Date, the Senior Lenders, the Cash Management Providers and the Super Senior Hedge Counterparties;

"Senior Debt Purchase Transaction" has the meaning given to the term "Debt Purchase Transaction" in the Senior Facilities Agreement;
“Senior Default” means a Default under the Senior Facilities Agreement;

“Senior Discharge Date” means the first date on which all Senior Liabilities have been fully and finally discharged, whether or not as the result of an enforcement, and the Senior Creditors (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under the Senior Finance Documents;

“Senior Event of Default” means an Event of Default under the Senior Facilities Agreement;

“Senior Facilities Agreement” means:

(a) until the Original Senior Facilities Discharge Date, the Original Senior Facilities Agreement; and

(b) any facilities agreement or agreements (each an “Additional Senior Facilities Agreement”):

(i) which does not breach the terms of any other Senior Secured Finance Document at that time;

(ii) which is designated as a “Senior Facilities Agreement” by the Company by written notice to each Agent who is a Party at such time; and

(iii) where each agent, arranger and lender under that facilities agreement has become a Party as a Senior Agent, Senior Arranger or Senior Lender (as applicable) pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking),

and (unless the context requires otherwise) references in this Agreement to provisions of, or terms defined under, the Senior Facilities Agreement shall be construed as including reference to the corresponding provision(s) or term(s) (if any) from each Additional Senior Facilities Agreement to those contained in the Original Senior Facilities Agreement and references to “the” Senior Facilities Agreement include each Additional Senior Facilities Agreement (and, for the avoidance of doubt, the Original Senior Facilities Agreement on or prior to the Original Senior Facilities Discharge Date) provided further that an Additional Senior Facilities Agreement entered into on or after the Senior Term Lender Discharge Date shall only be a “Senior Facilities Agreement” under this Agreement to the extent that only revolving credit facilities are available under such Additional Senior Facilities Agreement and the creditors of (and in respect of) such Additional Senior Facilities Agreement are permitted under the terms of the then existing Senior Facilities Agreement, Additional Senior Facilities Agreement and/or Senior Secured Notes Finance Documents to receive payments from the proceeds of an Enforcement in priority to the Senior Secured Notes;

“Senior Facility” has the meaning given to the term “Facility” in the Senior Facilities Agreement;

“Senior Finance Documents” has the meaning given to the term “Finance Documents” in the Senior Facilities Agreement;

“Senior Finance Party” has the meaning given to the term “Finance Party” in the Senior Facilities Agreement;

“Senior Guarantor” has the meaning given to the term “Guarantor” in the Senior Facilities Agreement;
“Senior Lender” means each Lender (as defined in the Senior Facilities Agreement), Issuing Bank and Ancillary Lender;

“Senior Lender Cash Collateral” means any cash collateral provided by a Senior Lender to an Issuing Bank pursuant to the Senior Facilities Agreement;

“Senior Lender Discharge Date” means the first date on which all Senior Lender Liabilities have been fully and finally discharged, whether or not as the result of an enforcement, and the Senior Lenders (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under any of the Debt Documents;

“Senior Lender Liabilities” means:

(a) the Liabilities owed by the Debtors to the Senior Lenders under the Senior Finance Documents including, for the avoidance of doubt any such Liabilities in connection with any Additional Facility Commitments (as defined in the Senior Facilities Agreement) (but not, for the avoidance of doubt, on or after the Senior Term Lender Discharge Date, any Commitments under Additional Facilities that are Term Facilities (each as defined in the Senior Facilities Agreement)); and

(b) the Senior Secured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above;

“Senior Lender Liabilities Transfer” means a transfer of the Senior Lender Liabilities to one or more of the Senior Secured Notes Creditors (or to a nominee or nominees of such Senior Secured Notes Creditors) described in Clause 3.10 (Option to purchase: Senior Secured Notes Creditors);

“Senior Liabilities” means:

(a) prior to the Senior Term Lender Discharge Date, the Senior Lender Liabilities, the Cash Management Liabilities and the Hedging Liabilities; and

(b) on and after the Senior Term Lender Discharge Date, the Senior Lender Liabilities, the Cash Management Liabilities and the Super Senior Hedging Liabilities;

“Senior Mandatory Prepayment” means a mandatory prepayment of any of the Senior Lender Liabilities pursuant to clause 10 (Mandatory Prepayment and Cancellation) of the Senior Facilities Agreement or otherwise made pursuant to any other provision requiring mandatory prepayment of the Senior Facilities Agreement;

“Senior Mandatory Prepayment Waiver” means any amendment or waiver of the requirement to make a Senior Mandatory Prepayment (excluding a waiver of a prepayment by a Senior Lender where, within six months of the date of the waiver, the prepayment amount so waived is applied to repay any Senior Secured Liabilities outstanding with any other Senior Secured Creditor in accordance with the Senior Secured Finance Documents), the amount thereof being the amount which would have been required to be prepaid pursuant to that Senior Mandatory Prepayment in the absence of that amendment or waiver;

“Senior New/Refinancing Agent” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

Senior Payment Default” means an Event of Default under clause 26.1 (Non-Payment) of the Senior Facilities Agreement other than in respect of an amount (a) not constituting principal, interest or fees and (b) not exceeding EUR 1,000,000 (or its equivalent in other currencies);
“Senior Principal Increase” means any increase in the principal amount of the Senior Facilities (including, without limitation, any increase under clauses 2.3 (Increase) or 2.2 (Additional Facility) of the Senior Facilities Agreement);

“Senior Refinancing Lender Liabilities” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“Senior Secured Credit Participation” means:
(a) in relation to a Senior Creditor, its Senior Credit Participation; and
(b) in relation to a Senior Secured Noteholder, the principal amount of outstanding Senior Secured Notes (under paragraph (a) of the definition thereof) held by that Senior Secured Noteholder or its aggregate (drawn or undrawn) commitments under any Senior Secured Notes (under paragraph (b) of the definition thereof);

“Senior Secured Credit Representative(s)” means:
(a) prior to the Senior Secured Lender Discharge Date, the Senior Agent; and
(b) on and from the first Senior Secured Notes Issue Date, the Senior Secured Notes Trustee(s) in respect of any Senior Secured Notes that are outstanding;

“Senior Secured Creditor Liabilities” means the Senior Lender Liabilities and the Senior Secured Notes Liabilities;

“Senior Secured Creditor Liabilities Transfer” means:
(a) a transfer of the Senior Lender Liabilities, the Cash Management Liabilities and the Senior Secured Notes Liabilities to one or more of the Second Lien Creditors (or to a nominee or nominees of such Second Lien Creditors) as described in Clause 7.17 (Option to purchase: Second Lien Creditors); or
(b) a transfer of the Senior Lender Liabilities, the Cash Management Liabilities and the Senior Secured Notes Liabilities to one or more of the Senior Unsecured Creditors (or to a nominee or nominees of such Senior Unsecured Creditors) as described in Clause 8.15 (Option to purchase: Senior Unsecured Creditors),

(as applicable);

“Senior Secured Creditors” means:
(a) prior to the Senior Term Lender Discharge Date, the Senior Secured Notes Creditors and the Senior Creditors; and
(b) on and from the Senior Term Lender Discharge Date, the Senior Secured Notes Creditors, the Senior Creditors and the Pari Passu Hedge Counterparties;

“Senior Secured Discharge Date” means the first date on which all Senior Secured Liabilities have been fully and finally discharged, whether or not as the result of an enforcement, and the Senior Secured Creditors are under no further obligation to provide financial accommodation to any of the Debtors under any of the Debt Documents;

“Senior Secured Event of Default” means a Senior Event of Default or a Senior Secured Notes Event of Default;
“Senior Secured Finance Documents” means the Senior Secured Notes Finance Documents, the Senior Finance Documents, the Cash Management Agreements and the Hedging Agreements;

“Senior Secured Liabilities” means:

(a) prior to the Senior Term Lender Discharge Date, the Senior Secured Notes Liabilities and the Senior Liabilities; and

(b) on and from the Senior Term Lender Discharge Date, the Senior Liabilities, the Senior Secured Notes Liabilities and the Pari Passu Hedging Liabilities;

“Senior Secured New/Refinancing Liabilities” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“Senior Secured Noteholders” means:

(a) (the registered holders, from time to time, of the Senior Secured Notes referred to in paragraph (a) of the definition thereof, as determined in accordance with the relevant Senior Secured Notes Indenture; and

(b) each Lender under and as defined in the relevant Senior Secured Notes Indenture referred to in paragraph (b) of the definition thereof provided that such Lender has become a Party as Senior Secured Noteholder pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking);

“Senior Secured Notes” means:

(a) any high yield notes, exchange notes, securities or other debt instruments issued or to be issued by the Senior Secured Notes Issuer that are permitted to be issued in accordance with, or such issuance is not prohibited by, the Senior Secured Finance Documents; and

(b) on or after the Senior Term Lender Discharge Date, any facility agreement, credit agreement or other facility that is or evidences any Financial Indebtedness which is incurred on or after the Senior Term Lender Discharge Date and which Financial Indebtedness is permitted under the terms of the then existing Senior Finance Documents, Senior Secured Notes Finance Documents and Senior Unsecured Finance Documents to rank pari passu in right of payment, security and the proceeds of the Transaction Security with the then existing Senior Secured Notes,

in each case, which are designated by the Company as “Senior Secured Notes” for the purposes of this Agreement on or before the date on which the Senior Secured Notes Trustee(s) for such Senior Secured Notes becomes a Party;

“Senior Secured Notes Acceleration Event” means:

(a) the Senior Secured Notes Trustee (or any of the Senior Secured Noteholders) exercising any rights to accelerate amounts outstanding under the Senior Secured Notes pursuant to any Senior Secured Notes Indenture; or

(b) any Senior Secured Notes Liabilities becoming due and payable by operation of any automatic acceleration provisions in any Senior Secured Notes Finance Documents;

“Senior Secured Notes Creditor” means each Senior Secured Noteholder, the Senior Secured Notes Trustee(s) and (in its capacity as creditor of the Senior Secured Security Agent Claim corresponding to the Senior Secured Notes Liabilities) the Security Agent;
“Senior Secured Notes Default” means a Senior Secured Notes Event of Default or any event or circumstances which would (with the expiry of a grace period, the giving of notice, the making of any determination provided for in the relevant definition of such Senior Secured Notes Event of Default or any combination of the foregoing, provided that any such event or circumstance which requires any determination as to materiality before it may become a Senior Secured Notes Event of Default shall not be a Senior Secured Notes Default until such determination is made) be a Senior Secured Notes Event of Default;

“Senior Secured Notes Discharge Date” means the first date on which all Senior Secured Notes Liabilities have been fully and finally discharged to the satisfaction of each Senior Secured Notes Trustee;

“Senior Secured Notes Event of Default” means an event of default under the relevant Senior Secured Notes Indenture;

“Senior Secured Notes Finance Documents” means the Senior Secured Notes, each Senior Secured Notes Indenture, the Senior Secured Notes Guarantees in respect of the Senior Secured Notes, this Agreement, the Security Documents and any other document entered into in connection with the Senior Secured Notes (which for the avoidance of doubt excludes any document to the extent it sets out rights of the initial purchasers or underwriters of the Senior Secured Notes (in their capacities as initial purchasers or underwriters (as applicable)) against any member of the Group) and designated a Senior Secured Notes Finance Document by the Company and a Senior Secured Notes Trustee;

“Senior Secured Notes Finance Parties” means any Senior Secured Notes Trustee (on behalf of itself and the Senior Secured Noteholders which it represents) and the Security Agent;

“Senior Secured Notes Guarantee” means each guarantee and/or indemnity by a Senior Secured Notes Guarantor to the Senior Secured Notes Creditors (or any of them) for the Senior Secured Notes (or any of them) and/or for the obligations (or any of them) of any Issuer or borrower under any Senior Secured Notes Finance Document;

“Senior Secured Notes Guarantors” means each member of the Group which is or becomes a guarantor of Senior Secured Notes in accordance with a Senior Secured Notes Indenture;

“Senior Secured Notes Indenture” means:

(a) any indenture or other debt instrument pursuant to which any Senior Secured Notes are issued; and

(b) each facility or credit agreement setting out the terms of any facility referred to in paragraph (b) of the definition of Senior Secured Notes;

“Senior Secured Notes Issue Date” means, in respect of each Senior Secured Notes Indenture, the first date on which a Senior Secured Note is issued pursuant to or, as the case may be, there are borrowings under the relevant facility, each pursuant to that Senior Secured Notes Indenture;

“Senior Secured Notes Issuer” means:

(a) the Company; or

(b) a limited liability company which:
(i) is a wholly-owned Subsidiary of the Company and (to the extent a Senior Facilities Agreement is in place) is a Borrower (as defined in the Senior Facilities Agreement) in respect of the Term Facilities (under and as defined in the Senior Facilities Agreement); or

(ii) is a special purpose vehicle incorporated for the issuance of the relevant Senior Secured Notes as a direct wholly-owned Subsidiary of the Company and which (A) is a guarantor of the Senior Liabilities and (B) does not hold any shares in any other person and has no principal purpose, and does not conduct any business or own any other assets, other than (A) to issue, or for the purposes of, Senior Secured Notes and activities related thereto or (B) any Permitted Issuer/Borrower Activities,

and which in each case, accedes to this Agreement as a Senior Secured Notes Issuer (both as a Debtor and a Creditor of Intra-Group Liabilities (in respect of a Senior Secured Notes Issuer within the definition of paragraph (a) or (b)(i) above) or Senior Secured Notes Proceeds Loan Liabilities (in respect of a Senior Secured Notes Issuer within the definition of paragraph (b)(ii) above)) in accordance with Clause 22.2 (Accession of Senior Secured Notes Issuer);

“Senior Secured Notes Liabilities” means:

(a) all present and future moneys, debts and liabilities due, owing or incurred by the Debtors to any Senior Secured Notes Finance Party or Senior Secured Noteholder under or in connection with the Senior Secured Notes or the Senior Secured Notes Finance Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise); and

(b) the Senior Secured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above,

provided, however, that the definition of “Senior Secured Notes Liabilities” shall not include the Senior Secured Notes Trustee Amounts or any Agent Liabilities owed to the Security Agent;

“Senior Secured Notes Mandatory Prepayment” means a mandatory prepayment, repurchase or redemption (including any requirement to make an offer to repurchase) of any of the Senior Secured Notes Liabilities which is of the same type as a Senior Mandatory Prepayment;

“Senior Secured Notes Outstandings” means the principal amount of outstanding Senior Secured Notes held by the Senior Secured Noteholders;

“Senior Secured Notes Proceeds Loan” means any loan or promissory note pursuant to which any proceeds of any Senior Secured Notes issued by an SPV SSN Issuer are lent by that SPV SSN Issuer to the Senior Secured Notes Proceeds Loan Borrower;

“Senior Secured Notes Proceeds Loan Agreement” means each agreement between a SPV SSN Issuer and the Senior Secured Notes Proceeds Loan Borrower evidencing the terms of a Senior Secured Notes Proceeds Loan;

“Senior Secured Notes Proceeds Loan Borrower” means the Company or any other member of the Group that is a Borrower (as defined in the Senior Facilities Agreement) of a Term Facility, in each case, in its capacity as the borrower of a Senior Secured Notes Proceeds Loan;
“Senior Secured Notes Proceeds Loan Liabilities” means the Liabilities owed by the Senior Secured Notes Proceeds Loan Borrower to an SPV SSN Issuer under any Senior Secured Notes Proceeds Loan Agreement;

“Senior Secured Notes Refinancing Liabilities” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“Senior Secured Notes Trustee” means:

(a) in the case of any issue of Senior Secured Notes referred to in paragraph (a) of the definition thereof, any entity acting as trustee under such issue of Senior Secured Notes and which accedes to this Agreement as a Senior Secured Notes Trustee pursuant to Clause 22.18 (Accession of Senior Secured Notes Trustee); and

(b) in the case of any issue of Senior Secured Notes referred to in paragraph (b) of the definition thereof, any entity acting as agent for the Senior Secured Noteholders in respect of such Senior Secured Notes and which accedes to this Agreement as a Senior Secured Notes Trustee pursuant to Clause 22.18 (Accession of Senior Secured Notes Trustee);

“Senior Secured Notes Trustee Amounts” means, in relation to a Senior Secured Notes Trustee, amounts payable to that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof under the Senior Secured Notes Finance Documents, any provisions (including indemnity provisions) for costs and expenses in favour of that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof contained in Senior Secured Notes Finance Documents, all compensation for services provided by that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof which is payable to that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof pursuant to the terms of the Senior Secured Notes Finance Documents and all out-of-pocket costs and expenses properly incurred by that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof in carrying out its duties or performing any service pursuant to the terms of Senior Secured Notes Finance Documents, including, without limitation (a) compensation for the costs and expenses of the collection by that Senior Secured Notes Trustee of any amount payable to that Senior Secured Notes Trustee for the benefit of the Senior Secured Noteholders, and (b) costs and expenses of that Senior Secured Notes Trustee’s advisers, receivers, delegates, attorneys, agents or appointees (but excluding: (i) any payment in relation to any unpaid costs and expenses incurred in respect of any litigation initiated by that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee on behalf of that Senior Secured Notes Trustee against any of the Senior Finance Parties; and (ii) any payment made directly or indirectly on or in respect of any amounts owing under any Senior Secured Notes (including principal, interest, premium or any other amounts to any of the Senior Secured Noteholders)) including VAT where applicable;

“Senior Secured Parties” means the Secured Parties other than the Senior Unsecured Finance Parties;

“Senior Secured Payment Default” means:

(a) a Senior Payment Default; or

(b) any Senior Secured Notes Default arising by reason of any non-payment under a Senior Secured Notes Finance Document other than in respect of an amount (i) not constituting principal, interest or fees and (ii) not exceeding EUR 1,000,000 (or its equivalent in other currencies);
“Senior Secured Security Agent Claim” has the meaning given to that term in Clause 20.3(b) (Senior Secured Security Agent Claim (Covenant to pay the Security Agent));

“Senior Term Lender Discharge Date” means, at a time at which Senior Lender Liabilities continue to exist with respect to any Revolving Facility, the date designated by the Company in writing to each Agent falling on or after the first date on which all Senior Lender Liabilities with respect to all Term Facilities have been fully and finally discharged, otherwise than as a result of an Enforcement, and the Senior Lenders (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors with respect to any such Term Facilities under the applicable Senior Finance Documents provided that such designation would not result, on the date of that designation, in a breach of any Secured Debt Document;

“Senior Unsecured Acceleration Event” means:

(a) the Senior Unsecured Agent exercising any of its rights to accelerate amounts outstanding under the Senior Unsecured Facilities Agreement;

(b) the Senior Unsecured Notes Trustee (or any of the Senior Unsecured Noteholders) exercising any rights to accelerate amounts outstanding under the Senior Unsecured Notes pursuant to any Senior Unsecured Notes Indenture; or

(c) any Senior Unsecured Liabilities becoming due and payable by operation of any automatic acceleration provisions in any Senior Unsecured Finance Documents;

“Senior Unsecured Agent” means each Agent under and as defined in a Senior Unsecured Facilities Agreement which accedes to this Agreement pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking);

“Senior Unsecured Agent Liabilities” means:

(a) the Agent Liabilities owed by the Debtors to the relevant Senior Unsecured Agent under or in connection with the related Senior Unsecured Loan Finance Documents; and

(b) the Senior Unsecured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above;

“Senior Unsecured Arranger” means any Arranger under and as defined in the Senior Unsecured Facilities Agreement;

“Senior Unsecured Arranger Liabilities” means:

(a) all present and future liabilities and obligations (whether actual and contingent and whether incurred solely or jointly) of any Debtor to any Senior Unsecured Arranger under the Debt Documents; and

(b) the Senior Unsecured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above;

“Senior Unsecured Borrower” has the meaning given to the term “Borrower” in the Senior Unsecured Facilities Agreement provided that it is a limited liability company which is:

(a) the Company; or

(b) to the extent not otherwise prohibited by the Debt Documents, a limited liability company which is a special purpose vehicle incorporated for the borrowing of the
relevant Senior Unsecured Facilities as a direct wholly-owned Subsidiary of the Company and which does not hold any shares in any other person and has no principal purpose, and does not conduct any business or own any other assets, other than (A) to borrow, or for the purposes of, Senior Unsecured Facilities and activities related thereto or (B) any Permitted Issuer/Borrower Activities, and which accedes to this Agreement as a Senior Unsecured Borrower (both as a Debtor and a Creditor of Senior Unsecured Proceeds Loan Liabilities) in accordance with Clause 22.6 (Accession of Senior Unsecured Borrower);

“Senior Unsecured Borrower/Issuer SPV” means a company falling within paragraph (b) of the definition of “Senior Unsecured Borrower” or paragraph (b) of the definition of “Senior Unsecured Notes Issuer”.

“Senior Unsecured Commitment” the meaning given to the term “Commitment” in the Senior Unsecured Facilities Agreement;

“Senior Unsecured Credit Participation” means:

(a) in relation to the Senior Unsecured Lenders, its aggregate (drawn and undrawn) Senior Unsecured Commitment; and

(b) in relation to a Senior Unsecured Noteholder, the principal amount of outstanding Senior Unsecured Notes held by that Senior Unsecured Noteholder;

“Senior Unsecured Creditors” means:

(a) the Senior Unsecured Lenders;

(b) prior to the Senior Unsecured Notes Discharge Date, the Senior Unsecured Noteholders and each Senior Unsecured Notes Trustee; and

(c) (in its capacity as creditor of the Security Agent Claim corresponding to the Senior Unsecured Liabilities) the Security Agent;

“Senior Unsecured Debt Purchase Transaction” has the meaning given to the term “Debt Purchase Transaction” in the Senior Unsecured Facilities Agreement;

“Senior Unsecured Default” means a Senior Unsecured Event of Default or any event which would (with the expiry of a grace period or the giving of notice provided for in the relevant definition of event of default in the relevant Senior Unsecured Finance Documents or any combination of the foregoing) be a Senior Unsecured Event of Default, provided that any such event or circumstance which requires the satisfaction of any condition as to materiality before it becomes a Senior Unsecured Event of Default shall not be a Senior Unsecured Default unless that condition is satisfied;

“Senior Unsecured Discharge Date” means the date on which all Senior Unsecured Liabilities have been unconditionally discharged in full;

“Senior Unsecured Enforcement Notice” has the meaning given to it in Clause 8.11(b) (Permitted Senior Unsecured Enforcement);

“Senior Unsecured Event of Default” means:

(a) prior to the Senior Unsecured Loan Discharge Date, an event of default under the Senior Unsecured Facilities Agreement; and
prior to the Senior Unsecured Notes Discharge Date, an event of default under the relevant Senior Unsecured Notes Indenture;

“Senior Unsecured Facilities Agreement” means any senior unsecured facilities agreement made between, among others, a Senior Unsecured Borrower, the Senior Unsecured Lenders and the Senior Unsecured Agent and which:

(a) is permitted or not prohibited by the Senior Secured Finance Documents, the Second Lien Finance Documents and any other Senior Unsecured Finance Document at that time;

(b) which is designated as a “Senior Unsecured Facilities Agreement” by the Company by written notice to each Agent who is a Party at such time; and

(c) where each agent, arranger, and lender under that facilities agreement has become a Party as a Senior Unsecured Agent, Senior Unsecured Arranger or Senior Unsecured Lender (as applicable) pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking),

and (unless the context requires otherwise) references in this Agreement to provisions of, or terms defined under, the Senior Unsecured Facilities Agreement shall be construed as including reference to the corresponding provision(s) or term(s) (if any) from each Senior Unsecured Facilities Agreement and references to “the” Senior Unsecured Facilities Agreement shall include each Senior Unsecured Facilities Agreement;

“Senior Unsecured Facility” has the meaning given to the term “Facility” in the Senior Unsecured Facilities Agreement;

“Senior Unsecured Finance Documents” means the Senior Unsecured Loan Finance Documents and the Senior Unsecured Notes Finance Documents;

“Senior Unsecured Finance Parties” means the Senior Unsecured Loan Finance Parties and the Senior Unsecured Notes Finance Parties;

“Senior Unsecured Guarantee” means each guarantee by a Senior Unsecured Guarantor of the obligations of the Senior Unsecured Notes Issuer and/or the Senior Unsecured Borrower under the Senior Unsecured Finance Documents which contains provisions in relation to payment blockage, subordination and turnover that substantially replicate those provisions of this Agreement relating to each Senior Unsecured Guarantee or shall be made expressly subject to the provisions of this Agreement in a legally binding manner;

“Senior Unsecured Guarantors” means each Group Company that is a guarantor of any Senior Unsecured Liabilities;

“Senior Unsecured Lender” means each Lender as defined in the Senior Unsecured Facilities Agreement;

“Senior Unsecured Liabilities” means the Senior Unsecured Notes Liabilities and the Senior Unsecured Loan Liabilities;

“Senior Unsecured Loan Discharge Date” means the first date on which all Senior Unsecured Loan Liabilities have been fully and finally discharged, whether or not as a result of an enforcement, and the Senior Unsecured Lenders (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under the Senior Unsecured Loan Finance Documents;
“Senior Unsecured Loan Finance Documents” has the meaning given to the term “Finance Documents” in the Senior Unsecured Facilities Agreement;

“Senior Unsecured Loan Finance Parties” means the Finance Parties under and as defined in the Senior Unsecured Facilities Agreement;

“Senior Unsecured Loan Liabilities” means:

(a) Liabilities owed by the Debtors to the Senior Unsecured Lenders under the Senior Unsecured Loan Finance Documents; and

(b) the Senior Unsecured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above;

“Senior Unsecured Loan Mandatory Prepayment” means a mandatory prepayment of any of the Senior Unsecured Loan Liabilities which is of the same type as a Senior Mandatory Prepayment;

“Senior Unsecured New/Refinancing Agent” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“Senior Unsecured New/Refinancing Liabilities” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“Senior Unsecured Noteholders” means the registered holders, from time to time, of the Senior Unsecured Notes, as determined in accordance with the relevant Senior Unsecured Notes Indenture;

“Senior Unsecured Notes” means any unsecured notes, exchange notes, securities or other debt instruments issued or to be issued by the Senior Unsecured Notes Issuer that are permitted to be issued in accordance with, or such issuance is not prohibited by, the Senior Secured Finance Documents, the Second Lien Finance Documents and any other Senior Unsecured Finance Document which are designated by the Company as “Senior Unsecured Notes” for the purposes of this Agreement on or before the date on which the Senior Unsecured Notes Trustee(s) for such Senior Unsecured Notes becomes a Party;

“Senior Unsecured Notes Creditors” means each Senior Unsecured Noteholder, the Senior Unsecured Notes Trustee(s) and (in its capacity as creditor of the Senior Secured Security Agent Claim corresponding to the Senior Unsecured Notes Liabilities) the Security Agent;

“Senior Unsecured Notes Discharge Date” means the first date on which all Senior Unsecured Notes Liabilities have been fully and finally discharged;

“Senior Unsecured Notes Finance Documents” means the Senior Unsecured Notes, each Senior Unsecured Notes Indenture, the Senior Unsecured Guarantees in respect of the Senior Unsecured Notes, this Agreement, the Security Documents (to the extent creating Senior Unsecured Shared Security) and any other document entered into in connection with the Senior Unsecured Notes (which for the avoidance of doubt excludes any document to the extent it sets out rights of the initial purchasers of the Senior Unsecured Notes (in their capacities as initial purchasers) against any member of the Group) and designated a Senior Unsecured Notes Finance Document by the Senior Unsecured Notes Issuer and a Senior Unsecured Notes Trustee;

“Senior Unsecured Notes Finance Parties” means any Senior Unsecured Notes Trustee (on behalf of itself and the Senior Unsecured Noteholders that it represents) and the Security Agent to the extent of the Senior Unsecured Shared Security;
“Senior Unsecured Notes Indenture” means the indenture or other debt instrument pursuant to which any Senior Unsecured Notes are issued;

“Senior Unsecured Notes Issue Date” means, in respect of each Senior Unsecured Notes Indenture, the first date on which a Senior Unsecured Note is issued pursuant to that Senior Unsecured Notes Indenture;

“Senior Unsecured Notes Issuer” means a limited liability company which is:

(a) the Company; or

(b) to the extent not otherwise prohibited by the Debt Documents, a limited liability company which is a special purpose vehicle incorporated for the issuance of the relevant Senior Unsecured Notes as a direct wholly-owned Subsidiary of the Company and which does not hold any shares in any other person and has no principal purpose, and does not conduct any business or own any other assets, other than (A) to issue, or for the purposes of, Senior Unsecured Notes and activities related thereto or (B) any Permitted Issuer/Borrower Activities, and which accedes to this Agreement as a Senior Unsecured Notes Issuer (both as a Debtor and a Creditor of Senior Unsecured Proceeds Loan Liabilities) in accordance with Clause 22.5 (Accession of Senior Unsecured Notes Issuer);

“Senior Unsecured Notes Liabilities” means:

(a) all present and future moneys, debts and liabilities due, owing or incurred by the Debtors to any Senior Unsecured Notes Finance Party or Senior Unsecured Noteholder under or in connection with the Senior Unsecured Notes or the Senior Unsecured Notes Finance Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise); and

(b) the Senior Unsecured Security Agent Claim corresponding to the Liabilities referred to in paragraph (a) above,

provided, however, that the definition of “Senior Unsecured Notes Liabilities” shall not include the Senior Unsecured Notes Trustee Amounts;

“Senior Unsecured Notes Mandatory Prepayment” means a mandatory prepayment, repurchase or redemption (including any requirement to make an offer to repurchase) of any of the Senior Unsecured Liabilities which is of the same type as a Senior Mandatory Prepayment;

“Senior Unsecured Notes Outstandings” means the principal amount of outstanding Senior Unsecured Notes held by the Senior Unsecured Noteholders;

“Senior Unsecured Notes Refinancing Liabilities” has the meaning given to it in Clause 19 (New/Refinancing of Primary Creditor Liabilities);

“Senior Unsecured Notes Trustee” means any entity acting as trustee under any issue of Senior Unsecured Notes and which accedes to this Agreement pursuant to Clause 22 (Changes to the Parties);

“Senior Unsecured Notes Trustee Amounts” means, in relation to a Senior Unsecured Notes Trustee, amounts payable to that Senior Unsecured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof under the Senior Unsecured Notes Finance Documents, any provisions (including indemnity provisions) for costs and expenses
in favour of that Senior Unsecured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof contained in the Senior Unsecured Notes Finance Documents, all compensation for services provided by that Senior Unsecured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof which is payable to that Senior Unsecured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof pursuant to the terms of the Senior Unsecured Notes Finance Documents and all out-of-pocket costs and expenses properly incurred by that Senior Unsecured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof in carrying out its duties or performing any service pursuant to the terms of Senior Unsecured Notes Finance Documents, including, without limitation (a) compensation for the costs and expenses of the collection by that Senior Unsecured Notes Trustee for the benefit of the Senior Unsecured Noteholders, and (b) costs and expenses of that Senior Unsecured Notes Trustee’s advisers, receivers, delegates, attorneys, agents or appointees (but excluding: (i) any payment in relation to any unpaid costs and expenses incurred in respect of any litigation initiated by that Senior Unsecured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee on behalf of that Senior Unsecured Notes Trustee against any of the Senior Finance Parties; and (ii) any payment made directly or indirectly on or in respect of any amounts owing under any Senior Unsecured Notes (including principal, interest, premium or any other amounts to any of the Senior Unsecured Noteholders)) including VAT where applicable;

“Senior Unsecured Payment Stop Notice” has the meaning given to that term in Clause 8.4 (Issue of Senior Unsecured Payment Stop Notice);

“Senior Unsecured Proceeds Loan” means any loan or promissory note pursuant to which any proceeds of the issue of any Senior Unsecured Notes or the proceeds of the Senior Unsecured Facility are lent by a Senior Unsecured Borrower/Issuer SPV to the Senior Unsecured Proceeds Loan Borrower;

“Senior Unsecured Proceeds Loan Agreement” means each agreement between a Senior Unsecured Borrower/Issuer SPV and the Senior Unsecured Proceeds Loan Borrower evidencing the terms of a Senior Unsecured Proceeds Loan;

“Senior Unsecured Proceeds Loan Borrower” means the Company as borrower of a Senior Unsecured Proceeds Loan;

“Senior Unsecured Proceeds Loan Liabilities” means the Liabilities owed by a Senior Unsecured Proceeds Loan Borrower to a Senior Unsecured Borrower/Issuer SPV under any Senior Unsecured Proceeds Loan Agreement;

“Senior Unsecured Refinancing Lender Liabilities” has the meaning given to in in Clause 19 (New/Refinancing of Primary Creditor Liabilities),

“Senior Unsecured Representative” means:

(a) each Senior Unsecured Agent; and

(b) each Senior Unsecured Notes Trustee in respect of any Senior Unsecured Notes that are outstanding;

“Senior Unsecured Security Agent Claim” has the meaning given to that term in Clause 20.4 (Senior Unsecured Security Agent Claim (Covenant to pay the Security Agent));

“Senior Unsecured Shared Security” means the Security granted in favour, or for the benefit, of the Secured Parties under the Transaction Security over:
(a) shares in a Senior Unsecured Borrower/Issuer SPV and shareholder debt instruments issued to the Company by a Senior Unsecured Borrower/Issuer SPV;

(b) any Senior Unsecured Proceeds Loan owed by the Company to a Senior Unsecured Borrower/Issuer SPV; and

(c) any other assets not falling within paragraphs (a) or (b) above to the extent provided for by the Senior Unsecured Finance Documents and not prohibited by any other Debt Document,

which, in each case, is in accordance with the terms of this Agreement;

“Senior Unsecured Standstill Period” has the meaning given to it in Clause 8.12 (Senior Unsecured Standstill Period);

“SFA Cash Cover” has the meaning given to the term “cash cover” in paragraph (e) of clause 1.2 (Construction) of the Original Senior Facilities Agreement;

“SFA Cash Cover Document” means, in relation to any SFA Cash Cover, any Senior Finance Document which creates or evidences, or is expressed to create or evidence, the Security required to be provided over that SFA Cash Cover by paragraph (iii) of the term “cash cover” as used in the Original Senior Facilities Agreement;

“Sponsor Affiliate” has the meaning given to the term “Sponsor Affiliate” in the Senior Facilities Agreement;

“SPV SSN Issuer” means a Senior Secured Notes Issuer that is a Senior Secured Notes Issuer within paragraph (b)(ii) of the definition of Senior Secured Notes Issuer;

“SPV 2LN Issuer” means a Second Lien Notes Issuer that is a Second Lien Notes Issuer within paragraph (b) of the definition of Second Lien Notes Issuer;

“Subsidiary” has the meaning given to the term “Subsidiary” in the Senior Facilities Agreement;

“Super Senior Discharge Date” means the later to occur of the Senior Lender Discharge Date, the Cash Management Discharge Date and the Super Senior Hedging Discharge Date;

“Super Senior Hedge Counterparty” means, on or after the Senior Term Lender Discharge Date, each Hedge Counterparty to the extent it is owed Super Senior Hedging Liabilities;

“Super Senior Hedging Discharge Date” means the first date on which all Super Senior Hedging Liabilities have been fully and finally discharged, whether or not as the result of an enforcement, and the Super Senior Hedge Counterparties (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents;

“Super Senior Hedging Liabilities” means, on or after the Senior Term Lender Discharge Date, all Hedging Liabilities under all Hedging Agreements (except for any Hedging Liabilities which the Company and the relevant Hedge Counterparty have agreed shall not be Super Senior Hedging Liabilities and as so notified to the Security Agent);

“Tax” has the meaning given to the term “Tax” in the Senior Facilities Agreement and “Taxes” shall be construed accordingly;

“Term Facility” means each term loan facility made available under the Senior Facilities Agreement;
"Term Outstandings" means, at any time, the aggregate of the amounts of principal (not including any capitalised or deferred interest) then outstanding under the Term Facilities;

"Trade Instrument" has the meaning given to the term “Trade Instrument” in the Senior Facilities Agreement;

"Transaction Security" means the Security created or evidenced or expressed to be created or evidenced under or pursuant to the Security Documents (including any New Security);

"Transaction Security Documents" means the “Transaction Security Documents” as defined in the Senior Facilities Agreement; and

"Unrestricted Subsidiary" means a Subsidiary of the Company which has been designated as an “Unrestricted Subsidiary” for the purposes of (and in accordance with) all of the Senior Finance Documents, the Senior Secured Notes Finance Documents, the Second Lien Finance Documents and the Senior Unsecured Finance Documents.

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

1.2 Construction

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

(i) any Agent, Ancillary Lender, Arranger, Creditor, Debtor, Hedge Counterparty, Intra-Group Lender, Issuing Bank, Company, Party, Parallel Debt Creditor, Primary Creditor, Security Agent, Senior Arranger, Senior Agent, Senior Borrower, Senior Creditor, Senior Guarantor, Senior Lender, Senior Secured Notes Issuer, Senior Secured Notes Trustee, Senior Secured Noteholder, Senior Secured Notes Guarantor, Second Lien Agent, Second Lien Borrower, Second Lien Creditor, Second Lien Guarantor, Second Lien Lender, Second Lien Notes Issuer, Second Lien Notes Trustee, Second Lien Noteholder, Senior Unsecured Agent, Senior Unsecured Arranger, Senior Unsecured Guarantor, Senior Unsecured Lender, Senior Unsecured Notes Issuer, Senior Unsecured Notes Trustee, Senior Unsecured Noteholder, Senior Unsecured Proceeds Loan Borrower or Senior Unsecured Representative shall be construed to be a reference to it in its capacity as such and not in any other capacity;

(ii) any Agent, Ancillary Lender, Arranger, Creditor, Debtor, Hedge Counterparty, Intra-Group Lender, Issuing Bank, Company, Party, Parallel Debt Creditor, Primary Creditor, Security Agent, Senior Agent, Senior Arranger, Senior Borrower, Senior Creditor, Senior Guarantor, Senior Lender, Senior Secured Notes Issuer, Senior Secured Notes Trustee, Senior Secured Noteholder, Senior Secured Notes Guarantor, Second Lien Agent, Second Lien Borrower, Second Lien Creditor, Second Lien Guarantor, Second Lien Lender, Second Lien Notes Issuer, Second Lien Notes Trustee, Second Lien Noteholder, Senior Unsecured Agent, Senior Unsecured Arranger, Senior Unsecured Guarantor, Senior Unsecured Lender, Senior Unsecured Notes Issuer, Senior Unsecured Notes Trustee, Senior Unsecured Noteholder, Senior Unsecured Proceeds Loan Borrower, or Senior Unsecured Representative or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with this Agreement;
(iii) “assets” includes present and future properties, revenues and rights of every description;

(iv) a “Debt Document” or any other agreement or instrument is (other than a reference to a Debt Document or any other agreement or instrument in original form) a reference to that Debt Document, or other agreement or instrument, as amended, novated, supplemented, extended or restated as permitted or not prohibited by this Agreement;

(v) “enforcing” (or any derivation) the Transaction Security shall include:

(A) the appointment of an administrator (or equivalent officer) of a Debtor by the Security Agent; and/or

(B) the making of a demand under Clause 20.3 (Senior Secured Security Agent Claim (Covenant to pay the Security Agent)) and under Clause 20.4 (Senior Unsecured Security Agent Claim (Covenant to pay the Security Agent)) by the Security Agent;

(vi) a “group of Creditors” includes all the Creditors and a “group of Primary Creditors” includes all the Primary Creditors;

(vii) “designated” means designated in writing by the Company and the relevant Agent (or, if applicable, the relevant Hedge Counterparty or Cash Management Provider);

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

(ix) the “original form” of a “Debt Document” or any other agreement or instrument is a reference to that Debt Document, agreement or instrument as originally entered into;

(x) “permitted” in respect of a document means where a matter is permitted or not prohibited by that document;

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

(xii) “proceeds” of a Distressed Disposal includes proceeds in cash or cash equivalent investments;

(xiii) 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, department or of any regulatory, self-regulatory or other authority or organisation;

(xiv) “shares” or “share capital” include equivalent ownership interests (and “shareholder” and similar expressions shall be construed accordingly); and

(xv) a provision of law is a reference to that provision as amended or re-enacted.

(b) Section, Clause and Schedule headings are for ease of reference only.
(c) A Default or an Event of Default is “continuing” if it has not been remedied or waived.

(d) The determination that a Second Lien Payment Stop Notice is outstanding is to be made by reference to the provisions of Clause 7.6 (Issue of Second Lien Payment Stop Notice).

(e) The determination that a Senior Unsecured Payment Stop Notice is outstanding is to be made by reference to the provisions of Clause 8.4 (Issue of Senior Unsecured Payment Stop Notice).

(f) Secured Parties may only benefit from Group Recoveries to the extent that the Liabilities of such Secured Parties have the benefit of the guarantees or security under which such Group Recoveries are received and provided that, in all cases, the rights of such Secured Parties shall in any event be subject to the priorities set out in Clause 17 (Application of Proceeds) and provided further, however, that this shall not prevent the Senior Secured Notes Trustee from claiming and being paid the Senior Secured Notes Trustee Amounts or the Senior Unsecured Notes Trustee from claiming and being paid the Senior Unsecured Notes Trustee Amounts. This shall not prevent a Senior Secured Creditor benefiting from such Group Recoveries where it was not legally possible for the Senior Secured Creditor to obtain the relevant guarantees or security or affect, in any way, the operation of Clause 18 (Equalisation).

(g) Terms used in the singular include the plural of such terms and vice versa.

(h) In determining whether or not any Liabilities have been fully and finally discharged, the relevant Agent (or, if applicable, the relevant Hedge Counterparty or Cash Management Provider and, if applicable, the Security Agent) will disregard contingent liabilities (such as the risk of claw back flowing from a preference) except to the extent the relevant Agent (or, if applicable the relevant Hedge Counterparty or Cash Management Borrower and, if applicable the Security Agent) and the Company agree (in each case, acting reasonably and after taking appropriate legal advice) that there is a reasonable likelihood that those liabilities will become actual liabilities.

(i) Where any consent is required under this Agreement from:

(i) a Senior Lender or Senior Finance Party where such consent is required after the Senior Lender Discharge Date for the applicable Senior Finance Documents (for the purposes of this sub-paragraph (i) as if the definitions of “Senior Lender Discharge Date” and “Senior Lender Liabilities” only apply to the applicable Senior Finance Documents);

(ii) a Senior Secured Notes Creditor where such consent is required after the Senior Secured Notes Discharge Date for the applicable Senior Secured Notes Finance Documents (for the purposes of this sub-paragraph (ii) as if the definitions of “Senior Secured Notes Discharge Date” and “Senior Secured Notes Liabilities” only apply to the applicable Senior Secured Notes Finance Documents);

(iii) a Second Lien Lender where such consent is required after the Second Lien Lender Discharge Date for the applicable Second Lien Loan Finance Documents (for the purposes of this sub-paragraph (iii) as if the definitions of “Second Lien Lender Discharge Date” and “Second Lien Lender Liabilities” only apply to the applicable Second Lien Loan Finance Documents), such consent requirement will cease to apply;
(iv) a Second Lien Notes Creditor where such consent is required after the Second Lien Notes Discharge Date for the applicable Second Lien Notes Finance Documents (for the purposes of this sub-paragraph (iv) as if the definitions of “Second Lien Notes Discharge Date” and “Second Lien Notes Liabilities” only apply to the applicable Second Lien Notes Finance Documents);

(v) a Senior Unsecured Notes Creditor where such consent is required after the Senior Unsecured Notes Discharge Date for the applicable Senior Unsecured Notes Finance Documents (for the purposes of this sub-paragraph (v) as if the definitions of “Senior Unsecured Notes Discharge Date” and “Senior Unsecured Notes Liabilities” only apply to the applicable Senior Unsecured Notes Finance Documents); or

(vi) a Senior Unsecured Lender where such consent is required after the Senior Unsecured Loan Discharge Date for the applicable Senior Unsecured Loan Finance Documents (for the purposes of this sub-paragraph (vi) as if the definitions of “Senior Unsecured Loan Discharge Date” and “Senior Unsecured Loan Liabilities” only apply to the applicable Senior Unsecured Loan Finance Documents),

such consent requirement will cease to apply.

(j) A Cash Management Provider will cease to be a Party for all purposes upon the termination (in accordance with their terms) of all Cash Management Agreements in respect of which it is a Cash Management Provider.

(k) References to the Senior Agent acting on behalf of the Senior Lenders means such Senior Agent acting on behalf of the Senior Lenders which it represents or, if applicable, with the consent of the requisite number of Senior Lenders required under and in accordance with the applicable Senior Facilities Agreement. A Senior Agent will be entitled to seek instructions from the Senior Lenders which it represents to the extent required by the applicable Senior Facilities Agreement as to any action to be taken by it under this Agreement. For the avoidance of doubt, references to “the” Senior Agent include each Senior Agent then Party.

(l) References to the Senior Secured Notes Trustee acting on behalf of the Senior Secured Noteholders means such Senior Secured Notes Trustee acting on behalf of the Senior Secured Noteholders which it represents or, if applicable, with the consent of the requisite number of Senior Secured Noteholders required under and in accordance with the applicable Senior Secured Notes Indenture which it represents. A Senior Secured Notes Trustee will be entitled to seek instructions from the Senior Secured Noteholders which it represents to the extent entitled or required by the applicable Senior Secured Notes Indenture and subject to the terms of the applicable Senior Secured Notes Indenture as to any action to be taken by it under this Agreement. For the avoidance of doubt, references to “the” Senior Secured Notes Trustee include each Senior Secured Notes Trustee then Party.

(m) References to the Second Lien Notes Trustee acting on behalf of the Second Lien Noteholders means such Second Lien Notes Trustee acting on behalf of the Second Lien Noteholders which it represents or, if applicable, with the consent of the requisite number of Second Lien Noteholders required under and in accordance with the applicable Second Lien Notes Indenture which it represents. A Second Lien Notes Trustee will be entitled to seek instructions from the Second Lien Noteholders which it represents to the extent entitled or required by the applicable Second Lien Notes Indenture and subject to the terms of the applicable Second Lien Notes Indenture as to any action to be taken by it under this Agreement. For the avoidance
of doubt, references to “the” Second Lien Notes Trustee include each Second Lien Notes Trustee then Party.

(n) References to the Second Lien Agent acting on behalf of the Second Lien Lenders means such Second Lien Agent acting on behalf of the Second Lien Lenders which it represents or, if applicable, with the consent of the requisite number of Second Lien Lenders required under and in accordance with the applicable Second Lien Facilities Agreement. A Second Lien Agent will be entitled to seek instructions from the Second Lien Lenders which it represents to the extent required by the applicable Second Lien Facilities Agreement as to any action to be taken by it under this Agreement. For the avoidance of doubt, references to “the” Second Lien Agent include each Second Lien Agent then Party.

(o) References to the Senior Unsecured Notes Trustee acting on behalf of the Senior Unsecured Noteholders means such Senior Unsecured Notes Trustee acting on behalf of the Senior Unsecured Noteholders which it represents or, if applicable, with the consent of the requisite number of Senior Unsecured Noteholders required under and in accordance with the applicable Senior Unsecured Notes Indenture which it represents. A Senior Unsecured Notes Trustee will be entitled to seek instructions from the Senior Unsecured Noteholders which it represents to the extent entitled or required by the applicable Senior Unsecured Notes Indenture and subject to the terms of the applicable Senior Unsecured Notes Indenture as to any action to be taken by it under this Agreement. For the avoidance of doubt, references to “the” Senior Unsecured Notes Trustee include each Senior Unsecured Notes Trustee then Party.

(p) References to the Senior Unsecured Agent acting on behalf of the Senior Unsecured Lenders means such Senior Unsecured Agent acting on behalf of the Senior Unsecured Lenders which it represents or, if applicable, with the consent of the requisite number of Senior Unsecured Lenders required under and in accordance with the applicable Senior Unsecured Facilities Agreement. A Senior Unsecured Agent will be entitled to seek instructions from the Senior Unsecured Lenders which it represents to the extent required by the applicable Senior Unsecured Facilities Agreement as to any action to be taken by it under this Agreement. For the avoidance of doubt, references to “the” Senior Unsecured Agent include each Senior Unsecured Agent then Party.

(q) Any consent to be given under this Agreement shall mean such consent is to be given in writing, which for the purposes of this Agreement will be deemed to include any instructions, waivers or consents provided through any applicable clearance system in accordance with the terms of the relevant Debt Document.

(r) Until the relevant proceeds are released from escrow, the provisions of this Agreement shall not apply to, or create any restriction in respect of, any escrow arrangement (including the provision of Security over the relevant proceeds) pursuant to which the proceeds of any Senior Secured Notes, Second Lien Notes and/or Senior Unsecured Notes are subject and this Agreement shall not govern the rights and obligations of the relevant Senior Secured Noteholders, Second Lien Noteholders or Senior Unsecured Noteholders (as applicable) until such proceeds are released from such escrow arrangement in accordance with the terms thereof.

(s) Where (i) any defined term in this Agreement refers to the definition of such term in another document or (ii) this Agreement refers to a provision in another document which, in each case, is to be entered into after the date of this Agreement (any such other document, a “Future Document”) and such Future Document does not contain such definition or provision, the relevant defined term or reference to such provision
in this Agreement (as applicable) shall be defined by reference to the equivalent term used in the Future Document or the equivalent provision of such Future Document and, if no such equivalent term is used or provision included (as applicable), shall be ignored for the purposes of this Agreement.

(t) Notwithstanding anything in this Agreement to the contrary, where any provision of this Agreement relates to:

(i) an agreement which is not in existence at such time; or

(ii) any Indebtedness which has not been committed or incurred (or an agreement in relation thereto) at such time,

until such time as such agreement has been entered into or such Indebtedness has been committed or incurred (as applicable), references in this Agreement to any such agreement or Indebtedness shall be ignored for the purposes of this Agreement.

1.3 Third party rights

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

(b) Notwithstanding any term of this Agreement, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

(c) Any Receiver, Delegate or any other person described in Clause 20.12 (No proceedings) may, subject to this Clause 1.6 and the Third Parties Rights Act, rely on any Clause of this Agreement which expressly confers rights on it.

(d) The Third Parties Rights Act shall apply to this Agreement in respect of any Noteholder which by holding a Senior Secured Note, Second Lien Note or Senior Unsecured Note has effectively agreed to be bound by the provisions of this Agreement and will be deemed to receive the benefits hereof, and be subject to the terms and conditions hereof, as if such person was a Party hereto. For purposes of this paragraph (d) and paragraph (b) above, upon any person becoming a Noteholder, such person shall be deemed a Party. In relation to any amendment or waiver of this Agreement, no such person that is deemed to be a Party by virtue of this Clause 1.6 is required to consent to or execute any amendment or waiver in order for such amendment or waiver to be effective.

1.4 Intercreditor Agreement

The Debt Documents are subject to this Agreement. In the event of any inconsistency between any Debt Document and this Agreement, this Agreement shall prevail.

2. RANKING AND PRIORITY

2.1 Creditor Liabilities

(a) Each of the Parties agrees that the Liabilities owed by

(i) the Debtors (other than a Senior Unsecured Notes Issuer or a Senior Unsecured Borrower) to the Primary Creditors shall rank in right and priority of payment in the following order and are postponed and subordinated to any prior ranking Liabilities as follows:
(A) **first**, the Senior Agent Liabilities, the Senior Unsecured Agent Liabilities, the Second Lien Agent Liabilities, the Senior Lender Liabilities, the Senior Secured Notes Liabilities, the Hedging Liabilities, the Cash Management Liabilities, the Senior Secured Notes Trustee Amounts, the Second Lien Notes Trustee Amounts, the Senior Unsecured Notes Trustee Amounts and the Senior Secured Notes Proceeds Loan Liabilities *pari passu* and without any preference between them;

(B) **second**, the Second Lien Liabilities and the Second Lien Notes Proceeds Loan Liabilities *pari passu* between themselves and without any preference between them; and

(C) **third**, the Senior Unsecured Liabilities and the Senior Unsecured Proceeds Loan Liabilities *pari passu* between themselves and without any preference between them; and

(ii) a Senior Unsecured Notes Issuer or Senior Unsecured Borrower to the Primary Creditors shall rank *pari passu* in right and priority of payment and without any preference between each of the Senior Agent Liabilities, the Second Lien Agent Liabilities, the Senior Unsecured Agent Liabilities, the Senior Lender Liabilities, the Senior Secured Notes Liabilities, the Second Lien Liabilities, the Hedging Liabilities, the Cash Management Liabilities, the Senior Secured Notes Trustee Amounts, the Second Lien Notes Trustee Amounts, the Senior Unsecured Notes Trustee Amounts and the Senior Unsecured Liabilities.

### 2.2 Transaction Security

Each of the Parties agrees that the Transaction Security shall rank and secure the following Liabilities (only to the extent that such Transaction Security is expressed to secure those Liabilities, but in the case of the Senior Lender Liabilities, the Senior Secured Notes Liabilities and the Hedging Liabilities, without prejudice to Clause 18 (*Equalisation*)) in the following order:

(a) prior to the Senior Term Lender Discharge Date:

(i) **first**, the Senior Agent Liabilities, the Second Lien Agent Liabilities, the Senior Unsecured Agent Liabilities, the Senior Lender Liabilities, the Hedging Liabilities, the Cash Management Liabilities, the Senior Secured Notes Liabilities, the Second Lien Notes Trustee Amounts and the Senior Unsecured Notes Trustee Amounts *pari passu* and without any preference between them;

(ii) **second**, the Second Lien Liabilities *pari passu* and without any preference between them; and

(iii) **third** (to the extent of any Senior Unsecured Shared Security), the Senior Unsecured Liabilities *pari passu* and without any preference between them;

(b) on and from the Senior Term Lender Discharge Date:

(i) **first**, the Senior Agent Liabilities, the Second Lien Agent Liabilities, the Senior Unsecured Agent Liabilities, the Senior Lender Liabilities, the Super Senior Hedging Liabilities, the Pari Passu Hedging Liabilities the Cash Management Liabilities, the Senior Secured Notes Liabilities, the Senior Secured Notes Trustee Amounts, the Second Lien Notes Trustee Amounts, the Senior Unsecured Notes Trustee Amounts and the Senior Unsecured Liabilities.
Secured Notes Trustee Amounts, the Second Lien Notes Trustee Amounts and the Senior Unsecured Notes Trustee Amounts *pari passu* and without any preference between them;

(ii) *second*, the Second Lien Liabilities *pari passu* and without any preference between them; and

(iii) *third* (to the extent of any Senior Unsecured Shared Security only), the Senior Unsecured Liabilities *pari passu* and without any preference between them.

### 2.3 Intra-Group Liabilities

(a) Each of the Parties agrees that the Intra-Group Liabilities are postponed and subordinated to the Liabilities owed by the Debtors to the Primary Creditors.

(b) This Agreement does not purport to rank any of the Intra-Group Liabilities as between themselves.

### 2.4 Anti-layering

(a) Notwithstanding anything in any Debt Document to the contrary, following the incurrence of any Second Lien Liabilities until the Second Lien Discharge Date, no Debtor shall, without the approval of the Majority Second Lien Creditors and any approvals required in accordance with the Senior Secured Finance Documents, issue or allow to remain outstanding any Liabilities that:

1. are secured or expressed to be secured by Transaction Security on a basis (A) junior to any of the Senior Secured Liabilities but (B) senior to the Second Lien Liabilities;

2. are expressed to rank or rank so that they are subordinated to any of the Senior Secured Liabilities but are senior to the Second Lien Liabilities; or

3. are contractually subordinated in right of payment to any of the Senior Secured Liabilities and senior in right of payment to the Second Lien Liabilities.

(b) The foregoing shall not prevent:

1. subordination arising by operation of law; or

2. a Debtor from incurring additional Senior Secured Liabilities in accordance with the terms of the Senior Secured Finance Documents which are expressed to be secured by the Transaction Security on *pari passu* or (in the case of revolving credit facilities, related ancillary and cash management facilities or hedging only) super senior basis to the other Senior Secured Liabilities and/or (in the case of revolving credit facilities and related ancillary and cash management facilities only) which are contractually senior in right of payment to any of the other Senior Secured Liabilities.

### 2.5 Additional and/or Refinancing Debt

(a) The Creditors acknowledge that the Debtors (or any of them) may wish to (i) incur incremental Borrowing Liabilities and/or Guarantee Liabilities in respect of incremental Borrowing Liabilities or new borrowing liabilities and guarantee liabilities or (ii) refinance Borrowing Liabilities and/or incur Guarantee Liabilities in
respect of any such refinancing of Borrowing Liabilities, which in any such case are intended to rank pari passu with or (other than (except in the case of, on and from the Senior Term Lender Discharge Date, the Senior Lender Liabilities, the Cash Management Liabilities and the Super Senior Hedging Liabilities) in priority to the Senior Secured Liabilities in respect of payments made by the Security Agent pursuant to Clause 17 (Application of Proceeds) only) in priority to any existing Liabilities and/or share pari passu with or (other than (except in the case of, on and from the Senior Term Lender Discharge Date, the Senior Lender Liabilities, the Cash Management Liabilities and the Super Senior Hedging Liabilities) in priority to the Senior Secured Liabilities in respect of payments made by the Security Agent pursuant to Clause 17 (Application of Proceeds) only) in priority to any existing Security and/or to rank behind any existing Liabilities and/or to share in any existing Security behind such existing Liabilities.

(b) Without limiting the generality of any other provision of this Agreement including Clause 19 (New/Refinancing of Primary Creditor Liabilities) but, in the case of the Second Lien Creditors, subject to Clause 2.4 (Anti-layering), the Creditors confirm that if and to the extent such a financing or refinancing and such ranking and such Security is permitted or not prohibited by the terms of the Debt Documents at such time, they will (at the cost of the Debtors) co-operate with the Debtors with a view to enabling such financing or refinancing and such sharing in the Security to take place. In particular, but without limitation, the Senior Lenders, the Hedge Counterparties, the Second Lien Lenders, the Senior Unsecured Lenders, the Senior Secured Noteholders, the Second Lien Noteholders and the Senior Unsecured Noteholders hereby authorise and direct its Agent to execute any amendment, confirmation or other relevant document to this Agreement and such other Debt Documents required to reflect such arrangements to the extent such financing, refinancing and/or sharing is permitted or not prohibited by such Debt Documents, provided that such amendment, confirmation or other relevant document will not impose any personal obligations on the Agent or adversely affect the rights, duties, liabilities, indemnifications or immunities of the Agent under the Debt Documents.

3. SENIOR LENDER LIABILITIES AND SENIOR SECURED NOTES LIABILITIES

3.1 Payments of Senior Secured Creditor Liabilities

The Debtors may make Payments in respect of the Senior Secured Creditor Liabilities (other than Hedging Liabilities) at any time in accordance with the provisions of the applicable Senior Finance Documents and the Senior Secured Notes Finance Documents, provided that, following the occurrence of a Senior Acceleration Event, a Senior Secured Notes Acceleration Event or an Insolvency Event, no Debtor may make (and no Senior Secured Creditor may receive) Payments of the Senior Lender Liabilities or Senior Secured Notes Liabilities except from Group Recoveries distributed in accordance with Clause 17 (Application of Proceeds).

3.2 Amendments and waivers

(a) Subject to paragraph (b) and to Clause 5.6 (Amendments and waivers: Hedging Agreements), the relevant Senior Secured Creditors and Debtors may amend or waive the terms of the Senior Secured Finance Documents in accordance with their terms (and subject to any consent required under them) at any time.

(b) The terms of the Senior Secured Finance Documents may not be amended or waived if such amendment or waiver would conflict with the provisions of this Agreement.

3.3 Increase of principal: Senior Lenders
The Senior Lenders may from time to time (if permitted under the terms of the Senior Facilities Agreement) effect a Senior Principal Increase in an amount which:

(a) is not prohibited by the Senior Secured Finance Documents, the Second Lien Finance Documents and the Senior Unsecured Finance Documents; or

(b) is otherwise approved by the Senior Agent under any other Senior Facilities Agreement, the Senior Secured Notes Trustee(s), the Second Lien Credit Representative(s) and the Senior Unsecured Representatives (at that time),

and, in each case, the amount of that Senior Principal Increase (together with interest, fees and commission on that amount) shall be treated as being part of the Senior Liabilities and the Senior Lender Liabilities.

3.4 Security and guarantees: Senior Secured Creditors

Other than as set out in Clause 3.6 (Security: Ancillary Lenders and Issuing Banks), the Senior Lenders and the Senior Secured Notes Creditors may take, accept or receive the benefit of:

(a) any Security from any member of the Group in respect of the Senior Lender Liabilities or the Senior Secured Notes Liabilities in addition to the Common Transaction Security if (except for any Security permitted under Clause 3.6 (Security: Ancillary Lenders and Issuing Banks)) and to the extent legally possible and subject to any Agreed Security Principles, the other Senior Secured Parties already benefit from such Security (or Security over the same assets) or at the same time it is also offered either:

(i) to the Security Agent as agent or trustee for the other Senior Secured Parties in respect of their Liabilities; or

(ii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as agent or trustee for the Senior Secured Parties:

(A) to the other Senior Secured Parties in respect of their Liabilities; or

(B) to the Security Agent under a parallel debt structure, joint and several creditor structure or agency structure for the benefit of the other Senior Secured Parties,

and ranks in the same order of priority as that contemplated in Clause 2.2 (Transaction Security), provided that all amounts received or recovered by any Senior Secured Creditor with respect to such Security are immediately paid to the Security Agent and held and applied in accordance with Clause 17 (Application of Proceeds); and

(b) any guarantee, indemnity or other assurance against loss from any member of the Group in respect of the Senior Lender Liabilities or the Senior Secured Notes Liabilities in addition to those in:

(i) the Senior Facilities Agreement or the Senior Secured Notes Indenture;

(ii) this Agreement; or

(iii) any Common Assurance,
if (except for any guarantee, indemnity or other assurance against loss permitted under Clause 3.6 (Security: Ancillary Lenders and Issuing Banks)) and to the extent legally possible and subject to any Agreed Security Principles, the other Senior Secured Parties already benefit from such a guarantee, indemnity or other assurance against loss, or at the same time it is also offered to the other Senior Secured Parties in respect of their Liabilities and ranks in the same order of priority as that contemplated in Clause 2 (Ranking and Priority).

(c) For the avoidance of doubt, this Clause 3.4 shall:

(i) not require any security or guarantee to be granted in respect of any Senior Unsecured Liabilities; and

(ii) not constitute or create any Security or guarantee.

3.5 New Security: Senior Lender Liabilities

(a) Without prejudice to Clause 2 (Ranking and Priority) and Clause 17 (Application of Proceeds), upon entering into any Senior Finance Document at any time after the date hereof and at the request of the relevant Senior Secured Credit or, the relevant Debtor may grant, to the relevant Senior Secured Creditor, New Security securing the Senior Lender Liabilities arising under the relevant Senior Finance Document.

(b) The principles set out in Clause 19.6 (New Security) shall apply to such New Security Documents.

3.6 Security: Ancillary Lenders and Issuing Banks

No Ancillary Lender or Issuing Bank will, unless the prior consent of the Majority Senior Creditors and (unless otherwise permitted or not prohibited by the Senior Secured Notes Indenture) the Senior Secured Notes Trustee(s) is obtained, take, accept or receive from any member of the Group the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities owed to it other than:

(a) the Common Transaction Security;

(b) each guarantee, indemnity or other assurance against loss contained in:

(i) the Senior Facilities Agreement;

(ii) this Agreement; or

(iii) any Common Assurance;

(c) in the case of an Ancillary Lender, indemnities and assurances against loss contained in the Ancillary Documents no greater in extent than any of those referred to in paragraph (b) above;

(d) any SFA Cash Cover permitted under the Senior Facilities Agreement relating to any Ancillary Facility or for any Letter of Credit issued by the Issuing Bank;

(e) in the case of a Hedging Ancillary Lender, the indemnities or any netting or set-off arrangement contained in an ISDA Master Agreement (or equivalent indemnities or arrangements in the case of a Hedging Ancillary Document which is not based on an ISDA Master Agreement); or
in the case of an Ancillary Lender, any Security, guarantee, indemnity or other assurance against loss giving effect to, or arising as a result of the effect of, any netting or set-off arrangement relating to the Ancillary Facilities for the purpose of netting debit and credit balances arising under the Ancillary Facilities.

3.7 **Restriction on enforcement: Senior Lenders and Senior Secured Notes Creditors**

No Senior Lender or Senior Secured Notes Creditor may take any Enforcement Action under paragraph (c) of the definition thereof without the prior written consent of an Instructing Group.

3.8 **Restriction on enforcement: Ancillary Lenders and Issuing Banks**

Subject to Clause 3.9 (*Permitted enforcement: Ancillary Lenders and Issuing Banks*), so long as any of the Senior Liabilities (other than any Liabilities owed to the Ancillary Lenders or Issuing Banks) are or may be outstanding, none of the Ancillary Lenders nor the Issuing Banks shall be entitled to take any Enforcement Action in respect of any of the Liabilities owed to it.

3.9 **Permitted enforcement: Ancillary Lenders and Issuing Banks**

(a) The Ancillary Lenders and Issuing Banks may take Enforcement Action if:

(i) at the same time as, or prior to, that action, Enforcement Action has been taken in respect of the Senior Lender Liabilities (excluding the Liabilities owing to Ancillary Lenders and the Issuing Banks), in which case the Ancillary Lenders and the Issuing Banks may take the same Enforcement Action as has been taken in respect of those Senior Lender Liabilities;

(ii) that action is contemplated by, and can be taken by the Ancillary Lenders and Issuing Banks under, the Senior Facilities Agreement or Clause 3.6 (*Security: Ancillary Lenders and Issuing Banks*);

(iii) that Enforcement Action is taken in respect of SFA Cash Cover which has been provided in accordance with the Senior Facilities Agreement;

(iv) at the same time as or prior to that action, the consent of the Majority Senior Creditors to that Enforcement Action is obtained; or

(v) an Insolvency Event has occurred in relation to any member of the Group, in which case, after the occurrence of that Insolvency Event, each Ancillary Lender and each Issuing Bank shall be entitled (if it has not already done so) to exercise any right it may otherwise have in respect of that member of the Group to:

(A) accelerate any of that member of the Group’s Senior Lender Liabilities or declare them prematurely due and payable on demand;

(B) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Senior Lender Liabilities;

(C) exercise any right of set-off or take or receive any Payment in respect of any Senior Lender Liabilities of that member of the Group; or

(D) claim and prove in the liquidation of that member of the Group for the Senior Lender Liabilities owing to it.
Clause 3.8 *(Restriction on enforcement: Ancillary Lenders and Issuing Banks)* shall not restrict any right of an Ancillary Lender to net or set off in relation to a Multi-account Overdraft Facility, in accordance with the terms of the Senior Facilities Agreement, to the extent that the netting or set-off represents a reduction from the Gross Outstandings of that Multi-account Overdraft Facility to or towards an amount equal to its Net Outstandings.

3.10 **Option to purchase: Senior Secured Notes Creditors**

(a) The Senior Secured Notes Creditors (or those thereof that wish to make the relevant purchase) may, after a Distress Event, by giving not less than ten days’ notice to the Security Agent, require the transfer to them (or to a nominee or nominees), in accordance with clause 27.2 *(Conditions of Assignment or Transfer)* of the Senior Facilities Agreement, of all, but not part, of the rights, benefits and obligations in respect of the Senior Lender Liabilities and the Cash Management Liabilities if:

(i) that transfer is lawful and, subject to paragraph (ii) below, otherwise permitted by the terms of the Senior Facilities Agreement and the Cash Management Agreements;

(ii) any conditions relating to such a transfer contained in the Senior Facilities Agreement and Cash Management Agreements are complied with, other than any requirement to obtain the consent of, or consult with, a Debtor relating to such transfer, which consent or consultation shall not be required;

(iii) the Senior Facilities Agent, on behalf of the Senior Lenders, is paid an amount equal to the aggregate of:

(A) all of the Senior Lender Liabilities at that time (whether or not due), including all amounts that would have been payable under the Senior Facilities Agreement if the Senior Facilities were being prepaid by the relevant Debtors on the date of that payment; and

(B) all costs and expenses (including legal fees) incurred by the Senior Facilities Agent and/or the Senior Lenders and/or the Security Agent as a consequence of giving effect to that transfer;

(iv) the Cash Management Providers are paid an amount equal to the aggregate of:

(A) all of the Cash Management Liabilities at that time (whether or not due), including all amounts that would have been payable under the Cash Management Agreements if the Cash Management Agreements were being prepaid by the relevant Debtors on the date of that payment; and

(B) all costs and expenses (including legal fees) incurred by the Cash Management Providers as a consequence of giving effect to that transfer;

(v) as a result of that transfer, the Senior Lenders and Cash Management Providers have no further actual or contingent liability to a Debtor under the relevant Debt Documents or Cash Management Agreements (or to the extent such actual or contingent liabilities remain outstanding the relevant Senior Agent on behalf of the Senior Lenders or Cash Management Providers are holding cash collateral in an amount equal to the aggregate of such actual or contingent liabilities in an account and on such terms reasonably satisfactory.
(vi) an indemnity is provided from each purchasing Senior Secured Notes Creditor (but, for the avoidance of doubt, this does not include a Senior Secured Notes Trustee) or from another third party acceptable to all the Senior Lenders and Cash Management Providers in a form reasonably satisfactory to each Senior Lender and Cash Management Provider in respect of all losses which may be sustained or incurred by any Senior Lender or Cash Management Provider in consequence of any sum received or recovered by any Senior Lender or Cash Management Provider from any person being required (or it being alleged that it is required) to be paid back by or clawed back from any Senior Lender or Cash Management Provider for any reason;

(vii) the transfer is made without recourse to, or representation or warranty from, the Senior Lenders or Cash Management Providers, except that each Senior Lender and Cash Management Provider shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer; and

(viii) the Second Lien Creditors or the Senior Unsecured Creditors have not exercised their rights under Clause 7.17 (Option to purchase: Second Lien Creditors) or Clause 8.15 (Option to purchase: Senior Unsecured Creditors) (as applicable) or, having exercised such rights, have failed to complete the acquisition of the Senior Lender Liabilities, Cash Management Liabilities and Senior Secured Notes Liabilities in accordance with Clause 7.17 (Option to purchase: Second Lien Creditors) or Clause 8.15 (Option to purchase: Senior Unsecured Creditors) (as applicable).

(b) Subject to paragraph (b) of Clause 3.11 (Hedge Transfer: Senior Secured Notes Creditors), the purchasing Senior Secured Notes Creditors may only require a Senior Lender Liabilities Transfer and Cash Management Transfer if, at the same time, they require a Hedge Transfer in accordance with Clause 3.11 (Hedge Transfer: Senior Secured Notes Creditors) and if, for any reason, a Hedge Transfer cannot be made in accordance with Clause 3.11 (Hedge Transfer: Senior Secured Notes Creditors), no Senior Lender Liabilities Transfer or Cash Management Transfer may be required to be made.

(c) The Senior Agent(s) shall, at the request of the purchasing Senior Secured Notes Creditors (acting as a whole) notify such Senior Secured Notes Creditors of the sum of the amounts described in paragraphs (a)(iii)(A) and (a)(iii)(B) above.

(d) The Cash Management Providers shall, at the request of the purchasing Senior Secured Notes Creditors (acting as a whole) notify such Senior Secured Notes Creditors of the sum of the amounts described in paragraphs (a)(iv)(A) and (a)(iv)(B) above.
3.11 **Hedge Transfer: Senior Secured Notes Creditors**

(a) The Senior Secured Notes Trustees (on behalf of the purchasing Senior Secured Noteholders) may, by giving not less than ten days’ notice to the Security Agent, require a Hedge Transfer:

(i) if either:

(A) some or all of the Senior Secured Notes Creditors require, at the same time, a Senior Lender Liabilities Transfer and Cash Management Transfer under Clause 3.10 (*Option to purchase: Senior Secured Notes Creditors*); or

(B) some or all of the Senior Secured Notes Creditors require that Hedge Transfer at any time on or after the Senior Lender Discharge Date and Cash Management Discharge Date; and

(ii) if:

(A) that transfer is lawful, permitted by any regulations applicable to the relevant Hedge Counterparty and otherwise permitted by the terms of the Hedging Agreements in which case no Debtor or other member of the Group shall be entitled to withhold its consent to that transfer;

(B) any conditions (other than the consent of, or any consultation with, any Debtor or other member of the Group) relating to that transfer contained in the Hedging Agreements are complied with;

(C) each Hedge Counterparty is paid (in the case of a positive number) or pays (in the case of a negative number) an amount equal to the aggregate of (I) the Hedging Purchase Amount in respect of the hedging transactions under the relevant Hedging Agreement at that time and (II) all costs and expenses (including legal fees) incurred as a consequence of giving effect to that transfer;

(D) as a result of that transfer, the Hedge Counterparties have no further actual or contingent liability to any Debtor under the Hedging Agreements;

(E) an indemnity is provided from each purchasing Senior Secured Notes Creditor (but, for the avoidance of doubt, this does not include any Senior Secured Notes Trustee) which is receiving (or for which a nominee is receiving) that transfer (or from another third party acceptable to the relevant Hedge Counterparty) in a form reasonably satisfactory to the relevant Hedge Counterparty in respect of all losses which may be sustained or incurred by that Hedge Counterparty in consequence of any sum received or recovered by that Hedge Counterparty being required (or it being alleged that it is required) to be paid back by or clawed back from the Hedge Counterparty for any reason;

(F) that transfer is made without recourse to, or representation or warranty from, the relevant Hedge Counterparty, except that the relevant Hedge Counterparty shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power
to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer, and

(G) the Second Lien Creditors have not exercised their rights under Clause 7.18 (Hedge Transfer: Second Lien Creditors) or Clause 8.16 (Hedge Transfer: Senior Unsecured Creditors) (as applicable) or, having exercised such rights, have failed to complete the Hedge Transfer concerned in accordance with Clause 7.18 (Hedge Transfer: Second Lien Creditors) or Clause 8.15 (Option to purchase: Senior Unsecured Creditors) (as applicable).

(b) The Senior Secured Notes Trustees (acting on behalf of all the purchasing Senior Secured Noteholders, acting as a whole) and any Hedge Counterparty may agree (in respect of the Hedging Agreements (or one or more of them) to which that Hedge Counterparty is a party) that a Hedge Transfer required by all the purchasing Senior Secured Notes Creditors (acting as a whole) pursuant to paragraph (a) above shall not apply to that Hedging Agreement(s) or to the Hedging Liabilities and Hedge Counterparty Obligations under that Hedging Agreement(s).

4. CASH MANAGEMENT PROVIDERS AND CASH MANAGEMENT LIABILITIES

4.1 Restriction on Payment: Cash Management Liabilities

Prior to the Senior Secured Discharge Date, the Debtors shall not, and shall procure that no other member of the Group will, make any Payment of the Cash Management Liabilities at any time unless:

(a) that Payment is permitted under Clause 4.2 (Permitted Payments: Cash Management Liabilities); or

(b) the taking or receipt of that Payment is permitted under Clause 4.5 (Permitted enforcement: Cash Management Providers).

4.2 Permitted Payments: Cash Management Liabilities

Unless a Senior Acceleration Event, a Senior Secured Notes Acceleration Event or an Insolvency Event has occurred, the Debtors may make Payments to any Cash Management Provider in respect of the Cash Management Liabilities then due to that Cash Management Provider under any Cash Management Agreement in accordance with the terms of the applicable Cash Management Agreement.

4.3 Payment obligations continue

No Debtor shall be released from the liability or obligation to make any Payment (including of default interest, which shall continue to accrue) under any Cash Management Agreement by the operation of Clauses 4.1 (Restriction on Payment: Cash Management Liabilities) and 4.2 (Permitted Payments: Cash Management Liabilities) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

4.4 Security: Cash Management Providers

No Cash Management Provider will, unless the prior written consent of the Instructing Group is obtained, take, accept or receive from any member of the Group the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of any of the Cash Management Liabilities owed to it other than:
(a) the Common Transaction Security;

(b) each guarantee, indemnity or other assurance against loss contained in:

(i) this Agreement;

(ii) any Common Assurance; or

(iii) the Cash Management Agreements to the extent no greater in extent than any of those referred to in paragraphs (i) to (iii) above;

(c) prior to the occurrence of an Acceleration Event, any cash cover to the extent required pursuant to the terms of the relevant Cash Management Agreement;

(d) any Security, guarantee, indemnity or other assurance against loss giving effect to, or arising as a result of the effect of, any netting or set-off arrangement relating to the Cash Management Liabilities for the purpose of netting debit and credit balances arising under the Cash Management Liabilities; and

(e) account pledges created under the relevant Cash Management Provider’s general terms and conditions in the ordinary course of business.

4.5 **Permitted enforcement: Cash Management Providers**

(a) The Cash Management Providers may take Enforcement Action in respect of the Cash Management Liabilities if:

(i) it is any action falling within paragraph (a)(iii) of the definition of Enforcement Action, provided that it is taken prior to the occurrence of an Acceleration Event;

(ii) at the same time as, or immediately prior to, that action, Enforcement Action has been taken in respect of the Senior Lender Liabilities, in which case the Cash Management Providers may take the same Enforcement Action as has been taken in respect of those Senior Lender Liabilities;

(iii) that Enforcement Action is taken in respect of cash collateral which has been provided in accordance with any Cash Management Agreement;

(iv) at the same time as or prior to, that action, the consent of the Instructing Group to that Enforcement Action is obtained; or

(v) an Insolvency Event has occurred in relation to any member of the Group, in which case, after the occurrence of that Insolvency Event, each Cash Management Provider shall be entitled (if it has not already done so) to exercise any right it may otherwise have in respect of such member of the Group to:

(A) accelerate any of that member of the Group’s Cash Management Liabilities or declare them prematurely due and payable on demand;

(B) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Cash Management Liabilities;

(C) exercise any right of set-off or take or receive any Payment in respect of any Cash Management Liabilities of that member of the Group; or
(D) claim and prove in the liquidation of that member of the Group for the Cash Management Liabilities owing to it.

(b) This Clause 4.5 shall not restrict any right of a Cash Management Provider to net or set-off in relation to a Cash Management Liability, in accordance with the terms of the Cash Management Agreement, to the extent that the netting or set-off represents a reduction from the Gross Outstandings of that Cash Management Liability to or towards an amount equal to its Net Outstandings.

4.6 Guarantee of Cash Management Liabilities

Each Guarantor (as defined in the Senior Facilities Agreement) irrevocably and unconditionally jointly and severally guarantees to each Cash Management Provider performance by each Obligor (as defined in the Senior Facilities Agreement) of all that Obligor’s obligations under the Cash Management Agreements on the same terms and subject to the same limitations (if any) as are set out in clause 21 (Guarantee and Indemnity) of the Original Senior Facilities Agreement and, if applicable, the Accession Deed by which that Obligor became an Additional Guarantor (as each such term is defined in the Senior Facilities Agreement) as though they were set out in full in this Agreement.

5. HEDGE COUNTERPARTIES AND HEDGING LIABILITIES

5.1 Identity of Hedge Counterparties

(a) Subject to paragraph (b) below, no person providing hedging arrangements to any Debtor shall be entitled to share in any of the Transaction Security or in the benefit of any guarantee or indemnity in respect of any of the liabilities arising in relation to those hedging arrangements nor shall those liabilities be treated as Hedging Liabilities unless that person is or becomes a Party as a Hedge Counterparty.

(b) Paragraph (a) above shall not apply to a Hedging Ancillary Lender.

5.2 Restriction on Payment: Hedging Liabilities

Prior to the later of (a) the Senior Lender Discharge Date and (b) the Senior Secured Notes Discharge Date, the Debtors shall not, and shall procure that no other member of the Group will, make any Payment of the Hedging Liabilities at any time unless:

(a) that Payment is permitted under Clause 5.3 (Permitted Payments: Hedging Liabilities); or

(b) the taking or receipt of that Payment is permitted under paragraph (c) of Clause 5.10 (Permitted enforcement: Hedge Counterparties).

5.3 Permitted Payments: Hedging Liabilities

(a) Subject to paragraph (b) below, the Debtors may make Payments to any Hedge Counterparty in respect of the Hedging Liabilities then due to that Hedge Counterparty under any Hedging Agreement in accordance with the terms of that Hedging Agreement:

(i) if the Payment is a scheduled Payment arising under the relevant Hedging Agreement;

(ii) to the extent that the relevant Debtor’s obligation to make the Payment arises as a result of the operation of:
(A) any of sections 2(d) (Deduction or Withholding for Tax), 2(e) (Default Interest; Other Amounts), 8(a) (Payment in the Contractual Currency), 8(b) (Judgments) and 11 (Expenses) of the 1992 ISDA Master Agreement (if the Hedging Agreement is based on a 1992 ISDA Master Agreement);

(B) any of sections 2(d) (Deduction or Withholding for Tax), 8(a) (Payment in the Contractual Currency), 8(b) (Judgments), 9(h)(i) (Prior to Early Termination) and 11 (Expenses) of the 2002 ISDA Master Agreement (if the Hedging Agreement is based on a 2002 ISDA Master Agreement); or

(C) any provision of a Hedging Agreement which is similar in meaning and effect to any provision listed in subparagraph (A) or (B) above (if the Hedging Agreement is not based on an ISDA Master Agreement);

(iii) to the extent that the relevant Debtor’s obligation to make the Payment arises from a Non-Credit Related Close-Out;

(iv) to the extent that:

(A) the relevant Debtor’s obligation to make the Payment arises from a Credit Related Close-Out in relation to that Hedging Agreement or an amendment in accordance with Clause 5.6 (Amendments and waivers: Hedging Agreements); and

(B) no Senior Default or Senior Secured Notes Default is continuing at the time of that Payment or would result from that Payment;

(v) if the Payment is a Payment pursuant to Clause 17.1 (Order of application of Group Recoveries); or

(vi) subject to Clause 5.14 (On or after the Senior Lender Discharge Date/Senior Secured Notes Discharge Date/Second Lien Discharge Date), if the Majority Senior Secured Creditors give prior consent to the Payment being made.

(b) No Payment may be made to a Hedge Counterparty under paragraph (a) above if:

(i) any scheduled Payment due from that Hedge Counterparty to a Debtor under a Hedging Agreement to which they are both party is due and unpaid unless the Majority Senior Secured Creditors have consented to the making of such payment; or

(ii) a Senior Acceleration Event, a Senior Secured Notes Acceleration Event or an Insolvency Event has occurred except from Group Recoveries distributed in accordance with Clause 17 (Application of Proceeds),

unless, subject to Clause 5.14 5.13(a)(On or after the Senior Lender Discharge Date/Senior Secured Notes Discharge Date/Second Lien Discharge Date), the prior consent of the Majority Senior Secured Creditors is obtained.

(c) Failure by a Debtor to make a Payment to a Hedge Counterparty which results solely from the operation of paragraph (b)(i) above shall, without prejudice to Clause 5.4 (Payment obligations continue), not result in a default (however described) in respect of that Debtor under that Hedging Agreement or any other Senior Finance Document.
(d) Without prejudice to the terms of the relevant Hedging Agreement, nothing in this Agreement obliges a Hedge Counterparty to make a payment to a Debtor under a Hedging Agreement to which they are both party if any scheduled Payment due from that Debtor to the Hedge Counterparty under that Hedging Agreement is due and unpaid. For the avoidance of doubt, this provision shall not affect any Payment which is due from a Hedge Counterparty to a Debtor as a result of a Hedging Agreement to which they are both a party being terminated or closed out.

5.4 **Payment obligations continue**

No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Clauses 5.2 (*Restriction on Payment: Hedging Liabilities*) and 5.3 (*Permitted Payments: Hedging Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

5.5 **No acquisition of Hedging Liabilities**

Without prejudice to Clause 5.6 (*Amendments and waivers: Hedging Agreements*), no Debtor shall, and the Company shall procure that no other member of the Group will:

(a) enter into any Liabilities Acquisition; or

(b) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in respect of any of the Hedging Liabilities unless, subject to Clause 5.14 (*On or after the Senior Lender Discharge Date/Senior Secured Notes Discharge Date/Second Lien Discharge Date*), the prior consent of the Majority Senior Secured Creditors is obtained.

5.6 **Amendments and waivers: Hedging Agreements**

(a) Subject to paragraph (b) below, the Hedge Counterparties may not, at any time, amend or waive any term of the Hedging Agreements.

(b) A Hedge Counterparty may amend or waive any term of a Hedging Agreement in accordance with the terms of that Hedging Agreement if:

(i) that amendment or waiver does not breach another term of this Agreement; and

(ii) the Company has confirmed in writing to that Hedge Counterparty that such amendment or waiver would not result in a breach of the Senior Facilities Agreement or the Senior Secured Notes Indenture(s), the Second Lien Facilities Agreement, the Second Lien Notes Indenture(s), the Senior Unsecured Facilities Agreement or the Senior Unsecured Notes Indenture(s).

5.7 **Security: Hedge Counterparties**

The Hedge Counterparties may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss from any member of the Group in respect of the Hedging Liabilities other than:

(a) the Common Transaction Security;

(b) any guarantee, indemnity or other assurance against loss contained in:
(i) a Senior Facilities Agreement;

(ii) this Agreement;

(iii) any Common Assurance; or

(iv) the relevant Hedging Agreement no greater in extent than any of those referred to in paragraphs (i) to (iii) above;

(c) as otherwise contemplated by Clause 3.4 (Security and guarantees: Senior Secured Creditors) or Clause 7.1 (Security and guarantees: Second Lien Creditors); and

(d) the indemnities contained in the ISDA Master Agreements (in the case of a Hedging Agreement which is based on an ISDA Master Agreement) or any indemnities which are similar in meaning and effect to those indemnities (in the case of a Hedging Agreement which is not based on an ISDA Master Agreement).

5.8 New Security: Hedging Liabilities

(a) Without prejudice to Clause 2 (Ranking and Priority) and Clause 17 (Application of Proceeds), upon entering into any Hedging Agreement at any time after the date hereof and at the request of the relevant Hedge Counterparty and the Security Agent and subject to the Agreed Security Principles, the relevant Debtor shall grant, to the relevant Hedge Counterparty, New Security securing Hedging Liabilities arising under the relevant Hedging Agreement on terms agreed between the Security Agent and the relevant Debtor (each acting reasonably).

(b) The principles set out in Clause 19.6 (New Security) shall apply to such New Security Documents.

5.9 Restriction on enforcement: Hedge Counterparties

Subject to Clause 5.10 (Permitted enforcement: Hedge Counterparties) and Clause 5.11 (Required enforcement: Hedge Counterparties) and without prejudice to each Hedge Counterparty’s rights under Clauses 14.4 (Enforcement instructions) and 14.5 (Manner of enforcement) or Clauses 15.5 (Enforcement instructions) and 15.6 (Manner of enforcement) (as applicable), the Hedge Counterparties shall not take any Enforcement Action in respect of any of the Hedging Liabilities or any of the hedging transactions under any of the Hedging Agreements at any time.

5.10 Permitted enforcement: Hedge Counterparties

(a) To the extent it is able to do so under the relevant Hedging Agreement, a Hedge Counterparty may terminate or close-out in whole or in part any hedging transaction under that Hedging Agreement prior to its stated maturity:

(i) if, prior to a Distress Event, the Company has confirmed to that Hedge Counterparty that that termination or close-out would not result in a breach of the Senior Facilities Agreement or the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding, the Second Lien Facilities Agreement, the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding, the Senior Unsecured Facility Agreement or the Senior Unsecured Notes Indenture(s) pursuant to which any Senior Unsecured Notes remain outstanding;

(ii) if a Distress Event has occurred;
(iii) if:

(A) in relation to a Hedging Agreement which is based on the 1992 ISDA Master Agreement:

(I) an Illegality or Tax Event or Tax Event Upon Merger (each as defined in the 1992 ISDA Master Agreement); or

(II) an event similar in meaning and effect to a Force Majeure Event (as defined in paragraph (B) below),

has occurred in respect of that Hedging Agreement;

(B) in relation to a Hedging Agreement which is based on the 2002 ISDA Master Agreement, an Illegality or Tax Event, Tax Event Upon Merger or a Force Majeure Event (each as defined in the 2002 ISDA Master Agreement) has occurred in respect of that Hedging Agreement; or

(C) in relation to any Hedging Agreement which is not based on an ISDA Master Agreement, any event similar in meaning and effect to an event described in subparagraph (A) or (B) above has occurred under and in respect of that Hedging Agreement;

(iv) if an Event of Default has occurred under clause 26.6 (Insolvency), clause 26.7 (Insolvency Proceedings) or clause 26.8 (Creditors’ Process) of the Senior Facilities Agreement in relation to a Debtor which is party to that Hedging Agreement or an equivalent event similar in meaning and effect has occurred under the equivalent provisions of any Senior Secured Notes Indenture, Second Lien Facilities Agreement, Second Lien Notes Indenture, Senior Unsecured Facilities Agreement or Senior Unsecured Notes Indenture;

(v) subject to Clause 5.13(a) (On or after the Senior Lender Discharge Date/Senior Secured Notes Discharge Date/Second Lien Discharge Date), if the Majority Senior Secured Creditors give prior consent to that termination or close-out being made;

(vi) in connection with a refinancing (or repayment) and cancellation in full of any of the liabilities outstanding under the Relevant Debt in respect of which any such hedging transaction was entered into; or

(vii) pursuant to the provisions of a mandatory or voluntary break clause (provided that the trigger for such mandatory or voluntary break clause may not be an event of default (howsoever described)).

(b) If a Debtor has defaulted on any Payment due under a Hedging Agreement (after allowing any applicable notice or grace periods) and the default has continued unwaived for more than ten days after notice of that default has been given to the Security Agent pursuant to paragraph (m) of Clause 25.3 (Notification of prescribed events), the relevant Hedge Counterparty:

(i) may, to the extent it is able to do so under the relevant Hedging Agreement, terminate or close out in whole or in part any hedging transaction under that Hedging Agreement; and
(ii) until such time as the Security Agent has given notice to that Hedge Counterparty that the Transaction Security is being enforced (or that any formal steps are being taken to enforce the Transaction Security), shall be entitled to exercise any right it might otherwise have to sue for, commence or join legal or arbitration proceedings against any Debtor to recover any Hedging Liabilities due under that Hedging Agreement.

(c) After the occurrence of an Insolvency Event in relation to any member of the Group, each Hedge Counterparty shall be entitled to exercise any right it may otherwise have in respect of that member of the Group to:

(i) prematurely close out or terminate any Hedging Liabilities of that member of the Group;

(ii) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Hedging Liabilities;

(iii) exercise any right of set-off or take or receive any Payment in respect of any Hedging Liabilities of that member of the Group; or

(iv) claim and prove in the liquidation of that member of the Group for the Hedging Liabilities owing to it.

(d) Notwithstanding anything to the contrary in this Clause 5.10, a member of the Group may enter into a hedging transaction under a Hedging Agreement that contains a mandatory or voluntary break clause (provided that the trigger for any such mandatory break clause may not be an event of default (howsoever described)) or otherwise contains terms which allow for payments to be made between the parties in order that the mark-to-market value of the swap be reduced.

5.11 Required enforcement: Hedge Counterparties

(a) Subject to paragraph (b) below, a Hedge Counterparty shall promptly terminate or close out in full any hedging transaction under all or any of the Hedging Agreements to which it is party prior to their stated maturity, following:

(i) the occurrence of a Senior Acceleration Event or a Senior Secured Notes Acceleration Event and delivery to it of a notice from the Security Agent that that Senior Acceleration Event or Senior Secured Notes Acceleration Event (as applicable) has occurred; and

(ii) delivery to it of a subsequent notice from the Security Agent (acting on the instructions of an Instructing Group) instructing it to do so.

(b) Paragraph (a) above shall not apply to the extent that that Senior Acceleration Event or Senior Secured Notes Acceleration Event (as applicable) occurred as a result of an arrangement made between any Debtor and any Primary Creditor with the purpose of bringing about that Senior Acceleration Event or Senior Secured Notes Acceleration Event (as applicable).

(c) If a Hedge Counterparty is entitled to terminate or close out any hedging transaction under paragraph (b) of Clause 5.10 (Permitted enforcement: Hedge Counterparties) (or would have been able to if that Hedge Counterparty had given the notice referred to in that paragraph) but has not terminated or closed out each such hedging transaction, that Hedge Counterparty shall promptly terminate or close out in full each
such hedging transaction following a request to do so by the Security Agent (acting on the instructions of an Instructing Group).

5.12 Treatment of Payments due to Debtors on termination of hedging transactions

(a) If, on termination of any hedging transaction under any Hedging Agreement occurring after a Distress Event, a settlement amount or other amount (following the application of any Close-Out Netting, Payment Netting or Inter-Hedging Agreement Netting in respect of that Hedging Agreement) falls due from a Hedge Counterparty to the relevant Debtor, then that amount shall be paid by that Hedge Counterparty to the Security Agent, treated as the proceeds of enforcement of the Transaction Security and applied in accordance with the terms of this Agreement.

(b) The payment of that amount by the Hedge Counterparty to the Security Agent in accordance with paragraph (a) above shall discharge the Hedge Counterparty’s obligation to pay that amount to that Debtor.

5.13 Terms of Hedging Agreements

(a) The Hedge Counterparties (to the extent party to the Hedging Agreement in question) and the Debtors party to the Hedging Agreements shall ensure that, at all times:

(i) each Hedging Agreement documents only hedging arrangements entered into for the purpose of hedging the types of liabilities described in the definition of Hedging Agreement and that no other hedging arrangements are carried out under or pursuant to a Hedging Agreement;

(ii) each Hedging Agreement is based on an ISDA Master Agreement or another framework agreement which is similar in effect to an ISDA Master Agreement;

(iii) in the event of a termination of the hedging transaction entered into under a Hedging Agreement, as a result of a Termination Event or an Event of Default, each as defined in the relevant Hedging Agreement (or an event similar in meaning and effect to either of those terms in the case of a Hedging Agreement which is not based on an ISDA Master Agreement), that Hedging Agreement will:

(A) if it is based on a 1992 ISDA Master Agreement, provide for payments under the “Second Method” and will make no material amendment to section 6(e) (Payments on Early Termination) of the ISDA Master Agreement;

(B) if it is based on a 2002 ISDA Master Agreement, make no material amendment to the provisions of section 6(e) (Payments on Early Termination) of the ISDA Master Agreement; or

(C) if it is not based on an ISDA Master Agreement, provide for any other method the effect of which is that the party to which that event is referable will be entitled to receive payment under the relevant termination provisions if the net replacement value of all terminated transactions entered into under that Hedging Agreement is in its favour; and

(iv) each Hedging Agreement will provide that the relevant Hedge Counterparty will be entitled to designate an Early Termination Date (as defined in the
relevant ISDA Master Agreement) or otherwise be able to terminate each
transaction under such Hedging Agreement if so required pursuant to Clause
5.11 (Required enforcement: Hedge Counterparties).

(b) Each Hedge Counterparty will provide to the Security Agent copies of all Hedging
Agreements provided that such Hedge Counterparty shall be permitted to redact any
information in such copies that it considers to be commercially sensitive.

5.14 On or after the Senior Lender Discharge Date/Senior Secured Notes Discharge
Date/Second Lien Discharge Date

At any time on or after the later of:

(a) the Senior Lender Discharge Date; and

(b) the Senior Secured Notes Discharge Date,

any action which is permitted under any of Clause 5.3 (Permitted Payments: Hedging
Liabilities), Clause 5.5 (No acquisition of Hedging Liabilities) or Clause 5.10 (Permitted
enforcement: Hedge Counterparties) by reason of the prior consent of the Majority Senior
Secured Creditors will only be permitted to the extent that that action would not result in a
breach of any clause contained in (prior to the Second Lien Discharge Date) the Second Lien
Finance Documents (unless the prior consent of the relevant Second Lien Credit
Representative(s) is obtained) or the Senior Unsecured Finance Documents (unless the prior
consent of the relevant Senior Unsecured Representative(s) is obtained) or following the
Second Lien Discharge Date, the Senior Unsecured Finance Documents (unless the prior
consent of the relevant Senior Unsecured Representative(s) is obtained) or unless the Senior
Unsecured Discharge Date has occurred.

5.15 Notice and acknowledgement of Transaction Security

Each Hedge Counterparty, by its entry into this Agreement (or, as the case may be, by its
entry into an Accession Undertaking as a Hedge Counterparty) acknowledges receipt of notice
of assignment pursuant to any applicable Security Documents of the proceeds owing by that
Hedge Counterparty to any Debtor pursuant to the Hedging Agreement(s) to which that
Hedge Counterparty is a party.

5.16 Guarantee of Hedging Liabilities

(a) Subject to paragraph (b) below, each Guarantor (as defined in the Senior Facilities
Agreement) irrevocably and unconditionally jointly and severally guarantees to each
Hedge Counterparty performance by each Debtor of all that Debtor’s obligations
under the Hedging Agreements on the same terms and subject to the same limitations
(if any) as are set out in clause 21 (Guarantee and Indemnity) of the original form of
the Original Senior Facilities Agreement and, if applicable, the Accession Deed by
which that Obligor became an Additional Guarantor (as each such term is defined in
the Senior Facilities Agreement) as though they were set out in full in this Agreement.

(b) The guarantee in paragraph (a) above shall be automatically released upon the release
of all guarantees and/or indemnities granted by a member of the Group to the Senior
Secured Creditors (other than the Hedge Counterparties), the Second Lien Creditors
and the Senior Unsecured Creditors for the Liabilities owing to them (other than
pursuant to the repayment and discharge thereof as a result of such Liabilities
maturing in accordance with their terms).
6. ISSUE OF SENIOR SECURED NOTES

Except as otherwise approved in writing by the Majority Senior Secured Creditors, no member of the Group shall enter into any Senior Secured Notes Indenture or issue any Senior Secured Notes, unless:

(a) the Senior Secured Credit Representatives receive copies of the relevant Senior Secured Notes Finance Documents as soon as practicable after the relevant Senior Secured Notes are issued;

(b) the net proceeds of the issue of such Senior Secured Notes are applied in accordance with the requirements (if any) of the Senior Secured Finance Documents;

(c) the issue, terms and application of proceeds of such Senior Secured Notes will not result in a breach of the Senior Facilities Agreement and/or any other Senior Secured Notes Indenture (as applicable) or, to the extent such issue, terms or application of proceeds would result in a breach of the Senior Facilities Agreement and/or any other Senior Secured Notes Indenture (as applicable), are otherwise approved by the Majority Senior Lenders under the respective Senior Facilities Agreement(s) and/or each applicable Senior Secured Notes Trustee in respect of any other Senior Secured Notes Indenture (as applicable);

(d) the relevant Senior Secured Notes Guarantees comply with the provisions of this Agreement or such other terms approved by the Senior Agent(s) under the Senior Facilities Agreement and each applicable Senior Secured Notes Trustee in respect of any then-outstanding Senior Secured Notes (each acting reasonably);

(e) each Senior Secured Notes Guarantor at that time is (to the extent a Senior Facilities Agreement is then in place) a Senior Guarantor and (to the extent that any Senior Secured Notes are then-outstanding) a Senior Secured Note Guarantor; and

(f) if not already a Party, the Senior Secured Notes Issuer, the Senior Secured Notes Trustee in respect of such Senior Secured Notes and each of the Senior Secured Notes Guarantors have either executed this Agreement or sign a Debtor Accession Deed or Accession Undertaking (as appropriate) before or concurrently with the issuance of such Senior Secured Notes.

7. SECOND LIEN CREDITORS AND SECOND LIEN LIABILITIES

7.1 Security and guarantees: Second Lien Creditors

At any time prior to the Senior Secured Discharge Date, no Second Lien Creditor will, unless the prior consent of the Majority Senior Secured Creditors is obtained, take, accept or receive from any member of the Group the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of any of the Second Lien Liabilities owed to it other than:

(a) the Common Transaction Security;

(b) each guarantee, indemnity or other assurance against loss contained in:

   (i) this Agreement; or

   (ii) any Common Assurance; or

(c) as otherwise contemplated by Clause 3.4 (Security and guarantees: Senior Secured Creditors);
(d) any guarantee, indemnity or other assurance against loss from any member of the Group in respect of the Second Lien Liabilities in addition to those in:

(i) this Agreement; or

(ii) any Common Assurance,

if and to the extent legally possible and subject to any Agreed Security Principles, the other Senior Secured Parties already benefit from such a guarantee, indemnity or other assurance against loss, or at the same time it is also offered to the other Senior Secured Parties in respect of their Liabilities and ranks in the same order of priority as that contemplated in Clause 2 (Ranking and Priority).

7.2 Issue of Second Lien Notes

Except as otherwise approved in writing by the Majority Senior Secured Creditors, no member of the Group shall enter into any Second Lien Notes Finance Documents or issue any Second Lien Notes unless:

(a) the Senior Secured Credit Representatives receive copies of the Second Lien Notes Finance Documents as soon as practicable after the relevant Second Lien Notes are issued;

(b) the net proceeds of the issue of the Second Lien Notes are applied before the Senior Secured Discharge Date, in accordance with the requirements (if any) of the Senior Secured Finance Documents;

(c) the issue, terms and application of proceeds of the Second Lien Notes Finance Documents are not prohibited by the terms of the Senior Secured Finance Documents, any other Second Lien Finance Documents or the Senior Unsecured Finance Documents or are otherwise approved by the Majority Senior Creditors, the Majority Second Lien Lenders, the Majority Senior Unsecured Creditors, the Senior Secured Notes Trustee(s) in respect of any then outstanding Senior Secured Notes, the Second Lien Notes Trustee(s) in respect of any then outstanding Second Lien Notes and the Senior Unsecured Notes Trustee(s) in respect of any then outstanding Senior Unsecured Notes (as applicable);

(d) the Second Lien Guarantees comply with the provisions of this Agreement or such other terms approved by the Majority Senior Lenders and the Senior Secured Notes Trustee(s) and notified to the Second Lien Notes Trustee(s);

(e) each Second Lien Guarantor at that time is (to the extent a Senior Facilities Agreement is then in place) a Senior Guarantor and (to the extent that any Senior Secured Notes are then outstanding) a Senior Secured Note Guarantor; and

(f) the Second Lien Notes Issuer, the Second Lien Notes Trustee(s) and each of the Second Lien Guarantors execute this Agreement or sign an Accession Undertaking or, as applicable, a Debtor Accession Deed before or concurrently with the issuance of the Second Lien Notes.

7.3 Borrowing of Second Lien Loans Liabilities

Except as otherwise approved in writing by the Majority Senior Secured Creditors, the Company shall not (and shall procure that no member of the Group will) enter into any Second Lien Loan Finance Documents or incur any Second Lien Loans Liabilities unless:
the Senior Secured Credit Representative(s) receive copies of the Second Lien Finance Documents as soon as practicable after the relevant Second Lien Facilities Agreement is entered into;

(b) the borrowing, terms or application of proceeds of the Second Lien Finance Documents are not prohibited by the terms of Senior Secured Finance Documents, any other Second Lien Finance Documents or the Senior Unsecured Finance Documents or are otherwise approved by the Majority Senior Creditors, the Majority Second Lien Lenders, the Majority Senior Unsecured Creditors, the Senior Secured Notes Trustee(s) in respect of any then outstanding Senior Secured Notes the Second Lien Notes Trustee(s) in respect of any then outstanding Second Lien Notes and the Senior Unsecured Notes Trustee(s) in respect of any then outstanding Senior Unsecured Notes (as applicable);

c) the Second Lien Guarantees comply with the provisions of this Agreement or such other terms approved by the Majority Senior Lenders and the Senior Secured Notes Trustee(s) and notified to the Second Lien Agent;

(d) each Second Lien Guarantor at that time is (to the extent a Senior Facilities Agreement is then in place) a Senior Guarantor and (to the extent that any Senior Secured Notes are then outstanding) a Senior Secured Note Guarantor; and

e) the Second Lien Borrower, each of the Second Lien Guarantors, each of the Second Lien Lenders, the Second Lien Agent and the Second Lien Arrangers (if any) sign an Accession Undertaking or, as applicable, a Debtor Accession Deed before or concurrently with the entry into the Second Lien Facilities Agreement.

7.4 Restriction on Payment and dealings: Second Lien Liabilities

Until the Senior Secured Discharge Date, except with the prior consent of the Senior Agent under the Senior Facilities Agreement (to the extent otherwise prohibited under the Senior Facilities Agreement) and (to the extent otherwise prohibited under the Senior Secured Notes Indenture(s)) the Senior Secured Notes Trustee(s) under such Senior Secured Notes Finance Document, the Company shall not (and the Company shall ensure that no member of the Group will):

(a) pay, repay, prepay, redeem, acquire or defease any principal, interest or other amount on or in respect of, or make any distribution in respect of, any Second Lien Liabilities in cash or in kind or apply any such money or property in or towards discharge of any Second Lien Liabilities except as permitted by Clause 2.4 (Anti-layering), Clause 7.5 (Permitted Second Lien Payments), Clause 7.13 (Permitted Second Lien Enforcement), Clause 11.5 (Filing of claims) or Clause 19.2 (New/Refinancing of Second Lien Liabilities); or

(b) exercise any set-off against any Second Lien Liabilities, except as permitted by Clause 7.5 (Permitted Second Lien Payments), Clause 7.12 (Restrictions on enforcement by Second Lien Creditors) or Clause 11.5 (Filing of claims).

7.5 Permitted Second Lien Payments

(a) In respect of the Second Lien Lender Liabilities, the Debtors may:

(i) prior to the Senior Secured Discharge Date, make Payments to the Second Lien Loan Creditors in respect of the Second Lien Lender Liabilities then due in accordance with the Second Lien Loan Finance Documents if the Payment is:
(A) of any of the principal amount of the Second Lien Lender Liabilities which is either (i) expressly permitted to be paid by the Senior Finance Documents or not prohibited from being paid under the Senior Secured Notes Finance Documents; (ii) paid on or after the final maturity date of Second Lien Lender Liabilities (provided that such maturity date complies with the terms of the Senior Secured Finance Documents) or (iii) is paid in accordance with the provisions of the Second Lien Facilities Agreement that are equivalent to the following provisions of the Original Senior Facilities Agreement:

(I) clause 9.1 (Illegality);

(II) clause 9.4 (Right of Repayment and Cancellation in relation to a single Lender); or

(III) clause 41.7 (Replacement of Lender);

(B) of any principal amount of Second Lien Lender Liabilities that constitute a scheduled nominal amortisation of Second Lien Lender Liabilities (provided that such nominal amortisation is permitted or not prohibited by the terms of the Senior Secured Finance Documents).

(C) of a principal amount of the Second Lien Lender Liabilities in an amount, when aggregated with the amount paid pursuant to paragraph (a)(i)(A)(II) of this Clause 7.5, not exceeding the amount of a Senior Mandatory Prepayment that is the subject of a Senior Mandatory Prepayment Waiver;

(D) of cash interest in accordance with the terms of the Second Lien Facilities Agreement;

(E) in respect of commercially reasonable advisory and professional fees for restructuring advice and valuations (including legal advice and the advice of other appropriate financial and/or restructuring advisers) and any fees or expenses of the Second Lien Agent not covered by paragraph (F) below in an aggregate amount not exceeding EUR 1,500,000 (or its equivalent in other currencies), but excluding any fees incurred in connection with the current, threatened or pending litigation against any Senior Secured Creditor or any Affiliate of a Senior Secured Creditor;

(F) of any Second Lien Agent Liabilities or any amount due under any fee letters relating to the Second Lien Facilities Agreement;

(G) made in pursuance of a debt buy-back programme in relation to Second Lien Lender Liabilities that is not prohibited by the terms of the Senior Secured Finance Documents or was established with the approval of the Majority Senior Lenders and the Senior Secured Notes Trustees in respect of any then outstanding Senior Secured Notes;

(H) of any consent and/or waiver fee in respect of any consent granted under, or waiver or amendment of any provision of, a Second Lien Finance Document; and
following the occurrence of an Event of Default which is continuing under the Second Lien Finance Documents and provided that the payment is of all or part of the Second Lien Liabilities as a result of those Second Lien Liabilities being released or otherwise discharged solely in consideration of the issue of shares in the Company (each a “Debt for Equity Swap”) provided that:

(I) no cash or cash equivalent payment is made in respect of the Second Lien Liabilities;

(II) any Liabilities owed by a Group Company to another Group Company that arise as a result of any such Debt for Equity Swap are subordinated to the Senior Liabilities and otherwise subject to the terms of this agreement on the same basis as the Intra-Group Liabilities;

(III) no Group Company becomes liable for or incurs any tax liability as a result of such Debt for Equity Swap which is materially adverse to the interests of the Senior Secured Creditors; and

(IV) (without prejudice to the provisions of the Senior Facilities Agreement in connection with such Change of Control) no Change of Control (as defined in the Senior Facilities Agreement) would arise as a result of such Debt for Equity Swap;

(J) of non-cash interest provided payment is made by means of capitalisation of interest or the issue of an instrument evidencing the same and ranking with the Senior Secured Liabilities on the same terms as the Second Lien Liabilities; and

(K) made where that amount is outstanding as a result of the accrual of cash interest payable in respect of the Second Lien Lender Liabilities during a period when a Second Lien Payment Stop Notice was outstanding,

and if no Second Lien Payment Stop Notice is outstanding and no Senior Secured Payment Default has occurred and is continuing save and except for any Entrenched Second Lien Loan Permitted Payments (provided that if a payment under paragraph (G) above is prohibited due to a Second Lien Payment Stop Notice being issued or a Senior Payment Default having occurred and continuing (1) no Event of Default (including any cross-default or similar provision under any other Debt Document) shall arise under the Debt Documents and (2) the Second Lien Creditors agree that no breach of any documents evidencing such debt buy-back transactions would arise thereunder); and

(ii) on or after the Senior Secured Discharge Date, make Payments to the Second Lien Loan Creditors in respect of the Second Lien Lender Liabilities in accordance with the Second Lien Loan Finance Documents.

(b) In respect of the Second Lien Notes Liabilities, the Debtors may:
prior to the Senior Secured Discharge Date, make Payments to the Second Lien Notes Creditors in respect of the Second Lien Notes Liabilities then due in accordance with the Second Lien Notes Finance Documents:

(A) if the Payment is:

(I) of any of the principal amount of the Second Lien Notes Liabilities which is either: (1) not prohibited from being paid by the Senior Secured Finance Documents; or (2) paid on or after the final maturity date of the Second Lien Notes Liabilities (provided that such maturity date complies with the terms of the Senior Secured Finance Documents); or

(II) of any other amount which is not an amount of principal (including capitalised interest); or

(III) one which the Majority Senior Lenders and the Senior Secured Notes Trustee(s) give prior consent to that Payment being made; or

(IV) of a Second Lien Notes Trustee Amount; or

(V) of any Notes Security Costs; or

(VI) of costs, commissions, taxes, consent fees and expenses incurred in respect of (or reasonably incidental to) the Second Lien Notes Finance Documents (including in relation to any reporting or listing requirements under the Second Lien Notes Finance Documents); or

(VII) if the Payment is of any other amount not exceeding EUR 1,500,000 (or its equivalent in other currencies) in aggregate in any 12-month period; or

(VIII) of underwriters or lead managers fees (including original issue discounts) costs, commissions, taxes, premiums and any expenses incurred in respect of (or reasonably incidental to) any refinancing of the Second Lien Notes Liabilities in compliance with this Agreement and the Senior Secured Finance Documents; and

(B) (unless the Payment is for any Entrenched Second Lien Notes Permitted Payments) no Second Lien Payment Stop Notice is outstanding and no Senior Secured Payment Default has occurred and is continuing; and

(ii) on or after the Senior Secured Discharge Date, make Payments to the Second Lien Notes Creditors in respect of the Second Lien Notes Liabilities in accordance with the Second Lien Notes Finance Documents.

7.6 Issue of Second Lien Payment Stop Notice

(a) Until the Senior Secured Discharge Date except with the prior consent of the Senior Agent under the Senior Facilities Agreement (to the extent otherwise prohibited under the Senior Facilities Agreement) and (to the extent otherwise prohibited under the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes are
outstanding) the consent of the Senior Secured Notes Trustee(s) under such Senior Secured Notes Finance Documents and subject to Clause 11 (Effect of Insolvency Event), the Company shall not make (and shall procure that no member of the Group shall), and no Second Lien Creditor may receive from the Company or any of its Subsidiaries, any Permitted Second Lien Payment (other than any Entrenched Second Lien Loan Permitted Payment or any Entrenched Second Lien Notes Permitted Payment) if:

(i) a Senior Secured Payment Default is continuing; or

(ii) a Material Event of Default is continuing, from the date which is one Business Day after the date on which any Senior Agent or Senior Secured Notes Trustee delivers a notice (a “Second Lien Payment Stop Notice”) specifying the event or circumstance in relation to that Senior Secured Event of Default to the Company, the Security Agent and the Second Lien Credit Representative(s) until the earliest of:

(A) the date falling 120 days after delivery of that Second Lien Payment Stop Notice;

(B) if a Second Lien Standstill Period is in effect at any time after delivery of that Second Lien Payment Stop Notice, the date on which that Second Lien Standstill Period expires;

(C) the date on which the relevant Senior Secured Event of Default has been remedied or waived in accordance with the relevant Senior Secured Finance Documents;

(D) the date on which the relevant Senior Agent or Senior Secured Notes Trustee delivers a notice to the Company, the Security Agent and the Second Lien Credit Representative(s) cancelling the Second Lien Payment Stop Notice;

(E) the Senior Secured Discharge Date; and

(F) the date on which the Security Agent or a Second Lien Credit Representative(s) takes Enforcement Action permitted under this Agreement against a Debtor.

(b) Unless the Second Lien Credit Representative(s) waive this requirement:

(i) a new Second Lien Payment Stop Notice may not be delivered unless and until 365 days have elapsed since the delivery of the immediately prior Second Lien Payment Stop Notice; and

(ii) no Second Lien Payment Stop Notice may be delivered in reliance on a Senior Secured Event of Default more than 120 days after the date on which the relevant Senior Secured Credit Representative(s) received notice of that Senior Secured Event of Default.

(c) The Senior Secured Credit Representative(s) (together) may only serve one Second Lien Payment Stop Notice with respect to the same event or set of circumstances. Subject to paragraph (b) above, this shall not affect the right of the Senior Secured Credit Representative(s) to issue a Second Lien Payment Stop Notice in respect of any other event or set of circumstances.
(d) No Second Lien Payment Stop Notice may be served by a Senior Secured Credit Representative(s) in respect of a Senior Secured Event of Default which had been notified to it at the time at which an earlier Second Lien Payment Stop Notice was issued.

(e) For the avoidance of doubt, this Clause 7.6:

(i) acts as a suspension of payment and not as a waiver of the right to receive payment on the date such payments are due;
(ii) will not prevent the accrual or capitalisation of interest (including default interest) in accordance with the Second Lien Finance Documents;
(iii) will not prevent the payment of any Second Lien Notes Trustee Amounts; and
(iv) will not prevent the payment of audit fees, directors’ fees, taxes and other proper and incidental expenses required to maintain existence.

7.7 Effect of Second Lien Payment Stop Notice or Senior Secured Payment Default

Any failure to make a Payment due under the Second Lien Finance Documents as a result of the issue of a Second Lien Payment Stop Notice or the occurrence of a Senior Secured Payment Default shall not prevent:

(a) the occurrence of a Second Lien Event of Default as a consequence of that failure to make a Payment in relation to the relevant Second Lien Finance Document; or
(b) the issue of a Second Lien Enforcement Notice on behalf of the Second Lien Creditors.

7.8 Payment obligations and capitalisation of interest continue

(a) No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Second Lien Finance Document by the operation of Clauses 7.4 (Restriction on Payment and dealings: Second Lien Liabilities) to 7.7 (Effect of Second Lien Payment Stop Notice or Senior Secured Payment Default) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

(b) The accrual and capitalisation of interest (if any) in accordance with the Second Lien Finance Documents shall continue notwithstanding the issue of a Second Lien Payment Stop Notice.

7.9 Cure of Payment Stop: Second Lien Creditors

If:

(a) at any time following the issue of a Second Lien Payment Stop Notice or the occurrence of a Senior Secured Payment Default, that Second Lien Payment Stop Notice ceases to be outstanding and/or (as the case may be) the Senior Secured Payment Default ceases to be continuing; and

(b) the relevant Debtor then promptly pays to the Second Lien Creditors an amount equal to any Payments which had accrued under the Second Lien Finance Documents and which would have been Permitted Second Lien Payments but for that Second Lien Payment Stop Notice or Senior Secured Payment Default,
then any Event of Default (including any cross default or similar provision under any other
Debt Document) which may have occurred as a result of that suspension of Payments shall be
waived and any Second Lien Enforcement Notice which may have been issued as a result of
that Event of Default shall be waived, in each case without any further action being required
on the part of the Second Lien Creditors or any other Creditors.

7.10 Amendments and Waivers: Second Lien Creditors

(a) Subject to paragraph (b) below, the Second Lien Creditors may amend or waive the
terms of the Second Lien Finance Documents (other than this Agreement or any
Security Document) in accordance with their terms at any time.

(b) Prior to the Senior Secured Discharge Date, the Second Lien Creditors and the
Debtors and any relevant member of the Group (as appropriate) may not, except with
the prior consent of (to the extent otherwise prohibited under the Senior Facilities
Agreement) the Senior Agent under the Senior Facilities Agreement, (to the extent
otherwise prohibited under the relevant Senior Secured Notes Indenture(s)) the
relevant Senior Secured Notes Trustee, under such Senior Secured Notes Indenture, the
Second Lien Agent under any other Second Lien Facilities Agreement and (to the
extent otherwise prohibited under the any other Second Lien Notes Indenture(s)) the
relevant Second Lien Notes Trustee under such Second Lien Notes Indenture, amend
or waive the terms of the Second Lien Finance Documents if the amendment or
waiver would result in such Second Lien Finance Documents being inconsistent with
any requirements in respect thereof set out in any Senior Finance Document, Senior
Secured Notes Finance Document, any other Second Lien Loan Finance Document or
any other Second Lien Notes Finance Document.

7.11 Designation of Second Lien Finance Documents

The Second Lien Credit Representative(s) and the Company agree that they will not designate
a document a “Finance Document” for the purposes of the Second Lien Finance Documents
without the prior consent of (to the extent otherwise prohibited under the Senior Facilities
Agreement) the Senior Agent under the Senior Facilities Agreement or (to the extent
otherwise prohibited under the Senior Secured Notes Indenture(s) pursuant to which any
Senior Secured Notes remain outstanding) the Senior Secured Notes Trustee(s) if the terms of
that document effect a change which would otherwise require the consent of the Senior Agent
under the Senior Facilities Agreement or (as applicable) the Senior Secured Notes Trustee(s)
under Clause 7.10 (Amendments and Waivers: Second Lien Creditors).

7.12 Restrictions on enforcement by Second Lien Creditors

Until the Senior Secured Discharge Date, except with the prior consent of or as required by an
Instructing Group:

(a) no Second Lien Creditor shall direct the Security Agent to enforce or otherwise (to
the extent applicable) require the enforcement of any Security Documents; and

(b) no Second Lien Creditor shall take or require the taking of any Enforcement Action in
relation to the Second Lien Liabilities,

except as permitted under Clause 7.13 (Permitted Second Lien Enforcement) provided,
however, that no such action required by an Instructing Group need be taken except to the
extent an Instructing Group otherwise is entitled under this Agreement to direct such action.

7.13 Permitted Second Lien Enforcement
(a) Subject to Clause 7.16 (Enforcement on behalf of Second Lien Creditors), the restrictions in Clause 7.12 (Restrictions on enforcement by Second Lien Creditors) will not apply in respect of the Second Lien Liabilities or the Security Documents which secure Second Lien Liabilities, if:

(i) at the same time as, or prior to, that action, Enforcement Action has been taken in respect of the Senior Secured Liabilities, in which case the Second Lien Creditors may take the same Enforcement Action as has been taken in respect of those Senior Secured Liabilities;

(ii)

(A) a Second Lien Default (the “Relevant Second Lien Default”) is continuing;

(B) each Senior Secured Credit Representative has received a notice of the Relevant Second Lien Default specifying the event or circumstance in relation to the Relevant Second Lien Default from the relevant Second Lien Credit Representative(s);

(C) a Second Lien Standstill Period has elapsed; and

(D) the Relevant Second Lien Default is continuing at the end of the relevant Second Lien Standstill Period.

(b) Promptly upon becoming aware of a Second Lien Default, the Second Lien Credit Representative(s) may by notice (a “Second Lien Enforcement Notice”) in writing notify each Senior Secured Credit Representative of the existence of such Second Lien Default.

(c) After the occurrence of an Insolvency Event in relation to any member of the Group, each Second Lien Creditor may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Second Lien Creditor in accordance with Clause 11.5 (Filing of claims)) exercise any right it may otherwise have against that member of the Group to:

(i) accelerate any of that member of the Group’s Second Lien Liabilities or declare them prematurely due and payable or payable on demand;

(ii) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Second Lien Liabilities;

(iii) exercise any right of set-off or take or receive any Payment or claim in respect of any Second Lien Liabilities of that member of the Group; or

(iv) claim and prove in the liquidation of that member of the Group for the Second Lien Liabilities owing to it.

7.14 Second Lien Standstill Period

In relation to a Relevant Second Lien Default, a Second Lien Standstill Period shall mean the period beginning on the date (the “Second Lien Standstill Start Date”) any Second Lien Credit Representative(s) serves a Second Lien Enforcement Notice on each Senior Secured
Credit Representative(s) in respect of such Relevant Second Lien Default and ending on the earliest to occur of:

(a) the date falling:

(i) 90 days after the Second Lien Standstill Start Date, in the case of a Second Lien Event of Default arising as a result of a failure to make any payment of any amount representing the Second Lien Liabilities;

(ii) 120 days after the Second Lien Standstill Start Date, in the case of a Second Lien Event of Default arising as a result of a breach of any maintenance financial covenant set out in the relevant Second Lien Finance Documents; or

(iii) 150 days after the Second Lien Standstill Start Date (the “Second Lien Standstill Period”);

(b) the date the Senior Secured Creditors take any Enforcement Action in relation to a particular Debtor provided, however, that:

(i) the Second Lien Creditors may only take the same Enforcement Action in relation to the Debtor as the Enforcement Action taken by the Senior Secured Creditors against such Debtor and not against any other member of the Group; and

(ii) Enforcement Action for the purpose of this paragraph (b) shall not include action taken to preserve or protect any Security as opposed to realise it;

(c) the date of an Insolvency Event in relation to a particular Debtor against whom Enforcement Action is to be taken;

(d) the expiry of any other Second Lien Standstill Period outstanding at the date such first mentioned Second Lien Standstill Period commenced (unless that expiry occurs as a result of a cure, waiver or other permitted remedy); and

(e) the date on which the Majority Senior Lenders and the Senior Secured Notes Trustee(s) give their prior consent to the termination of the relevant Second Lien Standstill Period.

7.15 Subsequent Second Lien Defaults

The Second Lien Creditors may take Enforcement Action under Clause 7.13 (Permitted Second Lien Enforcement) in relation to a Relevant Second Lien Default even if, at the end of any relevant Second Lien Standstill Period or at any later time, a further Second Lien Standstill Period has begun as a result of any other Second Lien Event of Default.

7.16 Enforcement on behalf of Second Lien Creditors

(a) If the Security Agent has notified the Second Lien Credit Representative(s) that it is enforcing Security created pursuant to any Security Document over shares of a Debtor, no Second Lien Creditor may take any action referred to in Clause 7.13 (Permitted Second Lien Enforcement) against that Debtor or any Subsidiary of that Debtor while the Security Agent is taking steps to enforce that Security in accordance with the instructions of the Instructing Group where such action might be reasonably likely to adversely affect such enforcement or the amount of proceeds to be derived therefrom.
(b) If the Second Lien Creditors are permitted to give instructions to the Security Agent to require the enforcement of the Security constituted pursuant to any Security Document in accordance with the provisions of this Clause 7.16 (Enforcement on behalf of Second Lien Creditors), such Enforcement Action must require the realisation of the relevant Security by way of a sale or disposal conducted in compliance with Clause 16.3 (Second Lien and Senior Unsecured Debt Protection).

7.17 Option to purchase: Second Lien Creditors

(a) Subject to paragraphs (b) and (c) below, the Second Lien Credit Representative(s) may after a Distress Event, by giving not less than 10 days’ notice to the Security Agent, require the transfer to the Second Lien Creditors (or to a nominee or nominees), in accordance with the terms of the applicable Debt Documents, of all, but not part, of the rights, benefits and obligations in respect of the Senior Lender Liabilities, the Cash Management Liabilities and the Senior Secured Notes Liabilities if:

(i) that transfer is lawful and subject to paragraph (ii) below, otherwise permitted by the terms of the Senior Facilities Agreement (in the case of the Senior Lender Liabilities), Cash Management Agreements (in the case of Cash Management Liabilities) and the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding, as applicable (in the case of the Senior Secured Notes Liabilities);

(ii) any conditions relating to such a transfer contained in the Senior Facilities Agreement (in the case of the Senior Lender Liabilities), Cash Management Agreements (in the case of Cash Management Liabilities) and the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding, as applicable (in the case of the Senior Secured Notes Liabilities) are complied with, other than:

(A) any requirement to obtain the consent of, or consult with, any Debtor or other member of the Group relating to such transfer, which consent or consultation shall not be required; and

(B) to the extent to which all the Second Lien Creditors (acting as a whole) provide cash cover for any Letter of Credit, the consent of the relevant Issuing Bank relating to such transfer;

(iii)

(A) the Senior Agent, on behalf of the Senior Lenders, is paid an amount equal to the aggregate of:

(I) any amounts provided as cash cover by the Second Lien Creditors for any Letter of Credit (as envisaged in paragraph (ii)(B) above;

(II) all of the Senior Liabilities (other than the Hedging Liabilities) at that time (whether or not due), including all amounts that would have been payable under the Senior Facilities Agreement if such Senior Liabilities were being prepaid by the relevant Debtors on the date of that payment; and
(III) all costs and expenses (including legal fees) incurred by the Senior Agent and/or the Senior Lenders as a consequence of giving effect to that transfer;

(B) the Cash Management Providers are paid an amount equal to the aggregate of:

(I) all of the Cash Management Liabilities at that time (whether or not due), including all amounts that would have been payable under the Cash Management Agreements if such Cash Management Liabilities were being prepaid by the relevant Debtors on the date of that payment; and

(II) all costs and expenses (including legal fees) incurred by the Cash Management Providers as a consequence of giving effect to that transfer;

(C) the Senior Secured Notes Trustee(s), on behalf of the Senior Secured Notes Creditors are paid an amount equal to the aggregate of:

(I) all of the Senior Secured Notes Liabilities at that time (whether due or not due), including all amounts that would have been payable under the Senior Secured Notes Indenture(s) if the Senior Secured Notes were being redeemed by the relevant Debtors on the date of that payment; and

(II) all costs and expenses (including legal fees) incurred by the Senior Secured Notes Trustee(s), and/or the Senior Secured Notes Creditors as a consequence of giving effect to that transfer;

(iv) as a result of that transfer the Senior Lenders, Cash Management Providers and Senior Secured Notes Creditors have no further actual or contingent liability to any Debtor under the relevant Debt Documents;

(v) an indemnity is provided from each Second Lien Creditor (but, for the avoidance of doubt, this does not include a Second Lien Credit Representative(s)) (or from another third party acceptable to all the Senior Lenders, Cash Management Providers and Senior Secured Notes Creditors) in a form reasonably satisfactory to each Senior Lender, each Cash Management Provider and each Senior Secured Notes Creditor in respect of all losses which may be sustained or incurred by any Senior Lender, Cash Management Provider or Senior Secured Notes Creditor in consequence of any sum received or recovered by any Senior Lender, Cash Management Provider or Senior Secured Notes Creditor from any person being required (or it being alleged that it is required) to be paid back by or clawed back from any Senior Lender, Cash Management Provider or Senior Secured Notes Creditor for any reason; and

(vi) the transfer is made without recourse to, or representation or warranty from, the Senior Lenders, Cash Management Providers or the Senior Secured Notes Creditors, except that each Senior Lender, Cash Management Provider and Senior Secured Notes Creditor shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect
that transfer and it has taken all necessary action to authorise the making by it of that transfer.

(b) Subject to paragraph (b) of Clause 7.18 (Hedge Transfer: Second Lien Creditors), the Second Lien Credit Representative(s) (on behalf of all the Second Lien Creditors) may only require a Senior Secured Creditor Liabilities Transfer if, at the same time, they require a Hedge Transfer in accordance with Clause 7.18 (Hedge Transfer: Second Lien Creditors) and if, for any reason, a Hedge Transfer cannot be made in accordance with Clause 7.18 (Hedge Transfer: Second Lien Creditors), no Senior Secured Creditor Liabilities Transfer may be required to be made.

(c) At the request of the Second Lien Credit Representative(s) (on behalf of all the Second Lien Creditors):

(i) the Senior Agent shall notify such Second Lien Credit Representative(s) of:

(A) the sum of the amounts described in paragraphs (a)(iii)(A)(I), (a)(iii)(A)(II) and (a)(iii)(III) of this Clause 7.17 (Option to purchase: Second Lien Creditors); and

(B) the amount of each Letter of Credit for which cash cover is to be provided by all the Second Lien Creditors (acting as a whole);

(ii) the sum of the amounts described in paragraphs (a)(iii)(B)(I) and (a)(iii)(B)(II) of this Clause 7.17 (Option to purchase: Second Lien Creditors); and

(iii) the Senior Secured Notes Trustee(s) shall notify such Second Lien Credit Representative(s) of the sum of amounts described in paragraphs (a)(iii)(C)(I) and (a)(iii)(C)(II) of this Clause 7.17 (Option to purchase: Second Lien Creditors) respectively.

7.18 Hedge Transfer: Second Lien Creditors

(a) The Second Lien Credit Representative(s) (on behalf of the relevant Second Lien Creditors, acting as a whole) may, by giving not less than ten days’ notice to the Security Agent, require a Hedge Transfer:

(i) if either:

(A) the Second Lien Creditors require, at the same time, a Senior Secured Creditor Liabilities Transfer under Clause 7.17 (Option to purchase: Second Lien Creditors); or

(B) all the Second Lien Lenders and the Second Lien Noteholders (acting as a whole) require that Hedge Transfer at any time on or after the Senior Secured Discharge Date; and

(ii) if:

(A) that transfer is lawful, permitted by any regulations applicable to the relevant Hedge Counterparty and otherwise permitted by the terms of the Hedging Agreements in which case no Debtor or other member of the Group shall be entitled to withhold its consent to that transfer;
any conditions (other than the consent of, or any consultation with, any Debtor or other member of the Group) relating to that transfer contained in the Hedging Agreements are complied with;

(C) each Hedge Counterparty is paid (in the case of a positive number) or pays (in the case of a negative number) an amount equal to the aggregate of: (I) the Hedging Purchase Amount in respect of the hedging transactions under the relevant Hedging Agreement at that time; and (II) all costs and expenses (including legal fees) incurred as a consequence of giving effect to that transfer;

(D) as a result of that transfer, the Hedge Counterparties have no further actual or contingent liability to any Debtor under the Hedging Agreements;

(E) an indemnity is provided from each Second Lien Creditor (but for the avoidance of doubt this does not include the Second Lien Credit Representative(s)) which is receiving (or for which a nominee is receiving) that transfer (or from another third party acceptable to the relevant Hedge Counterparty) in a form reasonably satisfactory to the relevant Hedge Counterparty in respect of all losses which may be sustained or incurred by that Hedge Counterparty in consequence of any sum received or recovered by that Hedge Counterparty being required (or it being alleged that it is required) to be paid back by or clawed back from the Hedge Counterparty for any reason; and

(F) that transfer is made without recourse to, or representation or warranty from, the relevant Hedge Counterparty, except that the relevant Hedge Counterparty shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer.

(b) The Second Lien Credit Representative(s) (acting on behalf of the Second Lien Creditors) and any Hedge Counterparty may agree (in respect of the Hedging Agreements (or one or more of them) to which that Hedge Counterparty is a party) that a Hedge Transfer required by all the Second Lien Creditors (acting as a whole) pursuant to paragraph (a) above shall not apply to that Hedging Agreement(s) or to the Hedging Liabilities and Hedge Counterparty Obligations under that Hedging Agreement(s).

(c) If the Second Lien Credit Representative(s) are entitled to require a Hedge Transfer under this Clause, the Hedge Counterparties shall at the request of the Second Lien Credit Representative(s) provide details of the amounts referred to in paragraph (a)(ii)(C) above.

8. SENIOR UNSECURED CREDITORS AND SENIOR UNSECURED LIABILITIES

8.1 Issue of Senior Unsecured Notes and borrowing of Senior Unsecured Loans

No member of the Group shall enter into any Senior Unsecured Notes Indenture or issue any Senior Unsecured Notes or enter into a Senior Unsecured Facilities Agreement or incur any Senior Unsecured Loan Liabilities unless:

(a) if not already a Party, the Senior Unsecured Notes Issuer or Senior Unsecured Borrower has acceded to this Agreement as the Senior Unsecured Notes Issuer or the
Senior Unsecured Borrower (as applicable) in accordance with Clause 22.5 (Accession of Senior Unsecured Notes Issuer) or Clause 22.6 (Accession of Senior Unsecured Borrower) (as applicable);

(b) the Senior Secured Credit Representative(s) and the Second Lien Credit Representative(s) receive copies of the relevant Senior Unsecured Notes Finance Documents and the Senior Unsecured Loan Finance Documents (as applicable) as soon as practicable after the relevant Senior Unsecured Notes are issued or as soon as practicable after the relevant Senior Unsecured Facilities Agreement is entered into;

(c) the net proceeds of the issue of the Senior Unsecured Notes are applied before the Senior Secured Discharge Date, in accordance with the requirements (if any) of the Senior Secured Finance Documents and/or the Second Lien Finance Documents;

(d) the issue, terms and application of proceeds of the Senior Unsecured Notes and the borrowing, terms and application of proceeds of the Senior Unsecured Loan Finance Documents are not prohibited by the terms of the Senior Secured Finance Documents, the Second Lien Finance Documents and the Senior Unsecured Finance Documents or are otherwise approved by the Majority Senior Creditors, the Majority Second Lien Lenders, the Majority Senior Unsecured Lenders or the Senior Secured Notes Trustee(s) in respect of any then outstanding Senior Secured Notes, the Second Lien Notes Trustee in respect of any then outstanding Second Lien Notes and the Senior Unsecured Notes Trustee(s) in respect of any then outstanding Senior Unsecured Notes (as applicable);

(e) the Senior Unsecured Guarantees comply with the provisions of this Agreement or such other terms approved by the Majority Senior Lenders, the Senior Secured Notes Trustee(s), the Majority Second Lien Creditors and the Second Lien Notes Trustee(s);

(f) each Senior Unsecured Guarantor at that time is (to the extent a Senior Facilities Agreement is then in place) a Senior Guarantor, (to the extent that any Senior Secured Notes are then outstanding) a Senior Secured Notes Guarantor and (to the extent any Second Lien Facilities Agreement is then in place and/or any Second Lien Notes are then outstanding) a Second Lien Guarantor; and

(g) if not already a Party, the Senior Unsecured Agent, any Senior Unsecured Arranger, the Senior Unsecured Notes Trustee, each Senior Unsecured Lender and each of the Senior Unsecured Guarantors execute this Agreement or sign a Debtor Accession Deed or Accession Undertaking (as appropriate) before or concurrently with the issuance of the Senior Unsecured Notes or entry into the Senior Unsecured Facilities Agreement (as applicable).

8.2 **Restriction on Payment and dealings: Senior Unsecured Liabilities**

Until the later of the Senior Secured Discharge Date and the Second Lien Discharge Date, except with the prior consent of (to the extent otherwise prohibited under the Senior Facilities Agreement) the Senior Agent under the Senior Facilities Agreement, (to the extent otherwise prohibited under the relevant Senior Secured Notes Indenture(s)) the relevant Senior Secured Notes Trustee under such Senior Secured Notes Finance Document, the Second Lien Agent under the Second Lien Facilities Agreement and (to the extent otherwise prohibited under the relevant Second Lien Notes Indenture(s)) the relevant Second Lien Notes Trustee under such Second Lien Notes Finance Document, the Debtors shall not (and the Company shall ensure that no member of the Group will):

(a) pay, repay, prepay, redeem, acquire or defease any principal, interest or other amount on or in respect of, or make any distribution in respect of, any Senior Unsecured
Liabilities or Senior Unsecured Proceeds Loan Liabilities in cash or in kind or apply any such money or property in or towards discharge of any Senior Unsecured Liabilities or Senior Unsecured Proceeds Loan Liabilities except as permitted by Clause 8.3 (Permitted Senior Unsecured Payments), Clause 8.11 (Permitted Senior Unsecured Enforcement), Clause 11.5 (Filing of claims) or Clause 19.3 (New/Refinancing of Senior Unsecured Liabilities);

(b) exercise any set-off against any Senior Unsecured Liabilities or Senior Unsecured Proceeds Loan Liabilities, except as permitted by Clause 8.3 (Permitted Senior Unsecured Payments), Clause 8.10 (Restrictions on enforcement by Senior Unsecured Finance Party) or Clause 11.5 (Filing of claims); or

(c) create or permit to subsist any Security over any assets of any member of the Group or give any guarantee (and the Senior Unsecured Representative may not and no Senior Unsecured Creditor may, accept the benefit of any such Security or guarantee) from any member of the Group for, or in respect of, any Senior Unsecured Liabilities or Senior Unsecured Proceeds Loan Liabilities other than:

(i) (in the case of guarantees) the Senior Unsecured Guarantees; and

(ii) (in the case of Security) the Senior Unsecured Shared Security.

8.3 Permitted Senior Unsecured Payments

The Debtors may:

(a) prior to the later of the Senior Secured Discharge Date and the Second Lien Discharge Date, make Payments to the Senior Unsecured Creditors (in respect of the Senior Unsecured Liabilities) or to a Senior Unsecured Borrower/Issuer SPV (in respect of Senior Unsecured Proceeds Loan Liabilities) then due in accordance with the Senior Unsecured Finance Documents or any Senior Unsecured Proceeds Loan Agreement:

(i) if:

(A) the Payment is of:

(I) any of the principal amount of the Senior Unsecured Liabilities which is either: (1) permitted or not prohibited to be paid by the Senior Facilities Agreement and the Second Lien Facilities Agreement and is not prohibited from being paid by the Senior Secured Notes Indenture(s) and the Second Lien Notes Indentures pursuant to which any Senior Secured Notes or Second Lien Notes (as applicable) are outstanding or; (2) paid on or after the final maturity date of the Senior Unsecured Liabilities (provided that such maturity date complies with the terms of the Senior Secured Finance Documents and the Second Lien Finance Documents); or

(II) any other amount which is not an amount of principal (including capitalised interest) or a corresponding amount under a Senior Unsecured Proceeds Loan;

(B) no Senior Unsecured Payment Stop Notice is outstanding;

(C) no Second Lien Payment Default has occurred and is continuing; and
(D) no Senior Secured Payment Default has occurred and is continuing; or

(ii) if the Majority Senior Creditors, the Majority Second Lien Creditors, the Senior Secured Notes Trustee(s) and the Second Lien Notes Trustee(s) give prior consent to that Payment being made; or

(iii) if the Payment is of any Senior Unsecured Agent Liabilities or any Senior Unsecured Notes Trustee Amounts; or

(iv) any Permitted Administrative Costs and Notes Security Costs; or

(v) fees, costs, commissions, taxes (including gross-up amounts), consent fees and expenses incurred in respect of (or reasonably incidental to) the Senior Unsecured Finance Documents (including in relation to any reporting or listing requirements under the Senior Unsecured Notes Finance Documents; or

(vi) if the Payment is of costs, commissions, taxes, premiums and any expenses incurred in respect of (or reasonably incidental to) any refinancing of the Senior Unsecured Notes or the Senior Unsecured Facilities Agreement in compliance with this Agreement and the Senior Facilities Agreement; or

(vii) in respect of commercially reasonable advisory and professional fees for restructuring advice and valuations (including legal advice and the advice of other appropriate financial and/or restructuring advisers) in an aggregate amount not exceeding EUR 1,500,000 (or its equivalent in other currencies), but excluding any fees incurred in connection with the current, threatened or pending litigation against any Senior Secured Creditor, Second Lien Creditor or any Affiliate of a Senior Secured Creditor or Second Lien Creditor; or

(viii) if the Payment is by such Senior Unsecured Notes Issuer or such Senior Unsecured Borrower of any of its obligations under the Senior Unsecured Finance Documents from its own assets if such payment is (A) not prohibited by this Agreement or any other Senior Secured Finance Documents; and (B) not financed by a Payment to such Senior Unsecured Notes Issuer or such Senior Unsecured Borrower from a member of the Group that was prohibited by this Agreement or any other Senior Secured Finance Documents at the time made, unless such Senior Unsecured Notes Issuer or Senior Unsecured Borrower is a Senior Borrower or Senior Guarantor and a Senior Acceleration Event, Senior Secured Notes Acceleration Event or Second Lien Acceleration Event has occurred or an Insolvency Event has occurred in relation to a Senior Borrower or Senior Guarantor; and

(b) on or after the later of the Senior Secured Discharge Date and the Second Lien Discharge Date, make Payments to the Senior Unsecured Creditors in respect of:

(i) the Senior Unsecured Notes Liabilities in accordance with the Senior Unsecured Notes Finance Documents;

(ii) the Senior Unsecured Loan Liabilities in accordance with the Senior Unsecured Loan Finance Documents; and

(iii) the Senior Unsecured Proceeds Loan Liabilities in accordance with the relevant Senior Unsecured Proceeds Loan Agreement.
8.4 Issue of Senior Unsecured Payment Stop Notice

(a) Until the later of the Senior Secured Discharge Date and the Second Lien Discharge Date, subject to paragraph (f) below and except with the prior consent of (to the extent otherwise prohibited under the Senior Facilities Agreement) the Senior Agent under each Senior Facilities Agreement, (to the extent otherwise prohibited under the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes are outstanding) the consent of the relevant Senior Secured Notes Trustee(s) under such Senior Secured Notes Finance Documents, the Second Lien Agent under each Second Lien Facilities Agreement and (to the extent otherwise prohibited under the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes are outstanding) the consent of the relevant Second Lien Notes Trustee(s) under such Second Lien Notes Finance Documents and subject to Clause 11 (Effect of Insolvency Event), the Debtors shall not make (and the Company shall procure that no member of the Group shall), and no Senior Unsecured Finance Party or Senior Unsecured Borrower/Issuer SPV may receive from a Debtor or any other Group Company, any Permitted Senior Unsecured Payment (other than Senior Unsecured Notes Trustee Amounts and any Senior Unsecured Agent Liabilities) if:

(i) a Senior Secured Payment Default is continuing; or

(ii) a Second Lien Payment Default is continuing; or

(iii) either: (A) a Senior Secured Event of Default (other than a Senior Secured Payment Default) is continuing, from the date which is one Business Day after the date on which a Senior Agent or a Senior Secured Notes Trustee (as the case may be) delivers a notice; or (B) a Second Lien Event of Default (other than a Second Lien Payment Default) is continuing, from the date which is one Business Day after the date on which a Second Lien Agent or a Second Lien Notes Trustee (as the case may be) delivers a notice (any such notice under (A) or (B) above being a “Senior Unsecured Payment Stop Notice”) specifying the event or circumstance in relation to that Senior Secured Event of Default or Second Lien Event of Default (as applicable) to the Company, the Security Agent and the Senior Unsecured Representative(s) until the earliest of:

(A) the date falling 179 days after delivery of that Senior Unsecured Payment Stop Notice;

(B) if a Senior Unsecured Standstill Period is in effect at any time after delivery of that Senior Unsecured Payment Stop Notice, the date on which that Senior Unsecured Standstill Period expires;

(C) the date on which the relevant Senior Secured Event of Default or Second Lien Event of Default (as applicable) has been remedied or waived in accordance with the Senior Secured Finance Documents or with the Second Lien Finance Documents (as applicable);

(D) the date on which the Senior Agent or the relevant Senior Secured Notes Trustee(s) (as applicable) or the relevant Second Lien Credit Representative (as applicable) delivers a notice to the Company, the Security Agent and the Senior Unsecured Representative(s) cancelling the Senior Unsecured Payment Stop Notice;
(E) the date on which the Security Agent(s) or a Senior Unsecured Representative takes Enforcement Action permitted under this Agreement against a Debtor; and

(F) the later of the Senior Secured Discharge Date and the Second Lien Discharge Date.

(b) Unless the Senior Unsecured Representative(s) waive this requirement:

(i) no new Senior Unsecured Payment Stop Notice may be delivered unless and until 365 days have elapsed since the delivery of the immediately prior Senior Unsecured Payment Stop Notice;

(ii) no Senior Unsecured Payment Stop Notice may be delivered in reliance on a Senior Secured Event of Default more than 120 days after each Senior Agent and each Senior Secured Notes Trustee (as applicable) received notice of that Senior Secured Event of Default; and

(iii) no Senior Unsecured Payment Stop Notice may be delivered in reliance on a Second Lien Event of Default more than 120 days after each Second Lien Agent and each Second Lien Notes Trustee (as applicable) received notice of that Second Lien Event of Default.

(c) The Senior Agent(s), Senior Secured Notes Trustee(s) or Second Lien Credit Representative(s) may only serve one Senior Unsecured Payment Stop Notice with respect to the same event or set of circumstances (provided that if a Senior Unsecured Payment Stop Notice has been served as a result of a breach of clause 24.1 (Financial Condition) of the Senior Facilities Agreement (or any equivalent provision under any Senior Secured Finance Document or Second Lien Finance Document), any subsequent breach of such clause shall constitute a new event or set of circumstances). Subject to paragraph (b) above, this shall not affect the right of the Senior Agent(s), the Senior Secured Notes Trustee(s) or the Second Lien Credit Representative(s) to issue a Senior Unsecured Payment Stop Notice in respect of any other event or set of circumstances.

(d) No Senior Unsecured Payment Stop Notice may be served by a Senior Agent, a Senior Secured Notes Trustee or a Second Lien Credit Representative in respect of a Senior Secured Event of Default or Second Lien Event of Default which had been notified to the Senior Agent(s), Senior Secured Notes Trustee(s) or Second Lien Credit Representative(s) at the time at which an earlier Senior Unsecured Payment Stop Notice was issued.

(e) This Clause 8.4:

(i) acts as a suspension of payment and not as a waiver of the right to receive payment on the date such payments are due;

(ii) will not prevent the accrual or capitalisation of interest (including default interest) in accordance with the Senior Unsecured Finance Documents;

(iii) will not prevent the payment of any Senior Unsecured Notes Trustee Amounts or any Senior Unsecured Agent Liabilities; and

(iv) will not prevent the payment of audit fees, directors’ fees, taxes and other proper and incidental expenses required to maintain existence.
Notwithstanding paragraph (a) above, no Senior Unsecured Payment Stop Notice will prevent such Senior Unsecured Notes Issuer or such Senior Unsecured Borrower from making a Payment from its own assets if such Payment is of any of such Senior Unsecured Notes Issuer’s obligations under the Senior Unsecured Notes Finance Documents or any payment of such Senior Unsecured Borrower under the Senior Unsecured Loan Finance Documents and, for the avoidance of doubt, such Payment is

(i) not prohibited by the Senior Secured Finance Documents; and

(ii) not financed by a payment to such Senior Unsecured Notes Issuer or such Senior Unsecured Borrower from a member of the Group that was either:

(A) prohibited by the Senior Secured Finance Documents; or

(B) prohibited by paragraph (a) above (without application of this paragraph (f)),

in each case, at the time such payment to such Senior Unsecured Notes Issuer or Senior Unsecured Borrower was made, unless such Senior Unsecured Notes Issuer or Senior Unsecured Borrower is a Senior Borrower or Senior Guarantor and a Senior Acceleration Event, Senior Secured Notes Acceleration Event or Second Lien Acceleration Event has occurred or an Insolvency Event has occurred in relation to a Senior Borrower or Senior Guarantor.

8.5 Effect of Senior Unsecured Payment Stop Notice, Senior Secured Payment Default or Second Lien Payment Default

Any failure to make a Payment due under the Senior Unsecured Finance Documents or a Senior Unsecured Proceeds Loan Agreement as a result of the issue of a Senior Unsecured Payment Stop Notice or the occurrence of a Senior Secured Payment Default or Second Lien Payment Default shall not prevent:

(a) the occurrence of an Event of Default as a consequence of that failure to make a Payment in relation to the relevant Senior Unsecured Finance Document or Senior Unsecured Proceeds Loan Agreement; or

(b) the issue of a Senior Unsecured Enforcement Notice on behalf of the Senior Unsecured Creditors.

8.6 Payment obligations and capitalisation of interest continue

(a) No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Senior Unsecured Finance Document or a Senior Unsecured Proceeds Loan Agreement by the operation of Clauses 8.2 (Restriction on Payment and dealings: Senior Unsecured Liabilities) to 8.5 (Effect of Senior Unsecured Payment Stop Notice, Senior Secured Payment Default or Second Lien Payment Default) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

(b) The accrual and capitalisation of interest (if any) in accordance with the Senior Unsecured Finance Documents or a Senior Unsecured Proceeds Loan Agreement shall continue notwithstanding the issue of a Senior Unsecured Payment Stop Notice.

8.7 Cure of Payment Stop: Senior Unsecured Creditors

If:
(a) at any time following the issue of a Senior Unsecured Payment Stop Notice or the occurrence of a Senior Secured Payment Default or a Second Lien Payment Default, that Senior Unsecured Payment Stop Notice ceases to be outstanding and/or (as the case may be) the Senior Secured Payment Default and/or Second Lien Payment Default (as applicable) ceases to be continuing; and

(b) the relevant Debtor then promptly pays to the Senior Unsecured Creditors or Senior Unsecured Borrower/Issuer SPV (as applicable) an amount equal to any Payments which had accrued under the Senior Unsecured Finance Documents or Senior Unsecured Proceeds Loan Agreement (as applicable) and which would have been Permitted Senior Unsecured Payments but for that Senior Unsecured Payment Stop Notice, Senior Secured Payment Default or Second Lien Payment Default, as the case may be,

then any Event of Default which may have occurred as a result of that suspension of Payments shall be waived and any Senior Unsecured Enforcement Notice which may have been issued as a result of that Event of Default shall be waived, in each case without any further action being required on the part of the Senior Unsecured Creditors or relevant Senior Unsecured Borrower/Issuer SPV.

8.8 Amendments and Waivers: Senior Unsecured Creditors

(a) Subject to paragraph (b) below, the Senior Unsecured Creditors may amend or waive the terms of the Senior Unsecured Finance Documents (other than this Agreement or any Security Document) in accordance with their terms at any time.

(b) Prior to the later of the Senior Secured Discharge Date and the Second Lien Discharge Date, the Senior Unsecured Finance Parties and the Debtors and any relevant member of the Group (as appropriate) may not, except with the prior consent of (to the extent otherwise prohibited under the Senior Facilities Agreement) the Senior Agent under the Senior Facilities Agreement, (to the extent otherwise prohibited under the relevant Senior Secured Notes Indenture(s)) the relevant Senior Secured Notes Trustee, under such Senior Secured Notes Indenture, the Second Lien Agent under any Second Lien Facilities Agreement and (to the extent otherwise prohibited under the relevant Second Lien Notes Indenture(s)) the relevant Second Lien Notes Trustee under such Second Lien Notes Indenture, amend or waive the terms of the Senior Unsecured Finance Documents if the amendment or waiver would result in such Senior Unsecured Finance Documents being inconsistent with any requirements in respect thereof set out in any Senior Finance Document, Senior Secured Notes Finance Document, Second Lien Loan Finance Document or Second Lien Notes Finance Document.

8.9 Designation of Senior Unsecured Finance Documents

The Senior Unsecured Representatives(s) and the Company agree that they will not designate a document a “Finance Document” (or equivalent term thereto) for the purposes of the Senior Unsecured Facilities Agreement or the Senior Unsecured Notes (as applicable) without the prior consent of the Senior Agent under the Senior Facilities Agreement, the relevant Senior Secured Notes Trustee (acting on behalf of the Senior Secured Noteholders) under any Senior Secured Notes Finance Documents, the Second Lien Agent under any Second Lien Facilities Agreement and the relevant Second Lien Notes Trustee (acting on behalf of the Second Lien Noteholders) under any Second Lien Notes Finance Documents, if the terms of that document effect a change which would otherwise require their respective consents under Clause 8.8 (Amendments and Waivers: Senior Unsecured Creditors).

8.10 Restrictions on enforcement by Senior Unsecured Finance Party
Until the later of the Senior Secured Discharge Date and the Second Lien Discharge Date, except with the prior consent of or as required by an Instructing Group:

(a) no Senior Unsecured Finance Party shall direct the Security Agent to enforce or otherwise (to the extent applicable), require the enforcement of, any Security Documents; and

(b) no Senior Unsecured Finance Party shall take or require the taking of any Enforcement Action in relation to the Senior Unsecured Guarantees,

except as permitted under Clause 8.11 (Permitted Senior Unsecured Enforcement) provided, however, that no such action required by the Senior Agent need be taken except to the extent the Senior Agent otherwise is entitled under this Agreement to direct such action.

8.11 Permitted Senior Unsecured Enforcement

(a) Subject to Clause 8.14 (Enforcement on behalf of Senior Unsecured Finance Parties), the restrictions in Clause 8.10 (Restrictions on enforcement by Senior Unsecured Finance Party) will not apply in respect of the Senior Unsecured Liabilities or the Security Documents (if any) which secure Senior Unsecured Liabilities as permitted by Clause 8.2(c) (Restriction on Payment and dealings: Senior Unsecured Liabilities), if:

(i) a Senior Unsecured Default (the Relevant Senior Unsecured Default) is continuing;

(ii) the Senior Agent(s), the Senior Secured Notes Trustee(s) and the Second Lien Credit Representative(s) have received a notice of the Relevant Senior Unsecured Default specifying the event or circumstance in relation to the Relevant Senior Unsecured Default from the relevant Senior Unsecured Representative;

(iii) a Senior Unsecured Standstill Period has elapsed; and

(iv) the Relevant Senior Unsecured Default is continuing at the end of the relevant Senior Unsecured Standstill Period.

(b) Promptly upon becoming aware of a Senior Unsecured Default, the relevant Senior Unsecured Representative(s) may by notice (a “Senior Unsecured Enforcement Notice”) in writing notify the Senior Agent(s) and the Senior Secured Notes Trustee(s) and the Second Lien Credit Representative(s) of the existence of such Senior Unsecured Default.

(c) After the occurrence of an Insolvency Event in relation to any member of the Group, each Senior Unsecured Creditor may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Senior Unsecured Creditor in accordance with Clause 11.5 (Filing of claims)) exercise any right it may otherwise have against that member of the Group to:

(i) accelerate any of that member of the Group’s Senior Unsecured Liabilities or declare them prematurely due and payable or payable on demand;

(ii) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Senior Unsecured Liabilities;
exercise any right of set–off or take or receive any Payment or claim in respect of any Senior Unsecured Liabilities of that member of the Group; or

claim and prove in the liquidation of that member of the Group for the Senior Unsecured Liabilities owing to it.

8.12 Senior Unsecured Standstill Period

In relation to a Relevant Senior Unsecured Default, a Senior Unsecured Standstill Period shall mean the period beginning on the date (the “Senior Unsecured Standstill Start Date”) the relevant Senior Unsecured Representative(s) serves a Senior Unsecured Enforcement Notice on the Senior Agent(s), the Senior Secured Notes Trustee(s), the Second Lien Agent(s) and the Second Lien Notes Trustee(s) in respect of such Relevant Senior Unsecured Default and ending on the earliest to occur of:

(a) the date falling 179 days after the Senior Unsecured Standstill Start Date (the “Senior Unsecured Standstill Period”);

(b) the date the Senior Secured Creditors or the Second Lien Creditors take any Enforcement Action in relation to a particular Debtor provided, however, that:

(i) if a Senior Unsecured Standstill Period ends pursuant to this Clause 8.12(b), the Senior Unsecured Finance Parties may only take the same Enforcement Action in relation to the Debtor as the Enforcement Action taken by the Senior Secured Creditors or Second Lien Creditors (as applicable) against such Debtor and not against any other member of the Group; and

(ii) Enforcement Action for the purpose of this Clause 8.12(b) shall not include action taken to preserve or protect any Security as opposed to realise it;

(c) the date of an Insolvency Event in relation to a particular Debtor against whom Enforcement Action is to be taken;

(d) the expiry of any other Senior Unsecured Standstill Period outstanding at the date such first mentioned Senior Unsecured Standstill Period commenced (unless that expiry occurs as a result of a cure, waiver or other permitted remedy); and

(e) the date on which the Senior Secured Creditors and Second Lien Creditors consent to an enforcement in respect of the Relevant Senior Unsecured Default by the relevant Senior Unsecured Finance Parties.

8.13 Subsequent Senior Unsecured Defaults

The Senior Unsecured Finance Parties may take Enforcement Action under Clause 8.11 (Permitted Senior Unsecured Enforcement) in relation to a Relevant Senior Unsecured Default even if, at the end of any relevant Senior Unsecured Standstill Period or at any later time, a further Senior Unsecured Standstill Period has begun as a result of any other Senior Unsecured Default.

8.14 Enforcement on behalf of Senior Unsecured Finance Parties

(a) If the Security Agent has notified the Senior Unsecured Representatives that it is enforcing Security created pursuant to any Security Document over shares of a Debtor, no Senior Unsecured Finance Party may take any action referred to in Clause 8.11 (Permitted Senior Unsecured Enforcement) against that Debtor or any Subsidiary of that Debtor while the Security Agent is taking steps to enforce that Security in
accordance with the instructions of the Instructing Group where such action might be reasonably likely to adversely affect such enforcement or the amount of proceeds to be derived therefrom.

(b) If the Senior Unsecured Creditors are permitted to give instructions to the Security Agent to require the enforcement of the Security constituted pursuant to any Security Document in accordance with the provisions of this Clause 8.14 (Enforcement on behalf of Senior Unsecured Finance Parties), such Enforcement Action must require the realisation of the relevant Security by way of a sale or disposal conducted in compliance with the provisions of Clause 16.3 (Second Lien and Senior Unsecured Debt Protection).

8.15 Option to purchase: Senior Unsecured Creditors

(a) Subject to paragraph (b) and (c) below, the Senior Unsecured Representative(s) (on behalf of the Senior Unsecured Creditors or those Senior Unsecured Creditors who wish to make the relevant purchase) may after a Distress Event, by giving not less than ten days’ notice to the Security Agent, require the transfer to the Senior Unsecured Creditors (or to a nominee or nominees), in accordance with Clause 22.7 (Change of Senior Lender, Second Lien Lender or Senior Unsecured Lender), of all, but not part, of the rights, benefits and obligations in respect of the Senior Lender Liabilities, the Cash Management Liabilities, the Senior Secured Notes Liabilities and the Second Lien Liabilities if:

(i) that transfer is lawful and subject to paragraph (ii) below, otherwise permitted by the terms of the Senior Facilities Agreement (in the case of the Senior Lender Liabilities), Cash Management Agreements (in the case of the Cash Management Liabilities), the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding (in the case of the Senior Secured Notes Liabilities), the Second Lien Facilities Agreement (in the case of the Second Lien Lender Liabilities) and the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding (in the case of the Second Lien Notes Liabilities), as applicable;

(ii) any conditions relating to such a transfer contained in the Senior Facilities Agreement (in the case of the Senior Lender Liabilities), the Cash Management Agreements (in the case of the Cash Management Liabilities), the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding (in the case of the Senior Secured Notes Liabilities), the Second Lien Facilities Agreement (in the case of the Second Lien Lender Liabilities) and the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding (in the case of the Second Lien Notes Liabilities), as applicable are complied with, other than:

(A) any requirement to obtain the consent of, or consult with, any Debtor or other member of the Group relating to such transfer, which consent or consultation shall not be required; and

(B) to the extent to which all the purchasing Senior Unsecured Creditors (acting as a whole) provide cash cover for any Letter of Credit, the consent of the relevant Issuing Bank relating to such transfer;

(iii) the Senior Agent(s), on behalf of the Senior Lenders, is paid an amount equal to the aggregate of:
(I) any amounts provided as cash cover by the Senior Unsecured Creditors for any Letter of Credit (as envisaged in paragraph (ii)(B) above);

(II) all of the Senior Liabilities (other than the Hedging Liabilities) at that time (whether or not due), including all amounts that would have been payable under the Senior Facilities Agreement if the Senior Facilities were being prepaid by the relevant Debtors on the date of that payment; and

(III) all costs and expenses (including legal fees) incurred by the Senior Agent(s) and/or the Senior Lenders as a consequence of giving effect to that transfer;

(B) the Cash Management Providers are paid an amount equal to the aggregate of:

(I) all of the Cash Management Liabilities at that time (whether due or not due), including all amounts that would have been payable under the Cash Management Agreements if Cash Management Liabilities were being redeemed (as applicable) by the relevant Debtors on the date of that payment; and

(II) all costs and expenses (including legal fees) incurred by the Cash Management Providers as a consequence of giving effect to that transfer;

(C) the Senior Secured Notes Trustee(s), on behalf of the Senior Secured Noteholders, are paid an amount equal to the aggregate of:

(I) all of the Senior Secured Notes Liabilities at that time (whether due or not due), including all amounts that would have been payable under the Senior Secured Notes Indenture if the Senior Secured Notes were being redeemed (as applicable) by the relevant Debtors on the date of that payment; and

(II) all costs and expenses (including legal fees) incurred by the Senior Secured Notes Trustee(s) and/or the Senior Secured Notes Creditors as a consequence of giving effect to that transfer;

(D) the Second Lien Agent(s), on behalf of the Second Lien Lenders, are paid an amount equal to the aggregate of:

(I) all of the Second Lien Lender Liabilities at that time (whether due or not due), including all amounts that would have been payable under the Second Lien Facilities Agreement if the Second Lien Facility were being prepaid by the relevant Debtors on the date of that payment; and

(II) all costs and expenses (including legal fees) incurred by the Second Lien Agent(s) and/or the Second Lien Lenders as a consequence of giving effect to that transfer; and
the Second Lien Notes Trustee(s), on behalf of the Second Lien Noteholders, are paid an amount equal to the aggregate of:

(I) all of the Second Lien Notes Liabilities at that time (whether due or not due), including all amounts that would have been payable under the Second Lien Notes Indenture if the Second Lien Notes were being redeemed (as applicable) by the relevant Debtors on the date of that payment; and

(II) all costs and expenses (including legal fees) incurred by the Second Lien Notes Trustee(s) and/or the Second Lien Notes Creditors as a consequence of giving effect to that transfer;

(iv) as a result of that transfer the Senior Lenders, Cash Management Providers, Senior Secured Notes Creditors, the Second Lien Lenders and the Second Lien Noteholders have no further actual or contingent liability to any Debtor under the relevant Debt Documents or Cash Management Agreements (or to the extent such actual or contingent liabilities remain outstanding the relevant Senior Agent, Cash Management Provider, Senior Secured Notes Trustee, Second Lien Agent and Second Lien Notes Trustee on behalf of the Senior Lenders, the Senior Secured Notes Creditors, the Second Lien Lenders and the Second Lien Notes Creditors (as applicable) is holding cash collateral in an amount equal to the aggregate of such actual or contingent liabilities in an account and on such terms, reasonably satisfactory to the relevant Senior Lenders, Cash Management Providers, the Senior Secured Notes Creditors, the Second Lien Lenders and the Second Lien Notes Creditors (as applicable));

(v) an indemnity is provided from each purchasing Senior Unsecured Creditor (but, for the avoidance of doubt, this does not include a Senior Unsecured Representative) (or from another third party acceptable to all the Senior Lenders, Cash Management Providers, Senior Secured Notes Creditors, Second Lien Lenders and Second Lien Notes Creditors) in a form reasonably satisfactory to each Senior Lender, Cash Management Provider, Senior Secured Notes Creditors, Second Lien Lenders and Second Lien Notes Creditors in respect of all losses which may be sustained or incurred by any Senior Lender, Cash Management Provider, Senior Secured Notes Creditor, Second Lien Lender or Second Lien Notes Creditor in consequence of any sum received or recovered by any Senior Lender, Cash Management Provider, Senior Secured Notes Creditor, Second Lien Lender or Second Lien Notes Creditor from any person being required (or it being alleged that it is required) to be paid back by or clawed back from any Senior Lender, Cash Management Provider, Senior Secured Notes Creditor, Second Lien Lender or Second Lien Notes Creditor for any reason; and

(vi) the transfer is made without recourse to, or representation or warranty from, the Senior Lenders, the Cash Management Providers, the Senior Secured Notes Creditors, Second Lien Lender or Second Lien Notes Creditor, except that each Senior Lender, Cash Management Provider, Senior Secured Notes Creditor, Second Lien Lender or Second Lien Notes Creditor shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer.
Subject to paragraph (b) of Clause 8.16 (Hedge Transfer: Senior Unsecured Creditors), the Senior Unsecured Representative (on behalf of all the purchasing Senior Unsecured Creditors) may only require a Senior Secured Creditor Liabilities Transfer and a Second Lien Creditor Liabilities Transfer if, at the same time, they require a Hedge Transfer in accordance with Clause 8.16 (Hedge Transfer: Senior Unsecured Creditors) and if, for any reason, a Hedge Transfer cannot be made in accordance with Clause 8.16 (Hedge Transfer: Senior Unsecured Creditors), no Senior Secured Creditor Liabilities Transfer and no Second Lien Creditor Liabilities Transfer may be required to be made.

At the request of the Senior Unsecured Representative(s) (on behalf of all the purchasing Senior Unsecured Creditors):

(i) the Senior Agent(s) shall notify such Senior Unsecured Representative(s) of:

(A) the sum of the amounts described in paragraphs 8.15(a)(iii)(A)(II) and (III); and

(B) the amount of each Letter of Credit for which cash cover is to be provided by all the purchasing Senior Unsecured Creditors (acting as a whole);

(ii) the Cash Management Providers shall notify such Senior Unsecured Representative(s) of the sum of amounts described in paragraphs 8.15(a)(iii)(B)(I) and 8.15(a)(iii)(B)(II);

(iii) the Senior Secured Notes Trustee(s) shall notify such Senior Unsecured Representative(s) of the sum of amounts described in paragraphs 8.15(a)(iii)(C)(I) and (II);

(iv) the Second Lien Agent(s) shall notify such Senior Unsecured Representative(s) of the sum of amounts described in subparagraphs 8.15(a)(iii)(D)(I) and (II) above; and

(v) the Second Lien Notes Trustee(s) shall notify such Senior Unsecured Representative(s) of the sum of amounts described in subparagraphs 8.15(a)(iii)(E)(I) and (II) above.

8.16 Hedge Transfer: Senior Unsecured Creditors

The Senior Unsecured Representative(s) (on behalf of all the purchasing Senior Unsecured Creditors, acting as a whole) may, by giving not less than ten days’ notice to the Security Agent, require a Hedge Transfer:

(i) if either:

(A) some or all of the Senior Unsecured Creditors require, at the same time, a Senior Secured Creditor Liabilities Transfer and a Second Lien Creditor Liabilities Transfer under Clause 8.15 (Option to purchase: Senior Unsecured Creditors); or

(B) some or all of the Senior Unsecured Creditors require that Hedge Transfer at any time on or after the later of the Senior Lender Discharge Date, the Senior Secured Notes Discharge Date and the Second Lien Discharge Date; and
(ii) if:

(A) that transfer is lawful, permitted by any regulations applicable to the relevant Hedge Counterparty and otherwise permitted by the terms of the Hedging Agreements in which case no Debtor or other member of the Group shall be entitled to withhold its consent to that transfer;

(B) any conditions (other than the consent of, or any consultation with, any Debtor or other member of the Group) relating to that transfer contained in the Hedging Agreements are complied with;

(C) each Hedge Counterparty is paid (in the case of a positive number) or pays (in the case of a negative number) an amount equal to the aggregate of: (I) the Hedging Purchase Amount in respect of the hedging transactions under the relevant Hedging Agreement at that time; and (II) all costs and expenses (including legal fees) incurred as a consequence of giving effect to that transfer;

(D) as a result of that transfer, the Hedge Counterparties have no further actual or contingent liability to any Debtor under the Hedging Agreements;

(E) an indemnity is provided from each purchasing Senior Unsecured Creditor (but for the avoidance of doubt this does not include a Senior Unsecured Representative) which is receiving (or for which a nominee is receiving) that transfer (or from another third party acceptable to the relevant Hedge Counterparty) in a form reasonably satisfactory to the relevant Hedge Counterparty in respect of all losses which may be sustained or incurred by that Hedge Counterparty in consequence of any sum received or recovered by that Hedge Counterparty being required (or it being alleged that it is required) to be paid back by or clawed back from the Hedge Counterparty for any reason; and

(F) that transfer is made without recourse to, or representation or warranty from, the relevant Hedge Counterparty, except that the relevant Hedge Counterparty shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer.

(b) The Senior Unsecured Representative(s) (acting on behalf of all the purchasing Senior Unsecured Creditors) and any Hedge Counterparty may agree (in respect of the Hedging Agreements (or one or more of them) to which that Hedge Counterparty is a party) that a Hedge Transfer required by all the purchasing Senior Unsecured Creditors (acting as a whole) pursuant to paragraph (a) above shall not apply to that Hedging Agreement(s) or to the Hedging Liabilities and Hedge Counterparty Obligations under that Hedging Agreement(s).

(c) If the Senior Unsecured Representative(s) are entitled to require a Hedge Transfer under this clause, the Hedge Counterparties shall at the request of the Senior Unsecured Representative(s) provide details of the amounts referred to in paragraph (ii)(C) above.
9. INTRA-GROUP LENDERS AND INTRA-GROUP LIABILITIES

9.1 Restriction on Payment: Intra-Group Liabilities

Prior to the Final Discharge Date, the Debtors shall not, and shall procure that no other member of the Group will, make any Payments of the Intra-Group Liabilities at any time unless:

(a) that Payment is permitted under Clause 9.2 (Permitted Payments: Intra-Group Liabilities); or

(b) the taking or receipt of that Payment is permitted under paragraph (c) of Clause 9.7 (Permitted Enforcement: Intra-Group Lenders).

9.2 Permitted Payments: Intra-Group Liabilities

(a) Subject to paragraph (b) below, the Debtors may make Payments in respect of the Intra-Group Liabilities (whether of principal, interest or otherwise) from time to time.

(b) Payments in respect of the Intra-Group Liabilities may not be made pursuant to paragraph (a) above if, at the time of the Payment, an Acceleration Event has occurred unless:

(i) prior to the Senior Secured Discharge Date:

(A) (if paragraph (B) below or paragraph (C) below does not apply) the Majority Senior Creditors and the Senior Secured Notes Trustee(s) consent to that Payment being made; or

(B) if, at that time, the Security Agent is obliged to give effect to instructions from the Majority Second Lien Creditors as to the manner of enforcement of the Transaction Security pursuant to paragraph (b) of Clause 14.5 (Manner of enforcement) or, on and from the Senior Term Lender Discharge Date, paragraph (b) of Clause 15.6 (Manner of enforcement), the Majority Second Lien Creditors consent to that Payment being made; or

(C) if, at that time, the Security Agent is obliged to give effect to instructions from the Majority Senior Unsecured Creditors as to the manner of enforcement of the Transaction Security pursuant to paragraph (c) of Clause 14.5 (Manner of enforcement) or, on and from the Senior Term Lender Discharge Date, paragraph (c) of Clause 15.6 (Manner of enforcement), the Majority Senior Unsecured Creditors consent to that Payment being made;

(ii) on or after the Second Lien Discharge Date but prior to the Senior Unsecured Discharge Date:

(A) (if paragraph (B) above does not apply) the Majority Second Lien Lenders and the Second Lien Notes Trustee(s) consent to that Payment being made; or

(B) if, at that time, the Security Agent is obliged to give effect to instructions from the Majority Senior Unsecured Creditors as to the manner of enforcement of the Transaction Security pursuant to paragraph (c) of Clause 14.5 (Manner of enforcement) or, on and
from the Senior Term Lender Discharge Date, paragraph (c) of Clause 15.6 (Manner of enforcement), the Majority Senior Unsecured Creditors consent to that Payment being made;

(iii) on or after the later of the Senior Secured Discharge Date and the Second Lien Discharge Date, Senior Unsecured Representative(s) consent to the payment being made or it is otherwise permitted or not prohibited by the Senior Unsecured Facilities Agreement or the Senior Unsecured Notes Indenture (as applicable); or

(iv) that Payment is made to facilitate Payment of the Senior Secured Liabilities, Senior Secured Notes Trustee Amounts, Second Lien Notes Trustee Amounts or Senior Unsecured Notes Trustee Amounts.

9.3 Payment obligations continue

No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Clauses 9.1 (Restriction on Payment: Intra-Group Liabilities) and 9.2 (Permitted Payments: Intra-Group Liabilities) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

9.4 Acquisition of Intra-Group Liabilities

(a) Subject to paragraph (b) below, each Debtor may, and may permit any other member of the Group to:

(i) enter into any Liabilities Acquisition; or

(ii) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition, in respect of any Intra-Group Liabilities at any time.

(b) Subject to paragraph (c) below, no action described in paragraph (a) above may take place in respect of any Intra-Group Liabilities if:

(i) that action would result in a breach of: (A) (prior to the Senior Discharge Date) the Senior Facilities Agreement; (B) (prior to the Senior Secured Notes Discharge Date) a Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding (as applicable), (C) (prior to the Second Lien Discharge Date) the Second Lien Facilities Agreement or the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding; or (D) (prior to the Senior Unsecured Discharge Date) the Senior Unsecured Facilities Agreement or the Senior Unsecured Notes Indenture(s) pursuant to which any Senior Unsecured Notes remain outstanding (as applicable); or

(ii) at the time of that action, an Acceleration Event has occurred.

(c) The restrictions in paragraph (b) above shall not apply if:

(i) prior to the Senior Secured Discharge Date:

(A) (if paragraphs (B) or (C) below do not apply) an Instructing Group consents to that action; or
if at that time, the Security Agent is obliged to give effect to instructions from the Majority Second Lien Creditors to enforce the Transaction Security pursuant to, paragraph (b) of Clause 14.5 (Manner of enforcement) or, on and from the Senior Term Lender Discharge Date, paragraph (b) of Clause 15.6 (Manner of enforcement), the Majority Second Lien Creditors consent to that action; or

if at that time, the Security Agent is obliged to give effect to instructions from the Majority Senior Unsecured Creditors to enforce the Transaction Security pursuant to, paragraph (c) of Clause 14.5 (Manner of enforcement) or, on and from the Senior Term Lender Discharge Date, paragraph (c) of Clause 15.6 (Manner of enforcement), the Majority Senior Unsecured Creditors consent to that action; or

(ii) on or after the Senior Secured Discharge Date but prior to the Second Lien Discharge Date:

(A) (if paragraph (B) above does not apply) the Majority Second Lien Lenders and the Second Lien Notes Trustee(s) consent to that Payment being made; or

(B) if, at that time, the Security Agent is obliged to give effect to instructions from the Majority Senior Unsecured Creditors as to the manner of enforcement of the Transaction Security pursuant to paragraph (c) of Clause 14.5 (Manner of enforcement) or, on and from the Senior Term Lender Discharge Date, paragraph (c) of Clause 15.6 (Manner of enforcement), the Majority Senior Unsecured Creditors consent to that Payment being made; or

(iii) on or after the later of the Senior Secured Discharge Date and the Second Lien Discharge Date, the Majority Senior Unsecured Creditors consent to the payment being made; or

(iv) that action is taken to facilitate Payment of the Senior Secured Liabilities, Senior Unsecured Notes Trustee Amounts, Second Lien Notes Trustee Amounts or Senior Secured Notes Trustee Amounts or, to the extent permitted by this Agreement to be paid, the Second Lien Liabilities and/or the Senior Unsecured Liabilities.

9.5 Security: Intra-Group Lenders

Prior to the Final Discharge Date, the Intra-Group Lenders may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of the Intra-Group Liabilities unless:

(a) prior to the Senior Secured Discharge Date, that Security, guarantee, indemnity or other assurance against loss is expressly permitted or not prohibited by the terms of the Senior Facilities Agreement and is not prohibited by the terms of the Senior Secured Notes Indenture or the prior consent of (to the extent otherwise prohibited under the Senior Facilities Agreement) the Majority Senior Creditors and (to the extent otherwise prohibited under a Senior Secured Notes Indenture) the Senior Secured Notes Trustee(s) is obtained; or
(b) after the Senior Secured Discharge Date but prior to the Second Lien Discharge Date, that Security, guarantee, indemnity or other assurance against loss is expressly permitted or not prohibited by the terms of the Second Lien Facilities Agreement and is not prohibited by the terms of the Second Lien Notes Indenture or the prior consent of the Majority Second Lien Lenders and (to the extent otherwise prohibited under a Second Lien Notes Indenture) the Second Lien Notes Trustee(s) is obtained; or

(c) on or after the later of the Senior Secured Discharge Date and the Second Lien Discharge Date, (to the extent otherwise prohibited under the Senior Unsecured Facilities Agreement or a Senior Unsecured Notes Indenture) the prior consent of the Senior Unsecured Representative(s) (as applicable) is obtained.

9.6 **Restriction on enforcement: Intra-Group Lenders**

Subject to Clause 9.7 (*Permitted Enforcement: Intra-Group Lenders*), none of the Intra-Group Lenders shall be entitled to take any Enforcement Action (other than making a demand (but not any other Enforcement Action) in respect of a Permitted Intra-Group Payment) in respect of any of the Intra-Group Liabilities at any time prior to the Final Discharge Date unless otherwise directed by the Security Agent.

9.7 **Permitted Enforcement: Intra-Group Lenders**

After the occurrence of an Insolvency Event in relation to any member of the Group, each Intra-Group Lender may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Intra-Group Lender in accordance with Clause 11.5 (*Filing of claims*)) exercise any right it may otherwise have against that member of the Group to:

(a) accelerate any of that member of the Group’s Intra-Group Liabilities or declare them prematurely due and payable or payable on demand;

(b) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Intra-Group Liabilities;

(c) exercise any right of set-off or take or receive any Payment in respect of any Intra-Group Liabilities of that member of the Group; or

(d) claim and prove in the liquidation of that member of the Group for the Intra-Group Liabilities owing to it.

9.8 **Representations: Intra-Group Lenders**

Each Intra-Group Lender which is not a Debtor represents and warrants to the Primary Creditors, the Security Agent and the Agents that on the date of this Agreement (or such later date that such Intra-Group Lender accedes as a Party):

(a) it is duly incorporated or established and validly existing under the laws of its jurisdiction of incorporation;

(b) subject to the Legal Reservations, the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable obligations; and

(c) the entry into and performance by it of, and the transactions contemplated by, this Agreement does not and will not conflict with:

(i) any law or regulation applicable to it in any material respect;
(ii) its constitutional documents in any material respect; or

(iii) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any agreement or instrument binding on it or any of its assets to such an extent or in such a manner which gives rise to or would be reasonably likely to give rise to a Material Adverse Effect (as defined in the Senior Facilities Agreement).

10. EXISTING NOTES AT A TARGET GROUP

(a) In this Clause 10, the following terms have the meanings ascribed to them as follows:

“Existing Notes” means Financial Indebtedness issued by a person, which person is acquired (directly or indirectly) by the Group after the date of this Agreement and which Financial Indebtedness takes the form of securities and was not incurred in contemplation of such acquisition;

“Existing Notes Holding Account” means an account (as the same may be re-designated, substituted or replaced from time to time):

(i) held in London in the name of an Existing Notes Trustee (for itself and the holders of Existing Notes for which it is the Existing Notes Trustee);

(ii) identified between such Existing Notes Trustee and the Security Agent as its Existing Notes Holding Account; and

(iii) subject to Security in favour of such Existing Notes Trustee which Security is in form and substance satisfactory to such Existing Notes Trustee;

“Existing Notes Indenture” means the indenture, trustee deed, fiscal agency agreement or other agreement or instrument constituting any Existing Notes or pursuant to which any Existing Notes are issued, as in effect on the date of acquisition of the Existing Notes Issuer by one or more members of the Group;

“Existing Notes Issuer” means, in relation to any Existing Notes, the issuer of such Existing Notes;

“Existing Notes Guarantees and Security” means any guarantees and/or Security given in favour of the Existing Notes Trustee (for itself and the holders of Existing Notes for which it is the Existing Notes Trustee) at the time of the acquisition, directly or indirectly, by the Group of any relevant Existing Notes Guarantor;

“Existing Notes Guarantor” means, in relation to any Existing Notes, any guarantor of such Existing Notes, which guarantor is acquired (directly or indirectly) by the Group after the date of this Agreement provided the guarantee of such guarantor was not incurred in contemplation of such acquisition and such guarantee was in existence at the time such guarantor was acquired by the Group;

“Existing Notes Trustee” means, in relation to any Existing Notes, the trustee from time to time under the Existing Notes Indenture for such Existing Notes; and

“Recovery” means any Payment or distribution of, or on account of or in relation to (including without limitation by way of set off), any of the Liabilities from any member of the Group.
(b) The Parties acknowledge and agree that, in relation to any Existing Notes from time to time, the Existing Notes Indenture for such Existing Notes may give such Existing Notes the right to guarantees and/or equal and rateable Security from certain Debtors in certain collateral in the circumstances set out therein, and that if the Company elects, such Existing Notes may be designated hereunder as Senior Secured Notes, provided that the provisions of this Clause 10 shall not apply at any time to such Existing Notes, and the Company may not elect at any time to designate such Existing Notes as Senior Secured Notes, in each case, until the Senior Secured Parties have, subject to the Agreed Security Principles, received the benefit of substantially equivalent guarantees and security to that of the Existing Notes Guarantees and Security in accordance with the provisions of Clause 3.4 (Security and guarantees: Senior Secured Creditors) of this Agreement.

(c) If any Existing Notes are designated hereunder as Senior Secured Notes, the Parties acknowledge and agree that, notwithstanding any other term of this Agreement:

(i) the Liabilities of the Existing Notes Issuer and any Existing Notes Guarantor under the Existing Notes Indenture for those Existing Notes (the “Relevant Existing Notes Liabilities”), including as issuer (on the part of such Existing Notes Issuer) and guarantor (on the part of such Existing Notes Guarantor), may not be released or otherwise compromised under this Agreement;

(ii) the Existing Notes Guarantees and Security shall not constitute Transaction Security or be released or otherwise compromised under this Agreement; and

(iii) no requirement to share Recoveries shall apply to any Recovery by the holders of such Existing Notes or the Existing Notes Trustee for such Existing Notes made in respect of the Relevant Existing Notes Liabilities, except solely to the extent such Recovery is made under the Transaction Security Documents.

(d) To the extent there are any Group Recoveries that are to be distributed to an Existing Notes Trustee under Clause 17.1 (Order of Application of Group Recoveries) at a time when and to the extent the relevant accrued Liabilities in respect of the relevant Existing Notes are not then due and payable (such amount being the “Relevant Amount”) to the extent requested by such Existing Notes Trustee, the Relevant Amount that would otherwise be paid to such Existing Notes Trustee shall be paid into an Existing Notes Holding Account of such Existing Notes Trustee. For the avoidance of doubt, payment of the Relevant Amount into the Existing Notes Holding Account shall be treated as if paid in satisfaction of the related Senior Secured Notes Liabilities for the purposes of Clause 17 (Application of Proceeds) and 18 (Equalisation). The provisions of this Agreement shall not apply to or create any restriction in respect of any arrangement (including the creation of any Security over any Existing Notes Holding Account in favour of the relevant Existing Notes Trustee) pursuant to which the proceeds of Relevant Amounts are subject.

(e) Subject to paragraphs (c) above and (h) below, with respect to Transaction Security granted over any asset of a member of the Group or assets or any Guarantee Liabilities of any member of the Group, the Security Agent (or, if applicable, the Existing Notes Trustee) is irrevocably authorised (at the cost of the Debtors and without any consent, sanction, authority or further confirmation from any Creditor, other Secured Party or Debtor) but subject to paragraph (f) below:

(i) to release the Transaction Security or any other claim relating to the Existing Notes and Existing Notes Indentures over that asset;
(ii) where that asset consists of shares in the capital of a member of the Group, to release the Transaction Security or any other claim (relating to the Existing Notes and Existing Notes Indentures) over that member of the Group’s assets;

(iii) to release the Guarantee Liabilities of that Group member relating to the Existing Notes and Existing Notes Indentures; and

(iv) to execute and deliver or enter into any release of the Transaction Security or any claim described in sub-paragraphs (i), (ii) and (iii) above and issue any certificates of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent (or, if applicable, the relevant Existing Notes Trustee), be considered necessary or desirable.

(f) Each release of Transaction Security or any claim (including in the case of a release and retake of Transaction Security or any other refinancing that triggers the requirement under the relevant Existing Notes Indenture to secure Existing Notes equally and rateably upon the consummation of such release and retake or other refinancing) and each release of a Guarantee Liability, in each case described in paragraph (e) above, shall only be permitted and will only become effective if:

(i) there is a prior or simultaneous release of such Transaction Security, claim or Guarantee Liability by each other Secured Creditor; and

(ii) subject to Clause 16.2 (Distressed Disposals) (but for the avoidance of doubt, without limiting the Company from complying with any release provisions requiring written confirmation from the Company under the Existing Notes Indenture), the Company has confirmed in writing to the Security Agent (or, if applicable, the relevant Existing Notes Trustee) that the conditions in sub-paragraph (i) above are met (and the Security Agent (or, if applicable, the relevant Existing Notes Trustee) may rely conclusively without enquiry on such a confirmation 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).

(g) For the avoidance of doubt, the authorisations contained in paragraph (e) above are in addition to, and without prejudice to, any other authorisations granted to the Security Agent under this Agreement.

(h) The Security Agent is not authorised under paragraphs (a)(i) to (a)(v) of Clause 16.2 (Distressed Disposals) or under paragraph (e) above, and will not be requested, to release the Existing Notes Issuer or Existing Notes Guarantor for any Existing Notes from any of their Borrowing Liabilities or Guarantee Liabilities, respectively, relating to such Existing Notes.

(i) For the avoidance of doubt:

(i) in the event any Existing Notes Trustee becomes a Party it shall benefit from all of the provisions of Clause 29 (Notes Trustees). Without limiting the generality of any other applicable provision of this Agreement, the Secured Parties confirm that if and to the extent an Existing Notes Trustee requires any amendments to this Agreement in order to become a Party and the Company so requests, they will (at the cost of the Debtors) co-operate with the Debtors with a view to enabling such Existing Notes Trustee to become a Party. In particular, but without limitation, each of the Secured Parties irrevocably authorises and directs each Agent and the Security Agent to execute any amendment to this Agreement and such other Debt Documents
required to reflect such arrangements, provided such amendments would not have a material adverse effect on the other Parties; and

(ii) Clause 3.4 (Security and guarantees: Senior Secured Creditors) of this Agreement shall continue to apply and any right to designate Existing Notes as Senior Secured Notes is subject to compliance therewith.

11. EFFECT OF INSOLVENCY EVENT

11.1 SFA Cash Cover

This Clause 10(i)(ii)11 is subject to Clause 17.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral) and, in the case of each Notes Trustee, to paragraphs (a) and (c) of Clause 29.1 (Liability).

11.2 Payment of distributions

(a) After the occurrence of an Insolvency Event in relation to any member of the Group, any Party entitled to receive a distribution out of the assets of that member of the Group (in the case of a Primary Creditor (other than a Senior Unsecured Creditor) on or after the Senior Term Lender Discharge Date, only to the extent that such amount constitutes Enforcement Proceeds) in respect of Liabilities owed to that Party shall, to the extent it is able to do so, direct the person responsible for the distribution of the assets of that member of the Group to pay that distribution to the Security Agent until the Liabilities owing to the Secured Parties have been paid in full.

(b) The Security Agent shall apply distributions paid to it under paragraph (a) above in accordance with Clause 17 (Application of Proceeds).

11.3 Set-Off

(a) Subject to paragraph (b) below, to the extent that any member of the Group’s Liabilities are discharged by way of set-off (mandatory or otherwise) after the occurrence of an Insolvency Event in relation to that member of the Group, any Creditor which benefited from that set-off shall (in the case of a Primary Creditor (other than a Senior Unsecured Creditor) on or after the Senior Term Lender Discharge Date, only to the extent that such amount constitutes Enforcement Proceeds), subject (in respect of any Intra-Group Lender) to any Guarantee Limitations which are (or would be if such Intra-Group Lender were an Obligor (as defined in the Senior Facilities Agreement)) applicable, pay an amount equal to the amount of the Liabilities owed to it which are discharged by that set-off to the Security Agent for application in accordance with Clause 17 (Application of Proceeds).

(b) Paragraph (a) above shall not apply to:

(i) any such discharge of the Multi-account Overdraft Liabilities to the extent that the relevant discharge represents a reduction from the Gross Outstandings of a Multi-account Overdraft Facility to or towards an amount equal to its Net Outstandings;

(ii) any Close-Out Netting by a Hedge Counterparty or a Hedging Ancillary Lender;
(iii) any Payment Netting by a Hedge Counterparty or a Hedging Ancillary Lender;

(iv) any Inter-Hedging Agreement Netting by a Hedge Counterparty; and

(v) any Inter-Hedging Ancillary Document Netting by a Hedging Ancillary Lender.

11.4 **Non-cash distributions**

If the Security Agent or any other Secured Party receives a distribution in a form other than in cash in respect of any of the Liabilities, the Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Liabilities.

11.5 **Filing of claims**

Without prejudice to any Ancillary Lender’s right of netting or set-off relating to a Multi-account Overdraft Facility (to the extent that the netting or set-off represents a reduction from the Gross Outstandings of that Multi-account Overdraft Facility to or towards an amount equal to its Net Outstandings), after the occurrence of an Insolvency Event in relation to any member of the Group, each Creditor (in the case of a Senior Unsecured Creditor of the Company, to the extent relating to or affecting the Senior Unsecured Shared Security or the assets secured by such Security only) irrevocably authorises and empowers the Security Agent (acting in accordance with Clause 11.7 (*Security Agent instructions*) and with express faculty of self-contracting, sub-empowering or multiple representation), on its behalf, to:

(a) take any Enforcement Action (in accordance with the terms of this Agreement) against that member of the Group;

(b) demand, sue, prove and give receipt for any or all of that member of the Group’s Liabilities;

(c) collect and receive all distributions on, or on account of, any or all of that member of the Group’s Liabilities; and

(d) file claims, take proceedings and do all other things the Security Agent considers reasonably necessary to recover that member of the Group’s Liabilities including voting any Senior Unsecured Liabilities in favour of a plan of reorganisation approved by the Majority Senior Secured Creditors and/or Majority Second Lien Creditors (as applicable).

11.6 **Creditors’ actions**

(a) Each Creditor will:

(i) do all things that the Security Agent (acting in accordance with Clause 11.7 (*Security Agent instructions*)) requests in order to give effect to this Clause 11; and

(ii) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 11 or if the Security Agent (acting in accordance with Clause 11.7 (*Security Agent instructions*)) requests that a Creditor take that action, undertake that action itself in accordance with the instructions of the Security Agent (acting in accordance with Clause 11.7 (*Security Agent instructions*)) or grant a power of attorney to the Security Agent (on such terms as the
Security Agent (acting in accordance with Clause 11.7 (Security Agent instructions)) may reasonably require, although no Notes Trustee shall be under any obligation to grant such powers of attorney) to enable the Security Agent to take such action.

(b) Each Creditor (each as creditor of any member of the Group and not as shareholder of the Company, as the case may be) and Debtor agrees that it shall not (and the Company shall ensure that no other member of the Group shall) intentionally take, encourage, assist or support (or procure that any other person takes, encourages, assists or supports) any action which would, or would reasonably be expected to, breach or be inconsistent with this Agreement, or delay, impede or prevent the implementation or consummation of the matters contemplated by this Agreement.

11.7 Security Agent instructions

For the purposes of Clause 11.5 (Filing of claims) and Clause 11.6 (Creditors’ actions) the Security Agent:

(a) shall act on the instructions of the group of Primary Creditors entitled, at that time, to give instructions under, prior to the Senior Term Lender Discharge Date, Clause 14.4 (Enforcement instructions) or Clause 14.5 (Manner of enforcement) or, on and from the Senior Term Lender Discharge Date, Clause 15.5 (Enforcement instructions) or Clause 15.6 (Manner of enforcement); or

(b) may act (but, for the avoidance of doubt, will not be obliged to act), in the absence of any such instructions, as the Security Agent sees fit.

11.8 Limitation by Applicable Laws

Each of the provisions of this Clause 11.8 shall apply only to the extent permitted by applicable laws.

12. TURNOVER OF RECEIPTS

12.1 SFA Cash Cover

This Clause 12 is subject to Clause 17.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral) and, in the case of each Notes Trustee, to paragraphs (a) and (c) of Clause 29.1 (Liability).

12.2 Turnover by the Primary Creditors

Subject to Clause 12.4 (Exclusions), Clause 12.5 (Permitted assurance and receipts) and Clauses 19.1 (New/Refinancing of Senior Secured Liabilities), 19.2 (New/Refinancing of Second Lien Liabilities), 19.3 (New/Refinancing of Senior Unsecured Liabilities) and, in the case of Notes Trustee Amounts, to paragraphs (a) and (c) of Clause 29.1 (Liability):

(a) if (at any time prior to the Final Discharge Date) a Senior Unsecured Creditor or (at any time prior to the Senior Term Lender Discharge Date only) any other Primary Creditor receives or recovers from any member of the Group:

(i) any Payment or distribution of, or on account of or in relation to, any of the Liabilities which is not either:

(A) a Permitted Payment; or

(B) made in accordance with Clause 17 (Application of Proceeds);
(ii) other than where Clause 11.3 (Set-Off) applies, any amount by way of set-off in respect of any of the Liabilities owed to it which does not give effect to a Permitted Payment;

(iii) notwithstanding paragraphs (i) and (ii) above, and other than where Clause 11.3 (Set-Off) applies, any amount:

(A) on account of, or in relation to, any of the Liabilities:

(I) after the occurrence of a Distress Event; or

(II) as a result of any other litigation or proceedings against a member of the Group (other than after the occurrence of an Insolvency Event in respect of that member of the Group); or

(B) by way of set-off in respect of any of the Liabilities owed to it after the occurrence of a Distress Event;

(iv) Enforcement Proceeds or the proceeds of any Distressed Disposal in each case except in accordance with Clause 17 (Application of Proceeds); or

(v) other than where Clause 11.3 (Set-Off) or Clause 19 (New/Refinancing of Primary Creditor Liabilities) applies, any distribution in cash or in kind or Payment of, or on account of or in relation to, any of the Liabilities owed by any member of the Group which is not in accordance with Clause 17 (Application of Proceeds) and which is made as a result of, or after, the occurrence of an Insolvency Event in respect of that member of the Group,

other than, in each case, (A) any amount received or recovered in accordance with Clause 17 (Application of Proceeds) or (B) in the case of a Payment by a Senior Unsecured Notes Issuer or a Senior Unsecured Borrower to a Senior Unsecured Creditor, any amount received that is a Permitted Senior Unsecured Payment; or

(b) if, at any time on or after the Senior Term Lender Discharge Date but prior to the Final Discharge Date, any Primary Creditor receives or recovers any Enforcement Proceeds or any other amounts which should otherwise be received or recovered by the Security Agent for application under Clause 17 (Application of Proceeds) (whether before or after an Insolvency Event) except in accordance with Clause 17 (Application of Proceeds),

(c) that Primary Creditor will:

(i) in relation to receipts and recoveries not received or recovered by way of set-off:

(A) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or, if less, the amount received or recovered) on trust for the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement; and

(B) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement; and
(ii) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that recovery to the Security Agent for application in accordance with the terms of this Agreement.

(d) It is hereby agreed that, in relation to any jurisdiction the courts of which would not recognise or give effect to the trust expressed to be created by this Clause, the relationship of the Security Agent to the Primary Creditors shall be construed as one of principal and agent.

12.3 Turnover by other Creditors

Subject to Clause 12.4 (Exclusions) and Clause 12.5 (Permitted assurance and receipts) and (in respect of any Intra-Group Lender) to any Guarantee Limitations which are (or would be if such Intra-Group Lender were an Obligor (as defined in the Senior Facilities Agreement)) applicable, if at any time prior to the Final Discharge Date, any Creditor (other than a Primary Creditor that is not a Senior Unsecured Creditor) receives or recovers from any member of the Group:

(a) any Payment or distribution of, or on account of or in relation to, any of the Liabilities which is not either:

(i) a Permitted Payment; or

(ii) made in accordance with Clause 17 (Application of Proceeds);

(b) other than where Clause 11.3 (Set-Off) applies, any amount by way of set-off in respect of any of the Liabilities owed to it which does not give effect to a Permitted Payment;

(c) notwithstanding paragraphs (a) and (b) above, and other than where Clause 11.3 (Set-Off) applies, any amount:

(i) on account of, or in relation to, any of the Liabilities:

(A) after the occurrence of a Distress Event; or

(B) as a result of any other litigation or proceedings against a member of the Group (other than after the occurrence of an Insolvency Event in respect of that member of the Group); or

(ii) by way of set-off in respect of any of the Liabilities owed to it after the occurrence of a Distress Event;

(d) Enforcement Proceeds or the proceeds of any Distressed Disposal in each case except in accordance with Clause 17 (Application of Proceeds); or

(e) other than where Clause 11.3 (Set-Off) or Clause 19.1 (New/Refinancing of Senior Secured Liabilities) applies, any distribution in cash or in kind or Payment of, or on account of or in relation to, any of the Liabilities owed by any member of the Group which is not in accordance with Clause 17 (Application of Proceeds) and which is made as a result of, or after, the occurrence of an Insolvency Event in respect of that member of the Group,

other than, in each case, (1) any amount received or recovered in accordance with Clause 17 (Application of Proceeds) or (2) in the case of a Payment by a Senior Unsecured Notes Issuer or a Senior Unsecured Borrower to a Senior Unsecured Creditor, any amount received that is
a Permitted Senior Unsecured Payment, that Creditor (other than a Primary Creditor that is not a Senior Unsecured Creditor) will:

(i) in relation to receipts and recoveries not received or recovered by way of set-off:

(A) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement; and

(B) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement; and

(ii) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that recovery to the Security Agent for application in accordance with the terms of this Agreement.

(f) It is hereby agreed that, in relation to any jurisdiction the courts of which would not recognise or give effect to the trust expressed to be created by this Clause, the relationship of the Security Agent to the Creditors shall be construed as one of principal and agent.

12.4 Exclusions

Clause 12.2 (Turnover by the Primary Creditors) and Clause 12.3 (Turnover by other Creditors) shall not apply to any receipt or recovery:

(a) by way of:

(i) Close-Out Netting by a Hedge Counterparty or a Hedging Ancillary Lender;

(ii) Payment Netting by a Hedge Counterparty or a Hedging Ancillary Lender;

(iii) Inter-Hedging Agreement Netting by a Hedge Counterparty; or

(iv) Inter-Hedging Ancillary Document Netting by a Hedging Ancillary Lender;

(b) by an Ancillary Lender by way of that Ancillary Lender’s right of netting or set-off relating to a Multi-account Overdraft Facility (to the extent that that netting or set-off represents a reduction from the Gross Outstandings of that Multi-account Overdraft Facility to or towards an amount equal to its Net Outstandings);

(c) any refinancing subject to Clause 19.1 (New/Refinancing of Senior Secured Liabilities); or

(d) made in accordance with Clause 18 (Equalisation).

12.5 Permitted assurance and receipts

Nothing in this Agreement shall restrict the ability of any Primary Creditor to:
(a) arrange with any person which is not a member of the Group any assurance against loss in respect of, or reduction of its credit exposure to, a Debtor (including assurance by way of credit based derivative or sub-participation); or

(b) make any assignment or transfer permitted by Clause 22 (Changes to the Parties), which:

(i) is permitted or not prohibited by the Senior Facilities Agreement, the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding, the Second Lien Facilities Agreement, the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding, the Senior Unsecured Facilities Agreement or the Senior Unsecured Notes Indenture(s) pursuant to which any Senior Unsecured Notes remain outstanding (as applicable); and

(ii) is not in breach of Clause 5.5 (No acquisition of Hedging Liabilities) or any provision of (if prior to the Senior Secured Discharge Date) the Senior Facilities Agreement and the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding, (if prior to the Second Lien Discharge Date) the Second Lien Facilities Agreement or the Second Lien Notes Indenture(s) pursuant to which and Second Lien Notes remain outstanding or (if prior to the Senior Unsecured Discharge Date) the Senior Unsecured Facilities Agreement and the Senior Unsecured Notes Indenture(s) pursuant to which any Senior Unsecured Notes remain outstanding (as applicable),

and that Primary Creditor shall not be obliged to account to any other Party for any sum received by it as a result of that action.

12.6 Sums received by Debtors

(a) If any of the Debtors receives or recovers any sum which, under the terms of any of the Debt Documents, should have been paid to the Security Agent, that Debtor will:

(i) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or, if less, the amount received or recovered) on trust for the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement; and

(ii) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement.

(b) It is hereby agreed that, in relation to any jurisdiction the courts of which would not recognise or give effect to the trust expressed to be created by this Clause, the relationship of the Security Agent to the Debtors shall be construed as one of principal and agent.

12.7 Saving provision

If, for any reason, any of the trusts expressed to be created in this Clause 12 (Turnover of Receipts) should fail or be unenforceable, the affected Creditor or Debtor will promptly pay an amount equal to that receipt or recovery to the Security Agent to be held on trust by the Security Agent for application in accordance with the terms of this Agreement.

12.8 Non-creation of charge
Nothing in this Clause 12 or any other provision of this Agreement is intended to or shall create a charge or any other security.

13. **REDISTRIBUTION**

13.1 **Recovering Creditor’s rights**

(a) Any amount paid by a Creditor (a “Recovering Creditor”) to the Security Agent under Clause 11 (Effect of Insolvency Event) or Clause 12 (Turnover of Receipts) shall be treated as having been paid by the relevant Debtor and distributed to the Security Agent, Agents, Arrangers and Primary Creditors (each, a “Sharing Creditor”) in accordance with the terms of this Agreement.

(b) On a distribution by the Security Agent under paragraph (a) above of a Payment received by a Recovering Creditor from a Debtor:

(i) as between the relevant Debtor and the Recovering Creditor an amount equal to the amount received or recovered by the Recovering Creditor and paid to the Security Agent (as the case may be) (the “Shared Amount”) will be treated as not having been paid by that Debtor to the greatest extent permitted by law; or

(ii) otherwise, to the greatest extent permitted by law, each Recovering Creditor will be subrogated in the rights of the Sharing Creditors(s) and each Debtor agrees that those subrogation rights will accrue interest at a rate which would have been applicable to the Liabilities which, pursuant to paragraph (i) above, should have been treated as not having been paid, immediately before the date of such subrogation.

13.2 **Reversal of redistribution**

(a) If any part of the Shared Amount received or recovered by a Recovering Creditor becomes repayable to a Debtor and is repaid by that Recovering Creditor to that Debtor, then:

(i) each Sharing Creditor shall (subject in the case of Notes Trustee Amounts to paragraphs (a) and (c) of Clause 29.1 (Liability)), upon request of the Security Agent, pay to the Security Agent for the account of that Recovering Creditor an amount equal to the appropriate part of its share of the Shared Amount (together with an amount as is necessary to reimburse that Recovering Creditor for its proportion of any interest on the Shared Amount which that Recovering Creditor is required to pay) (the “Redistributed Amount”); and

(ii) as between the relevant Debtor and each relevant Sharing Creditor, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Debtor.

(b) The Security Agent shall not be obliged to pay any Redistributed Amount to a Recovering Creditor under sub-paragraph (a)(i) above until it has been able to establish to its satisfaction that it has actually received that Redistributed Amount from the relevant Sharing Creditor.

13.3 **Deferral of Subrogation**

(a) No Creditor or Debtor will exercise any rights which it may have by reason of the performance by it of its obligations under the Debt Documents to take the benefit (in
whole or in part and whether by way of subrogation or otherwise) of any rights under the Debt Documents of any Creditor which ranks ahead of it in accordance with the priorities set out in Clause 2 (Ranking and Priority) until such time as all of the Liabilities owing to each prior ranking Creditor (or, in the case of any Debtor, owing to each Creditor) have been irrevocably paid in full.

(b) No Intra-Group Lender, Company, Senior Unsecured Notes Issuer or Senior Unsecured Borrower (as applicable) will exercise any rights which it may have to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights under the Debt Documents of any prior ranking Creditor until such time as all of the Liabilities owing to each Primary Creditor have been irrevocably paid or discharged in full.

14. **ENFORCEMENT OF TRANSACTION SECURITY PRIOR TO THE SENIOR TERM LENDER DISCHARGE DATE**

14.1 **Senior Term Lender Discharge Date**

The provisions of this Clause 14 shall only apply to any instruction given or action taken prior to the Senior Term Lender Discharge Date. On or after the Senior Term Lender Discharge Date, the provisions of Clause 15 (Enforcement of Transaction Security on or after the Senior Term Lender Discharge Date) shall apply in substitution for the provisions of this Clause 14 for any instructions or action thereafter and this Clause 14 shall cease to apply.

14.2 **SFA Cash Cover**

This Clause 14 is subject to Clause 17.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral).

14.3 **Consultation Period**

(a) Subject to paragraph (b) below, before giving any instructions to the Security Agent to enforce the Transaction Security or to take any other Enforcement Action, the Credit Representative(s) of the Creditors represented in the Instructing Group or, as applicable, the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors shall consult with each other Credit Representative and the Security Agent in good faith about the instructions to be given by the Instructing Group or, as applicable, the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors for a period of up to 5 Business Days (or such shorter period as each Credit Representative and the Security Agent shall agree) (the “Consultation Period”), and only following the expiry of a Consultation Period, the Instructing Group or, as applicable, the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors shall be entitled to give any instructions to the Security Agent to enforce the Transaction Security or take any other Enforcement Action.

(b) No Credit Representative shall be obliged to consult in accordance with paragraph (a) above and the Instructing Group or, as applicable, the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors shall be entitled to give any instructions to the Security Agent to enforce the Transaction Security or take any other Enforcement Action prior to the end of a Consultation Period if:

(i) the Transaction Security has become enforceable as a result of an Insolvency Event; or

(ii) the Instructing Group or, as applicable, the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors or any Credit Representative of the
Creditors represented in the Instructing Group determines in good faith (and notifies each Credit Representative and the Security Agent) that to enter into such consultations and thereby delay the commencement of enforcement of the Transaction Security could reasonably be expected to have a material adverse effect on:

(A) the Security Agent’s ability to enforce any of the Transaction Security; or
(B) the realisation proceeds of any enforcement of the Transaction Security.

14.4 Enforcement instructions

(a) The Security Agent may refrain from enforcing the Transaction Security or taking other Enforcement Action unless instructed otherwise by:

(i) the Instructing Group;

(ii) if required under paragraph (c) below, the Second Lien Credit Representative(s) (acting on the instructions of the Majority Second Lien Creditors); or

(iii) if required under paragraph (d) below, the Senior Unsecured Representative(s) (acting on the instructions of the Majority Senior Unsecured Creditors).

(b) Subject to the Transaction Security having become enforceable in accordance with its terms:

(i) the Instructing Group;

(ii) to the extent permitted to enforce or to require the enforcement of the Transaction Security prior to the Senior Secured Discharge Date under Clause 7.13 (Permitted Second Lien Enforcement), the Second Lien Credit Representative(s) (acting on the instructions of the Majority Second Lien Creditors); or

(iii) to the extent permitted to enforce or to require the enforcement of the Senior Unsecured Shared Security prior to the Senior Secured Discharge Date under Clause 8.11 (Permitted Senior Unsecured Enforcement) and subject to paragraph (d) below, the Senior Unsecured Representative(s) (acting on the instructions of the Majority Senior Unsecured Creditors),

may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security or (as applicable) the Senior Unsecured Shared Security as they see fit.

(c) Prior to the Senior Secured Discharge Date:

(i) if the Instructing Group has instructed the Security Agent not to enforce or to cease enforcing the Transaction Security; or

(ii) in the absence of instructions from the Instructing Group,

and, in each case, the Instructing Group has not required any Debtor to make a Distressed Disposal, the Security Agent shall give effect to any instructions to enforce
the Transaction Security which the Second Lien Credit Representative(s) (acting on
the instructions of the Majority Second Lien Creditors) are then entitled to give to the
Security Agent under Clause 7.13 (Permitted Second Lien Enforcement).

(d) Prior to the later of the Senior Secured Discharge Date and the Second Lien
Discharge Date:

(i) if the Instructing Group has instructed the Security Agent not to enforce or to
cease enforcing the Transaction Security; or

(ii) in the absence of instructions from the Instructing Group,

and, in each case, the Instructing Group has not required any Debtor to make a
Distressed Disposal, the Security Agent shall give effect to any instructions to enforce
the Senior Unsecured Shared Security which the Senior Unsecured Representative(s)
(acting on the instructions of the Majority Senior Unsecured Creditors) are then
entitled to give to the Security Agent under Clause 8.11 (Permitted Senior Unsecured
Enforcement) respectively.

(e) Notwithstanding the preceding paragraphs (c) and (d), if at any time the Second Lien
Credit Representative(s) or the Senior Unsecured Representative(s) (as applicable) is
then entitled to give the Security Agent instructions to enforce the Transaction
Security pursuant to the preceding paragraph (c) or the Senior Unsecured Shared
Security pursuant to the preceding paragraph (d) (as applicable) and the Second Lien
Credit Representative(s) or the Senior Unsecured Representative(s) (as applicable)
either gives such instruction or indicates any intention to give such instruction, then
the Instructing Group may give instructions to the Security Agent to enforce the
Transaction Security as the Instructing Group sees fit in lieu of any instructions to
enforce given by the Second Lien Credit Representative(s) under Clause 7.13
(Permitted Second Lien Enforcement) or the Senior Unsecured Representative(s)
under Clause 8.11 (Permitted Senior Unsecured Enforcement) (as applicable) and the
Security Agent shall act on such instructions received from the Instructing Group (and
the Security Agent shall promptly cease any conflicting actions pursued or taken
pursuant to the instructions of the Second Lien Credit Representative(s) or the Senior
Unsecured Representative(s) (as applicable) without any liability to any Second Lien
Creditors or Senior Unsecured Creditors (as applicable) for any loss, costs, damages
and/or expenses that may arise as a result of it ceasing any such actions (whether or
not the Security Agent is aware that such loss, costs, damages and/or expenses may
arise)).

(f) The Security Agent is entitled, without further inquiry, to rely on and comply with
instructions given, or deemed to be given, in accordance with this Clause 14.4
(Enforcement instructions).

(g) No Secured Party shall have any independent power to enforce, or to have recourse
to, any Transaction Security or to exercise any rights or powers arising under the
Security Documents except through the Security Agent. Any decision to enforce the
Transaction Security will be taken by the Instructing Group in accordance with this
Clause 14 (Enforcement of Transaction Security prior to the Senior Term Lender
Discharge Date) or Clause 15 (Enforcement of Transaction Security on or after the
Senior Term Lender Discharge Date), as applicable, and will be binding on all of the
Secured Parties.

14.5 Manner of enforcement
If the Transaction Security is being enforced or other action as to Enforcement is being taken pursuant to Clause 14.4 (Enforcement instructions), the Security Agent shall enforce the Transaction Security or take such other action as to Enforcement in such manner (including, without limitation, the selection of any administrator (or any analogous officer in any jurisdiction) of any Debtor to be appointed by the Security Agent) as:

(a) the Instructing Group;

(b) prior to the Senior Secured Discharge Date, if:

(i) the Security Agent has, pursuant to paragraph (c) of Clause 14.4 (Enforcement instructions), received instructions given by the Majority Second Lien Creditors to enforce the Transaction Security; and

(ii) the Instructing Group has not given instructions as to the manner of enforcement of the Transaction Security,

the Majority Second Lien Creditors; or

(c) prior to the Senior Secured Discharge Date, if:

(i) the Security Agent has, pursuant to paragraph (d) of Clause 14.4 (Enforcement instructions), received instructions given by the Majority Senior Unsecured Creditors to enforce the Senior Unsecured Shared Security; and

(ii) the Instructing Group has not given instructions as to the manner of enforcement of the Transaction Security,

the Majority Senior Unsecured Creditors,

shall instruct, or, in the absence of any such instructions, the Security Agent may (but, for the avoidance of doubt, will not be obliged to) act as it sees fit.

14.6 Exercise of voting rights

(a) Each Creditor (in the case of a Senior Unsecured Creditor of the Company, to the extent relating to or affecting the Senior Unsecured Shared Security or the assets secured by such Security only) agrees (to the fullest extent permitted by law at the relevant time) with the Security Agent that it will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any member of the Group as instructed by the Security Agent.

(b) The Security Agent shall give instructions for the purposes of paragraph (a) of this Clause 14.6 as directed by an Instructing Group.

14.7 Waiver of rights

To the extent permitted under applicable law and subject to Clause 14.4 (Enforcement instructions), Clause 14.5 (Manner of enforcement), Clause 17 (Application of Proceeds) and paragraph (a) of Clause 16.2 (Distressed Disposals), each of the Secured Parties and the Debtors waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any sum received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.
14.8 Duties owed

(a) Each of the Secured Parties and the Debtors acknowledges that, in the event that the Security Agent enforces or is instructed to enforce the Transaction Security prior to the Senior Secured Discharge Date, the duties of the Security Agent and of any Receiver or Delegate owed to any Second Lien Creditor and/or Senior Unsecured Finance Party (as applicable) in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall, subject to paragraph (a) of Clause 16.2 (Distressed Disposals), be no different to or greater than the duty that is owed by the Security Agent, Receiver or Delegate to the Debtors under general law.

(b) Each of the Secured Parties and the Debtors acknowledges that, in the event that the Security Agent enforces or is instructed to enforce the Transaction Security after the Senior Secured Discharge Date but prior to the Second Lien Discharge Date, the duties of the Security Agent and of any Receiver or Delegate owed to any Senior Unsecured Finance Party in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall be no different to or greater than the duty that is owed by the Security Agent, Receiver or Delegate to the Debtors under general law.

14.9 Security held by other Creditors

If any Transaction Security is held by a Creditor other than the Security Agent, then such Creditors may only enforce that Transaction Security in accordance with instructions given by an Instructing Group in accordance with this Clause 14 (and, for this purpose, references to the Security Agent shall be construed as references to that Creditor).

15. ENFORCEMENT OF TRANSACTION SECURITY ON OR AFTER THE SENIOR TERM LENDER DISCHARGE DATE

15.1 Senior Term Lender Discharge Date

The provisions of this Clause 15 shall only apply on and from the Senior Term Lender Discharge Date (without prejudice to the continuing validity of any instruction given or action taken prior to such date).

15.2 SFA Cash Cover

This Clause 15 is subject to Clause 17.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral).

15.3 Consultation Period

(a) Subject to paragraph (b) below, before giving any instructions to the Security Agent to enforce the Transaction Security or to take any other Enforcement Action, the Credit Representative(s) of the Creditors represented in the Instructing Group or, as applicable, the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors shall consult with each other Credit Representative and the Security Agent in good faith about the instructions to be given by the Instructing Group or, as applicable, the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors for a period of up to 5 Business Days (or such shorter period as each Credit Representative and the Security Agent shall agree) (the “Consultation Period”), and only following the expiry of a Consultation Period, the Instructing Group or, as applicable, the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors.
Creditors shall be entitled to give any instructions to the Security Agent to enforce the Transaction Security or take any other Enforcement Action.

(b) No Credit Representative shall be obliged to consult in accordance with paragraph (a) above and the Instructing Group or, as applicable, the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors shall be entitled to give any instructions to the Security Agent to enforce the Transaction Security or take any other Enforcement Action prior to the end of a Consultation Period if:

(i) the Transaction Security has become enforceable as a result of an Insolvency Event; or

(ii) the Instructing Group or, as applicable, the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors or any Credit Representative of the Creditors represented in the Instructing Group determines in good faith (and notifies each Credit Representative and the Security Agent) that to enter into such consultations and thereby delay the commencement of enforcement of the Transaction Security could reasonably be expected to have a material adverse effect on:

(A) the Security Agent’s ability to enforce any of the Transaction Security; or

(B) the realisation proceeds of any enforcement of the Transaction Security.

15.4 Instructions to enforce

(a) If either the Majority Senior Creditors or the Majority Pari Passu Creditors wish to issue Enforcement Instructions, the Agents (and, if applicable, Hedge Counterparties) representing the Primary Creditors comprising the Majority Senior Creditors or Majority Pari Passu Creditors (as the case may be) shall deliver a copy of those proposed Enforcement Instructions (an “Initial Enforcement Notice”) to the Security Agent, each Agent and each Hedge Counterparty which did not deliver such Initial Enforcement Notice.

(b) Subject to paragraphs (c), (d) and (e) below, the Security Agent will act in accordance with Enforcement Instructions received from the Majority Pari Passu Creditors.

(c) If:

(i) the Majority Pari Passu Creditors have not either:

(A) made a determination as to the method of Enforcement they wish to instruct the Security Agent to pursue (and notified the Security Agent of that determination in writing); or

(B) appointed a Financial Adviser to assist them in making such a determination,

within three months of the date of the Initial Enforcement Notice; or

(ii) the Super Senior Discharge Date has not occurred within six months of the date of the Initial Enforcement Notice,
then the Security Agent will act in accordance with Enforcement Instructions received from the Majority Senior Creditors until the Super Senior Discharge Date has occurred.

(d) If an Insolvency Event is continuing with respect to a Debtor then the Security Agent will, to the extent the Majority Senior Creditors elect to provide such Enforcement Instructions, act in accordance with Enforcement Instructions received from the Majority Senior Creditors until the Super Senior Discharge Date has occurred.

(e) If the Majority Pari Passu Creditors have not either:

(i) made a determination as to the method of Enforcement they wish to instruct the Security Agent to pursue (and notified the Security Agent of that determination in writing); or

(ii) appointed a Financial Adviser to assist them in making such a determination,

and the Majority Senior Creditors:

(A) determine in good faith (and notify the other Agents, the Hedge Counterparties and the Security Agent) that a delay in issuing Enforcement Instructions could reasonably be expected to have a material adverse effect on the ability to effect a Distressed Disposal or on the expected realisation proceeds of any Enforcement; and

(B) deliver Enforcement Instructions which they reasonably believe to be consistent with the Enforcement Principles and necessary or advisable to enhance the prospects of achieving the Enforcement Objective before the Security Agent has received any Enforcement Instructions from the Majority Pari Passu Creditors,

then the Security Agent will act in accordance with the Enforcement Instructions received from the Majority Senior Creditors until the Super Senior Discharge Date has occurred.

15.5 Enforcement instructions

(a) The Security Agent may refrain from enforcing the Transaction Security or taking any other action as to Enforcement unless instructed otherwise:

(i) in accordance with Clause 15.4 (Instructions to enforce);

(ii) if required under paragraph (c) below, by the Second Lien Credit Representative(s) (acting on the instructions of the Majority Second Lien Creditors); or

(iii) if required under paragraph (d) below, by the Senior Unsecured Representative(s) (acting on the instructions of the Majority Senior Unsecured Creditors).

(b) Subject to the Transaction Security having become enforceable in accordance with its terms:

(i) the Instructing Group;

(ii) to the extent permitted to enforce or to require the enforcement of the Transaction Security prior to the Senior Secured Discharge Date under Clause
7.13 *(Permitted Second Lien Enforcement)*, the Second Lien Credit Representative(s) (acting on the instructions of the Majority Second Lien Creditors); or

(iii) to the extent permitted to enforce or to require the enforcement of the Senior Unsecured Shared Security prior to the Senior Secured Discharge Date under Clause 8.11 *(Permitted Senior Unsecured Enforcement)* and subject to paragraph (d) below, the Senior Unsecured Representative(s) (acting on the instructions of the Majority Senior Unsecured Creditors),

may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security or (as applicable) the Senior Unsecured Shared Security as they see fit.

(c) Prior to the Senior Secured Discharge Date:

(i) if the Instructing Group has instructed the Security Agent not to enforce or to cease enforcing the Transaction Security; or

(ii) in the absence of instructions from the Instructing Group,

and, in each case, the Instructing Group has not required any Debtor to make a Distressed Disposal, the Security Agent shall give effect to any instructions to enforce the Transaction Security which the Second Lien Credit Representative(s) (acting on the instructions of the Majority Second Lien Creditors) are then entitled to give to the Security Agent under Clause 7.13 *(Permitted Second Lien Enforcement)*.

(d) Prior to the later of the Senior Secured Discharge Date or the Second Lien Discharge Date:

(i) if the Instructing Group has instructed the Security Agent not to enforce or to cease enforcing the Transaction Security; or

(ii) in the absence of instructions from the Instructing Group,

and, in each case, the Instructing Group has not, and has (in case of sub-paragraph (i) above) confirmed in its instructions to the Security Agent that it has not, required any Debtor to make a Distressed Disposal, the Security Agent shall give effect to any instructions to enforce the Transaction Security which the Senior Unsecured Creditors are then entitled to give to the Security Agent under Clause 8.11 *(Permitted Senior Unsecured Enforcement)* respectively.

(e) Notwithstanding the preceding paragraphs (c) and (d), if at any time the Second Lien Credit Representative(s) or the Senior Unsecured Representative(s) (as applicable) is then entitled to give the Security Agent instructions to enforce the Transaction Security pursuant to the preceding paragraph (c) or the Senior Unsecured Shared Security pursuant to the preceding paragraph (d) (as applicable) and the Second Lien Credit Representative(s) or the Senior Unsecured Representative(s) (as applicable) either gives such instruction or indicates any intention to give such instruction, then the Instructing Group may give instructions to the Security Agent to enforce the Transaction Security as the Instructing Group sees fit in lieu of any instructions to enforce given by the Second Lien Credit Representative(s) under Clause 7.13 *(Permitted Second Lien Enforcement)* or the Senior Unsecured Representative(s) under Clause 8.11 *(Permitted Senior Unsecured Enforcement)* (as applicable) and the Security Agent shall act on such instructions received from the Instructing Group (and the Security Agent shall promptly cease any conflicting actions pursued or taken
pursuant to the instructions of the Second Lien Credit Representative(s) or the Senior Unsecured Representative(s) (as applicable) without any liability to any Second Lien Creditors or Senior Unsecured Creditors (as applicable) for any loss, costs, damages and/or expenses that may arise as a result of it ceasing any such actions (whether or not the Security Agent is aware that such loss, costs, damages and/or expenses may arise)).

(f) The Security Agent is entitled, without further inquiry, to rely on and comply with instructions given in accordance with this Clause 15.5.

(g) The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under the Security Documents except through the Security Agent. Any decision to enforce the Transaction Security will be taken by the Instructing Group in accordance with Clause 14 (Enforcement of Transaction Security prior to the Senior Term Lender Discharge Date) or this Clause 15 (Enforcement of Transaction Security on or after the Senior Term Lender Discharge Date), as applicable, and will be binding on all of the Secured Parties.

15.6 Manner of enforcement

If the Transaction Security is being enforced pursuant to Clause 15.5 (Enforcement instructions), the Security Agent shall enforce the Transaction Security in such manner (including, without limitation, the selection of any administrator (or any analogous officer in any jurisdiction) of any Debtor to be appointed by the Security Agent) as:

(a) the Instructing Group; or

(b) prior to the Senior Secured Discharge Date, if:

(i) the Security Agent has, pursuant to paragraph (c) of Clause 15.5 (Enforcement instructions), received instructions given by the Majority Second Lien Creditors to enforce the Transaction Security; and

(ii) the Instructing Group has not given instructions as to the manner of enforcement of the Transaction Security, the Majority Second Lien Creditors; or

(c) prior to the Senior Secured Discharge Date, if:

(i) the Security Agent has, pursuant to paragraph (d) of Clause 15.5 (Enforcement instructions), received instructions given by the Majority Senior Unsecured Creditors to enforce the Senior Unsecured Transaction Security; and

(ii) the Instructing Group has not given instructions as to the manner of enforcement of the Transaction Security, the Majority Senior Unsecured Creditors,

shall instruct (in a manner consistent with the Enforcement Principles) or, in the absence of any such instructions, as the Security Agent may (but, for the avoidance of doubt, will not be obliged to) consider in its discretion to be appropriate.

15.7 Exercise of voting rights
(a) Subject to paragraph (c) below, each Creditor (other than the Agent and each Arranger and, in the case of a Senior Unsecured Creditor of the Company, to the extent relating to or affecting the Senior Unsecured Shared Security or the assets secured by such Security only) will cast its vote in any proposal put to a vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any member of the Group as instructed by the Security Agent.

(b) Subject to paragraph (c) below, the Security Agent shall give instructions for the purposes of paragraph (a) above in accordance with any instructions given to it by the Instructing Group provided that any such instructions have been given in accordance with Clause 15.5 (Enforcement instructions).

(c) Nothing in this Clause 15.7 entitles any party to exercise or require any other Primary Creditor to exercise such power of voting or representation to waive, reduce, discharge, extend the due date for (or change the basis for accrual of any) payment of or reschedule any of the Liabilities owed to that Primary Creditor.

15.8 Waiver of rights

To the extent permitted under applicable law and subject to Clause 15.5 (Enforcement instructions), Clause 15.6 (Manner of enforcement), Clause 17 (Application of Proceeds) and paragraph (a) of Clause 16.2 (Distressed Disposals), each of the Secured Parties and the Debtors waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any amount received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

15.9 Duties owed

(a) Each of the Secured Parties and the Debtors acknowledges that, in the event that the Security Agent enforces or is instructed to enforce the Transaction Security prior to the Senior Secured Discharge Date, the duties of the Security Agent and of any Receiver or Delegate owed to any Second Lien Creditor or Senior Unsecured Finance Party (as applicable) in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall, subject to paragraph (a) of Clause 16.2 (Distressed Disposals), be no different to or greater than the duty that is owed by the Security Agent, Receiver or Delegate to the Debtors under general law.

(b) Each of the Secured Parties and the Debtors acknowledges that, in the event that the Security Agent enforces or is instructed to enforce the Transaction Security after to the Senior Secured Discharge Date but prior to the Second Lien Discharge Date, the duties of the Security Agent and of any Receiver or Delegate owed to any Senior Unsecured Finance Party in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall be no different to or greater than the duty that is owed by the Security Agent, Receiver or Delegate to the Debtors under general law.

15.10 Security held by other Creditors

If any Transaction Security is held by a Creditor other than the Security Agent, then such Creditors may only enforce that Transaction Security in accordance with instructions given by an Instructing Group in accordance with this Clause 15 (and, for this purpose, references to the Security Agent shall be construed as references to that Creditor).
15.11 **Alternative Enforcement Actions**

After the Security Agent has commenced Enforcement, it shall not accept any subsequent instructions as to Enforcement (save for any subsequent instructions in accordance with paragraph (e) of Clause 15.4 (*Instructions to enforce*) applies) from anyone other than the Instructing Group that instructed it to commence such enforcement of the Transaction Security, regarding any other enforcement of the Transaction Security over or relating to shares or assets directly or indirectly the subject of the enforcement of the Transaction Security which has been commenced (and, for the avoidance of doubt, during any enforcement of the Transaction Security only paragraph (b)(i)(B) of the definition of Instructing Group shall be applicable in relation to any instructions given to the Security Agent by the Instructing Group under this Agreement).

16. **PROCEEDS OF DISPOSALS AND ADJUSTMENT OF MANDATORY PREPAYMENTS**

16.1 **Non-Distressed Disposals**

(a) In this Clause 16.1:

“Disposal Proceeds” means the proceeds of a Non-Distressed Disposal (as defined in paragraph (b) below).

(b) If, in respect of:

(i) a disposal of an asset by a Debtor;

(ii) a disposal of an asset which is subject to the Transaction Security; or

(iii) any merger, consolidation, reorganisation or transaction (including, without limitation, the resignation of any Debtor) whereby a release of Transaction Security over an asset is required or, in the case of the resignation of any Debtor, desirable in connection with or to effect such disposal, merger, consolidation, reorganisation or transaction (subject to any obligation under the Secured Debt Documents to re-take such Transaction Security),

which, in each case, is permitted or not prohibited by any provision of the Senior Finance Documents, Senior Secured Notes Finance Documents, Second Lien Finance Documents or Senior Unsecured Finance Documents (each, a “Permitted Transaction”) and the Company certifies for the benefit of the Security Agent that:

(A) (prior to the Senior Lender Discharge Date) that Permitted Transaction is permitted under (or is not prohibited by) the Senior Facilities Agreement and the relevant asset is not required to remain subject to the Transaction Security under the Senior Finance Documents;

(B) (on and from the first date of incurrence of Senior Secured Notes Liabilities but prior to the Senior Secured Notes Discharge Date) that Permitted Transaction is permitted under (or is not prohibited by) the Senior Secured Notes Finance Documents or the relevant Senior Secured Notes Trustee(s) authorises the release in accordance with the terms of the Senior Secured Notes Finance Documents;

(C) (on and from the first date of incurrence of Second Lien Lender Liabilities but prior to the Second Lien Lender Discharge Date) that
Permitted Transaction is permitted under (or is not prohibited by) a Second Lien Facilities Agreement and the relevant asset is not required to remain subject to the Transaction Security under the Second Lien Finance Documents;

(D) (on and from the first date of incurrence of Second Lien Notes Liabilities but prior to the Second Lien Notes Discharge Date) that Permitted Transaction is permitted under (or is not prohibited by) the Second Lien Notes Finance Documents or the relevant Second Lien Notes Trustee(s) authorises the release in accordance with the terms of the Second Lien Notes Finance Documents;

(E) (on and from the first date of incurrence of Senior Unsecured Liabilities but prior to the Senior Unsecured Discharge Date) that Permitted Transaction is permitted under (or is not prohibited by) the Senior Unsecured Finance Documents or the relevant Senior Unsecured Representative(s) authorises the release in accordance with the terms of the Senior Unsecured Finance Documents (to the extent the relevant asset is subject to Senior Unsecured Shared Security; and

(F) that Permitted Transaction is not a Distressed Disposal,

(a “Non-Distressed Disposal”), the Security Agent is irrevocably authorised and empowered (at the cost of the relevant Debtor or the Company and without any consent, sanction, authority or further confirmation from any Creditor, other Secured Party or Debtor) but subject to paragraph (c) below:

(I) to release the Transaction Security and (in respect of any Non-Distressed Disposal that consists of a disposal of an asset to a person or persons outside the Group) any other claim (relating to a Debt Document) over that asset;

(II) where that asset consists of shares in the capital of a Debtor, to release the Transaction Security and (in respect of any Non-Distressed Disposal that consists of a disposal of an asset to a person or persons outside the Group) any other claim (including without limitation any Guarantee Liabilities or Other Liabilities) (relating to a Debt Document) over that Debtor or its assets and (if any) the Subsidiaries of that Debtor and their respective assets; and

(III) to execute and deliver or enter into any release of the Transaction Security or any claim described in paragraphs (I) and (II) above and issue any certificates of non-crystallisation of any floating charge or any consent to dealing that may be reasonably requested by the Company.

(c) If that Non-Distressed Disposal is not made, (i) each release of Transaction Security or any claim described in paragraph (b) above shall have no effect and the Transaction Security or claim subject to that release shall continue in such force and effect as if that release had not been effected; and (ii) the Parties agree that, to the extent required under applicable law, any Transaction Security released or purported to be released shall promptly be retaken on substantially the same terms.

(d) If any Disposal Proceeds are required to be applied in mandatory prepayment of the Senior Lender Liabilities, the Senior Secured Notes Liabilities, the Second Lien
Liabilities and/or the Senior Unsecured Liabilities (as applicable) then, subject to Clause 16.6 (Adjustment of Mandatory Prepayments), the Disposal Proceeds shall be applied in or towards Payment or (to the extent provided for in the relevant Debt Document) the making of an offer of Payment of:

(i) **first**, the Senior Lender Liabilities in accordance with the terms of the Senior Facilities Agreement (without any obligation to apply those amounts towards the Senior Secured Notes Liabilities, Second Lien Lender Liabilities, Second Lien Notes Liabilities, Senior Unsecured Loan Liabilities or Senior Unsecured Notes Liabilities);

(ii) **second**, the Senior Secured Notes Liabilities in accordance with the terms of the Senior Secured Notes Indenture (as applicable) (without any obligation to pay those amounts towards the Second Lien Lender Liabilities, Second Lien Notes Liabilities, Senior Unsecured Loan Liabilities or Senior Unsecured Notes Liabilities);

(iii) **third**, the Second Lien Lender Liabilities in accordance with the terms of the Second Lien Facilities Agreement (without any obligation to pay those amounts towards the Second Lien Notes Liabilities, Senior Unsecured Loan Liabilities or Senior Unsecured Notes Liabilities);

(iv) **fourth**, the Second Lien Notes Liabilities in accordance with the terms of the Second Lien Notes Indenture (as applicable) (without any obligation to pay those amounts towards the Senior Unsecured Loan Liabilities or Senior Unsecured Notes Liabilities); and

(v) **then**, after the discharge in full of the Senior Lender Liabilities, the Senior Secured Notes Liabilities, the Second Lien Lender Liabilities and the Second Lien Notes Liabilities, the Senior Unsecured Liabilities in accordance with the terms of the Senior Unsecured Finance Documents,

and the consent of any other Party shall not be required for that application and this paragraph (d) shall override any requirement for application of such proceeds in any Debt Document and no default or event of default shall be deemed to occur to the extent arising by the Company and/or any Debtor’s compliance with this paragraph (d).

16.2 **Distressed Disposals**

(a) Subject to paragraph (b) below and Clauses 16.3 (Second Lien and Senior Unsecured Debt Protection), 16.4 (Restriction on enforcement by Second Lien Creditors and Senior Unsecured Creditors) and 16.5 (Instructions to the Security Agent), if a Distressed Disposal of any asset is being effected, the Security Agent is irrevocably authorised and empowered (at the cost of the relevant Debtor or the Company and without any consent, sanction, authority or further confirmation from any Creditor or other Secured Party or Debtor):

(i) **release of Security/non-crystallisation certificates**: to release the Transaction Security and/or any other claim over that asset and execute and deliver or enter into any release of that Transaction Security or claim and issue any letters of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable;
(ii) *release of liabilities and Security on a share sale (Debtor):* if the asset which is disposed of consists of shares in the capital of a Debtor to release:

(A) that Debtor and any Subsidiary of that Debtor from all or any part of:

(I) its Borrowing Liabilities;

(II) its Guarantee Liabilities; and

(III) its Other Liabilities;

(B) any Transaction Security granted by that Debtor or any Subsidiary of that Debtor over any of its assets; and

(C) any other claim of an Intra-Group Lender or another Debtor over that Debtor’s assets or over the assets of any Subsidiary of that Debtor, on behalf of the relevant Creditors, Senior Agent(s), Arrangers, Debtors, Senior Secured Notes Trustee(s), Second Lien Credit Representative(s) and the Senior Unsecured Representative(s);

(iii) *release of liabilities and Security on a share sale (Holding Company):* if the asset which is disposed of consists of shares in the capital of any Holding Company of a Debtor to release:

(A) that Holding Company and any Subsidiary of that Holding Company from all or any part of:

(I) its Borrowing Liabilities;

(II) its Guarantee Liabilities; and

(III) its Other Liabilities;

(B) any Transaction Security granted by any Subsidiary of that Holding Company over any of its assets; and

(C) any other claim of an Intra-Group Lender or another Debtor over the assets of that Holding Company and any Subsidiary of that Holding Company, on behalf of the relevant Creditors, Senior Agent(s), Arrangers, Debtors, Senior Secured Notes Trustee(s), Second Lien Credit Representative(s) and the Senior Unsecured Representative(s);

(iv) *disposal of liabilities on a share sale:* if the asset which is disposed of consists of shares in the capital of a Debtor or the Holding Company of a Debtor and the Security Agent decides to dispose of all or any part of:

(A) the Liabilities; or

(B) the Debtor Liabilities,

owed by that Debtor or Holding Company or any Subsidiary of that Debtor or Holding Company:
(I) (if the Security Agent (acting in accordance with Clause 16.5
(Instructions to the Security Agent)) does not intend that any
transferee of those Liabilities or Debtor Liabilities (the
“Transferee”) will be treated as a Primary Creditor or a
Secured Party for the purposes of this Agreement), to execute
and deliver or enter into any agreement to dispose of all or
part of those Liabilities or Debtor Liabilities provided that
notwithstanding any other provision of any Debt Document
the Transferee shall not be treated as a Primary Creditor or a
Secured Party for the purposes of this Agreement; and

(II) (if the Security Agent (acting in accordance with Clause 16.5
(Instructions to the Security Agent) does intend that any
Transferee will be treated as a Primary Creditor or a Secured
Party for the purposes of this Agreement), to execute and
deliver or enter into any agreement to dispose of:

1. all (and not part only) of the Liabilities owed to the
Primary Creditors; and

2. all or part of any other Liabilities and the Debtor
Liabilities,
on behalf of, in each case, the relevant Creditors and Debtors; and

(v) transfer of obligations in respect of liabilities on a share sale: if the asset
which is disposed of consists of shares in the capital of a Debtor or the
Holding Company of a Debtor (the “Disposed Entity”) and the Security
Agent (acting in accordance with Clause 16.5 (Instructions to the Security
Agent) decides to transfer to another Debtor (the “Receiving Entity”) all or
any part of the Disposed Entity’s obligations or any obligations of any
Subsidiary of that Disposed Entity in respect of:

A. the Intra-Group Liabilities; or

B. the Debtor Liabilities,
to execute and deliver or enter into any agreement to:

I. agree to the transfer of all or part of the obligations in respect
of those Intra-Group Liabilities or Debtor Liabilities on
behalf of the relevant Intra-Group Lenders and Debtors to
which those obligations are owed and on behalf of the
Debtors which owe those obligations; and

II. (provided the Receiving Entity is a Holding Company of the
Disposed Entity which is also a guarantor of Senior Secured
Liabilities) to accept the transfer of all or part of the
obligations in respect of those Intra-Group Liabilities or
Debtor Liabilities on behalf of the Receiving Entity or
Receiving Entities to which the obligations in respect of those
Intra-Group Liabilities or Debtor Liabilities are to be
transferred.

(b) The net proceeds of each Distressed Disposal (and the net proceeds of any disposal of
Liabilities or Debtor Liabilities pursuant to paragraph (a)(iv) above) shall be paid to
the Security Agent for application in accordance with Clause 17 *(Application of Proceeds)* as if those proceeds were the proceeds of an enforcement of the Transaction Security and, to the extent that any disposal of Liabilities or Debtor Liabilities has occurred pursuant to paragraph (a)(iv)(II) above, as if that disposal of Liabilities or Debtor Liabilities had not occurred.

16.3 **Second Lien and Senior Unsecured Debt Protection**

(a) In the case of a Distressed Disposal (or a disposal of Liabilities pursuant to subparagraph (a)(iv) of Clause 16.2 *(Distressed Disposals)*) effected by, or at the request of, the Security Agent, the Security Agent shall take reasonable care to obtain a fair market value having regard to the prevailing market conditions (though the Security Agent shall have no obligation to postpone (or request the postponement of) any Distressed Disposal or disposal of Liabilities in order to achieve a higher value).

(b) If on or after the first date of incurrence of Second Lien Liabilities (but prior to the Second Lien Discharge Date) or on or after the first date of incurrence of Senior Unsecured Liabilities (but prior to the Senior Unsecured Discharge Date), unless the Agents of the Second Lien Creditors and/or the Senior Unsecured Creditors (as applicable) agree otherwise, any Distressed Disposal or disposal of Liabilities which results in the release of any Borrowing Liabilities or Guarantee Liabilities in respect of Second Lien Liabilities or Senior Unsecured Liabilities or the release of any Transaction Security securing the Second Lien Liabilities or the Senior Unsecured Liabilities may, in each case, only be made if (and the requirement in paragraph (a) above shall be satisfied (and as between the Creditors and the Debtors shall be conclusively presumed to be satisfied) and the Security Agent will be taken to have discharged all its obligations in this respect under this Agreement, the other Debt Documents and generally at law only if):

(i) (A) the consideration in respect of such Distressed Disposal or disposal of Liabilities is paid or payable in cash (or substantially all in cash); or

(B) the consideration in respect of such Distressed Disposal or disposal of Liabilities does not comprise cash (or substantially all cash) in circumstances where the Security Agent (acting on the instructions of the Instructing Group, acting reasonably) determines that the cash consideration payable under the highest of the other bona fide and fully committed offers made in relation to that Distressed Disposal or disposal of Liabilities is less than the outstanding Senior Secured Liabilities, in which case the non-cash consideration can, without limitation, take the form of the Senior Secured Creditors (or any of them acting alone or together) bidding by any appropriate mechanic all or part of their Senior Secured Liabilities (such that the Senior Secured Liabilities would, on completion, be discharged to the extent of an amount equal to the amount of the offer made by the relevant Senior Secured Creditors),

and the proceeds of such Distressed Disposal or disposal of Liabilities are applied in accordance with Clause 17 *(Application of Proceeds)*;

(ii) (A)(I) the sale, disposal or transfer is made pursuant to a public auction or a competitive bid process (which auction or process, without prejudice to the requirements of subparagraph (b)(i) above, may be (but does not have to be) completed by a process or proceedings approved by or supervised by, or on behalf of, any court of law) or any other
process agreed to by the Agent(s) of the Second Lien Creditors and (to the extent that Guarantee Liabilities owed to the Senior Unsecured Creditors have been, or are proposed to be, released by the Security Agent in connection with the relevant Distressed Disposal or disposal of Liabilities) the Senior Unsecured Creditors in each case in which:

(1) the Second Lien Creditors and the relevant Senior Unsecured Creditors (on the basis of equal information and access rights as other bidders and financiers in the process); and

(2) if such auction or process attracts, or could reasonably be expected to result in attracting, no bidders or a bona fide and fully committed cash bid the cash consideration in relation to which is determined by the Security Agent (acting on the instructions of the Instructing Group, acting reasonably) to be less than the outstanding amount of the Senior Secured Liabilities, the Senior Secured Creditors (or any of them acting alone or together), are (subject to applicable law) entitled to participate as bidders or financiers to the potential purchaser(s) or, following the sale, disposal or transfer, the Group; and

(II) the Security Agent (or the relevant member of the Group) shall have, in respect of such auction or process, consulted with an internationally recognised investment bank or internationally recognised accounting firm selected by the Security Agent (acting on the instructions of the Instructing Group, acting reasonably) with respect to the procedures which may reasonably be expected to be used to obtain a fair market price in the then prevailing market conditions (taking into account all relevant circumstances and with a view to facilitating a prompt and expeditious sale at a fair market price in the prevailing market conditions although there shall be no obligation to postpone any such sale in order to achieve a higher price), and shall have implemented (to the extent permitted by law) in all material respects the procedures recommended by such bank or firm in relation to such auction or process, unless the Security Agent (acting in good faith) confirms that it has reasonable grounds to believe that implementation of all or part of such recommended procedures is not in the best interests of the Senior Secured Creditors; or

(B) in circumstances where the Security Agent has received an opinion (including an enterprise valuation of the Group and which can be relied upon by the Security Agent and disclosed to the Agents of the Senior Secured Creditors, the Second Lien Creditors and the Senior Unsecured Creditors (but which may be given on the basis that the liability of the relevant bank or firm in giving the opinion is limited to an amount of at least the amount of its fees in respect of such engagement)) from:
(I) an internationally recognised investment bank or internationally recognised accounting firms; or

(II) if it is not practicable for the Security Agent to appoint any such bank or firm on commercially reasonable terms (including for reasons of conflicts of interest), another third party professional firm which is regularly engaged in providing valuations in respect of the relevant type of assets but which is not a Senior Secured Creditor of affiliated thereto,

(in each case not being the firm appointed as the relevant Debtor’s administrator or other relevant officer holder) selected by the Security Agent confirming that the sale, disposal or transfer price is fair from a financial point of view taking into account all relevant circumstances, although there shall be no obligation to postpone any such sale, disposal or transfer in order to achieve a higher price; and

(iii) at the time of completion of the sale, disposal or transfer: (aa) the Borrowing Liabilities, Guarantee Liabilities and (to the extent permitted by this Agreement) Other Liabilities owing to each of the Senior Secured Creditors, the Second Lien Creditors and the Senior Unsecured Creditors by the Debtors being disposed of (each a “Relevant Claim”) are (to the same extent) released and discharged (and are not assumed by the purchaser and/or its Affiliates); and (bb) all the Transaction Security granted in favour of all the Secured Parties over the assets sold or disposed of is released and discharged unless:

(A) the Agents of the Senior Secured Creditors (acting on the instructions of the relevant Senior Secured Creditors, acting reasonably and in good faith) determine that a sale, disposal or transfer of a Relevant Claim will facilitate a recovery by the Senior Secured Creditors that is greater than the one they would achieve if such Relevant Claim was released or discharged but is nevertheless less than the outstanding Senior Secured Liabilities, which shall be deemed to be the case if there are no bidders or if the Agents of the Senior Secured Creditors (acting reasonably) determines that there are no bona fide and fully committed cash bids in excess of the amount of the Senior Secured Liabilities; and

(B) the Agents of the Senior Secured Creditors give notice of their determination to the Security Agent,

in which case the Security Agent shall be entitled immediately to sell and transfer the Relevant Claims to such purchaser (or an Affiliate of such purchaser) (or, if subparagraph (b)(ii)(A)(I)(2) above applies and a Senior Secured Creditor is the successful bidder (or financier) or beneficiary of the relevant disposal as contemplated in such subparagraph, such Senior Secured Creditor shall be able to retain its Relevant Claim or any part thereof (which shall be valued at par)).

16.4 Restriction on enforcement by Second Lien Creditors and Senior Unsecured Creditors

(a) If, prior to the Senior Secured Discharge Date, a Distressed Disposal or a disposal of rights in respect of Liabilities or Debtor Liabilities pursuant to Clause 16.2 (Distressed Disposals) is being effected at a time when the Majority Second Lien
Creditors are entitled to give, and have given, instructions, prior to the Senior Term Lender Discharge Date, under paragraph (c) of Clause 14.4 (Enforcement instructions) and/or Clause 14.5 (Manner of enforcement), or, on and from the Senior Term Lender Discharge Date, under paragraph (c) of Clause 15.5 (Enforcement instructions) or Clause 15.6 (Manner of enforcement) on which the Security Agent is acting:

(i) the Security Agent is not authorised to, and shall not be requested to, release any Debtor, Subsidiary or Holding Company from any Borrowing Liabilities or Guarantee Liabilities or Other Liabilities owed to any Senior Secured Creditor unless those Borrowing Liabilities, Guarantee Liabilities or Other Liabilities and any other Senior Secured Liabilities will be paid (or repaid) in full (or, in the case of any contingent Liability relating to a Letter of Credit or an Ancillary Facility, made the subject of cash collateral arrangements acceptable to the relevant Senior Creditor), following that release; and

(ii) no Distressed Disposal or disposal of rights in respect of Liabilities or Debtor Liabilities pursuant to Clause 16.2 (Distressed Disposals) may be made for non-cash consideration unless the prior consent of the Instructing Group is obtained.

(b) If, prior to the later of the Senior Secured Discharge Date and the Second Lien Discharge Date, a Distressed Disposal or a disposal of rights in respect of Liabilities or Debtor Liabilities pursuant to Clause 16.2 (Distressed Disposals) is being effected at a time when the Majority Senior Unsecured Creditors are entitled to give, and have given, instructions under Clause 14.4 (Enforcement instructions) and/or 14.5 (Manner of enforcement) or, on and from the Senior Term Lender Discharge Date, Clause 15.5 (Enforcement instructions) and/or 15.6 (Manner of enforcement) on which the Security Agent is acting:

(i) the Security Agent is not authorised to, and shall not be requested to, release any Debtor, Subsidiary or Holding Company from any Borrowing Liabilities or Guarantee Liabilities or Other Liabilities owed to any Senior Secured Creditor and Second Lien Creditor unless those Borrowing Liabilities, Guarantee Liabilities or Other Liabilities and any other Senior Secured Liabilities and Second Lien Creditor will be paid (or repaid) in full (or, in the case of any contingent Liability relating to a Letter of Credit or an Ancillary Facility, made the subject of cash collateral arrangements acceptable to the relevant Senior Creditor), following that release; and

(ii) no Distressed Disposal or disposal of rights in respect of Liabilities or Debtor Liabilities pursuant to Clause 16.2 (Distressed Disposals) may be made for non-cash consideration unless the prior consent of the Instructing Group is obtained.

16.5 Instructions to the Security Agent

For the purposes of Clauses 16.2 (Distressed Disposals) and 16.3 (Second Lien and Senior Unsecured Debt Protection), the Security Agent shall act:

(a) if the relevant Distressed Disposal is being effected by way of enforcement of the Transaction Security, in accordance with, prior to the Senior Term Lender Discharge Date, Clause 15.6 (Manner of enforcement) and, on and from the Senior Term Lender Discharge Date, Clause 15.6 (Manner of enforcement); and

(b) in any other case:
(i) on the instructions of the Instructing Group; or

(ii) in the absence of any such instructions, as the Security Agent sees fit.

16.6 **Adjustment of Mandatory Prepayments**

(a) For the avoidance of doubt, each Senior Secured Creditor agrees that, in relation to any Senior Mandatory Prepayment, such prepayment shall be applied to the Senior Secured Creditors (other than a Hedge Counterparty) (to the extent required by the terms of the Senior Secured Finance Documents to which such Senior Secured Creditors are a party) on a pro rata basis (and any requirement in any Senior Secured Finance Document to make such Senior Mandatory Prepayment shall be reduced accordingly).

(b) For the avoidance of doubt, each Second Lien Creditor agrees that, in relation to any mandatory prepayment under any Second Lien Finance Document, such prepayment shall be applied to the Second Lien Creditors (to the extent required by the terms of the Second Lien Finance Documents to which such Second Lien Creditors are a party) on a pro rata basis (and any requirement in any Second Lien Finance Document to make such Mandatory Prepayment shall be reduced accordingly).

(c) For the avoidance of doubt, each Senior Unsecured Creditor agrees that in relation to any mandatory prepayment under any Senior Unsecured Finance Document, such prepayment shall be applied to the Senior Unsecured Creditors (to the extent required by the terms of the Senior Unsecured Finance Documents to which such Senior Unsecured Creditors are a party) on a pro rata basis (and any requirement in any Senior Unsecured Finance Document to make such Mandatory Prepayment shall be reduced accordingly).

16.7 **Creditors’ and Debtors’ actions**

Each Creditor and Debtor will:

(a) do all things that the Security Agent requests in order to give effect to this Clause 16 (Proceeds of Disposals and Adjustment of Mandatory Prepayments) (which shall include, without limitation, the execution of any assignments, transfers, releases or other documents that the Security Agent may consider to be necessary to give effect to the releases or disposals contemplated by this Clause 16); and

(b) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 16 (Proceeds of Disposals and Adjustment of Mandatory Prepayments) or if the Security Agent requests that any Creditor or Debtor take any such action, take that action itself in accordance with the reasonable instructions of the Security Agent,

provided that the proceeds of those disposals are applied in accordance with Clause 16.1 (Non-Distressed Disposals) or Clause 16.2 (Distressed Disposals) as the case may be.

17. **APPLICATION OF PROCEEDS**

17.1 **Order of application of Group Recoveries**

Subject to Clause 17.2 (Prospective liabilities) and Clause 17.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral), all amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Debt Document or in connection with the realisation or enforcement of all or any part of the Transaction Security (for the purposes of this Clause 17, the “Group Recoveries”) shall be held by the Security Agent on
trust, to the extent legally permitted, to apply them at any time as the Security Agent (in its
discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of
this Clause 17 (Application of Proceeds)), in the following order of priority:

(a) in discharging any sums owing to any Senior Agent (in respect of the Senior Agent
Liabilities), any Senior Unsecured Agent (in respect of the Senior Unsecured Agent
Liabilities), the Security Agent, any Receiver or any Delegate and any Senior Secured
Notes Trustee Amounts or Senior Unsecured Notes Trustee Amounts on a pari passu
basis;

(b) in payment of all costs and expenses incurred by any Agent or Primary Creditor in
connection with any realisation or enforcement of the Transaction Security taken in
accordance with the terms of this Agreement or any action taken at the request of the
Security Agent under Clause 11.6 (Creditors’ actions);

c) if the Senior Term Lender Discharge Date has occurred, in payment to:

(i) each Senior Agent on its own behalf and on behalf of the Senior Arrangers
and the Senior Lenders;

(ii) the Cash Management Providers; and

(iii) the Super Senior Hedge Counterparties,

for application towards the discharge of:

(A) the Senior Arranger Liabilities and the Senior Lender Liabilities (in
accordance with the terms of the Senior Finance Documents);

(B) the Cash Management Liabilities (on a pro rata basis between the
Cash Management Liabilities of each Cash Management Provider);

(C) the Super Senior Hedging Liabilities (on a pro rata basis between the
Super Senior Hedging Liabilities of each Super Senior Hedge
Counterparty),

on a pro rata basis and ranking pari passu between paragraph (A) above,
paragraph (B) above and paragraph (C) above;

d) if the Senior Term Lender Discharge Date has occurred and the distributions have
been made under paragraph (c) above, in payment to:

(i) each Senior Secured Notes Trustee on behalf of the other Senior Secured
Notes Creditors; and

(ii) the Pari Passu Hedge Counterparties,

for the application towards the discharge of:

(A) the Senior Secured Notes Liabilities (in accordance with the terms of
the Senior Secured Notes Finance Documents); and

(B) the Pari Passu Hedging Liabilities (on a pro rata basis between the
Pari Passu Hedging Liabilities of each Pari Passu Hedge
Counterparty),
on a pro rata basis and ranking pari passu between paragraph (A) above and paragraph (B) above;

(e) if the Senior Term Lender Discharge Date has not occurred, in payment to:

(i) the Senior Agent on its own behalf and on behalf of the Senior Arrangers and the Senior Lenders;
(ii) each Senior Secured Notes Trustee on behalf of the other Senior Secured Notes Creditors;
(iii) the Cash Management Providers; and
(iv) the Hedge Counterparties,

for application towards the discharge of:

(A) the Senior Arranger Liabilities and the Senior Lender Liabilities (in accordance with the terms of the Senior Finance Documents);
(B) the Senior Secured Notes Liabilities (in accordance with the terms of the Senior Secured Notes Finance Documents);
(C) the Cash Management Liabilities (on a pro rata basis between the Cash Management Liabilities of each Cash Management Provider); and
(D) the Hedging Liabilities (on a pro rata basis between the Hedging Liabilities of each Hedge Counterparty),

on a pro rata basis and ranking pari passu between paragraph (A) above, paragraph (B) above, paragraph (C) above and paragraph (D) above;

(f) in payment to:

(i) the Second Lien Agent on its own behalf and on behalf of the Second Lien Loan Creditors for application (in accordance with the terms of the Second Lien Finance Documents) towards the discharge of the Second Lien Lender Liabilities on a pro rata pari passu basis; and

(ii) the Second Lien Notes Trustee(s) on its own behalf and on behalf of the Second Lien Notes Creditors for application (in accordance with the terms of the Second Lien Notes Finance Documents) towards the discharge of the Second Lien Notes Liabilities on a pro rata pari passu basis,

on a pro rata basis and ranking pari passu between paragraphs (i) and (ii) above;

(g) to the extent attributable to the Senior Unsecured Shared Security or the Senior Unsecured Guarantees, in payment to each Senior Unsecured Representative on its own behalf and on behalf of the Senior Unsecured Finance Parties and Senior Unsecured Arrangers for application (in accordance with the terms of the Senior Unsecured Finance Documents) towards the discharge of the Senior Unsecured Liabilities and the Senior Unsecured Arranger Liabilities; and

(h) the balance, if any, in payment to the relevant Debtor,
provided that all amounts from time to time received or recovered by the Security Agent from or in respect of a Senior Unsecured Borrower or Senior Unsecured Notes Issuer pursuant to the terms of any Debt Document (other than in connection with the realisation or enforcement of all or any part of the Transaction Security) shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fits, to the extent permitted by applicable law (and subject to the provisions of this Clause 17), in the following order of priority:

(i) in accordance with paragraph (a) above;

(ii) in accordance with paragraph (b) above;

(iii) those entitled to payment:

(A) in accordance with paragraphs (c) and (d) above (or as the case may be, (e) above) and (f) above; and

(B) each Senior Unsecured Representative on its own behalf and on behalf of the Senior Unsecured Finance Parties and Senior Unsecured Arrangers for application (in accordance with the terms of the Senior Unsecured Finance Documents) towards the discharge of the Senior Unsecured Liabilities and the Senior Unsecured Arranger Liabilities,

(in each case, only to the extent there are Liabilities due from the relevant Senior Unsecured Borrower or Senior Unsecured Notes Issuer to such Creditors), provided that payments will be made on a pro rata and pari passu basis across all such Liabilities; and

(iv) the balance, if any, in payment to the relevant Debtor.

17.2 Prospective liabilities

Following a Distress Event, the Security Agent may, in its discretion, hold any amount of the Group Recoveries not in excess of the Expected Amount (as defined below) in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit until otherwise directed by an Instructing Group (the interest being credited to the relevant account) for later application under Clause 17.1 (Order of application of Group Recoveries) in respect of:

(i) any sum due to any Security Agent, any Receiver or any Delegate; and

(ii) any part of the Liabilities, the Agent Liabilities or the Arranger Liabilities (in each case only to the extent entitled to share in such Group Recoveries),

that the Security Agent reasonably considers, in each case, might become due or owing at any time in the future (the “Expected Amount”).

17.3 Treatment of SFA Cash Cover and Senior Lender Cash Collateral

(a) Nothing in this Agreement shall prevent any Issuing Bank or Ancillary Lender taking any Enforcement Action in respect of any SFA Cash Cover which has been provided for it in accordance with the Senior Facilities Agreement.

(b) To the extent that any SFA Cash Cover is not held with the Relevant Issuing Bank or Relevant Ancillary Lender, all amounts from time to time received or recovered in connection with the realisation or enforcement of that SFA Cash Cover shall be paid
to the Security Agent and shall be held by the Security Agent on trust, to the extent legally permitted, to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law, in the following order of priority:

(i) to the Relevant Issuing Bank or Relevant Ancillary Lender towards the discharge of the Senior Lender Liabilities for which that SFA Cash Cover was provided; and

(ii) the balance, if any, in accordance with Clause 17.1 (Order of application of Group Recoveries).

(c) To the extent that any SFA Cash Cover is held with the Relevant Issuing Bank or Relevant Ancillary Lender, nothing in this Agreement shall prevent that Relevant Issuing Bank or Relevant Ancillary Lender receiving and retaining any amount in respect of that SFA Cash Cover.

(d) Nothing in this Agreement shall prevent any Issuing Bank receiving and retaining any amount in respect of any Senior Lender Cash Collateral provided for it in accordance with the terms of the Senior Facilities Agreement.

17.4 **Investment of proceeds**

Prior to the application of the proceeds of the Security Property in accordance with Clause 17.1 (Order of application of Group Recoveries) the Security Agent may, in its discretion, hold all or part of those proceeds (but not in excess of the amounts due or to become due and while so held the excess of the interest charged on the Liabilities shall not exceed the interest earned on such suspect or impersonal account(s)) in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit until otherwise directed by an Instructing Group (the interest being credited to the relevant account) pending the application from time to time of those moneys in the Security Agent’s discretion in accordance with the provisions of this Clause 17.

17.5 **Currency Conversion**

(a) For the purpose of, or pending the discharge of, any of the Secured Obligations the Security Agent may convert any moneys received or recovered by it from one currency to another, at the Security Agent’s Spot Rate of Exchange.

(b) The obligations of any Debtor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

17.6 **Permitted Deductions**

The Security Agent shall be entitled, in its discretion: (a) to set aside by way of reserve amounts required to meet; and (b) to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement, and to pay all Taxes which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties or exercising its rights, powers, authorities and discretions, or by virtue of its capacity as Security Agent under any of the Debt Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

17.7 **Good Discharge**
(a) Any payment to be made in respect of the Secured Obligations by the Security Agent:

(i) may be made to the relevant Agent on behalf of its Creditors;

(ii) may be made to the Relevant Issuing Bank or Relevant Ancillary Lender in accordance with paragraph (b)(i) of Clause 17.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral); or

(iii) shall be made directly to the Hedge Counterparties,

and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Agent.

(b) The Security Agent is not under any obligation to make the payments to the Agents or the Hedge Counterparties under paragraph (a) of this Clause 17.7 in the same currency as that in which the Liabilities owing to the relevant Creditor are denominated.

17.8 Calculation of Amounts

For the purpose of calculating any person’s share of any sum payable to or by it, the Security Agent shall be entitled to:

(a) notionally convert the Liabilities owed to any person into a common base currency (decided in its discretion by the Security Agent), that notional conversion to be made at the spot rate at which the Security Agent is able to purchase the notional base currency with the actual currency of the Liabilities owed to that person at the time at which that calculation is to be made; and

(b) assume that all moneys received or recovered as a result of the enforcement or realisation of the Security Property are applied in discharge of the Liabilities in accordance with the terms of the Debt Documents under which those Liabilities have arisen.

18. EQUALISATION

18.1 Equalisation definitions

For the purposes of this Clause 18:

“Enforcement Date” means the first date (if any) on which a Senior Secured Creditor takes enforcement action of the type described in paragraphs (a)(i), (a)(iii), (a)(iv) or (c) of the definition of Enforcement Action, to the extent not prohibited by this Agreement.

“Exposure” means:

(a) in relation to a Senior Lender, the aggregate amount of its participation (if any, and without double counting) in all Utilisations (as defined below) outstanding under the Senior Facilities Agreement at the Enforcement Date (assuming all contingent liabilities which have become actual liabilities since the Enforcement Date to have been actual liabilities at the Enforcement Date (but not including, for these purposes only, any interest that would have accrued from the Enforcement Date to the date of actual maturity in respect of those liabilities) and assuming any transfer of claims between Senior Lenders pursuant to any loss sharing arrangement in the Senior Finance Documents which has taken place since the Enforcement Date to have taken place at the Enforcement Date) together with the aggregate amount of all accrued
interest, fees and commission owed to it under the Senior Facilities Agreement and amounts owed to it by a Debtor in respect of any Ancillary Facility but excluding:

(i) any amount owed to it by a Debtor in respect of any Ancillary Facility to the extent that that amount would not be outstanding but for a breach by that Senior Lender of any provision of clause 7 (Ancillary Facilities) of the Senior Facilities Agreement;

(ii) any amount owed to it by a Debtor in respect of any Ancillary Facility to the extent (and in the amount) that SFA Cash Cover has been provided by a Debtor in respect of that amount and is available to that Senior Lender pursuant to the relevant SFA Cash Cover Document; and

(iii) any amount outstanding in respect of a Letter of Credit to the extent (and in the amount) that SFA Cash Cover has been provided by a Debtor in respect of that amount and is available to the relevant Senior Finance Party pursuant to the relevant SFA Cash Cover Document; and

(b) in relation to a Senior Secured Notes Creditor, the Senior Secured Notes Liabilities owed by the Debtors to that Senior Secured Notes Creditor;

(c) in relation to a Cash Management Provider, the Cash Management Liabilities owed by the Debtors to that Cash Management Provider (that amount to be certified by the relevant Cash Management Provider and as calculated in accordance with the relevant Cash Management Agreement); and

(d) in relation to a Hedge Counterparty:

(i) if that Hedge Counterparty has terminated or closed out any hedging transaction under any Hedging Agreement in accordance with the terms of this Agreement on or prior to the Enforcement Date, the amount, if any, payable to it under that Hedging Agreement in respect of that termination or close-out as of the date of termination or close-out (taking into account any interest accrued on that amount) to the extent that amount is unpaid at the Enforcement Date (that amount to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement); and

(ii) if that Hedge Counterparty has not terminated or closed out any hedging transaction under any Hedging Agreement on or prior to the Enforcement Date the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction if the Enforcement Date was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement) or the equivalent thereto in the case of any Hedging Agreement not based on an ISDA Master Agreement), that amount, in each case, to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

“Second Lien Exposure” means:

(a) in relation to a Second Lien Lender, the Second Lien Lender Liabilities owed by the Debtors to that Second Lien Loan Lender; and
in relation to a Second Lien Notes Creditor, the Second Lien Notes Liabilities owed by the Debtors to that Second Lien Notes Creditor.

“Senior Unsecured Exposure” means:

(a) in relation to a Senior Unsecured Lender, the Senior Unsecured Loan Liabilities owed by the Debtors to that Senior Unsecured Lender; and

(b) in relation to a Senior Unsecured Notes Creditor, the Senior Unsecured Notes Liabilities owed by the Debtors to that Senior Unsecured Notes Creditor.

“Utilisation” has the meaning given to the term “Utilisation” in the Senior Facilities Agreement.

18.2 Implementation of equalisation

The provisions of this Clause 18 shall be applied at such time or times after the Enforcement Date as the Security Agent shall consider appropriate. Without prejudice to the generality of the preceding sentence, if the provisions of this Clause 18 have been applied before all the Liabilities have matured and/or been finally quantified, the Security Agent may elect to re-apply those provisions on the basis of: (a) revised Exposures and the relevant Senior Secured Creditors shall make appropriate adjustment payments amongst themselves; (b) revised Second Lien Exposures and the relevant Second Lien Creditors shall make appropriate adjustment payments amongst themselves; and (c) revised Senior Unsecured Exposures and the relevant Senior Unsecured Creditors shall make appropriate adjustment payments amongst themselves.

18.3 Equalisation

If:

(a) the Enforcement Date occurs prior to the Senior Term Lender Discharge Date and if, for any reason, any Senior Secured Liabilities remain unpaid after the Enforcement Date and the resulting losses are not borne by the Senior Secured Creditors (other than the applicable Agents) in the proportions which their respective Exposures at the Enforcement Date bore to the aggregate Exposures of all the Senior Secured Creditors (other than the applicable Agents) at the Enforcement Date, the Senior Secured Creditors (other than the applicable Agents) will make such payments amongst themselves as the Security Agent shall require to put the Senior Secured Creditors (other than the applicable Agents) in such a position that (after taking into account such payments) those losses are borne in those proportions; or

(b) the Enforcement Date occurs on or after the Senior Term Lender Discharge Date and:

(i) if, for any reason, any Senior Liabilities remain unpaid after the Enforcement Date and the resulting losses are not borne by the Senior Creditors in the proportions which their respective Exposures at the Enforcement Date bore to the aggregate Exposures of all the Senior Creditors at the Enforcement Date, the Senior Creditors will make such payments amongst themselves as the Security Agent shall require to put the Senior Creditors in such a position that (after taking into account such payments) those losses are borne in those proportions; or

(ii) if, for any reason, any Senior Secured Notes Liabilities and/or any Pari Passu Hedging Liabilities remain unpaid after the Enforcement Date and the resulting losses are not borne by the Senior Secured Notes Creditors (other
than the applicable Agents) and Pari Passu Hedge Counterparties (as applicable) in the proportions which their respective Exposures at the Enforcement Date bore to the aggregate Exposures of all the Senior Secured Notes Creditors (other than the applicable Agents) and Pari Passu Hedge Counterparties (as applicable) at the Enforcement Date, the Senior Secured Notes Creditors (other than the applicable Agents) and the Pari Passu Hedge Counterparties (as applicable) will make such payments amongst themselves as the Security Agent shall require to put the Senior Secured Notes Creditors and Pari Passu Hedge Counterparties (as applicable) in such a position that (after taking into account such payments) those losses are borne in those proportions.

(c) If, for any reason, any Second Lien Liabilities remain unpaid after the Enforcement Date and the resulting losses are not borne by the Second Lien Creditors in the proportions which their respective Second Lien Exposures at the Enforcement Date bore to the aggregate Second Lien Exposures of all the Second Lien Creditors at the Enforcement Date, the Second Lien Creditors will make such payments amongst themselves as the Security Agent shall require to put the Second Lien Creditors in such a position that (after taking into account such payments) those losses are borne in those proportions.

(d) If, for any reason, any Senior Unsecured Liabilities remain unpaid after the Enforcement Date and the resulting losses are not borne by the Senior Unsecured Creditors in the proportions which their respective Senior Unsecured Exposures at the Enforcement Date bore to the aggregate Senior Unsecured Exposures of all the Senior Unsecured Creditors at the Enforcement Date, the Senior Unsecured Creditors will make such payments amongst themselves as the Security Agent shall require to put the Senior Unsecured Creditors in such a position that (after taking into account such payments) those losses are borne in those proportions.

18.4 Turnover of enforcement proceeds

If:

(a) prior to the Senior Term Lender Discharge Date:

(i) the Security Agent, the Senior Agent(s) or the Senior Secured Notes Trustee(s) is not entitled, for reasons of applicable law, to pay amounts received pursuant to the making of a demand under any guarantee, indemnity or other assurance against loss or the enforcement of the Transaction Security to the Senior Secured Creditors but is entitled to distribute those amounts to Creditors (such Creditors, for the purpose of this paragraph (a), the “Receiving Creditors”) who, in accordance with the terms of this Agreement, are subordinated in right and priority of payment to the Senior Secured Creditors; and

(ii) the Senior Secured Discharge Date has not yet occurred (nor would occur after taking into account such payments),

then the Receiving Creditors shall make such payments to the Senior Secured Creditors as the Security Agent shall require to place the Senior Secured Creditors in the position they would have been in had such amounts been available for application against the Senior Secured Liabilities; and

(b) on or after the Senior Term Lender Discharge Date:
(i) the Security Agent, the Senior Agent or the Senior Secured Notes Trustee is not entitled, for reasons of applicable law, to pay amounts received pursuant to the making of a demand under any guarantee, indemnity or other assurance against loss or the enforcement of the Transaction Security to the Senior Creditors or, as the case may be, to the Senior Secured Notes Creditors and Pari Passu Hedge Counterparties, but is entitled to distribute those amounts to Creditors (such Creditors, for the purposes of this paragraph (b), the “Receiving Creditors”) who, in accordance with the terms of this Agreement, are subordinated in right and priority of payment to the Senior Creditors or, as the case may be, Senior Secured Notes Creditors and Pari Passu Hedge Counterparties; and

(ii) the Senior Secured Discharge Date has not yet occurred (nor would occur after taking into account such payments),

then the Receiving Creditors shall make such payments to the relevant Senior Creditors or, as the case may be, the relevant Senior Secured Notes Creditors and Pari Passu Hedge Counterparties, as the Security Agent shall require to place the relevant Senior Creditors or, as the case may be, the relevant Senior Secured Notes Creditors and Pari Passu Hedge Counterparties, in the position they would have been in had such amounts been available for application against the Senior Liabilities or, as the case may be, the Senior Secured Notes Liabilities and Pari Passu Hedging Liabilities.

(c)

(i) the Security Agent or any Second Lien Credit Representative(s) is not entitled, for reasons of applicable law, to pay amounts received pursuant to the making of a demand under any guarantee, indemnity or other assurance against loss or the enforcement of the Transaction Security to the Second Lien Creditors but is entitled to distribute those amounts to Creditors (such Creditors, the “Receiving Second Lien Creditors”) who, in accordance with the terms of this Agreement, are subordinated in right and priority of payment to the Second Lien Creditors; and

(ii) the Second Lien Discharge Date has not yet occurred (nor would occur after taking into account such payments),

then the Receiving Second Lien Creditors shall make such payments to the Second Lien Creditors as the Security Agent shall require to place the Second Lien Creditors in the position they would have been in had such amounts been available for application against the Second Lien Liabilities.

(d)

(i) the Security Agent or any Senior Unsecured Representative is not entitled, for reasons of applicable law, to pay amounts received pursuant to the making of a demand under any guarantee, indemnity or other assurance against loss or the enforcement of the Senior Unsecured Shared Security to the Senior Unsecured Creditors but is entitled to distribute those amounts to Creditors (such Creditors, the “Receiving Unsecured Creditors”) who, in accordance with the terms of this Agreement, are subordinated in right and priority of payment to the Senior Unsecured Creditors; and

(ii) the Senior Unsecured Discharge Date has not yet occurred (nor would occur after taking into account such payments),
then the Receiving Unsecured Creditors shall make such payments to the Senior Unsecured Creditors as the Security Agent shall require to place the Senior Unsecured Creditors in the position they would have been in had such amounts been available for application against the Senior Unsecured Liabilities.

18.5 Notification of Exposure

Before each occasion on which it intends to implement the provisions of this Clause 18, the Security Agent shall send notice to:

(a) in respect of the Exposure only, each Hedge Counterparty, the Senior Agent(s) (on behalf of the Senior Lenders) and the Senior Secured Notes Trustee(s) (on behalf of the Senior Secured Noteholders) requesting that it notify the Security Agent of, respectively, its Exposure, the Exposure of each Senior Lender and the Exposure of each Senior Secured Notes Creditor (if any);

(b) in respect of the Second Lien Exposure only, the Second Lien Agent(s) (on behalf of the Second Lien Lenders) and the Second Lien Notes Trustee(s) (on behalf of the Second Lien Noteholders) requesting that it notify the Security Agent of, respectively, the Second Lien Exposure of each Second Lien Lender and the Second Lien Exposure of each Second Lien Notes Creditor (if any); and

(c) in respect of the Senior Unsecured Exposure only, the Senior Unsecured Agent(s) (on behalf of the Senior Unsecured Lenders) and the Senior Unsecured Notes Trustee(s) (on behalf of the Senior Unsecured Noteholders) requesting that it notify the Security Agent of, respectively, the Senior Unsecured Exposure of each Senior Unsecured Lender and the Senior Unsecured Exposure of each Senior Unsecured Notes Creditor (if any).

18.6 Default in payment

If a Creditor fails to make a payment due from it under this Clause 18, the Security Agent shall be entitled (but not obliged) to take action on behalf of the relevant Senior Secured Creditor(s), Second Lien Creditor(s) or Senior Unsecured Creditor(s) (as applicable) to whom such payment was to be redistributed (subject to being indemnified or secured (whether by way of payment in advance or otherwise) to its satisfaction by such Senior Secured Creditor(s), Second Lien Creditor(s) or Senior Unsecured Creditor(s) (as applicable) in respect of costs) but shall have no liability or obligation towards such Senior Secured Creditor(s), Second Lien Creditor(s) or Senior Unsecured Creditor(s) (as applicable), or any other Senior Secured Creditor, Second Lien Creditor, Senior Unsecured Creditor or Creditor as regards such default in payment and any loss suffered as a result of such default shall lie where it falls.

19. NEW/REFINANCING OF PRIMARY CREDITOR LIABILITIES

19.1 New/Refinancing of Senior Secured Liabilities

It is hereby agreed that the Senior Secured Creditor Liabilities may be borrowed, incurred, refinanced, replaced, increased, exchanged or discharged in whole or in part on terms and in a manner that do not breach the terms of this Agreement, the Senior Facilities Agreement, the Second Lien Facilities Agreement, the Senior Unsecured Facilities Agreement, any Senior Secured Notes Indenture, any Second Lien Notes Indenture and any Senior Unsecured Notes Indenture without the consent of any other Creditors and that (in each case subject to the provisions of Clause 2.5 (Additional and/or Refinancing Debt) which shall, for the avoidance of doubt, allow the insertion of Borrowing Liabilities and/or Guarantee Liabilities (and/or new borrowing liabilities and guarantee liabilities) and/or Security ranking pari passu with or
behind any existing Liabilities if and to the extent permitted or not prohibited by the Debt Documents):

(a) any obligations borrowed or incurred by any Debtor or other member of the Group pursuant to such refinancing or replacement of the Senior Lender Liabilities (“Senior Refinancing Lender Liabilities”) or the Senior Secured Notes Liabilities (“Senior Secured Notes Refinancing Liabilities”) or the incurrence of such new liabilities ranking pari passu with or junior to the Senior Lender Liabilities or, as the case may be, the Senior Secured Notes Liabilities (the “New Senior Debt Liabilities”) and, the New Senior Debt Liabilities, the Senior Refinancing Lender Liabilities and the Senior Secured Notes Refinancing Liabilities, together, the “Senior Secured New/Refinancing Liabilities”) will, to the extent so designated by the Company (in a manner that does not breach the terms of this Agreement, the Senior Facilities Agreement, any Senior Secured Notes Indenture, the Second Lien Facilities Agreement, any Second Lien Notes Indenture, the Senior Unsecured Facility Agreement and any Senior Unsecured Notes Indenture):

(i) in the case of Senior Secured New/Refinancing Lender Liabilities that are or are intended to rank pari passu with Senior Lender Liabilities, rank as Senior Lender Liabilities in the manner described in Clause 2.1 (Creditor Liabilities);

(ii) in the case of Senior Secured New/Refinancing Liabilities that are or are intended to rank pari passu with Senior Secured Notes Liabilities, rank as Senior Secured Notes Liabilities in the manner described in Clause 2.1 (Creditor Liabilities);

(iii) in the case of Senior Secured New/Refinancing Liabilities that are or are intended to rank pari passu with Second Lien Notes Liabilities or Second Lien Lender Liabilities (as applicable) in the manner described in Clause 2.1 (Creditor Liabilities); and

(iv) in the case of Senior Secured New/Refinancing Liabilities that are or are intended to rank pari passu with Senior Unsecured Notes Liabilities or Senior Unsecured Loan Liabilities, rank as Senior Unsecured Liabilities in the manner described in Clause 2.1 (Creditor Liabilities);

(b) subject to Clause 19.6 (New Security), and other than in respect of Senior Secured New/Refinancing Liabilities intended to rank according to subparagraph (a)(iv) above, the Transaction Security shall secure such Senior Secured New/Refinancing Liabilities and, in respect of such Transaction Security and any new security granted by any member of the Group to secure such Senior Secured New/Refinancing Liabilities, such Senior Secured New/Refinancing Liabilities will:

(i) in the case of Senior Secured New/Refinancing Liabilities that are or are intended to rank pari passu with Senior Lender Liabilities, be secured and rank as Senior Lender Liabilities in the manner described in Clause 2.2 (Transaction Security);

(ii) in the case of Senior Secured New/Refinancing Liabilities that are or are intended to rank pari passu with Senior Secured Notes Liabilities, be secured and rank as Senior Secured Notes Liabilities in the manner described in Clause 2.2 (Transaction Security);
(iii) in the case of Senior Secured New/Refinancing Liabilities that are or are intended to rank pari passu with Second Lien Notes Liabilities or Second Lien Lender Liabilities, be secured and rank as Second Lien Notes Liabilities or Second Lien Lender Liabilities (as applicable) in the manner described in Clause 2.2 (Transaction Security); and

(iv) in the case of Senior Secured New/Refinancing Liabilities that are or are intended to rank pari passu with Senior Unsecured Notes Liabilities or Senior Unsecured Loan Liabilities, be secured and rank as Senior Unsecured Liabilities in the manner described in Clause 2.2 (Transaction Security); and

(c) subject to the provisions of the Secured Debt Documents, this Agreement shall be construed to permit the assumption of any Senior Secured New/Refinancing Liabilities and to give effect to the ranking set out in paragraphs (a) and (b) above,

provided that:

(i) any agent, trustee or representative of the creditors of such Senior Secured New/Refinancing Liabilities (a “Senior New/Refinancing Agent”), accedes to this Agreement in accordance with Clause 22.15 (Creditor/Agent Accession Undertaking) on the same terms as a Senior Agent, a Senior Secured Notes Trustee, a Second Lien Credit Representative or a Senior Unsecured Representative (as applicable); and

(ii) each creditor in relation to such Senior Secured New/Refinancing Liabilities (that is not a Senior New/Refinancing Agent) accedes to this Agreement in accordance with Clause 22.15 (Creditor/Agent Accession Undertaking) to the extent required by this Agreement or is deemed to accede to this Agreement pursuant to the terms of its relevant finance documents, in each case on the same terms as a Senior Creditor, Senior Secured Notes Creditor, Second Lien Creditor or Senior Unsecured Creditor (as applicable).

19.2 New/Refinancing of Second Lien Liabilities

It is hereby agreed that the Second Lien Liabilities may be borrowed, incurred, refinanced, replaced, increased, exchanged or discharged in whole or in part on terms and in a manner that do not breach the terms of this Agreement, the Senior Facilities Agreement, any Senior Secured Notes Indenture, the Second Lien Facilities Agreement, any Second Lien Notes Indenture, any Senior Unsecured Facility Agreement and any Senior Unsecured Notes Indenture, without the consent of any other Creditors and that (in each case subject to the provisions of Clause 2.5 (Additional and/or Refinancing Debt) which shall, for the avoidance of doubt, allow the insertion of Borrowing Liabilities and/or Guarantee Liabilities (and/or new borrowing liabilities or guarantee liabilities) and/or Security ranking pari passu with or behind any existing Liabilities if and to the extent permitted or not prohibited by the Debt Documents):

(a) any obligations borrowed or incurred by any Debtor or other member of the Group pursuant to such refinancing or replacement of the Second Lien Lender Liabilities (“Second Lien Refinancing Lender Liabilities”) or the Second Lien Notes Liabilities (“Second Lien Notes Refinancing Liabilities”) or the incurrence of such new liabilities ranking pari passu with or senior or junior to the Second Lien Lender Liabilities or, as the case may be, the Second Lien Notes Liabilities (the “New Second Lien Debt Liabilities”) and the New Second Lien Debt Liabilities, the Second Lien Refinancing Lender Liabilities and the Second Lien Notes Refinancing Liabilities, together the “Second Lien New/Refinancing Liabilities”) will, to the extent so designated by the Company (in a manner that does not breach the terms of
this Agreement, the Senior Facilities Agreement, any Senior Secured Notes Indenture, the Second Lien Facilities Agreement, any Second Lien Notes Indenture, the Senior Unsecured Facility Agreement and any Senior Unsecured Notes Indenture):

(i) in the case of Second Lien New/Refinancing Liabilities that are or are intended to rank pari passu with Senior Lender Liabilities, rank as Senior Lender Liabilities in the manner described in Clause 2.1 (Creditor Liabilities);

(ii) in the case of Second Lien New/Refinancing Liabilities that are or are intended to rank pari passu with Senior Secured Notes Liabilities, rank as Senior Secured Notes Liabilities in the manner described in Clause 2.1 (Creditor Liabilities);

(iii) in the case of Second Lien New/Refinancing Liabilities that are or are intended to rank pari passu with Second Lien Notes Liabilities or Second Lien Lender Liabilities, rank as Second Lien Notes Liabilities or Second Lien Lender Liabilities (as applicable) in the manner described in Clause 2.1 (Creditor Liabilities); and

(iv) in the case of Second Lien New/Refinancing Liabilities that are or are intended to rank pari passu with Senior Unsecured Notes Liabilities or Senior Unsecured Loan Liabilities, rank as Senior Unsecured Liabilities in the manner described in Clause 2.1 (Creditor Liabilities);

(b) subject to Clause 19.6 (New Security), and other than in respect of Second Lien New/Refinancing Liabilities intended to rank according to paragraph (a)(iv) above, the Transaction Security shall secure such Second Lien New/Refinancing Liabilities and, in respect of such Transaction Security and any new security granted by any member of the Group to secure such Second Lien New/Refinancing Liabilities, such Second Lien New/Refinancing Liabilities will:

(i) in the case of Second Lien New/Refinancing Liabilities that are or are intended to rank pari passu with Senior Lender Liabilities, be secured and rank as Senior Lender Liabilities in the manner described in Clause 2.2 (Transaction Security);

(ii) in the case of Second Lien New/Refinancing Liabilities that are or are intended to rank pari passu with Senior Secured Notes Liabilities, be secured and rank as Senior Secured Notes Liabilities in the manner described in Clause 2.2 (Transaction Security);

(iii) in the case of Second Lien New/Refinancing Liabilities that are or are intended to rank pari passu with Second Lien Lender Liabilities, be secured and rank as Second Lien Lender Liabilities in the manner described in Clause 2.2 (Transaction Security);

(iv) in the case of Second Lien New/Refinancing Liabilities that are or are intended to rank pari passu with Second Lien Notes Liabilities, be secured and rank as Second Lien Notes Liabilities in the manner described in Clause 2.2 (Transaction Security); and

(v) in the case of Second Lien New/Refinancing Liabilities that are intended to rank pari passu with the Senior Unsecured Notes Liabilities or Senior Unsecured Loan Liabilities, be secured and rank as Senior Unsecured Liabilities in the manner described in Clause 2.2 (Transaction Security); and
subject to the provisions of the Secured Debt Documents, this Agreement shall be construed to permit the assumption of any Second Lien New/Refinancing Liabilities and to give effect to the ranking set out in paragraphs (a) and (b) above,

provided that:

(i) any agent, trustee or representative of the creditors of such Second Lien New/Refinancing Liabilities (a “Second Lien New/Refinancing Agent”), accedes to this Agreement in accordance with Clause 22.15 (Creditor/Agent Accession Undertaking) on the same terms as a Senior Agent, a Senior Secured Notes Trustee, a Second Lien Credit Representative or a Senior Unsecured Representative (as applicable); and

(ii) each creditor in relation to such Second Lien New/Refinancing Liabilities (that is not a Second Lien New/Refinancing Agent) accedes to this Agreement in accordance with Clause 22.15 (Creditor/Agent Accession Undertaking) or is deemed to accede to this Agreement pursuant to the terms of its relevant finance documents, in each case on the same terms as a Senior Lender, Senior Secured Notes Creditor, Second Lien Creditor or Senior Unsecured Creditor (as applicable).

19.3 New/Refinancing of Senior Unsecured Liabilities

It is hereby agreed that the Senior Unsecured Liabilities may be borrowed, incurred, refinanced, replaced, increased, exchanged or discharged in whole or in part on terms and in a manner that do not breach the terms of this Agreement, the Senior Facilities Agreement, any Senior Secured Notes Indenture, the Second Lien Facilities Agreement, any Second Lien Notes Indenture, any Senior Unsecured Facility Agreement and any Senior Unsecured Notes Indenture, without the consent of any other Creditors and that (in each case subject to the provisions of Clause 2.5 (Additional and/or Refinancing Debt) which shall, for the avoidance of doubt, allow the insertion of Borrowing Liabilities and/or Guarantee Liabilities (and/or new borrowing liabilities or guarantee liabilities) and/or Security ranking pari passu with or behind any existing Liabilities if and to the extent permitted or not prohibited by the Debt Documents):

(a) any obligations borrowed or incurred by any Debtor or other member of the Group pursuant to such refinancing or replacement of the Senior Unsecured Loan Liabilities (“Senior Unsecured Refinancing Lender Liabilities”) or the Senior Unsecured Notes Liabilities (“Senior Unsecured Notes Refinancing Liabilities”) or the incurrence of such new liabilities ranking pari passu with or senior to the Senior Unsecured Lender Liabilities or, as the case may be, the Senior Unsecured Notes Liabilities (the “New Senior Unsecured Debt Liabilities” and the New Senior Unsecured Debt Liabilities, the Senior Unsecured Refinancing Lender Liabilities and the Senior Unsecured Notes Refinancing Liabilities, together the “Senior Unsecured New/Refinancing Liabilities”) will, to the extent so designated by the Company (in a manner that does not breach the terms of this Agreement, the Senior Facilities Agreement, any Senior Secured Notes Indenture, the Second Lien Facilities Agreement, any Second Lien Notes Indenture, the Senior Unsecured Facility Agreement and any Senior Unsecured Notes Indenture):

(i) in the case of Senior Unsecured New/Refinancing Liabilities that are or are intended to rank pari passu with Senior Lender Liabilities, rank as Senior Lender Liabilities in the manner described in Clause 2.1 (Creditor Liabilities);
(ii) in the case of Senior Unsecured New/Refinancing Liabilities that are or are intended to rank *pari passu* with Senior Secured Notes Liabilities, rank as Senior Secured Notes Liabilities in the manner described in Clause 2.1 (*Creditor Liabilities*);

(iii) in the case of Senior Unsecured New/Refinancing Liabilities that are or are intended to rank *pari passu* with Second Lien Notes Liabilities or Second Lien Lender Liabilities, rank as Second Lien Notes Liabilities or Second Lien Lender Liabilities (as applicable) in the manner described in Clause 2.1 (*Creditor Liabilities*); and

(iv) in the case of Senior Unsecured New/Refinancing Liabilities that are or are intended to rank *pari passu* with Senior Unsecured Notes Liabilities or Senior Unsecured Loan Liabilities, rank as Senior Unsecured Liabilities in the manner described in Clause 2.1 (*Creditor Liabilities*);

(b) subject to Clause 19.6 (*New Security*), and other than in respect of Senior Unsecured New/Refinancing Liabilities intended to rank according to paragraph (a)(iv) of Clause 19.3 (*New/Refinancing of Senior Unsecured Liabilities*), the Transaction Security shall secure such Senior Unsecured New/Refinancing Liabilities and, in respect of such Transaction Security and any new security granted by any member of the Group to secure such Senior Unsecured New/Refinancing Liabilities, such Senior Unsecured New/Refinancing Liabilities will:

(i) in the case of Senior Unsecured New/Refinancing Liabilities that are or are intended to rank *pari passu* with Senior Lender Liabilities, be secured and rank as Senior Lender Liabilities in the manner described in Clause 2.2 (*Transaction Security*);

(ii) in the case of Senior Unsecured New/Refinancing Liabilities that are or are intended to rank *pari passu* with Senior Secured Notes Liabilities, be secured and rank as Senior Secured Notes Liabilities in the manner described in Clause 2.2 (*Transaction Security*);

(iii) in the case of Senior Unsecured New/Refinancing Liabilities that are or are intended to rank *pari passu* with Second Lien Lender Liabilities, be secured and rank as Second Lien Lender Liabilities in the manner described in Clause 2.2 (*Transaction Security*);

(iv) in the case of Senior Unsecured New/Refinancing Liabilities that are or are intended to rank *pari passu* with Second Lien Notes Liabilities, be secured and rank as Second Lien Notes Liabilities in the manner described in Clause 2.2 (*Transaction Security*); and

(v) in the case of Senior Unsecured New/Refinancing Liabilities that are or are intended to rank *pari passu* with the Senior Unsecured Notes Liabilities or Senior Unsecured Loan Liabilities, be secured and rank as Senior Unsecured Liabilities in the manner described in Clause 2.1 (*Creditor Liabilities*); and

(c) subject to the provisions of the Secured Debt Documents, this Agreement shall be construed to permit the assumption of any Senior Unsecured New/Refinancing Liabilities and to give effect to the ranking set out in paragraphs (a) and (b) above, provided that:
any agent, trustee or representative of the creditors of such Senior Unsecured New/Refinancing Liabilities (a “Senior Unsecured New/Refinancing Agent”), accedes to this Agreement in accordance with Clause 22.15 (Creditor/Agent Accession Undertaking) on the same terms as a Senior Agent, a Senior Secured Notes Trustee, a Second Lien Credit Representative or a Senior Unsecured Representative (as applicable); and

(ii) each creditor in relation to such Senior Unsecured New/Refinancing Liabilities (that is not a Senior Unsecured New/Refinancing Agent) accedes to this Agreement in accordance with Clause 22.15 (Creditor/Agent Accession Undertaking) or is deemed to accede to this Agreement pursuant to the terms of its relevant finance documents, in each case on the same terms as a Senior Lender, Senior Secured Notes Creditor, Second Lien Creditor or Senior Unsecured Creditor (as applicable).

19.4 Further assurance

Each Senior Unsecured Representative, each Second Lien Credit Representative, each Senior Secured Notes Trustee, each Senior Agent and the Security Agent will and is hereby authorised and directed to enter into such agreement or agreements with the Debtors and/or the holders of the Liabilities pursuant to Clause 19.1 (New/Refinancing of Senior Secured Liabilities), Clause 19.2 (New/Refinancing of Second Lien Liabilities) and/or Clause 19.3 (New/Refinancing of Senior Unsecured Liabilities) and/or their agents and trustees, whether by way of supplement, amendment or restatement of the terms of this Agreement or by a separate deed, as may be necessary to give effect to the terms of Clause 19.1 (New/Refinancing of Senior Secured Liabilities), Clause 19.2 (New/Refinancing of Second Lien Liabilities) and/or Clause 19.3 (New/Refinancing of Senior Unsecured Liabilities), provided that such supplement, amendment or restatement of the terms of this Agreement or separate deed does not impose any personal obligations on each Senior Unsecured Representative, each Second Lien Credit Representative, each Senior Secured Notes Trustee, each Senior Agent and the Security Agent or adversely affect the rights, duties, liabilities, indemnifications or immunities of each Senior Unsecured Representative, each Second Lien Credit Representative, each Senior Secured Notes Trustee, each Senior Agent and the Security Agent under the Debt Documents. Any such amendment shall not require the consent of any Creditor and shall be effective and binding on all Parties upon the execution thereof by the Debtors, each Second Lien Credit Representative, each Senior Unsecured Representative, each Senior Secured Notes Trustee, each Senior Agent and the Security Agent.

19.5 Release of Security

Where the terms of a refinancing, replacement or increase falling within Clause 19.1 (New/Refinancing of Senior Secured Liabilities), Clause 19.2 (New/Refinancing of Second Lien Liabilities) and/or Clause 19.3 (New/Refinancing of Senior Unsecured Liabilities) require the release of any Transaction Security by the Security Agent and any consent required under the Senior Finance Documents or the Senior Secured Notes Finance Documents or the Second Lien Finance Documents or the Senior Unsecured Finance Documents, as applicable, in respect of such release of Transaction Security has been obtained, the Security Agent shall release, at the request and cost of the Company (and the relevant Secured Parties expressly authorise the Security Agent to release on their behalf, to the extent necessary), such Transaction Security which has been granted to it provided that such release occurs on the date of such refinancing, restructuring, replacement or increase and is within the terms of such consent (if any).

19.6 New Security
(a) To the extent any Senior Secured Liabilities or Second Lien Liabilities or Senior Unsecured Liabilities are incurred as contemplated in Clause 19.1 (New/Refinancing of Senior Secured Liabilities), Clause 19.2 (New/Refinancing of Second Lien Liabilities) and/or Clause 19.3 (New/Refinancing of Senior Unsecured Liabilities) (“Secured New/Refinancing Liabilities”) or any Post-Closing Secured Liabilities cannot be secured pari passu with the then existing Senior Secured Liabilities or Second Lien Liabilities or (in the case of any Senior Unsecured Shared Security) Senior Unsecured Liabilities (as applicable) under the existing Security Documents (the “Initial Security Documents”) without the Security under such Initial Security Documents first being released (and such release is not permitted by Clause 19.5 (Release of Security)), the Parties agree that such Secured New/Refinancing Liabilities and Post-Closing Secured Liabilities may (to the extent permitted by applicable law) be secured pursuant to the execution of additional security documents (the “New Security Documents”) on a second or lesser ranking basis.

(b) Notwithstanding paragraph (a) above, to the extent permitted by applicable law, any Secured New/Refinancing Liabilities or Post-Closing Secured Liabilities which do not benefit from the Initial Security Documents on a pari passu basis with the Senior Secured Liabilities or Second Lien Liabilities or (in the case of any Senior Unsecured Shared Security) Senior Unsecured Liabilities (as applicable) will nonetheless be deemed and treated for the purpose of this Agreement and Clause 17 (Application of Proceeds) as secured by the Initial Security Documents and the New Security Documents pari passu with the Senior Secured Liabilities or Second Lien Liabilities or (in the case of any Senior Unsecured Shared Security) Senior Unsecured Liabilities (as applicable).

(c) Nothing shall restrict the Secured Parties benefiting from any Initial Security Document from enforcing and/or releasing the Initial Security Documents in accordance with, and to the extent permitted by, this Agreement, the relevant Secured Debt Documents and the terms of such Initial Security Documents.

(d) Each of the Secured Parties agrees not to take any action to challenge the validity or enforceability of the New Security by reason of it being expressed to be second ranking (or any other lower ranking).

(e) Any decision to enforce any Security Document shall be taken in accordance with the provisions of this Agreement regardless of the ranking of the relevant Transaction Security.

(f) No Secured Party benefiting from any Initial Security Document shall incur any liability to the beneficiaries of the New Security Documents for the manner of exercise or any non-exercise of their rights, remedies, powers, authority or discretions under such already existing Transaction Security or for any waivers, consents or releases in relation thereto.

20. THE SECURITY AGENT

20.1 Appointment by Secured Parties

(a) Each Secured Party irrevocably appoints the Security Agent in accordance with the following provisions of this Clause to act as its agent, trustee, joint and several creditor or beneficiary of a parallel debt (as the case may be) under this Agreement and with respect to the Security Documents, and irrevocably authorises the Security Agent on its behalf to:
(i) execute each Security Document expressed to be executed by the Security Agent on its behalf; and

(ii) perform such duties and exercise such rights and powers under this Agreement and the Security Documents as are specifically delegated to the Security Agent by the terms thereof, together with such rights, powers and discretions as are reasonably incidental thereto.

(b) Each Secured Party confirms that:

(i) the Security Agent has authority to accept on its behalf the terms of any reliance letter or engagement letter relating to any reports or letters provided in connection with the Secured Debt Documents or the transactions contemplated by the Secured Debt Documents, to bind it in respect of those reports or letters and to sign that reliance letter or engagement letter on its behalf and to the extent that reliance letter, or engagement letter has already been entered into it, ratifies those actions; and

(ii) it accepts the terms and qualifications set out in that reliance letter or engagement letter.

(c) The Security Agent shall have only those duties, obligations and responsibilities which are expressly specified in this Agreement and/or the Security Documents to which the Security Agent is a Party (and no others shall be implied). The Security Agent’s duties under this Agreement and/or the Security Documents to which the Security Agent is a Party are solely of a mechanical and administrative nature.

(d) Each Secured Party releases the Security Agent from any applicable restrictions on entering into any transaction as a representative of:

(i) two or more principals contracting with each other; and

(ii) one or more principals with whom it is contracting in its own name.

(e) The Security Agent shall be entitled to grant sub-power of attorney including the release of any sub-attorney from the restrictions referred to in paragraph (d) above.

(f) The Security Agent shall not have or be deemed to have assumed any fiduciary relationship with any Party.

(g) Notwithstanding anything contained herein, no provision of this Agreement shall alter or otherwise affect the rights and obligations of any Debtor to make payments in respect of the Agent Liabilities owed to the Security Agent as and when the same are due and payable pursuant to the applicable Debt Documents or the receipt and retention by the Security Agent of the same or the taking of any step or action by the Security Agent in respect of its rights under the Debt Documents to the same.

20.2 Trust

(a) The Security Agent declares that it shall (to the extent possible under applicable law and unless otherwise stated in the relevant Security Document) hold the Security Property on trust for the relevant Secured Parties on the terms contained in this Agreement.

(b) Each of the Parties to this Agreement agrees that the Security Agent shall have only those duties, obligations and responsibilities expressly specified in this Agreement or
in the Security Documents to which the Security Agent is expressed to be a party (and no others shall be implied).

20.3 Senior Secured Security Agent Claim (Covenant to pay the Security Agent)

(a) In this Clause:

“Senior Secured Creditor Claim” means any amount which a Debtor owes to a Senior Secured Party under or in connection with the Secured Debt Documents other than the Senior Unsecured Finance Documents.

“Senior Secured Security Agent Claim” has the meaning given to it in paragraph (b) below.

(b) Each Debtor must pay the Security Agent, as an independent and separate creditor, an amount equal to its respective Senior Secured Creditor Claim on its due date (each a “Senior Secured Security Agent Claim”).

(c) Unless expressly provided to the contrary in any Debt Document, the Security Agent holds:

(i) any security created by a Security Document governed by any law other than English law;

(ii) the benefit of any Senior Secured Security Agent Claims; and

(iii) any proceeds of security,

for the benefit, and as the property, of the Secured Parties and so that they are not available to the personal creditors of the Security Agent.

(d) Each Senior Secured Security Agent Claim is created on the understanding that the Security Agent must:

(i) share the proceeds of each Senior Secured Security Agent Claim with the other Senior Secured Parties; and

(ii) pay those proceeds to the Senior Secured Parties, in accordance with this Agreement.

(e) The Security Agent shall have its own independent right to demand payment of the amounts payable by each Debtor under the Senior Secured Security Agent Claim at any point in time.

(f) The Security Agent may enforce performance of any Senior Secured Security Agent Claim in its own name as an independent and separate right. This includes any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in respect of any kind of insolvency proceeding.

(g) Each Senior Secured Party must, at the request of the Security Agent, perform any act required in connection with the enforcement of any Senior Secured Security Agent Claim. This includes joining in any proceedings as co-claimant with the Security Agent.

(h) (i) Discharge by a Debtor of a Senior Secured Creditor Claim will automatically discharge the corresponding Senior Secured Security Agent Claim in the same amount.
(ii) Discharge by a Debtor of a Senior Secured Security Agent Claim will automatically discharge the corresponding Senior Secured Creditor Claim in the same amount.

(i) The aggregate amount of the Senior Secured Security Agent Claims will never exceed the aggregate amount of Senior Secured Creditor Claims.

(j) (i) A defect affecting a Senior Secured Security Agent Claim against a Debtor will not affect any Senior Secured Creditor Claim.

(ii) A defect affecting a Senior Secured Creditor Claim against a Debtor will not affect any Senior Secured Security Agent Claim.

(k) If the Security Agent returns to any Debtor, whether in any kind of insolvency proceedings or otherwise, any recovery in respect of which it has made a payment to a Senior Secured Party, that Senior Secured Party must repay an amount equal to that recovery to the Security Agent (as the case may be).

(l) Any limitation of any guarantee and/or indemnity in relation to any claim of a Senior Secured Party set out in any Debt Document shall apply mutatis mutandis to the respective Senior Secured Security Agent Claim (to the extent the respective Senior Secured Security Agent Claim is not so limited automatically by operation of such limitation of such guarantee and/or indemnity).

20.4 Senior Unsecured Security Agent Claim (Covenant to pay the Security Agent)

In this Clause:

“Senior Unsecured Creditor Claim” means any amount which a Debtor owes to a Senior Unsecured Finance Party under or in connection with the Senior Unsecured Finance Documents.

“Senior Unsecured Security Agent Claim” has the meaning given to it in paragraph (a) below.

(a) Each Debtor must pay the Security Agent as an independent and separate creditor an amount equal to its respective Senior Unsecured Creditor Claim on its due date (each a “Senior Unsecured Security Agent Claim”).

(b) Unless expressly provided to the contrary in any Debt Document, the Security Agent holds:

(i) any security created by a Security Document governed by any law other than English law;

(ii) the benefit of any Senior Unsecured Security Agent Claims; and

(iii) any proceeds of security,

for the benefit, and as the property, of the Secured Parties and so that they are not available to the personal creditors of the Security Agent.

(c) Each Senior Unsecured Security Agent Claim is created on the understanding that the Security Agent must:

(i) share the proceeds of each Senior Unsecured Security Agent Claim with the other Senior Unsecured Finance Parties; and
(ii) pay those proceeds to the Senior Unsecured Finance Parties, in accordance with this Agreement.

(d) The Security Agent shall have its own independent right to demand payment of the amounts payable by each Debtor under the Senior Unsecured Security Agent Claims at any point in time.

(e) The Security Agent may enforce performance of any Senior Unsecured Security Agent Claim in its own name as an independent and separate right. This includes any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in respect of any kind of insolvency proceeding.

(f) Each Senior Unsecured Finance Party must, at the request of the Security Agent, perform any act required in connection with the enforcement of any Senior Unsecured Security Agent Claim. This includes joining in any proceedings as co-claimant with the Security Agent.

(g) (i) Discharge by a Debtor of a Senior Unsecured Creditor Claim will automatically discharge the corresponding Senior Unsecured Security Agent Claim in the same amount.

(ii) Discharge by a Debtor of a Senior Unsecured Security Agent Claim will automatically discharge the corresponding Senior Unsecured Creditor Claim in the same amount.

(h) The aggregate amount of the Senior Unsecured Security Agent Claims will never exceed the aggregate amount of Senior Unsecured Creditor Claims.

(i) (i) A defect affecting a Senior Unsecured Security Agent Claim against a Debtor will not affect any Senior Unsecured Creditor Claim.

(ii) A defect affecting a Senior Unsecured Creditor Claim against a Debtor will not affect any Senior Unsecured Security Agent Claim.

(j) If the Security Agent returns to any Debtor, whether in any kind of insolvency proceedings or otherwise, any recovery in respect of which it has made a payment to a Senior Unsecured Finance Party, that Senior Unsecured Finance Party must repay an amount equal to that recovery to the Security Agent (as the case may be).

(k) Any limitation of any guarantee and/or indemnity in relation to any claim of a Senior Unsecured Finance Party set out in any Debt Document shall apply mutatis mutandis to the respective Senior Unsecured Security Agent Claim (to the extent the respective Senior Unsecured Security Agent Claim is not so limited automatically by operation of such limitation of such guarantee and/or indemnity).

20.5 No independent power

Subject to Clause 17.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral), the Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any rights or powers arising under the Security Documents except through the Security Agent. Any decision to enforce the Transaction Security will be taken by the Instructing Group in accordance with Clause 14 (Enforcement of Transaction Security prior to the Senior Term Lender Discharge Date) or Clause 15 (Enforcement of Transaction Security on or after the Senior Term Lender Discharge Date), as applicable, and would be binding on all of the Secured Parties.
20.6 **Instructions to Security Agent and exercise of discretion**

(a) The Security Agent shall, subject to paragraphs (e) and (f) below, act, or refrain from acting, in accordance with any instructions given to it by an Instructing Group or the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors (as applicable) to the extent they are entitled to give instructions under Clauses 14 (Enforcement of Transaction Security prior to the Senior Term Lender Discharge Date) or 15 (Enforcement of Transaction Security on or after the Senior Term Lender Discharge Date) (as applicable) or, if so instructed by an Instructing Group or the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors (as applicable) to the extent they are entitled to give instructions under Clauses 14 (Enforcement of Transaction Security prior to the Senior Term Lender Discharge Date) or 15 (Enforcement of Transaction Security on or after the Senior Term Lender Discharge Date) (as applicable), refrain from exercising any right, power, authority or discretion vested in it as Security Agent and shall be entitled to assume that:

(i) any instructions received by it from an Agent, the Creditors or a group of Creditors are duly given in accordance with the terms of the Debt Documents (including whether an Instructing Group constitutes the requisite majority); and

(ii) unless it has received actual notice of revocation, that those instructions or directions have not been revoked.

(b) The Security Agent shall not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (a) above (or, if this Agreement stipulates the matter is a decision for any other Creditor or group of Creditors, in accordance with the instructions given by that Creditor or group of Creditors).

(c) The Security Agent shall be entitled to request instructions, or clarification of any direction or instruction, from an Instructing Group or from the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors (as applicable) (to the extent they are entitled to give instructions to the Security Agent pursuant to, prior to the Senior Term Lender Discharge Date, Clause 14 (Enforcement of Transaction Security prior to the Senior Term Lender Discharge Date) or, on and from the Senior Term Lender Discharge Date, Clause 15 (Enforcement of Transaction Security on or after the Senior Term Lender Discharge Date) as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions and the Security Agent may refrain from acting (and shall not be liable if it refrains from acting) unless and until those instructions or clarification are received by it.

(d) Save as provided in, prior to the Senior Term Lender Discharge Date, Clause 14 (Enforcement of Transaction Security prior to the Senior Term Lender Discharge Date) or Clause 15 (Enforcement of Transaction Security on or after the Senior Term Lender Discharge Date), any instructions given to the Security Agent by an Instructing Group shall override any conflicting instructions given by any other Parties (and will be binding on all Secured Parties).

(e) Paragraph (a) above shall not apply:

(i) where a contrary indication appears in this Agreement;

(ii) where this Agreement or applicable law or regulation requires the Security Agent to act in a specified manner or to take a specified action;
(iii) in respect of any provision which protects the Security Agent’s own position in its personal capacity as opposed to its role of Security Agent for the Secured Parties including, without limitation, the provisions set out in Clause 20.8 (Security Agent’s discretions) to Clause 20.23 (Disapplication);

(iv) in respect of the exercise of the Security Agent’s discretion to exercise a right, power or authority under any of:

(A) Clause 16.1 (Non-Distressed Disposals);
(B) Clause 17.1 (Order of application of Group Recoveries);
(C) Clause 17.2 (Prospective liabilities);
(D) Clause 17.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral); and
(E) Clause 17.6 (Permitted Deductions).

(f) If giving effect to instructions given by an Instructing Group would (in the Security Agent’s opinion) have an effect equivalent to an Intercreditor Amendment, the Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the Security Agent) whose consent would have been required in respect of that Intercreditor Amendment. Nothing in this Clause 20.6(f) shall oblige the Security Agent to consider or monitor the effect of any instruction delivered to it in accordance with this Agreement and the Security Agent shall have no liability to any Party whatsoever (including as a result of any corresponding delay) if, in fact, such instructions do or do not have the effect of an Intercreditor Amendment.

(g) In exercising any discretion to exercise a right, power or authority under this Agreement where either:

(i) it has not received any instructions from an Instructing Group (or the Majority Second Lien Creditors or the Majority Senior Unsecured Creditors (as applicable) to the extent they are entitled to give instructions under Clauses 14 (Enforcement of Transaction Security prior to the Senior Term Lender Discharge Date) or 15 (Enforcement of Transaction Security on or after the Senior Term Lender Discharge Date)) as to the exercise of that discretion; or
(ii) the exercise of that discretion is subject to paragraph (e)(iv) above,

the Security Agent shall:

(A) other than where paragraph (B) below applies, do so having regard to the interests of all the Secured Parties; or

(B) if (in its opinion) there is a Creditor Conflict in relation to the matter in respect of which the discretion is to be exercised, do so having regard only to: (1) prior to the Senior Secured Discharge Date, the interests of all the Senior Secured Creditors; and (2) after the Senior Secured Discharge Date, the interests of all the Second Lien Creditors.

20.7 Security Agent’s Actions
Without prejudice to the provisions of Clause 14 (Enforcement of Transaction Security prior to the Senior Term Lender Discharge Date) or Clause 15 (Enforcement of Transaction Security on or after the Senior Term Lender Discharge Date) and Clause 20.6 (Instructions to Security Agent and exercise of discretion), the Security Agent may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action (or refrain from taking such action) in the exercise of any of its powers and duties under the Debt Documents as it considers in its discretion to be appropriate.

20.8 Security Agent’s discretions

The Security Agent may:

(a) assume that: (i) (unless it has received actual notice to the contrary from a Hedge Counterparty or from one of the Agents, in its capacity as security trustee for the Secured Parties) no Default has occurred and no Debtor is in breach of or default under its obligations under any of the Debt Documents; (ii) any right, power, authority or discretion vested by any Debt Document in any person has not been exercised; and (iii) each notice or request given or made by a Debtor which is expressed to be given on behalf of that Debtor and/or one or more other Group Companies is made on behalf of and with the consent and knowledge of all the Group Companies on whose behalf it is expressed to be given;

(b) if it receives any instructions or directions under Clause 14 (Enforcement of Transaction Security prior to the Senior Term Lender Discharge Date) or Clause 15 (Enforcement of Transaction Security on or after the Senior Term Lender Discharge Date) to take any action in relation to the Transaction Security, assume that all applicable conditions under the Debt Documents for taking that action have been satisfied;

(c) at the expense of the Company, engage, pay for and rely on the advice or services of any legal advisers, accountants, tax advisers, surveyors or other experts (whether obtained by the Security Agent or by any other Secured Party) whose advice or services may at any time seem necessary, expedient or desirable;

(d) act under the Debt Documents through its personnel and agents;

(e) rely upon any communication or document believed by it to be genuine and, as to any matters of fact which might reasonably be expected to be within the knowledge of a Secured Party, any Creditor or a Debtor, upon a certificate signed by or on behalf of that person;

(f) refrain from acting (including in accordance with the instructions of any Party and including bringing any legal action or proceeding arising out of or in connection with the Debt Documents) until it has received any indemnification and/or security that it may in its discretion require (which may be greater than that contained in the Debt Documents and whether by way of payment in advance or otherwise) for all costs, losses and liabilities (together with any applicable VAT) which it believes it may incur in so acting and such indemnification and/or security, in the case of the Senior Secured Notes Creditors, the Second Lien Notes Creditor and the Senior Unsecured Noteholders, being granted by the ultimate beneficial owners of the Senior Secured Notes, Second Lien Notes or Senior Unsecured Notes, and not by the relevant Notes Trustee;

(g) rely on a certificate from any person:
as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or

(ii) 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;

(h) assume (unless it has received notice to the contrary in its capacity as security trustee for the Secured Parties) that:

(i) no Default has occurred;

(ii) any right, power, authority or discretion vested in any Party or any group of Creditors has not been exercised; and

(iii) any notice made by the Company is made on behalf of and with the consent and knowledge of all the Debtors;

(i) rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Security Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying;

(j) act in relation to the Debt Documents and the Security Property through its officers, employees and agents and shall not:

(i) be liable for any error of 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 its gross negligence or wilful misconduct; and

(k) unless this Agreement expressly specifies otherwise disclose to any other Party any information it reasonably believes it has received as security trustee under this Agreement.

20.9 Security Agent’s obligations

The Security Agent shall promptly:

(a) copy to (i) each Agent and (ii) each Hedge Counterparty the contents of any notice or document received by it from any Debtor under any Debt Document;

(b) forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party provided that, except where a Debt Document expressly provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party;

(c) inform (i) each Agent and (ii) each Hedge Counterparty of the occurrence of any Default or any default by a Debtor in the due performance of or compliance with its obligations under any Debt Document of which the Security Agent has received notice from any other Party; and
to the extent that a Party (other than the Security Agent) is required to calculate a Common Currency Amount, and upon a request by that Party, notify that Party of the relevant Security Agent’s Spot Rate of Exchange.

20.10 **Excluded obligations**

Notwithstanding anything to the contrary expressed or implied in the Debt Documents, the Security Agent shall not:

(a) be bound to enquire as to (i) whether or not any Default has occurred or (ii) the performance, default or any breach by a Debtor of its obligations under any of the Debt Documents;

(b) be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account;

(c) be bound to disclose to any other person (including but not limited to any Secured Party) (i) any confidential information or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty;

(d) be 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; and

(e) have or be deemed to have any relationship of trust or agency with any Debtor.

20.11 **Exclusion of liability**

None of the Security Agent, any Receiver nor any Delegate shall accept responsibility or be liable for:

(a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Agent or any other person in or in connection with any Debt Document or the transactions contemplated in the Debt Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Debt Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;

(c) any determination as to whether any information provided or to be provided to any Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise;

(d) any damages, costs or losses to any person, any diminution in value or any liability arising as a result of taking or refraining from taking any action in relation to any of the Debt Documents, the Security Property or otherwise, whether in accordance with an instruction from an Agent or otherwise unless directly caused by its gross negligence or wilful misconduct;
the exercise of, or the failure to exercise, any right, authority, judgement, discretion or power given to it by or in connection with any of the Debt Documents, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with the Debt Documents or the Security Property;

(f) any shortfall which arises on the enforcement or realisation of the Security Property; or

(g) without prejudice to the generality of paragraphs (a) to (g) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:

(i) any act, event or circumstance not reasonably within its control; or

(ii) the general risks of investment in, or the holding of assets in, any jurisdiction, including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

20.12 No proceedings

No Party (other than the Security Agent, that Receiver or that Delegate) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Debt Document or any Security Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause subject to Clause 1.3 and the provisions of the Third Parties Rights Act.

20.13 Own responsibility

Without affecting the responsibility of any Debtor for information supplied by it or on its behalf in connection with any Debt Document, each Secured Party (other than any Notes Trustee) confirms to the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Debt Document including but not limited to:

(a) any “know your customer” checks or other checks in relation to any person;

(b) the financial condition, status and nature of each member of the Group;

(c) the legality, validity, effectiveness, adequacy and enforceability of any Debt Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;

(d) whether that Secured Party 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 Debt Document, the Security Property, the transactions contemplated by the Debt Documents or any other agreement, arrangement or document entered into, made or
executed in anticipation of, under or in connection with any Debt Document or the Security Property;

(e) the adequacy, accuracy and/or completeness of any information (whether oral or written) provided by the Security Agent or by any other person under or in connection with any Debt Document, the transactions contemplated by any Debt Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document; and

(f) 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,

and each Secured Party warrants to the Security Agent that it has not relied on and will not at any time rely on the Security Agent in respect of any of these matters.

20.14 No responsibility to perfect Transaction Security

The Security Agent shall not be liable for any failure to:

(a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Debtor to any of the Charged Property;

(b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Debt Documents or the Transaction Security;

(c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any applicable laws or regulations in any jurisdiction or to give notice to any person of the execution of any of the Debt Documents or of the Transaction Security;

(d) take, or to require any of the Debtors to take, any steps to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under the laws of any jurisdiction; or

(e) require any further assurances in relation to any of the Security Documents.

20.15 Insurance by Security Agent

(a) The Security Agent shall be under no obligation to insure any of the Charged Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in the Debt Documents. The Security Agent shall not be responsible for any loss, damages or costs which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.

(b) Where the Security Agent is named on any insurance policy as an insured party and/or loss payee, the Security Agent shall not be responsible or liable for any loss, damages or costs which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless an Agent shall have requested it to do so in writing and the Security Agent shall have failed to do so within 14 days after receipt of that request.

20.16 Custodians and nominees
The Security Agent may (to the extent legally permitted) appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement, and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

20.17 Acceptance of title

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any Debtor may have to any of the Charged Property and shall not be liable for or bound to require any Debtor to remedy any defect in its right or title.

20.18 Refrain from illegality

Notwithstanding anything to the contrary expressed or implied in the Debt Documents, the Security Agent may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction and the Security Agent may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

20.19 Business with the Debtors

The Security Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with any of the Debtors.

20.20 Winding up of trust

If the Security Agent, with the approval of each of the Agents and each Hedge Counterparty, determines that (i) all of the Secured Obligations and all other obligations secured by the Security Documents have been fully and finally discharged and (ii) none of the Secured Parties is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Debtor pursuant to the Secured Debt Documents:

(a) the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Security Documents; and

(b) any Retiring Security Agent shall release, without recourse or warranty, all of its rights under each of the Security Documents.

20.21 Powers supplemental

The rights, powers and discretions conferred upon the Security Agent by this Agreement shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by general law or otherwise.

20.22 Trustee division separate

(a) In acting as trustee for the Secured Parties, the Security Agent shall be regarded as acting through its trustee division which shall be treated as a separate entity from any of its other divisions or departments.
(b) If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.

20.23 Disapplication

Section I of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act.

20.24 Intra-Group Lenders and Debtors: Power of Attorney

Each Intra-Group Lender and Debtor by way of security for its obligations under this Agreement irrevocably appoints the Security Agent to be its attorney to do anything which that Intra-Group Lender or Debtor has authorised the Security Agent or any other Party to do under this Agreement or is itself required to do under this Agreement but has failed to do (and the Security Agent may delegate that power on such terms as it sees fit) provided that written notice shall be given to the grantor prior to the exercise of any rights under such powers of attorney.

21. CHANGE OF SECURITY AGENT

21.1 Resignation of the Security Agent

(a) The Security Agent may resign and appoint one of its affiliates as successor (as Security Agent and Parallel Debt Creditor) by giving notice to the Company, the Senior Secured Creditors, the Second Lien Credit Representative(s) and the Senior Unsecured Representatives.

(b) Alternatively the Security Agent may resign by giving notice to the other Parties in which case the Majority Senior Creditors and the Senior Secured Notes Trustee(s) (or, after the Senior Secured Discharge Date, the Senior Unsecured Representative(s)) may appoint a successor Security Agent and Parallel Debt Creditor.

(c) If the Majority Senior Creditors and the Senior Secured Notes Trustee(s) (or, after the Senior Discharge Date, the Senior Unsecured Representative(s)) have not appointed a successor Security Agent in accordance with paragraph (a) above within 20 days after the notice of resignation was given, the Security Agent (after consultation with the Agents) may appoint a successor Security Agent.

(d) The retiring Security Agent (the “Retiring Security Agent”) shall, at the cost of the Company make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Debt Documents and the Company shall, within three Business Days of demand, reimburse the retiring Security 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.

(e) A Debtor must, at its own reasonable cost, take any action and enter into and deliver any document which is reasonably required by the retiring Security Agent to ensure that a Security Document provides for effective and perfected Security in favour of any successor Security Agent.
The Security Agent’s resignation notice shall only take effect upon (i) the appointment of a successor and (ii) the transfer of all of the Security Property (including, in each case, any rights in respect of the Security Agent Claims) to that successor (whether as Parallel Debt Creditor, trustee or agent for the relevant Secured Parties).

Upon the appointment of a successor, the Retiring Security Agent shall be discharged from any further obligation in respect of the Debt Documents (other than its obligations under paragraph (d) above) but shall, in respect of any act or omission by it while it was the Security Agent, remain entitled to the benefit of Clauses 20 (The Security Agent), 24.1 (Debtors’ indemnity) and 24.3 (Primary Creditors’ indemnity). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.

The Majority Senior Creditors and the Senior Secured Notes Trustee(s) (or, after the Senior Discharge Date, the Senior Unsecured Representative(s)) may, in consultation with the Company, by notice to the Security Agent, require it to resign in accordance with paragraph (b) above. In this event, the Security Agent shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (d) above shall be for the account of the Company or any other Debtor which is a member of the Group (which shall accordingly indemnify the Security Agent in respect of all acts and expenses reasonably incurred by it in the making available of documents and records and otherwise providing assistance to its successor as contemplated by that paragraph).

21.2 Delegation

(a) Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person, for any period, all or any of the rights, powers and discretions vested in it by any of the Debt Documents (including for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Agent deems to be relevant).

(b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties and it shall not be bound to supervise, or be in any way responsible for any loss, damages or costs incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

21.3 Additional Security Agents

(a) The Security Agent may at any time appoint (and subsequently remove), to the extent legally permitted, any person to act as a separate trustee or as a co-trustee (but not as a Parallel Debt Creditor) jointly with it (i) if it considers that appointment to be in the interests of the Secured Parties or (ii) for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Agent deems to be relevant or (iii) for obtaining or enforcing any judgment in any jurisdiction, and the Security Agent shall give prior notice to the Company and each of the Agents of that appointment.

(b) Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Security Agent by this Agreement) and the duties and obligations that are conferred or imposed by the instrument of appointment.
The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment, shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

22. CHANGES TO THE PARTIES

22.1 Assignments and transfers

No Party may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities except as permitted by this Clause 22 provided that any member of the Group may assign any of its rights and benefits or transfer any of its rights, benefits and obligations:

(a) pursuant to any reorganisation, consolidation, merger or other transaction not prohibited by the terms of each of the Debt Documents (and for the avoidance of doubt provided that such assignment or transfer is not expressly prohibited by the terms of each Debt Document); and/or

(b) as otherwise contemplated or not prohibited by each Debt Document.

22.2 Accession of Senior Secured Notes Issuer

The Company shall procure that, prior to or concurrently with a Senior Secured Notes Issue Date in respect of Senior Secured Notes issued by a Senior Secured Notes Issuer, that Senior Secured Notes Issuer has completed, signed and delivered to the Security Agent a Debtor Accession Deed (as issuer of the Senior Secured Notes and, if applicable, as a Creditor with respect to the Senior Secured Notes Proceeds Loan Liabilities (in respect of a Senior Secured Notes Issuer within the definition of paragraph (b)(ii) of the definition of Senior Secured Notes Issuer)) pursuant to which it agrees to be bound by this Agreement as the Senior Secured Notes Issuer, as a Debtor and (as applicable) as a Creditor with respect to the Senior Secured Notes Proceeds Loan Liabilities, in each case, as if it had originally been a Party in such capacity.

22.3 Accession of Second Lien Notes Issuer

The Company shall procure that, prior to or concurrently with a Second Lien Notes Issue Date in respect of Second Lien Notes issued by a Second Lien Notes Issuer, that Second Lien Notes Issuer has completed, signed and delivered to the Security Agent a Debtor Accession Deed (as issuer of the Second Lien Notes and, if applicable, as a Creditor with respect to the Second Lien Notes Proceeds Loan Liabilities (in respect of a Second Lien Notes Issuer within the definition of paragraph (b) of the definition of Second Lien Notes Issuer)) pursuant to which it agrees to be bound by this Agreement as a Second Lien Notes Issuer, as a Debtor and (as applicable) as a Creditor, in each case, as if it had originally been a Party in such capacity.

22.4 Accession of Second Lien Borrower

The Company shall procure that prior to or concurrently with the incurrence of any Second Lien Lender Liabilities, the Second Lien Borrower has completed, signed and delivered to the Security Agent a Debtor Accession Deed (as borrower of the Second Lien Facilities) pursuant to which it agrees to be bound by this Agreement as the Second Lien Borrower and as a Debtor as if it had originally been a Party in such capacity.

22.5 Accession of Senior Unsecured Notes Issuer
The Company shall procure that, prior to or concurrently with a Senior Unsecured Notes Issue Date in respect of a Senior Unsecured Notes issued by a Senior Unsecured Notes Issuer, the Senior Unsecured Notes Issuer has completed, signed and delivered to the Security Agent a Debtor Accession Deed (as issuer of the Senior Unsecured Notes) pursuant to which it agrees to be bound by this Agreement as the Senior Unsecured Notes Issuer and as a Debtor as if it had originally been a Party in such capacity and, if a Senior Unsecured Borrower/Issuer SPV, as a Creditor of any amounts constituting the proceeds of Senior Unsecured Notes that have been on-lent by such Senior Unsecured Notes Issuer to the Company.

22.6 Accession of Senior Unsecured Borrower

The Company shall procure that prior to or concurrently with the incurrence of any Senior Unsecured Loan Liabilities, the Senior Unsecured Borrower has completed, signed and delivered to the Security Agent a Debtor Accession Deed (as borrower of the Senior Unsecured Facilities) pursuant to which it agrees to be bound by this Agreement as the Senior Unsecured Borrower and as a Debtor as if it had originally been a Party in such capacity and, if a Senior Unsecured Borrower/Issuer SPV, as a Creditor of any amounts constituting the proceeds of a Senior Unsecured Facility that have been on-lent by such Senior Unsecured Borrower to the Company.

22.7 Change of Senior Lender, Second Lien Lender or Senior Unsecured Lender

(a) A Senior Lender, Second Lien Lender or Senior Unsecured Lender may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities if:

(i) that assignment or transfer is in accordance with the terms of the Facilities Agreement to which it is a party; and

(ii) subject to paragraph (b) below, any assignee or transferee has (if not already Party as a Senior Lender, Second Lien Lender or Senior Unsecured Lender (as the case may be)) acceded to this Agreement, as a Senior Lender, Second Lien Lender or Senior Unsecured Lender (as the case may be), pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking).

(b) Paragraph (a)(ii) above shall not apply in respect of:

(i) any Senior Debt Purchase Transaction permitted by clause 28.1 (Permitted Debt Purchase Transactions) of the Senior Facilities Agreement;

(ii) any Second Lien Debt Purchase Transaction permitted by the equivalent clause (if any) in the Second Lien Facilities Agreement entered into by a Second Lien Borrower or Second Lien Lender (as the case may be); and

(iii) any Senior Unsecured Debt Purchase Transaction permitted by the equivalent clause (if any) in the Senior Unsecured Facilities Agreement entered into by a Senior Borrower or Senior Unsecured Lender (as the case may be),

and effected in accordance with the terms of the Debt Documents.

(c) Any Senior Secured Noteholder, Second Lien Noteholder or Senior Unsecured Noteholder may assign, transfer or novate any of its rights and obligations to any person without the need for such person to execute and deliver to a Security Agent a duly completed Creditor/Agent Accession Undertaking, provided that such person is subject to the terms and conditions of this Agreement as provided under the terms of the relevant Notes Indenture.
(d) If a person becomes a Senior Lender, a Second Lien Lender or a Senior Unsecured Lender in accordance with the terms of the applicable Facilities Agreement other than by way of an assignment or transfer, such person (if not already Party as a Senior Lender or Senior Unsecured Lender (as the case may be)) shall accede to this Agreement as a Senior Lender or Senior Unsecured Lender (as the case may be) pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking).

22.8 Change of Hedge Counterparty

A Hedge Counterparty may (in accordance with the terms of the relevant Hedging Agreement and subject to any consent required under that Hedging Agreement) assign, novate or transfer any of its rights and benefits or obligations in respect of the Hedging Agreements to which it is a party if any transferee has (if not already Party as a Hedge Counterparty) acceded to this Agreement as a Hedge Counterparty pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking).

22.9 Change of Agent

No person shall become a Senior Agent, Second Lien Agent or Senior Unsecured Agent unless, at the same time, it accedes to this Agreement in such capacity pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking).

22.10 Change of Intra-Group Lender

Subject to Clause 9.4 (Acquisition of Intra-Group Liabilities) and to the terms of the other Debt Documents, any Intra-Group Lender may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of the Intra-Group Liabilities to another member of the Group if that member of the Group has (if not already Party as an Intra-Group Lender) acceded to this Agreement as an Intra-Group Lender, pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking) (provided that such member of the Group will not be required to accede to this Agreement as an Intra-Group Lender under this Clause if it would otherwise not have been required to do so under the terms of Clause 22.11 (New Intra-Group Lender) if it had been the original creditor of such Intra-Group Liability).

22.11 New Intra-Group Lender

(a) Subject to paragraph (b) below, if any member of the Group makes any loan to or grants any credit to or makes any other financial arrangement having similar effect with any Debtor, the Company will procure that the person giving that loan, granting that credit or making that other financial arrangement (if not already Party as an Intra-Group Lender) accedes to this Agreement as an Intra-Group Lender pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking) as soon as reasonably practicable after, and in any event within 20 Business Days of, making any such loan to, granting any such credit or making any other such financial arrangement except that where such accession would result in a significant risk to the officers of the relevant Intra-Group Lender or member of the Group of contravention of their statutory or fiduciary duties or of contravention of any legal prohibition or result in a material risk of civil, personal or criminal liability on the part of any officer of such Intra-Group Lender or member of the Group, provided that the relevant Intra-Group Lender or member of the Group shall use all reasonable endeavours to overcome any such obstacle. Notwithstanding the previous sentence, if the person giving that loan, granting that credit or making that other financial arrangement is required to become a Guarantor under (and as defined in) clause 25.20 (Guarantors) of the Senior Facilities Agreement within the specified time frame specified in that paragraph, the Company shall only be required to procure that such person accedes to this Agreement as an Intra-Group Lender no later than the earlier of the date on which it becomes such a
Guarantor and the last date by which it is so required to become such a Guarantor in accordance with that paragraph.

(b) Paragraph (a) above does not apply so as to require any member of the Group which is not a Debtor to become an Intra-Group Lender, unless such member of the Group is the creditor of a financial arrangement which, when aggregated with all other such financial arrangements outstanding owed to members of the Group which are not Intra-Group Lenders by Obligors, exceeds €40,000,000.

22.12 New Ancillary Lender

If any Affiliate of a Senior Lender becomes an Ancillary Lender in accordance with clause 7.8 (Affiliates of Lenders as Ancillary Lenders) of the Senior Facilities Agreement, it shall not be entitled to share in any of the Transaction Security or in the benefit of any guarantee or indemnity in respect of any of the liabilities arising in relation to its Ancillary Facilities unless it has (if not already Party as a Senior Lender) acceded to this Agreement as a Senior Lender and to the Senior Facilities Agreement as an Ancillary Lender pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking).

22.13 New Cash Management Provider

No person shall be entitled to share in any of the Transaction Security or in the benefit of any guarantee or indemnity in respect of any Cash Management Liabilities unless the Company has consented to such person becoming a Cash Management Provider and that person has acceded to this Agreement as a Cash Management Provider pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking).

22.14 New Creditor in respect of Post-Closing Secured Liabilities

If a person or entity becomes a Primary Creditor of any Post-Closing Secured Liabilities it shall not be entitled to share in any of the Transaction Security (to the extent it would otherwise be entitled to share pursuant to the terms of this Agreement) or in the benefit of any guarantee or indemnity in respect of any of the liabilities arising in relation to its Post-Closing Secured Liabilities respectively unless: (a) it has (if not already a Party as a Secured Creditor) acceded to this Agreement as a Senior Lender, Senior Secured Notes Creditor, Second Lien Notes Creditor, Second Lien Loan Creditor, Senior Unsecured Notes Creditor, Senior Unsecured Lender, Hedge Counterparty, Senior Agent, Senior Secured Notes Trustee, Senior Unsecured Notes Trustee, Second Lien Notes Trustee or Arranger (as applicable) pursuant to Clause 22.15 (Creditor/Agent Accession Undertaking) with the consent of the Security Agent; or (b) in the case of a Senior Secured Noteholder, a Second Lien Noteholder or a Senior Unsecured Noteholder, it is subject to the terms and conditions of this Agreement as provided under the terms of the relevant Notes Indenture.

22.15 Creditor/Agent Accession Undertaking

With effect from the date of acceptance by the Security Agent and, in the case of a Hedge Counterparty or an Affiliate of a Senior Lender, the relevant Senior Agent of a Creditor/Agent Accession Undertaking duly executed and delivered to the Security Agent by the relevant acceding party or, if later, the date specified in that Creditor/Agent Accession Undertaking:

(a) any Party ceasing entirely to be a Creditor or Agent shall be discharged from further obligations towards the Security Agent and other Parties under this Agreement and their respective rights against one another shall be cancelled (except in each case for those rights which arose prior to that date); and
(b) as from that date, the replacement or new Creditor or Agent shall assume the same obligations and become entitled to the same rights, as if it had been an original Party in that capacity; and

(c) any new Ancillary Lender (which is an Affiliate of a Senior Lender) shall also become party to the Senior Facilities Agreement as an Ancillary Lender and shall assume the same obligations and become entitled to the same rights as if it had been an original party to the Senior Facilities Agreement as an Ancillary Lender.

22.16 Accession of Second Lien Notes Trustee

(a) The Second Lien Notes Issuer and the Company shall procure that, prior to or concurrently with any Second Lien Notes Issue Date, the relevant Second Lien Notes Trustee (and, if such entity ceases to act as trustee in relation to the Second Lien Notes for any reason, any successor or other person which is appointed or acts as trustee under the relevant Second Lien Notes Indenture) shall, if not already a Party as such, promptly complete, sign and deliver to the Security Agent an Accession Undertaking under which such Second Lien Notes Trustee agrees to be bound by this Agreement as a Second Lien Notes Trustee as if it had originally been a Party in such capacity. In connection with the foregoing, the Security Agent shall make such changes to the terms hereof relating to the rights and duties of such Second Lien Notes Trustee and any other Party as are required by such Second Lien Notes Trustee without the consent of any other Party provided that such changes would not have a material adverse effect on the other Parties.

(b) Each Party (other than the relevant proposed trustee under paragraph (a) above) irrevocably authorises and empowers the Security Agent (with express faculty of self-contracting, sub-empowering or multiple representation) to execute on its behalf any Accession Undertaking which has been duly completed and signed on behalf of that person.

22.17 Accession of Senior Unsecured Notes Trustee

(a) The Senior Unsecured Notes Issuer and the Company shall procure that, prior to or concurrently with any Senior Unsecured Notes Issue Date, the relevant trustee in respect of the proposed Second Lien Notes (and, if such entity ceases to act as Senior Unsecured Notes Trustee for any reason, any successor or other person which is appointed or acts as trustee under the relevant Senior Unsecured Notes Indenture) shall, if not already a Party as such, promptly complete, sign and deliver to the Security Agent an Accession Undertaking under which such trustee agrees to be bound by this Agreement as a Senior Unsecured Notes Trustee as if it had originally been a Party in such capacity. In connection with the foregoing, the Security Agent shall make such changes to the terms hereof relating to the rights and duties of such Senior Unsecured Notes Trustee and any other Party as are required by such Senior Unsecured Notes Trustee without the consent of any other Party provided that such changes would not have a material adverse effect on the other Parties.

(b) Each Party (other than the relevant proposed trustee under paragraph (a) above) irrevocably authorises and empowers the Security Agent (with express faculty of self-contracting, sub-empowering or multiple representation) to execute on its behalf any Accession Undertaking which has been duly completed and signed on behalf of that person.

22.18 Accession of Senior Secured Notes Trustee
(a) The Senior Secured Notes Issuer and the Company shall procure that, prior to any Senior Secured Notes Issue Date, the relevant Senior Secured Notes Trustee (and, if such entity ceases to act as trustee in relation to the Senior Secured Notes for any reason, any successor or other person which is appointed or acts as trustee under the relevant Senior Secured Notes Indenture) shall, if not already a Party as such, promptly complete, sign and deliver to the Security Agent an Accession Undertaking under which such Senior Secured Notes Trustee agrees to be bound by this Agreement as a Senior Secured Notes Trustee as if it had originally been a Party in such capacity. In connection with the foregoing, the Security Agent shall make such changes to the terms hereof relating to the rights and duties of such Senior Secured Notes Trustee and any other Party as are required by such Senior Secured Notes Trustee without the consent of any other Party provided that such changes would not have a material adverse effect on the other Parties.

(b) Each Party (other than the relevant proposed trustee under paragraph (a) above) irrevocably authorises and empowers the Security Agent (with express faculty of self-contracting, sub-empowering or multiple representation) to execute on its behalf any Accession Undertaking which has been duly completed and signed on behalf of that person.

(c) A Senior Secured Notes Trustee referred to in paragraph (b) of the definition thereof shall not be a Notes Trustee for the purpose of Clause 29 (Notes Trustees).

22.19 New Debtor

(a) If any member of the Group:

(i) incurs any Liabilities; or

(ii) gives any security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities,

the Debtors will procure that the person incurring those Liabilities or giving that assurance accedes to this Agreement as a Debtor (if not already a Party in such capacity), in accordance with paragraph (c) below, no later than contemporaneously with the incurrence of those Liabilities or the giving of that assurance provided that, in respect of the incurrence of any Intra-Group Liabilities, the person incurring those Liabilities shall only be required to accede to this Agreement as a Debtor if (and by the same time as) the member of the Group which is the creditor of such Liabilities is required to accede to this Agreement as an Intra-Group Lender in respect of such Liabilities pursuant to Clause 22.11 (New Intra-Group Lender).

(b) If any Affiliate of a Borrower (as defined in the Senior Facilities Agreement) becomes a borrower of an Ancillary Facility in accordance with clause 7.9 (Subsidiaries of the Company) of the Senior Facilities Agreement, the relevant Borrower shall procure that its Affiliate accedes to this Agreement as a Debtor no later than contemporaneously with the date on which it becomes a borrower.

(c) With effect from the date of acceptance by the Security Agent of a Debtor Accession Deed duly executed and delivered to the Security Agent by the new Debtor or, if later, the date specified in the Debtor Accession Deed, the new Debtor shall assume the same obligations and become entitled to the same rights as if it had been an original Party as a Debtor.

22.20 Additional parties
(a) Each of the Parties appoints the Security Agent to receive on its behalf each Debtor Accession Deed and Creditor/Agent Accession Undertaking delivered to the Security Agent and the Security Agent shall, as soon as reasonably practicable after receipt by it, sign and accept the same if it appears on its face to have been completed, executed and, where applicable, delivered in the form contemplated by this Agreement or, where applicable, by the relevant Facilities Agreement.

(b) In the case of a Creditor/Agent Accession Undertaking delivered to the Security Agent by any new Ancillary Lender (which is an Affiliate of a Senior Lender) or any party acceding to this Agreement as a Hedge Counterparty:

(i) the Security Agent shall, as soon as practicable after signing and accepting that Creditor/Agent Accession Undertaking in accordance with paragraph (a) above, deliver that Creditor/Agent Accession Undertaking to the relevant Senior Agent; and

(ii) that Senior Agent shall, as soon as practicable after receipt by it, sign and accept that Creditor/Agent Accession Undertaking if it appears on its face to have been completed, executed and delivered in the form contemplated by this Agreement.

22.21 Resignation of a Debtor

(a) The Senior Agent(s) shall not accept a resignation letter from a Senior Guarantor under clause 29.5 (Resignation of a Guarantor) of the Senior Facilities Agreement unless each Hedge Counterparty has notified the Security Agent that no payment is due from that Guarantor to that Hedge Counterparty under clause 5.16 (Guarantee of Hedging Liabilities). The Security Agent shall, upon receiving that notification, notify the Senior Agent(s).

(b) The Company may request that a Debtor (other than the Company) ceases to be a Debtor by delivering to the Security Agent a Debtor Resignation Request.

(c) The Security Agent shall accept a Debtor Resignation Request and notify the Company and each other Party of its acceptance if:

(i) the Company has confirmed that no Default is continuing or would result from the acceptance of the Debtor Resignation Request;

(ii) that Debtor is being merged, dissolved, liquidated or consolidated with another person in a manner permitted by the Senior Secured Finance Documents, the Second Lien Finance Documents and the Senior Unsecured Finance Documents;

(iii) to the extent that the Senior Lender Discharge Date has not occurred, each Senior Agent notifies the Security Agent that that Debtor is not, or has ceased to be, a Senior Borrower and a Senior Guarantor;

(iv) each Hedge Counterparty notifies the Security Agent that that Debtor is under no actual or contingent obligations to that Hedge Counterparty in respect of the Hedging Liabilities;

(v) to the extent the Senior Secured Notes Discharge Date has not occurred, the Senior Secured Notes Trustee notifies the Security Agent that that Debtor is not, or has ceased to be, a borrower or an issuer of Senior Secured Notes or a
Senior Secured Notes Guarantor and the Senior Secured Notes Trustee may rely on an officer’s certificate from the issuer making such confirmation;

(vi) to the extent the Second Lien Discharge Date has not occurred, the Second Lien Credit Representative(s) notifies the Security Agent that that Debtor is not, or has ceased to be, a borrower or an issuer of Second Lien Liabilities or a Second Lien Guarantor;

(vii) to the extent the Senior Unsecured Discharge Date has not occurred, the Senior Unsecured Representative(s) notifies the Security Agent that the Debtor is not, or has ceased to be, a borrower or an issuer of Senior Unsecured Liabilities or a Senior Unsecured Guarantor; and

(viii) the Company confirms that that Debtor is under no actual or contingent obligations in respect of the Intra-Group Liabilities.

(d) Upon notification by the Security Agent to the Company of its acceptance of the resignation of a Debtor, that member of the Group shall cease to be a Debtor and shall have no further rights or obligations under this Agreement as a Debtor.

23. COSTS AND EXPENSES

23.1 Security Agent’s ongoing costs

(a) Any amount payable to the Security Agent under Clause 24.3 (Primary Creditors’ indemnity) or Clause 23 (Costs and Expenses) shall include the cost of utilising the Security Agent’s management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Security Agent may notify to the Company and the Primary Creditors, and is in addition to any other fee paid or payable to the Security Agent.

(b) Without prejudice to paragraph (a) above, in the event of:

(i) a Default (other than in relation to a Debt Document evidencing Intra-Group Liabilities); or

(ii) the Security Agent being requested by a Debtor or the Instructing Group to undertake duties which the Security Agent and the Company agree to be of an exceptional nature or outside the scope of the normal duties of the Security Agent under the Debt Documents;

(iii) the accession of any Primary Creditor pursuant to Clause 22 (Changes to the Parties); or

(iv) the Security Agent and the Company agreeing that it is otherwise appropriate in the circumstances,

the Company shall pay to the Security Agent any additional remuneration (together with any applicable VAT) that may be agreed between them or determined pursuant to paragraph (c) below.

(c) If the Security Agent and the Company fail to agree upon the nature of the duties or upon the additional remuneration referred to in paragraph (b) above or whether additional remuneration is appropriate in the circumstances, any dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Company or, failing approval,
nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Company) and the determination of any investment bank shall be final and binding upon the Parties.

23.2 **Transaction expenses**

The Company shall (or another Debtor so elected by the Company shall), promptly on demand, pay the Security Agent the amount of all costs and expenses (including legal fees (subject to any agreed cap) and notarial, registration or administrative fees) (together with any applicable VAT) reasonably incurred by the Security Agent and any Receiver or Delegate in connection with the negotiation, preparation, printing, execution, notarisation, syndication and perfection of:

(a) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and

(b) any other Debt Documents executed after the date of this Agreement.

23.3 **Stamp taxes**

The Company shall (or another Debtor so elected by the Company shall) pay and, within five Business Days of demand, indemnify the Security Agent against any cost, loss or liability the Security Agent incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Debt Document.

23.4 **Interest on demand**

Without duplication of any default interest payable under any Debt Document, if any Creditor or Debtor fails to pay any amount payable by it under this Agreement on its due date, interest shall (to the extent such accrual does not result in any double counting under the provisions of this Agreement and the provisions of the other Secured Debt Documents) accrue on the overdue amount (and be compounded with it) from the due date up to the date of actual payment (both before and after judgment and to the extent interest at a default rate is not otherwise being paid on that sum) at the rate which is 1% per annum over the rate at which the Security Agent was being offered, by leading banks in the London interbank market, deposits in an amount comparable to the unpaid amounts in the currencies of those amounts for any period(s) that the Security Agent may from time to time select provided that if any such rate is below zero, that rate will be deemed to be zero.

23.5 **Amendment costs**

If a Debtor requests an amendment, waiver or consent, the Company shall, within three Business Days of demand, reimburse the Security Agent for the amount of all costs and expenses (including legal fees (subject to any agreed cap)) (together with any applicable VAT) reasonably incurred by the Security Agent (and by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

23.6 **Enforcement and preservation costs**

The Company shall, within three Business Days of demand, pay to the Security Agent the amount of all costs and expenses (including legal fees and together with any applicable VAT) incurred by it in connection with the enforcement of or the preservation of any rights under any Debt Document and the Transaction Security and any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Transaction Security or enforcing these rights.
24. INDEMNITIES

24.1 Debtors' indemnity

Each Debtor jointly and severally, shall, subject to any Guarantee Limitations which are (or would be if such Debtor were an Obligor (as defined in the Senior Facilities Agreement)) applicable, promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability (together with any applicable VAT) incurred by any of them:

(a) in relation to or as a result of:

(i) any failure by the Company to comply with its obligations under Clause 23 (Costs and Expenses);

(ii) acting or relying on any notice, request or instruction it reasonably 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 and remedies vested in the Security Agent, each Receiver and each Delegate by the Debt Documents or by law; or

(v) any default by any Debtor in the performance of any of the obligations expressed to be assumed by it in the Debt Documents; or

(vi) instructing lawyers, accountants, tax advisers, surveyors, a Financial Adviser or other professional advisers or experts as permitted under this Agreement; or

(vii) acting as Security Agent, Receiver or Delegate under the Debt Documents or which otherwise relates to any of the Security Property (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct); or

(b) which otherwise relates to any of the Security Property or the performance of the terms of this Agreement.

Each Debtor expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 24.1 (Debtors’ indemnity) will not be prejudiced by any release or disposal under Clause 16.2 (Distressed Disposals) taking into account the operation of that Clause 16.2.

24.2 Priority of indemnity

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 Clause 24.1 (Debtors’ indemnity) and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it, in each case in accordance with Clause 17.1 (Order of application of Group Recoveries).

24.3 Primary Creditors' indemnity

(a) Each Primary Creditor (other than the Notes Trustees) shall (in the proportion that the Liabilities due to it bear to the aggregate of the Liabilities due to all the Primary Creditors for the time being (or, if the Liabilities due to each of those Primary
Creditors are zero, immediately prior to their being reduced to zero), indemnify the Security Agent and every Receiver and every Delegate, within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Security Agent’s, Receiver’s or Delegate’s gross negligence or wilful misconduct) in acting as Security Agent, Parallel Debt Creditor, Receiver or Delegate under the Debt Documents (unless the relevant Security Agent, Parallel Debt Creditor, Receiver or Delegate has been reimbursed by a Debtor pursuant to a Debt Document) and the Debtors shall jointly and severally indemnify each Primary Creditor against any payment made by it under this Clause 23.5.

(b) For the purposes only of paragraph (a) above, to the extent that any hedging transaction under a Hedging Agreement has not been terminated or closed out, the Hedging Liabilities due to any Hedge Counterparty in respect of that hedging transaction will be deemed to be the amount, if any, which would be payable to it under that Hedging Agreement in respect of those hedging transactions, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement) (or the equivalent thereto in the case of any Hedging Agreement not based on an ISDA Master Agreement), that amount, in each case, to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

24.4 Company’s indemnity to Primary Creditors

The Company shall promptly and as principal obligor indemnify each Primary Creditor against any cost, loss or liability (together with any applicable VAT), whether or not reasonably foreseeable, reasonably incurred by any of them in relation to or arising out of the operation of Clause 16.2 (Distressed Disposals).

25. INFORMATION

25.1 Information and dealing

(a) The Creditors shall provide to the Security Agent from time to time (through their respective Agents in the case of a Senior Lender, a Senior Secured Noteholder, a Second Lien Creditor or a Senior Unsecured Creditor) any information that the Security Agent may reasonably specify as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent and as trustee.

(b) Subject to any clause in the Senior Facilities Agreement, Second Lien Facilities Agreement and Senior Unsecured Facilities Agreement that regulates communications between lenders when the relevant agent is an “impaired agent”, each Senior Lender, each Second Lien Lender and Senior Unsecured Lender shall deal with the Security Agent exclusively through its Agent and the Hedge Counterparties shall deal directly with the Security Agent and shall not deal through any Agent.

(c) No Agent shall be under any obligation to act as agent or otherwise on behalf of any Hedge Counterparty except as expressly provided for in, and for the purposes of, this Agreement.

25.2 Disclosure

Notwithstanding any agreement to the contrary, each of the Debtors consents, until the Final Discharge Date, to the disclosure by any of the Primary Creditors, the Agents, the Arrangers and the Security Agent to each other (whether or not through an Agent and/or the Security
Agent) of such information concerning the Debtors as any Primary Creditor, any Agent, any Arranger or the Security Agent shall see fit and (a) which does not breach any applicable law or regulation, and (b) prior to the taking of any Enforcement Action, would result in any Senior Unsecured Noteholder, Second Lien Noteholder or Senior Secured Noteholder receiving any material non-public information.

25.3 Notification of prescribed events

(a) If a Senior Default or a Senior Secured Notes Default either occurs or ceases to be continuing the Senior Agent(s) or the Senior Secured Notes Trustee(s) (as applicable) shall, upon becoming aware of that occurrence or cessation, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify the Second Lien Credit Representative(s), the Senior Unsecured Representative(s) and each Hedge Counterparty.

(b) If a Senior Acceleration Event occurs the relevant Senior Agent(s) shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.

(c) If a Senior Secured Notes Acceleration Event occurs the Senior Secured Notes Trustee shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.

(d) If a Second Lien Default or a Second Lien Event of Default either occurs or ceases to be continuing the Second Lien Agent(s) or the Second Lien Notes Trustee(s) (as applicable) shall, upon becoming aware of that occurrence or cessation, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify the Senior Agent(s), the Senior Secured Notes Trustee(s), the Senior Unsecured Representative(s) and each Hedge Counterparty.

(e) If a Second Lien Acceleration Event occurs the relevant Second Lien Credit Representative (as applicable) shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.

(f) If the Security Agent receives a Second Lien Enforcement Notice under paragraph (a) of Clause 7.13 (Permitted Second Lien Enforcement) it shall, upon receiving that notice, notify, and send a copy of that notice to, each Senior Agent, each Senior Secured Notes Trustee and each Hedge Counterparty.

(g) If a Second Lien Payment Stop Notice is outstanding or ceases to be continuing, the relevant Second Lien Credit Representative (as applicable) shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.

(h) If a Senior Unsecured Default or a Senior Unsecured Event of Default either occurs or ceases to be continuing the Senior Unsecured Agent(s) or the Senior Unsecured Notes Trustee(s) (as applicable) shall, upon becoming aware of that occurrence or cessation, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify the Senior Agent(s), the Senior Secured Notes Trustee(s), the Second Lien Credit Representative(s) and each Hedge Counterparty.

(i) If a Senior Unsecured Acceleration Event occurs the Senior Unsecured Representative shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
If the Security Agent receives a Senior Unsecured Enforcement Notice under paragraph (b) of Clause 8.11 (Permitted Senior Unsecured Enforcement) it shall, upon receiving that notice, notify, and send a copy of that notice to, each Senior Agent, each Senior Secured Notes Trustee, each Hedge Counterparty and each Second Lien Credit Representative.

If the Security Agent enforces, or takes formal steps to enforce, any of the Transaction Security it shall notify each Party of that action.

If any Primary Creditor exercises any right it may have to enforce, or to take formal steps to enforce, any of the Transaction Security it shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party of that action.

If a Debtor defaults on any Payment due under a Hedging Agreement, the Hedge Counterparty which is party to that Hedging Agreement shall, upon becoming aware of that default, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify the Senior Agent(s), the relevant Senior Secured Notes Trustee(s), each other Hedge Counterparty, the relevant Second Lien Credit Representative(s) and the relevant Senior Unsecured Representative(s).

If a Hedge Counterparty terminates or closes out, in whole or in part, any hedging transaction under any Hedging Agreement under Clause 5.10 (Permitted enforcement: Hedge Counterparties) it shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each Agent and each other Hedge Counterparty.

If the Security Agent receives a notice under paragraph (a) of Clause 3.10 (Option to purchase: Senior Secured Notes Creditors) it shall, upon receiving that notice, notify, and send a copy of that notice to, each Senior Agent.

If the Security Agent receives a notice under paragraph (a) of Clause 3.11 (Hedge Transfer: Senior Secured Notes Creditors) it shall, upon receiving that notice, notify, and send a copy of that notice to, each Hedge Counterparty.

If the Security Agent receives a notice under paragraph (a) of Clause 8.15 (Option to purchase: Senior Unsecured Creditors) it shall, upon receiving that notice, notify, and send a copy of that notice to, each Senior Agent and each Senior Secured Notes Trustee.

If the Security Agent receives a notice under paragraph (a) of Clause 8.16 (Hedge Transfer: Senior Unsecured Creditors) it shall, upon receiving that notice, notify, and send a copy of that notice to, each Hedge Counterparty.

If the Security Agent receives a notice under paragraph (a) of Clause 7.17 (Option to purchase: Second Lien Creditors) it shall, upon receiving that notice, notify, and send a copy of that notice to, each Senior Agent and each Senior Secured Notes Trustee.

If the Security Agent receives a notice under paragraph (a) of Clause 7.18 (Hedge Transfer: Second Lien Creditors) it shall, upon receiving that notice, notify, and send a copy of that notice to, each Hedge Counterparty.

26. **NOTICES**

26.1 **Communications in writing**
Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made by fax or letter.

26.2 **Security Agent’s communications with Primary Creditors**

The Security Agent shall be entitled to carry out all dealings:

(a) with the Senior Lenders, the Arrangers, the Senior Secured Noteholders, the Second Lien Creditors and the Senior Unsecured Creditors through their respective Agents and may give to the Agents, as applicable, any notice or other communication required to be given by the Security Agent to a Senior Lender, an Arranger, the Senior Secured Noteholders, the Second Lien Creditors or the Senior Unsecured Creditors; and

(b) with each Hedge Counterparty directly with that Hedge Counterparty.

26.3 **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, notice or document to be made or delivered under or in connection with this Agreement is:

(a) in the case of the Company, that identified with its name below;

(b) in the case of the Security Agent or the Senior Agent, that identified with its name below; and

(c) in the case of each other Party, that notified in writing to the Security Agent on or prior to the date on which it becomes a Party,

or any substitute address, fax number or department or officer which that Party may notify to the Security Agent (or the Security Agent may notify to the other Parties, if a change is made by the Security Agent) by not less than five Business Days’ notice.

26.4 **Delivery**

(a) Any communication, notice or document made or delivered by one person to another under or in connection with this Agreement will only be effective:

(i) if by way of 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 26.3 (Addresses), if addressed to that department or officer.

(b) Any communication, notice or document to be made or delivered to the Security Agent or any Notes Trustee will be effective only when actually received by it and then only if it is expressly marked for the attention of the department or officer identified with the Security Agent’s or any Notes Trustee’s signature below (or any substitute department or officer as the Security Agent or any Notes Trustee shall specify for this purpose).
(c) Any communication, notice or document made or delivered to the Company in accordance with this Clause 26.4 will be deemed to have been made or delivered to each of the Debtors and each of the Creditors (other than a Primary Creditor).

(d) Any communication or document which becomes effective, in accordance with paragraphs (a) to (c) above, after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

26.5 Notification of address and fax number

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 26.3 (Addresses) or changing its own address or fax number, the Security Agent shall notify the other Parties (and any Credit Representative shall be entitled to request the identity, address and fax number of the Credit Representatives from the Security Agent and the Security Agent shall disclose such contact information to the relevant Credit Representative as soon as reasonably practicable upon receipt of any such request and the relevant Credit Representative shall be entitled to rely on the information provided by the Security Agent without further enquiry).

26.6 Electronic communication

(a) Any communication to be made between any two Parties or by any Party under or in connection with this Agreement may be made by electronic mail or other electronic means (including, in each case, in unencrypted form), if the relevant Parties:

(i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;

(ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

(iii) notify each other of any change to their address or any other such information supplied by them.

(b) Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Senior Lender, Hedge Counterparty, Second Lien Lender, Senior Unsecured Agent, Senior Unsecured Lender or Agent to the Security Agent only if it is addressed in such a manner as the Security Agent shall specify for this purpose.

(c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5:00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.

(d) Any reference in this Agreement to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 26.6.

26.7 English language

(a) Any notice given under or in connection with this Agreement must be in English.

(b) All other documents provided under or in connection with this Agreement must be:
(i) in English; or

(ii) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

26.8 Notices to all Creditors

(a) Where any request for a consent, amendment or waiver which requires the consent of all the Parties to this Agreement or any class of creditors (or percentage thereof) (as the case may be) is received by an Agent from a Debtor, the relevant Agent shall provide notice of such request to such Parties or the relevant class of Creditors at the same time.

(b) Where an instruction is required by an Agent from a class of Creditors (or a percentage thereof), notice of such instruction shall be provided to each Creditor in the relevant class at the same time.

27. PRESERVATION

27.1 Partial invalidity

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision under the law of any other jurisdiction will in any way be affected or impaired.

27.2 No impairment

If, at any time after its date, any provision of a Debt Document (including this Agreement) is not binding on or enforceable in accordance with its terms against a person expressed to be a party to that Debt Document, neither the binding nature nor the enforceability of that provision or any other provision of that Debt Document will be impaired as against the other party(ies) to that Debt Document.

27.3 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of any Party, any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

27.4 Waiver of defences

The provisions of this Agreement will not be affected by an act, omission, matter or thing which, but for this Clause 27.4, would reduce, release or prejudice the subordination and priorities expressed to be created by this Agreement including (without limitation and whether or not known to any Party):

(a) any time, waiver or consent granted to, or composition with, any Debtor or other person;

(b) the release of any Debtor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Debtor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Debtor or other person;

(e) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of a Debt Document or any other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security;

(g) any intermediate Payment of any of the Liabilities owing to the Primary Creditors in whole or in part; or

(h) any insolvency or similar proceedings.

27.5 Priorities not affected

Except as otherwise provided in this Agreement the priorities referred to in Clause 2 (Ranking and Priority) will:

(a) not be affected by any reduction or increase in the principal amount secured by the Transaction Security in respect of the Liabilities owing to the Primary Creditors or by any intermediate reduction or increase in, amendment or variation, to any of the Debt Documents, or by any variation or satisfaction of, any of the Liabilities or any other circumstances;

(b) apply regardless of the order in which or dates upon which this Agreement and the other Debt Documents are executed or registered or notice of them is given to any person; and

(c) secure the Liabilities owing to the Primary Creditors in the order specified, regardless of the date upon which any of the Liabilities arise or of any fluctuations in the amount of any of the Liabilities outstanding.

28. CONSENTS, AMENDMENTS AND OVERRIDE

28.1 Required consents

(a) Subject to paragraphs (b) to (d) below, to Clause 28.4 (Exceptions), to Clause 28.5 (Snooze/Lose), to Clause 28.6 (Disenfranchisement of Sponsor Affiliates) and to Clause 28.7 (Disenfranchisement of Defaulting Lenders), this Agreement may be amended or waived only with the consent of the Company and (to the extent a Party) the Agents, the Majority Senior Lenders, the relevant Senior Secured Notes Trustee(s), the Second Lien Credit Representative(s), the relevant Senior Unsecured Representative(s) and the Security Agent.

(b) Subject to paragraphs (c) to (d) below, Clause 28.4 (Exceptions), Clause 28.5 (Snooze/Lose), Clause 28.6 (Disenfranchisement of Sponsor Affiliates) and to Clause
28.7 *(Disenfranchisement of Defaulting Lenders)*, an amendment or waiver of this Agreement that has the effect of changing or which relates to:

(i) Clause 13 *(Redistribution)*, Clause 17 *(Application of Proceeds)*, Clause 18 *(Equalisation)* or this Clause 28 *(Consents, Amendments and Override)*;

(ii) paragraphs (e)(iii), (f) and (g) of Clause 20.6 *(Instructions to Security Agent and exercise of discretion)*; or

(iii) the order of priority or subordination under this Agreement,

shall not be made without the consent of (to the extent they or (if applicable) their Agent is a Party):

(A) the Agents;

(B) the Senior Lenders (unless a lower consent threshold is expressly provided for in the relevant Debt Document in respect of the relevant matter, in which case that lower consent threshold shall apply);

(C) the Senior Secured Noteholders (unless a lower consent threshold is expressly provided for in the relevant Debt Document in respect of the relevant matter, in which case that lower consent threshold shall apply) (to the extent that the amendment or waiver would materially and adversely affect such Creditors);

(D) the Second Lien Lenders (unless a lower consent threshold is expressly provided for in the relevant Debt Document in respect of the relevant matter, in which case that lower consent threshold shall apply);

(E) the Second Lien Noteholders (unless a lower consent threshold is expressly provided for in the relevant Debt Document in respect of the relevant matter, in which case that lower consent threshold shall apply) (to the extent that the amendment or waiver would materially and adversely affect such Creditors);

(F) the Senior Unsecured Creditors (unless a lower consent threshold is expressly provided for in the relevant Debt Document in respect of the relevant matter, in which case that lower consent threshold shall apply) (to the extent that the amendment or waiver would materially and adversely affect such Creditors);

(G) each Hedge Counterparty (to the extent that the amendment or waiver would adversely affect the Hedge Counterparty);

(H) the Security Agent; and

(I) the Company.

(c) Without prejudice to Clause 3 *(Senior Lender Liabilities and Senior Secured Notes Liabilities)*, paragraph (b) above shall not apply to any amendment or waiver of this Agreement required to implement a Facility Change under (and as defined in) the Senior Facilities Agreement to the extent it does not confer an ability to make more extensive changes than a Facility Change (as defined in the Senior Facilities Agreement).
(d) This Agreement may be amended by (to the extent a Party) the Senior Agent, the Second Lien Agent, the Senior Secured Notes Trustee(s), the Second Lien Notes Trustee, the Second Lien Credit Representative(s), the Senior Unsecured Credit Representative(s), the Security Agent and the Company without the consent of any other Party to cure defects, resolve ambiguities or reflect changes in each case of a minor technical or administrative nature or as otherwise prescribed by the relevant Debt Documents.

(e) Each Notes Trustee shall, to the extent consented to by the requisite percentage of Noteholders in accordance with the relevant Notes Indenture, act on such instructions in accordance therewith unless to the extent any amendments so consented to relate to any provision affecting the rights and obligations of a Notes Trustee in its capacity as such.

28.2 Amendments and waivers: Security Documents

(a) Subject to paragraph (b) below, Clause 28.4 (Exceptions) and Clause 19.5 (Release of Security) and unless the provisions of any Debt Document expressly provide otherwise, the Security Agent may, if authorised by an Instructing Group, and if the Company consents, amend the terms of, waive any of the requirements of or grant consents under, any of the Security Documents which shall be binding on each Party.

(b) Subject to paragraphs (b) and (c) of Clause 28.4 (Exceptions) and to Clause 19.5 (Release of Security), the prior consent of each Senior Agent, Senior Secured Notes Trustee, Second Lien Credit Representative and (in the case of a Security Document under which Senior Unsecured Shared Security has been granted), the Senior Unsecured Representative (in each case, acting with the consent of the requisite percentage of Creditors under the relevant Debt Document) and the Company is required to authorise any release of the Transaction Security or any amendment or waiver of, or consent under, any Security Document which would adversely affect the nature or scope of the Charged Property or the manner in which the proceeds of enforcement of the Transaction Security are distributed.

28.3 Effectiveness

Any amendment, waiver or consent given in accordance with this Clause 28 (Consents, Amendments and Override) will be binding on all Parties and the Security Agent may effect, on behalf of any Agent, Arranger or Creditor, any amendment, waiver or consent permitted by this Clause 28 (Consents, Amendments and Override).

28.4 Exceptions

(a) Subject to paragraphs (c) and (d) below, if the amendment, waiver or consent may impose new or additional obligations on or withdraw or reduce the rights of any Party other than:

(i) in the case of a Primary Creditor, in a way which affects or would affect Primary Creditors of that Party’s class generally; or

(ii) in the case of a Debtor, to the extent consented to by the Company under paragraph (a) of Clause 28.2 (Amendments and waivers: Security Documents),

the consent of that Party is required.
Subject to paragraphs (c) and (d) below, an amendment, waiver or consent which relates to the rights or obligations of an Agent, an Arranger, the Security Agent (including, without limitation, any ability of the Security Agent to act in its discretion under this Agreement), a Cash Management Provider or a Hedge Counterparty may not be effected without the consent of that Agent or, as the case may be, that Arranger, the Security Agent, that Cash Management Provider or that Hedge Counterparty.

Neither paragraph (a) nor (b) above, nor paragraph (b) of Clause 28.2 (Amendments and waivers: Security Documents) shall apply:

(i) to any release of Transaction Security, claim or Liabilities; or

(ii) to any consent,

which, in each case, the Security Agent gives in accordance with Clause 16 (Proceeds of Disposals and Adjustment of Mandatory Prepayments).

Paragraphs (a) and (b) above shall apply to an Arranger only to the extent that Arranger Liabilities are then owed to that Arranger.

28.5 Snooze/Lose

Subject to paragraph (b) below, if in relation to:

(i) a request for a Consent in relation to any of the terms of this Agreement;

(ii) a request to participate in any other vote of Senior Creditors or Senior Secured Notes Creditors or Second Lien Creditors or Senior Unsecured Creditors under the terms of this Agreement;

(iii) a request to approve any other action under this Agreement; or

(iv) a request to provide any confirmation or notification under this Agreement,

any Primary Creditor:

(A) fails to respond to that request within 15 Business Days of that request being made; or

(B) that is a Senior Lender which fails to provide details of its Senior Secured Credit Participation to the Security Agent within the timescale specified by the Security Agent or that is a Second Lien Lender which fails to provide details of its Second Lien Credit Participation to the Security Agent within the timescale specified by the Security Agent or that is a Senior Unsecured Lender which fails to provide details of its Senior Unsecured Credit Participation to the Security Agent within the timescale specified by the Security Agent:

(I) in the case of paragraphs (i) to (iii) above, that Primary Creditor’s Senior Secured Credit Participation, Second Lien Credit Participation or Senior Unsecured Credit Participation (as applicable) shall be deemed to be zero for the purpose of calculating the Senior Secured Credit Participation, Second Lien Credit Participations or Senior Unsecured Credit Participations (as applicable) when ascertaining whether any relevant percentage (including, for the avoidance of doubt,
unanimity) of Senior Credit Participations, Second Lien Credit Participations or Senior Unsecured Credit Participations (as applicable) has been obtained to give that Consent, carry that vote or approve that action;

(II) in the case of paragraphs (i) to (iii) above, that Primary Creditor’s status as a Senior Secured Creditor, Second Lien Creditor or Senior Unsecured Creditor (as applicable) shall be disregarded for the purposes of ascertaining whether the agreement of any specified group of Primary Creditors has been obtained to give that Consent, carry that vote or approve that action; and

(III) in the case of paragraph (iv) above, that confirmation or notification shall be deemed to have been given.

(b) Paragraph (a)(A) shall not apply to:

(i) an amendment or waiver referred to in paragraph (b)(i), (b)(ii) or (b)(iii) of Clause 28.1 (Required consents);

(ii) a vote of the Senior Unsecured Creditors under Clause 8.15 (Option to purchase: Senior Unsecured Creditors) or Clause 8.16 (Hedge Transfer: Senior Unsecured Creditors); or

(iii) Senior Secured Notes Creditors, Second Lien Notes Creditors or Senior Unsecured Notes Creditors.

28.6 Disenfranchisement of Sponsor Affiliates

(a) For so long as a Sponsor Affiliate (i) beneficially owns a Commitment, a participation in the Senior Secured Notes Outstandings, a participation in the Second Lien Liabilities Outstandings or a participation in the Senior Unsecured Notes Outstandings or (ii) has entered into a sub-participation agreement relating to a Commitment, a participation in the Senior Secured Notes Outstandings, or a participation in the Second Lien Liabilities Outstandings, or a participation in the Senior Unsecured Notes Outstandings or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated:

(i) in ascertaining whether:

(A) any relevant percentage (including, for the avoidance of doubt, unanimity) of Senior Secured Credit Participations, Second Lien Credit Participations or Senior Unsecured Credit Participations; or

(B) the agreement of any specified group of Primary Creditors,

has been obtained to approve any request for a Consent or to carry any other vote or approve any action under this Agreement, that Commitment, participation in the Senior Secured Notes Outstandings, participation in the Second Lien Liabilities Outstandings or participation in the Senior Unsecured Notes Outstandings shall be deemed to be zero and that Sponsor Affiliate (or the person with whom it has entered into that sub-participation, other agreement or arrangement (a “Counterparty”)) shall be deemed not to be:
(I) a Senior Lender (in the case of a Senior Commitment or Senior Credit Participation);

(II) a Senior Secured Noteholder (in the case of the Senior Secured Notes Outstandings);

(III) a Second Lien Lender (in the case of a Second Lien Commitment or Second Lien Credit Participation);

(IV) a Second Lien Noteholder (in the case of the Second Lien Liabilities Outstandings);

(V) a Senior Unsecured Lender (in the case of a Senior Unsecured Commitment or Senior Unsecured Credit Participation); or

(VI) a Senior Unsecured Noteholder (in the case of the Senior Unsecured Notes Outstandings).

(b) Each Sponsor Affiliate that is a Senior Lender, Senior Secured Noteholder, Second Lien Lender, Second Lien Noteholder, Senior Unsecured Lender or Senior Unsecured Noteholder agrees that:

(i) in relation to any meeting or conference call to which all the Senior Secured Creditors, all the Senior Creditors, all the Primary Creditors, all the Senior Secured Noteholders, all the Second Lien Lenders, all the Second Lien Noteholders, all the Senior Unsecured Lenders or all the Senior Unsecured Noteholders or any combination of those groups of Primary Creditors are invited to attend or participate, it shall not attend or participate in the same if so requested by the Security Agent or, unless the Security Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and

(ii) it shall not, unless the Security Agent otherwise agrees, be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Security Agent or one or more of the Primary Creditors.

28.7 Disenfranchisement of Defaulting Lenders

(a) For so long as a Defaulting Lender has any Available Commitment,:;

(i) in ascertaining whether:

(A) any relevant percentage (including, for the avoidance of doubt, unanimity) of Senior Credit Participations;

(B) any relevant percentage (including, for the avoidance of doubt, unanimity) of Second Lien Credit Participations;

(C) any relevant percentage (including, for the avoidance of doubt, unanimity) of Senior Unsecured Credit Participations; or

(D) the agreement of any specified group of Primary Creditors,

has been obtained to approve any request for a Consent or to carry any other vote or approve any action under this Agreement, that Defaulting Lender’s Commitments and Senior Credit Participations or Second Lien Credit Participations or Senior Unsecured Credit Participations (as applicable) will be reduced to zero and that Defaulting
Lender shall be deemed not to be a Senior Lender, Second Lien Lender or Senior Unsecured Lender (as the case may be).

(b) For the purposes of this Clause 28.7, the Security Agent may assume that the following Creditors are Defaulting Lenders:

(i) any Senior Lender, Second Lien Lender or Senior Unsecured Lender which has notified the Security Agent that it has become a Defaulting Lender;

(ii) any Senior Lender, Second Lien Lender or Senior Unsecured Lender if the relevant Agent has notified the Security Agent that that Senior Lender, Second Lien Lender or Senior Unsecured Lender is a Defaulting Lender; and

(iii) any Senior Lender, Second Lien Lender or Senior Unsecured Lender in relation to which it is aware that any of the events or circumstances referred to in paragraphs (a), (b) or (c) of the definition of Defaulting Lender in the relevant Facilities Agreement has occurred, unless it has received notice to the contrary from the Senior Lender, Second Lien Lender or Senior Unsecured Lender concerned (together with any supporting evidence reasonably requested by the Security Agent) or the Security Agent is otherwise aware that the Senior Lender, Second Lien Lender or Senior Unsecured Lender has ceased to be a Defaulting Lender.

28.8 Calculation of Credit Participations

(a) For the purpose of ascertaining whether any relevant percentage of Senior Secured Credit Participations, Second Lien Credit Participations or Senior Unsecured Credit Participations has been obtained under this Agreement, the Security Agent may notionally convert the Senior Secured Credit Participations, Second Lien Credit Participations or Senior Unsecured Credit Participations into their Common Currency Amounts.

(b) Each Senior Agent and Senior Secured Notes Trustee will, upon the request of the Security Agent, promptly provide the Security Agent with details of the Senior Secured Credit Participations of the Senior Secured Creditors whom it represents and (if applicable) details of the extent to which such Senior Secured Credit Participations have been voted for or against any request.

(c) Each Second Lien Credit Representative will, upon the request of the Security Agent, promptly provide the Security Agent with details of the Second Lien Credit Participations of the Second Lien Creditors whom it represents and (if applicable) details of the extent to which such Second Lien Credit Participations have been voted for or against any request.

(d) Each Senior Unsecured Representative will, upon the request of the Security Agent, promptly provide the Security Agent with details of the Senior Unsecured Notes Outstandings and/or aggregate Senior Unsecured Commitments, in each case, of the Senior Unsecured Creditors whom it represents and (if applicable) details of the extent to which such Senior Unsecured Notes Outstandings or Senior Unsecured Commitments have been voted for or against any request.

28.9 Deemed consent

(a) If at any time prior to the Senior Discharge Date, the Senior Lenders give a Consent in respect of the Senior Finance Documents then, if that action was permitted by the
terms of this Agreement and if necessary to avoid a breach or default under any other Senior Finance Document, the Intra-Group Lenders and the Company will (or will be deemed to):

(i) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and

(ii) do anything (including executing any document) that the Senior Lenders may reasonably require to give effect to this paragraph (a).

(b) If, at any time on or after the Senior Discharge Date and before the Senior Secured Notes Discharge Date, the Senior Secured Notes Creditors give a Consent in respect of the Senior Secured Notes Finance Documents then, if that action was permitted by the terms of this Agreement and if necessary to avoid a breach or default under any other Senior Secured Notes Finance Document, the Intra-Group Lenders will (or will be deemed to):

(i) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and

(ii) do anything (including executing any document) that the Senior Secured Notes Creditors may reasonably require to give effect to paragraph (b) of this Clause 28.9.

(c) If, at any time on or after the Senior Secured Discharge Date and before the Second Lien Discharge Date, the Second Lien Creditors give a Consent in respect of the Second Lien Finance Documents then, if that action was permitted by the terms of this Agreement, the Intra-Group Lenders will (or will be deemed to):

(i) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and

(ii) do anything (including executing any document) that the Second Lien Creditors may reasonably require to give effect to this paragraph (b).

(d) If, at any time on or after the later of the Senior Secured Discharge Date and the Second Lien Discharge Date, but before the Senior Unsecured Discharge Date, the Senior Unsecured Creditors give a Consent in respect of the Senior Unsecured Finance Documents then, if that action was permitted by the terms of this Agreement, the Intra-Group Lenders and the Company will (or will be deemed to):

(i) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and

(ii) do anything (including executing any document) that the Senior Unsecured Creditors may reasonably require to give effect to this paragraph (d).

28.10 **Excluded consents**

Clause 28.9 (**Deemed consent**) does not apply to any Consent which has the effect of:

(a) increasing or decreasing the Liabilities;

(b) changing the basis upon which any Permitted Payments are calculated (including the timing, currency or amount of such Payments); or

(c) changing the terms of this Agreement or of any Security Document.
28.11 **Second Lien and Senior Unsecured Creditors administrative consents**

(a) If the Senior Agent(s) (or Majority Senior Lenders) or Senior Secured Notes Trustee(s) at any time in respect of the Senior Finance Documents or Senior Secured Finance Documents (as applicable) gives or give any Consent of a minor technical or administrative nature which does not adversely affect the interests of the Second Lien Creditors or the Senior Unsecured Creditors or change the commercial terms contained in the Second Lien Finance Documents or the Senior Unsecured Finance Documents then, if that action was permitted or not prohibited by the terms of this Agreement, the Second Lien Creditors or the Senior Unsecured Creditors (as applicable) will (or will be deemed to):

(i) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and

(ii) do anything (including executing any document) that the Senior Lenders may reasonably require to give effect to this Clause 0.

(b) After the Senior Secured Discharge Date, if the Second Lien Agent(s) (or Majority Second Lien Lenders) or Second Lien Notes Trustee(s) at any time in respect of the Second Lien Finance Documents gives or give any Consent of a minor technical or administrative nature which does not adversely affect the interests of the Senior Unsecured Creditors or change the commercial terms contained in the Senior Unsecured Finance Documents then, if that action was permitted or not prohibited by the terms of this Agreement, the Senior Unsecured Creditors will (or will be deemed to):

(i) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and

(ii) do anything (including executing any document) that the Second Lien Lenders may reasonably require to give effect to this Clause 0.

28.12 **No liability**

None of the Senior Lenders, the Senior Agent(s), the Senior Secured Notes Creditors, the Senior Secured Notes Trustee(s), the Second Lien Lenders, the Second Lien Agent(s), the Second Lien Notes Creditor, the Second Lien Notes Trustee(s), the Senior Unsecured Creditors, the Senior Unsecured Representatives or the Hedge Counterparties will be liable to any other Creditor, Agent or Debtor for any Consent given or deemed to be given under this Clause 28.

28.13 **Agreement to override**

(a) Unless expressly stated otherwise in this Agreement, this Agreement overrides anything in the Debt Documents to the contrary.

(b) Notwithstanding anything to the contrary in this Agreement, the preceding paragraph (a) as between any Creditor and any Debtor or any member of the Group will not cure, postpone, waive or negate any breach, Default or Event of Default under any Debt Document (or any event that would but for paragraph (a) above constitute a breach, Default or Event of Default) as provided in the relevant Debt Document.

28.14 **Guarantee limitation**
Any guarantee or indemnity or hold harmless obligation provided by a Debtor under this Agreement shall be provided on the same terms and subject to the same limitations as are set out in clause 21 (Guarantee and Indemnity) of the Senior Facilities Agreement (in its original form).

29. NOTES TRUSTEES

29.1 Liability

(a) It is expressly understood and agreed by the Parties that this Agreement is executed and delivered by each Notes Trustee not individually or personally but solely in its capacity as trustee in the exercise of the powers and authority conferred and vested in it under the relevant Notes Finance Documents for and on behalf of the Noteholders only for which such Notes Trustee acts as trustee (and it shall have no liability for acting for itself or in any capacity other than as trustee), and nothing in this Agreement shall impose on it any obligation to pay any amount out of its personal assets. Notwithstanding any other provision of this Agreement, its obligations hereunder (if any) to make any payment of any amount or to hold any amount on trust shall be only to make payment of such amount to or hold any such amount on trust to the extent that (i) it has actual knowledge that such obligation has arisen and (ii) it has received and, on the date on which it acquires such actual knowledge, has not distributed to the Noteholders for which it acts as trustee in accordance with the relevant Notes Indenture (in relation to which it is trustee) any such amount.

(b) It is further understood and agreed by the Parties that in no case shall any Notes Trustee be (i) personally responsible or accountable in damages or otherwise to any other Party for any loss, damage or claim incurred by reason of any act or omission performed or omitted by that Notes Trustee in good faith in accordance with this Agreement or any of the Notes Finance Documents in a manner that such Notes Trustee believed to be within the scope of the authority conferred on it by this Agreement or any of the Notes Finance Documents or by law, or (ii) personally liable for or on account of any of the statements, representations, warranties, covenants or obligations stated to be those of any other Party, all such liability, if any, being expressly waived by the Parties and any person claiming by, through or under such Party; provided however, that each Notes Trustee shall be personally liable under this Agreement for its own gross negligence or wilful misconduct. It is also acknowledged and agreed that no Notes Trustee shall have any responsibility for the actions of any individual Creditor or Noteholder (save in respect of its own actions).

(c) The Parties acknowledge and agree that the Notes Trustee shall not be charged with knowledge or existence of facts that would impose an obligation on it hereunder to make any payment or prohibit it from making any payment unless, not less than two Business Days prior to the date of such payment, a Responsible Officer of the Notes Trustee receives written notice satisfactory to it that such payments are required or prohibited by this Agreement.

(d) Notwithstanding anything contained herein, no provision of this Agreement shall alter or otherwise affect the rights and obligations of the Senior Secured Notes Issuer(s), Second Lien Notes Issuer(s), Senior Unsecured Notes Issuer(s) or any Debtor to make payments in respect of Notes Trustee Amounts as and when the same are due and payable pursuant to the applicable Notes Finance Documents or the receipt and retention by the Notes Trustee of the same or the taking of any step or action by the Notes Trustee in respect of its rights under the Notes Finance Documents to the same.

(e) The Notes Trustee is not responsible for the appointment or for monitoring the performance of either the Security Agent.
The Security Agent agrees and acknowledges that it shall have no claim against the Notes Trustee in respect of any fees, costs, expenses and liabilities due and payable to, or incurred by, the Security Agent.

The Notes Trustee shall be under no obligation to instruct or direct the Security Agent to take any Enforcement Action unless it shall have been instructed to do so by the Noteholders and if it shall have been indemnified and/or secured and/or prefunded to its satisfaction.

It is acknowledged and agreed that in acting hereunder, each Notes Trustee does so in accordance with its terms of appointment under the relevant Notes Indenture and is entitled to the rights, privileges, protections, immunities and benefits set out therein.

29.2 No action

(a) Notwithstanding any other provision of this Agreement, no Notes Trustee shall have any obligation to take any action under this Agreement unless it is indemnified and/or secured and/or prefunded to its satisfaction in respect of all costs, expenses and liabilities which it would in its opinion thereby incur (together with any associated VAT). No Notes Trustee shall have an obligation to indemnify (out of its personal assets) any other person, whether or not a Party, in respect of any of the transactions contemplated by this Agreement. In no event shall the permissive rights of a Notes Trustee to take action under this Agreement be construed as an obligation to do so.

(b) Prior to taking any action under this Agreement, any Notes Trustee may request and rely upon an opinion of counsel or opinion of another qualified expert, at the expense of the Company or another Debtor which is a member of the Group.

(c) Notwithstanding any other provisions of this Agreement or any other Notes Finance Document to which a Notes Trustee is a party to, in no event shall a Notes Trustee be liable to any person for special, indirect, punitive or consequential loss or damages of any kind whatsoever (including but not limited to loss of business, goodwill, opportunity or profits) whether or not foreseeable even if such Notes Trustee has been advised of the likelihood of such loss or damage and regardless of whether the claim for loss or damage is made in negligence, for breach of contract or otherwise.

29.3 Reliance on certificates

The Notes Trustee shall at all times be entitled to and may rely on any notice, consent or certificate given or granted by any Party without being under any obligation to enquire or otherwise determine whether any such notice, consent or certificate has been given or granted by such Party properly acting in accordance with the provisions of this Agreement.

29.4 No fiduciary duty

No Notes Trustee shall be deemed to owe any fiduciary duty to any Creditor (save in respect of such persons for whom it acts as trustee) and shall not be personally liable to any Creditor if it shall in good faith mistakenly pay over or distribute to any Creditor or to any other person cash, property or securities to which any other Creditor shall be entitled by virtue of this Agreement or otherwise. With respect to the Creditors, each Notes Trustee undertakes to perform or to observe only such of its covenants or obligations as are specifically set forth in the Notes Finance Documents pursuant to which it acts as trustee, and this Agreement and no implied agreement, covenants or obligations with respect to the other Creditors shall be read into this Agreement against the Notes Trustee.

29.5 Debt assumptions
(a) The Senior Secured Notes Trustee is entitled to assume that:

(i) no Senior Payment Default or Second Lien Payment Default has occurred;

(ii) no Senior Default, Second Lien Default or Senior Unsecured Default has occurred;

(iii) none of the Senior Secured Creditor Liabilities, Second Lien Liabilities or Senior Unsecured Liabilities have been accelerated;

(iv) no Default, Event of Default or termination event (however described) has occurred; and

(v) none of the Senior Discharge Date, the Senior Secured Notes Discharge Date, the Second Lien Discharge Date or the Senior Unsecured Discharge Date has occurred,

unless a Responsible Officer of the Senior Secured Notes Trustee has actual knowledge to the contrary.

(b) The Second Lien Notes Trustee is entitled to assume that:

(i) no Senior Payment Default or Second Lien Payment Default has occurred;

(ii) no Senior Default, Second Lien Default or Senior Unsecured Default has occurred;

(iii) none of the Senior Secured Creditor Liabilities, Second Lien Liabilities or Senior Unsecured Liabilities have been accelerated;

(iv) no Default, Event of Default or termination event (however described) has occurred; and

(v) none of the Senior Discharge Date, the Second Lien Discharge Date or the Senior Unsecured Discharge Date has occurred,

unless a Responsible Officer of the Second Lien Notes Trustee has actual knowledge to the contrary,

(c) The Senior Unsecured Notes Trustee is entitled to assume that:

(i) no Senior Payment Default or Second Lien Payment Default has occurred;

(ii) no Senior Default, Second Lien Default or Senior Secured Note Default has occurred;

(iii) none of the Senior Secured Liabilities, the Senior Secured Notes Discharge Date, Second Lien Liabilities or Senior Unsecured Liabilities have been accelerated;

(iv) no Default, Event of Default or termination event (however described) has occurred; and

(v) none of the Senior Discharge Date, the Second Lien Discharge Date or the Senior Unsecured Discharge Date has occurred,
unless a Responsible Officer of the Senior Unsecured Notes Trustee has actual knowledge to the contrary.

(d) No Notes Trustee is obliged to monitor or enquire whether any Default or Event of Default has occurred.

29.6 **Senior Lenders, Hedge Counterparties or Senior Secured Notes Creditors/Second Lien Creditors/Senior Unsecured Creditors**

In acting pursuant to this Agreement and the Notes Indenture, no Notes Trustee is required to have any regard to the interests of:

(a) the Senior Lenders, the Second Lien Lenders or the Senior Unsecured Lenders;

(b) the Hedge Counterparties;

(c) the Cash Management Providers;

(d) (in the case of the Senior Secured Notes Trustee) the Second Lien Notes Creditors or the Senior Unsecured Notes Creditors;

(e) (in the case of the Second Lien Notes Trustee) the Senior Secured Notes Creditors or the Senior Unsecured Notes Creditors; or

(f) (in the case of the Senior Unsecured Notes Trustee) the Senior Secured Notes Creditors or the Second Lien Notes Creditors.

29.7 **Claims of Security Agent**

The Security Agent agrees and acknowledges that it shall have no claim against the Notes Trustees in respect of any fees, costs, expenses and liabilities due and payable to, or incurred by, the Security Agent.

29.8 **Reliance and advice**

Each Notes Trustee may:

(a) rely (without enquiry) on any notice or document believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person;

(b) rely (without enquiry) on any statement made by any person regarding any matters which may be assumed to be within its knowledge or within its powers to verify; and

(c) engage, pay for and rely on professional advisers selected by it (including those representing a person other than the Notes Trustee).

29.9 **Provisions survive termination**

The provisions of this Clause 29 shall survive any termination or discharge of this Agreement or the resignation or termination of the appointment of any Notes Trustee.

29.10 **Other Parties not affected**

No provision of this Clause 29.10 shall alter or change the rights and obligations as between the other Parties in respect of each other. This Clause is intended to afford protection to the Notes Trustees only.
29.11 **Instructions**

In acting under this Agreement, including with respect to any consent, instruction or approval or consultation obligation, the Notes Trustees are acting on behalf of the Senior Secured Noteholders, the Second Lien Noteholders or the Senior Unsecured Noteholders, as applicable, and are entitled to seek instructions from the relevant Noteholders at any time and, where it acts on the instructions of such Noteholders, or where it acts as instructed by any relevant Debtor to the extent instructions from the relevant Noteholders are not required under any Notes Finance Documents, such Notes Trustee shall not incur any liability to any person for so acting. No Notes Trustee shall be liable to any person for any loss suffered as a result of any delay caused as a result of it seeking instructions from the relevant Noteholders.

29.12 **Responsibility of Notes Trustee**

(a) No Notes Trustee shall be responsible to any other Senior Finance Party, Hedge Counterparty, Senior Secured Notes Finance Party, Second Lien Notes Finance Party or Senior Unsecured Finance Party for the legality, validity, effectiveness, enforceability, adequacy, accuracy, completeness or performance of:


(ii) any statement or information (whether written or oral) made in or supplied in connection with any Senior Finance Document, Senior Secured Notes Finance Document, Hedging Agreement, Second Lien Finance Document, Senior Unsecured Finance Document or any other document; or

(iii) any observance by any Debtor of its obligations under any Debt Document or any other document.

(b) Each Notes Trustee may rely and shall be fully protected in acting or refraining from acting upon any notice, certificate or other document reasonably believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person.

29.13 **Confirmation**

Without affecting the responsibility of any Debtor or the Company for information supplied by it or on its behalf in connection with any Senior Finance Document, Senior Secured Notes Finance Document, Second Lien Finance Document, Senior Unsecured Finance Document or Hedging Agreement, each Senior Finance Party, Hedge Counterparty, Senior Secured Notes Finance Party, Second Lien Loan Finance Party, Second Lien Notes Finance Party, Senior Unsecured Loan Finance Party and Senior Unsecured Notes Finance Party (other than the Notes Trustee (in its personal capacity) and the Security Agent) confirms that it:

(a) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Senior Finance Documents, the Senior Secured Notes Finance Documents, the Second Lien Finance Documents, the Senior Unsecured Finance Documents or the Hedging Agreements (including the financial condition and affairs of each Debtor or their related entities and the nature and extent of any recourse against any Party or its assets); and

(b) has not relied on any information provided to it by any Notes Trustee in connection with any Senior Finance Document, Senior Secured Notes Finance Document,
29.14 **Provision of information**

No Notes Trustee is obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party. No Notes Trustee is responsible for:

(a) providing any Senior Lender, Senior Secured Notes Creditor, Hedge Counterparty, Second Lien Lender, Second Lien Notes Creditor or Senior Unsecured Creditor with any credit or other information concerning the risks arising under or in connection with the Debt Documents (including any information relating to the financial condition or affairs of any Debtor or their related entities or the nature or extent of recourse against any Party or its assets) whether coming into its possession before, on or after the date of this Agreement; or

(b) obtaining any certificate or other document from any Debtor or the Company.

29.15 **Departmentalism**

In acting as the Notes Trustee, each Notes Trustee shall be treated as acting through its agency division which shall be treated as a separate entity from its other divisions and departments. Any information received or acquired by a Notes Trustee which, in its opinion, is received or acquired by some other division or department or otherwise than in its capacity as the Notes Trustee may be treated as confidential by the Notes Trustee and will not be treated as information possessed by the Notes Trustee in its capacity as such.

29.16 **Disclosure of information**

Each Debtor irrevocably authorises any Notes Trustee to disclose to any Senior Finance Party, Hedge Counterparty, Senior Secured Notes Finance Party, Second Lien Loan Finance Party, Second Lien Notes Finance Party, Senior Unsecured Loan Finance Party and Senior Unsecured Notes Finance Party any information that is received by such Notes Trustee in its capacity as a Notes Trustee.

29.17 **Illegality**

(a) Each Notes Trustee may refrain, without liability, from doing anything (including disclosing any information) which would or might, in its opinion, be contrary to any law of any state or jurisdiction (including but not limited to the United States of America. or any jurisdiction forming a part of it or, to the extent applicable, of England and Wales) or any directive or regulation of any agency of any state or jurisdiction and may, without liability, do anything which, in its opinion, is necessary or desirable to comply with any such law, directive or regulation.

(b) Furthermore, each Notes Trustee may also refrain from taking such action if it would otherwise render it liable to any person in that jurisdiction or if, in its opinion based upon such legal advice, it would not have the power to do the relevant thing in that jurisdiction by virtue of any applicable law in that jurisdiction or if it is determined by any court or other competent authority in that jurisdiction that it does not have such power.

29.18 **Resignation of Notes Trustee**
Each Notes Trustee may resign or be removed in accordance with the terms of the applicable Notes Indenture, provided that a replacement Notes Trustee agrees with the Parties to become the replacement trustee under this Agreement by the execution of an Accession Undertaking.

29.19 Notes Trustee assumptions

(a) The Notes Trustee is entitled to assume that:

(i) any payment or other distribution made pursuant to this Agreement in respect of the Senior Unsecured Notes Liabilities, Second Lien Notes Liabilities or Senior Secured Notes Liabilities (as the case may be) has been made in accordance with the ranking in Clause 2 (Ranking and Priority) and is not prohibited by any provisions of this Agreement and is made in accordance with these provisions;

(ii) the proceeds of enforcement of any Security conferred by the Security Documents have been applied in the order set out in Clause 17 (Application of Proceeds);

(iii) any Security, collateral, guarantee or indemnity or other assurance granted to it has been done so in compliance with Clause 3.4 (Security and guarantees: Senior Secured Creditors), Clause 7.1 (Security and guarantees: Second Lien Creditors) or paragraph (c) of Clause 8.2 (Restriction on Payment and dealings: Senior Unsecured Liabilities); and

(iv) any Senior Secured Notes, Second Lien Notes or Senior Unsecured Notes issued comply with the provisions of this Agreement including, without limitation, Clauses 6 (Issue of Senior Secured Notes), 7 (Second Lien Creditors and Second Lien Liabilities) and 8 (Senior Unsecured Creditors and Senior Unsecured Liabilities).

(b) The Notes Trustee is entitled to assume that any payment or distribution made in respect of the Senior Unsecured Notes Liabilities, Second Lien Notes Liabilities or Senior Secured Notes Liabilities (as the case may be) is not prohibited by this Agreement, unless it has actual knowledge to the contrary provided, however, that the Notes Trustee shall be liable under this Agreement for its own gross negligence or wilful misconduct.

(c) A Notes Trustee shall not have any obligation under Clause 11 (Effect of Insolvency Event) or Clause 13 (Redistribution) in respect of amounts received or recovered by it unless (i) it has actual knowledge that the receipt or recovery falls within paragraphs (a) or (b) above, and (ii) it has not distributed to the relevant Noteholders in accordance with the Notes Indenture any amount so received or recovered.

(d) A Notes Trustee shall not be obliged to monitor performance by the Debtors, the Security Agent or any other Party or the Noteholders of their respective obligations under, or compliance by them with, the terms of this Agreement.

29.20 Agents

Each Notes Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any attorney or agent appointed with due care by it hereunder.
29.21 No Requirement for Bond or Surety

No Notes Trustee shall be required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Agreement.

29.22 Notes Trustee Liabilities and payments

No provision of this Agreement shall alter or otherwise affect the rights and obligations of any Debtor to make payments in respect of the Notes Trustee Amounts as and when the same are due and payable and demand, receipt and retention by any Notes Trustee of the same or taking of any step or action by any Notes Trustee in respect of its rights under the Notes Finance Documents to the same.

29.23 Business with Debtors

Any Notes Trustee may accept deposits from, lend money to, and generally engage in any kind of banking or other business with any of the Debtors.

30. COUNTERPARTS

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

31. GOVERNING LAW

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

32. ENFORCEMENT

32.1 Jurisdiction

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a “Dispute”).

(b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) This Clause 32.1 is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

32.2 Service of process

(a) Without prejudice to any other mode of service allowed under any relevant law, each Debtor (unless incorporated in England and Wales):

(i) irrevocably appoints Sporting Odds Limited (incorporation number 03655231), 3rd Floor, 45 Moorfields, London EC2Y 9AE as its agent for service of process in relation to any proceedings before the English courts in connection with this Agreement; and

(ii) agrees that failure by a process agent to notify the relevant Debtor of the process will not invalidate the proceedings concerned.
(b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Company (on behalf of all the Debtors) must promptly (and in any event within 14 days of such event taking place) notify the Agents and appoint another agent on terms acceptable to:

(i) prior to the Senior Discharge Date, the Senior Agent(s);

(ii) prior to the Senior Secured Notes Discharge Date, the Senior Secured Notes Trustee(s);

(iii) prior to the Second Lien Lender Discharge Date, the Second Lien Agent;

(iv) prior to the Second Lien Notes Discharge Date, the Second Lien Notes Trustee(s); and

(v) prior to the Senior Unsecured Discharge Date, the Senior Unsecured Representative(s).

Failing this, the Senior Agent(s), the Senior Secured Notes Trustee(s), the Second Lien Agent, the Second Lien Notes Trustee(s) and/or the Senior Unsecured Representative(s) (as the case may be) may appoint another agent for this purpose.

(c) Each Debtor expressly agrees and consents to the provisions of this Clause 32 and Clause 31 (Governing Law).

**THIS AGREEMENT** has been entered into on the date stated at the beginning of this Agreement and executed as a deed by the Original Intra-Group Lenders, the Original Debtors and the Company and is intended to be and is delivered by them as a deed on the date specified above.
SCHEDULE 1

FORM OF DEBTOR ACCESSION DEED

THIS AGREEMENT is made on [●] and made

BETWEEN:

(1) [Insert Full Name of New [Debtor]/[Second Lien Notes Issuer]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower]] (the “Acceding [Debtor]/[Second Lien Notes Issuer]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower]”); and

(2) [Insert Full Name of Current Security Agent] (the “Security Agent”), for itself and each of the other parties to the intercreditor agreement referred to below.

This agreement is made on [date] by the Acceding [Debtor]/[Second Lien Notes Issuer]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower]/[other] in relation to an intercreditor agreement (the “Intercreditor Agreement”) dated [●] 2017 between, amongst others, [●] as parent, [●] as security agent, [●] as senior agent, [●], the other Creditors and the other Debtors (each as defined therein).

The Acceding [Debtor]/[Second Lien Notes Issuer]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower]/[other] 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]/[grant Security (as defined in the Intercreditor Agreement) 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:

Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Agreement, bear the same meaning when used in this Agreement.

The Acceding [Debtor]/[Second Lien Notes Issuer]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower] and the Security Agent agree that the Security Agent shall hold:

(a) any Security in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents;

(b) all proceeds of that Security; and

(c) all obligations expressed to be undertaken by the Acceding [Debtor]/[Second Lien Notes Issuer]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower] to pay amounts in respect of the Liabilities to the Security Agent as trustee, security agent or otherwise for the benefit of the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding [Debtor]/[Second Lien Borrower]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower] (in the Relevant Documents or otherwise) in favour of the Secured Parties (as represented by the Security Agent) as trustee, security agent or otherwise for the
benefit of the Secured Parties, on trust or, as the case may be, as trustee, security agent or as agent or otherwise for the benefit of the relevant Secured Parties on the terms and conditions contained in the Intercreditor Agreement.

The Acceding [Debtor]/[Second Lien Notes Issuer]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower] confirms that it intends to be party to the Intercreditor Agreement as [a] [Debtor]/[Second Lien Notes Issuer]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower], undertakes to perform all the obligations expressed to be assumed by [a] [Debtor]/[Second Lien Notes Issuer]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower] 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 as [a Debtor]/[Second Lien Notes Issuer]/[the Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower].

[In consideration of the Acceding [Debtor]/[Second Lien Notes Issuer]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower] being accepted as an Intra-Group Lender for the purposes of the Intercreditor Agreement, the Acceding [Debtor]/[Second Lien Notes Issuer]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower] also confirms that it intends to be party to the Intercreditor Agreement as an Intra-Group Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Intra-Group Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement as an Intra-Group Lender].\(^1\)

\[^1\] This Agreement and any non-contractual obligations arising out of or in connection with it are governed by, English law.

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\(^1\) Include this paragraph in the relevant Debtor Accession Deed if the acceding party is also to accede as an Intra-Group Lender to the Intercreditor Agreement.
THIS AGREEMENT has been signed on behalf of the Security Agent and executed as a deed by the Acceding [Debtor]/[Second Lien Notes Issuer]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower] and is delivered on the date stated above.

The Acceding [Debtor]/[Second Lien Notes Issuer]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Second Lien Borrower]

[EXECUTED AS A DEED)
By: [Full Name of Acceding [Debtor]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower]

Director

Director/Secretary

OR

[EXECUTED AS A DEED)
By: [Full Name of Acceding [Debtor]/[Senior Unsecured Notes Issuer]/[Senior Secured Notes Issuer]/[Senior Unsecured Borrower]/[Second Lien Borrower]

Signature of Director

Name of Director

in the presence of:

Signature of witness

Name of witness

Address of witness

Occupation of witness

Address for notices:

Address:

Fax:
The Security Agent

[Full name of Current Security Agent]

By:

Date:
SCHEDULE 2
FORM OF CREDITOR/AGENT ACCESSION UNDERTAKING

To: [Insert full name of current Security Agent] for itself and each of the other parties to the Intercreditor Agreement referred to below.

[To: [Insert full name of current Senior Agent] as “Senior Agent”]

From: [Acceding Creditor/Agent]

THIS UNDERTAKING is made on [date] by [insert full name of new Arranger/Senior Lender/Second Lien Lender/Hedge Counterparty/Senior Agent/Second Lien Agent/Second Lien Arranger/Intra-Group Lender/Senior Secured Notes Trustee/Second Lien Notes Trustee/Senior Unsecured Notes Trustee/Senior Secured Notes Issuer/Second Lien Notes Issuer/Senior Unsecured Arranger/Senior Unsecured Agent/Cash Management Provider] (the Acceding [Arranger/Senior Lender/Second Lien Lender/Hedge Counterparty/Senior Agent/Second Lien Agent/Second Lien Arranger/Intra-Group Lender/Senior Secured Notes Trustee/Second Lien Notes Trustee/Senior Unsecured Notes Trustee/Senior Unsecured Agent/Cash Management Provider]) in relation to the intercreditor agreement (the Intercreditor Agreement) dated [●] 2017 between, amongst others, [●] as parent, [●] as security agent, [●] as senior agent, [●], the other Creditors and the other Debtors (each as defined therein). Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Undertaking, bear the same meanings when used in this Undertaking.

In consideration of the Acceding [Arranger/Senior Lender/Second Lien Lender/Hedge Counterparty/Senior Agent/Second Lien Agent/Second Lien Arranger/Intra-Group Lender/Senior Secured Notes Trustee/Second Lien Notes Trustee/Senior Unsecured Notes Trustee/Senior Unsecured Notes Issuer/Senior Secured Notes Issuer/Second Lien Notes Issuer/Senior Unsecured Arranger/Senior Unsecured Agent/Cash Management Provider] being accepted as a [Arranger/Senior Lender/Second Lien Lender/Hedge Counterparty/Senior Agent/Second Lien Agent/Second Lien Arranger/Intra-Group Lender/Senior Secured Notes Trustee/Second Lien Notes Trustee/Senior Unsecured Notes Trustee/Senior Unsecured Notes Issuer/Senior Secured Notes Issuer/Second Lien Notes Issuer/Senior Unsecured Arranger/Senior Unsecured Agent/Cash Management Provider] for the purposes of the Intercreditor Agreement, the Acceding [Arranger/Senior Lender/Second Lien Lender/Hedge Counterparty/Senior Agent/Second Lien Agent/Second Lien Arranger/Intra-Group Lender/Senior Secured Notes Trustee/Second Lien Notes Trustee/Senior Unsecured Notes Trustee/Senior Unsecured Notes Issuer/Senior Secured Notes Issuer/Second Lien Notes Issuer/Senior Unsecured Arranger/Senior Unsecured Agent/Cash Management Provider] confirms that, as from [date], it intends to be party to the Intercreditor Agreement as a [Arranger/Senior Lender/Second Lien Lender/Hedge Counterparty/Senior Agent/Second Lien Agent/Second Lien Arranger/Intra-Group Lender/Senior Secured Notes Trustee/Second Lien Notes Trustee/Senior Unsecured Notes Trustee/Senior Unsecured Notes Issuer/Senior Secured Notes Issuer/Second Lien Notes Issuer/Senior Unsecured Arranger/Senior Unsecured Agent/Cash Management Provider] and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a [Arranger/Senior Lender/Second Lien Lender/Hedge Counterparty/Senior Agent/Second Lien Agent/Second Lien Arranger/Intra-Group Lender/Senior Secured Notes Trustee/Second Lien Notes Trustee/Senior Unsecured Notes Trustee/Senior Unsecured Notes Issuer/Senior Secured Notes Issuer/Second Lien Notes Issuer/Senior Unsecured Arranger/Senior Unsecured Agent/Cash Management Provider].

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2 Include only in the case of (i) a Hedge Counterparty or (ii) an Ancillary Lender which is an Affiliate of a Senior Lender.
Unsecured Agent/Cash Management Provider] and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

[The Acceding Senior Lender is an Affiliate of a Senior Lender and has become a provider of an Ancillary Facility. In consideration of the Acceding Senior Lender being accepted as an Ancillary Lender for the purposes of the Senior Facilities Agreement, the Acceding Senior Lender confirms, for the benefit of the parties to the Senior Facilities Agreement, that, as from [date], it intends to be party to the Senior Facilities Agreement as an Ancillary Lender, and undertakes to perform all the obligations expressed in the Senior Facilities Agreement to be assumed by a Senior Finance Party and agrees that it shall be bound by all the provisions of the Senior Facilities Agreement, as if it had been an original party to the Senior Facilities Agreement as an Ancillary Lender.]

[The Acceding Hedge Counterparty has become a provider of hedging arrangements to [certain Group Companies].

The Acceding [Arranger/Senior Lender/Second Lien Lender/Hedge Counterparty/Senior Agent/Second Lien Agent/Second Lien Arranger/Intra-Group Lender/Senior Secured Notes Trustee/Senior Unsecured Notes Trustee/Second Lien Notes Trustee/Senior Unsecured Notes Issuer/Senior Secured Notes Issuer/Second Lien Notes Issuer/Senior Unsecured Arranger/Senior Unsecured Agent/Cash Management Provider] hereby expressly ratifies and approves any and all acts done by the Security Agent on its behalf prior to execution by the Acceding [Arranger/Senior Lender/Second Lien Lender/Hedge Counterparty/Senior Agent/Second Lien Agent/Second Lien Arranger/Intra-Group Lender/Senior Secured Notes Trustee/Senior Unsecured Notes Trustee/Senior Unsecured Notes Issuer/Second Lien Notes Issuer/Senior Unsecured Arranger/Senior Unsecured Agent/Cash Management Provider] of this Creditor/Agent Accession Undertaking.

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

THIS UNDERTAKING has been entered into on the date stated above [and is executed as a deed by the Acceding Creditor, if it is acceding as an Intra-Group Lender and is delivered on the date stated above].

Acceding [Creditor/Agent]

[EXECUTED AS A DEED]

[insert full name of Acceding Creditor/Agent]

By:

Address:

Fax:

Accepted by the Security Agent for and on behalf of [Insert full name of current Security Agent] Date: [Accepted by the Senior Agent for and on behalf of [Insert full name of Senior Agent] Date:]³

³ Include only in the case of (i) a Hedge Counterparty or (ii) an Ancillary Lender which is an Affiliate of a Senior Lender.
SCHEDULE 3

FORM OF DEBTOR RESIGNATION REQUEST

To: [●] as Security Agent

From: [resigning [Debtor]] and [Company]

Dated:

Dear Sirs

Intercreditor agreement (the Intercreditor Agreement) dated [●] 2017 between, amongst others, [●] as parent, [●] as security agent, [●] as senior agent, [●], the other Creditors and the other Debtors (each as defined therein)

We refer to the Intercreditor Agreement. This is a Debtor Resignation Request. Terms defined in the Intercreditor Agreement have the same meaning in this Debtor Resignation Request unless given a different meaning in this Debtor Resignation Request.

We request that [resigning [Debtor]] be released from its obligations as a Debtor under the Intercreditor Agreement.

We confirm that:

(a) no Default is continuing or would result from the acceptance of this request; and

(b) [resigning [Debtor]] is under no actual or contingent obligations in respect of the Intra-Group Liabilities.

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

[Company]

By:

[resigning [Debtor]]

By:
SCHEDULE 4

ENFORCEMENT PRINCIPLES

1. In this Schedule 4:

“Enforcement Objective” means maximising, to the extent consistent with a prompt and expeditious realisation of value, the value realised from Enforcement.

“Fairness Opinion” means, in respect of any Enforcement, an opinion from a Financial Adviser that the proceeds received or recovered in connection with that Enforcement are fair from a financial point of view taking into account all relevant circumstances.

“Financial Adviser” means any:

(a) independent internationally recognised investment bank;

(b) independent internationally recognised accountancy firm; or

(c) other independent internationally recognised professional services firm which is regularly engaged in providing valuations of businesses or financial assets or, where applicable, advising on competitive sales processes.

2. Any Enforcement shall be consistent with the Enforcement Objective.

3. Without prejudice to the Enforcement Objective, the Transaction Security will be enforced and other action as to Enforcement will be taken such that either:

(a) to the extent the Instructing Group is the Majority Senior Creditors, all proceeds of Enforcement are received by the Security Agent in cash for distribution in accordance with Clause 17 (Application of Proceeds); or

(b) to the extent the Instructing Group is the Majority Pari Passu Creditors, either:

(i) all proceeds of enforcement are received by the Security Agent in cash for distribution in accordance with Clause 17 (Application of Proceeds); or

(ii) sufficient proceeds from Enforcement will be received by the Security Agent in cash to ensure that, when the proceeds are applied in accordance with Clause 17 (Application of Proceeds), the Super Senior Discharge Date will occur (unless the Majority Senior Creditors agree otherwise).

4. On:

(a) a proposed Enforcement in relation to assets comprising Charged Property other than shares in a member of the Group over which Transaction Security exists, where the aggregate book value of such assets exceeds EUR 5,000,000 (or its equivalent in any other currency or currencies); or

(b) a proposed Enforcement in relation to Charged Property comprising some or all of the shares in a member of the Group over which Transaction Security exists, which, in either case, is not being effected through a Competitive Process, the Security Agent shall, if requested by the Majority Senior Creditors or the Majority Pari Passu Creditors, appoint a Financial Adviser to provide a Fairness Opinion in relation to that Enforcement, provided that the Security Agent shall not be required to appoint a Financial Adviser nor obtain a Fairness Opinion if a proposed Enforcement:
(i) would result in the receipt of sufficient Enforcement Proceeds in cash by the Security Agent to ensure that, after application in accordance with Clause 17 (Application of Proceeds):

(A) in the case of an Enforcement requested by the Majority Senior Creditors, the Final Discharge Date would occur; or

(B) in the case of an Enforcement requested by the Majority Pari Passu Creditors, the Super Senior Discharge Date would occur;

(ii) is in accordance with any applicable law; and

(iii) complies with Clause 16.2 (Distressed Disposals).

5. The Security Agent shall be under no obligation to appoint a Financial Adviser or to seek the advice of a Financial Adviser unless expressly required to do so by this Schedule 4 or any other provision of this Agreement.

6. The Fairness Opinion will be conclusive evidence that the Enforcement Objective has been met.
It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.
SIGNATORIES

[Original signature pages intentionally omitted]
SCHEDULE 4
FORM OF INCREMENTAL FACILITY NOTICE

To: Wilmington Trust (London) Limited as Agent and Wilmington Trust (London) Limited as Security Agent

From: GVC Holdings PLC as Company and Deutsche Bank AG, London Branch and Nomura International plc as Increasing Incremental Facility Lenders (the “Increasing Incremental Facility Lenders”)

Dated: __ December 2017

GVC Holdings PLC – €320,000,000 Facilities Agreement dated 2 March 2017 (the “Agreement”)

1. We refer to the Agreement and to the Intercreditor Agreement (as defined in the Agreement). This is an Incremental Facility Notice. This Incremental Facility Notice shall take effect as an Incremental Facility Notice for the purpose of the Agreement and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Agreement have the same meaning in this Incremental Facility Notice unless given a different meaning in this Incremental Facility Notice.

2. We refer to:
   (a) Clause 7 (Establishment of Incremental Facilities) of the Agreement;
   (b) the amendment and restatement agreement of even date herewith (the “Amendment and Restatement Agreement”) between you, us and Deutsche Bank AG, London Branch and Nomura International PLC as Increasing Incremental Facility Lenders;
   (c) the form of amended and restated Agreement as set out in Schedule 2 to the Amendment and Restatement Agreement (the “Amended SFA”); and
   (d) consents received separately from certain existing Lenders (as specified by the Increasing Incremental Facility Lenders to the Company and the Agent on the date hereof) to their providing commitments under the Incremental Facility in a principal amount equal to their entitlement to repayment of principal under Facility B or the Revolving Facility (as applicable) on a cashless basis as contemplated by paragraph 2.2(f) of the Amendment and Restatement Agreement (the “Rolling Incremental Facility Lenders”, together with the Increasing Incremental Facility Lenders, the “Incremental Facility Lenders”).

3. The Incremental Facility Lenders request the establishment of an Incremental Facility with the following Incremental Facility Terms:
   (b) Currency: Base Currency
   (c) Total Incremental Facility Commitments:
       €370,000,000
   (d) Margin for the Incremental Facility:
As set out in the Amended SFA

(e) Borrower to which the Incremental Facility is to be made available: the Borrower.

(f) Purpose(s) for which all amounts borrowed under the Incremental Facility shall be applied pursuant to Clause 3.1 (Purpose) of the Agreement:

Repayment or prepayment (as applicable) in full of Facility B and the Revolving Facility, including accrued but unpaid interest, Break Costs and financing the fees and costs in relation to such repayment or prepayment, this Incremental Facility and the transactions contemplated hereby and by the Amendment and Restatement Agreement, and for general corporate purposes of the Group.

(g) Availability Period:

From the date hereof to and including [12] December 2017.

(h) Incremental Facility Conditions Precedent:

The occurrence of the Effective Date under (and as defined in) the Amendment and Restatement Agreement.

(i) Incremental Facility Conditions Subsequent:

As per clause 3(d) of the Amendment and Restatement Agreement.

(j) The Lenders under the Incremental Facility are permitted to elect to waive prepayments of the Incremental Facility under Clause 11.8 (Prepayment Elections) of the Agreement.

(k) Termination Date:

Same as Facility B.

4. The proposed Establishment Date is: the Effective Date.

5. The Company confirms that:

(a) each of:

(i) the Incremental Facility Terms set out above;

(ii) the Aggregate Yield applicable to the Bullet Incremental Facility; and

(iii) the fees payable to any arranger of the Incremental Facility,

comply with Clause 7.5 (Restrictions on Incremental Facility Terms and fees) of the Agreement;

(b) the Incremental Facility Lenders set out in this Incremental Facility Notice comply with Clause 7.1 (Incremental Facility Lenders); and

(c) each condition specified in paragraph (a) of Clause 7.6 (Conditions to establishment) of the 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 allocated to it as if it was an Original Lender in respect of that Incremental Facility Commitment under the 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 Pari Passu Lender (as defined in the Intercreditor Agreement),

in each case if it is not already such a party.

8. Each Incremental Facility Lender expressly acknowledges the limitations on the Lenders' obligations referred to in Clause 7.12 (Limitation of responsibility) of the Agreement.

9. We refer to clause 15.8 (Creditor/Creditor Representative Accession Undertaking) of the Intercreditor Agreement. In consideration of each Incremental Facility Lender being accepted as a Pari Passu 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 Pari Passu Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Pari Passu Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

10. This Incremental Facility Notice is irrevocable.

11. 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.

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

13. 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 Company

GVC Holdings PLC

By: ..............................................

The Increasing Incremental Facility Lenders on behalf of the Incremental Facility Lenders

Deutsche Bank AG, London Branch

By: ..............................................

By: ..............................................

Nomura International plc

By: ..............................................
This document is accepted as an Incremental Facility Notice for the purposes of the Agreement by the Agent and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent and the Establishment Date is confirmed as the Effective Date.

**The Agent**

Wilmington Trust (London) Limited

By: …………………………………………

**The Security Agent**

Wilmington Trust (London) Limited

By: …………………………………………
SIGNATURE PAGES

THE COMPANY (ON ITS OWN BEHALF AND AS OBLIGORS' AGENT)
EXECUTED as a DEED by
GVC Holdings PLC acting by:

[Signature]

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INCREASING INCREMENTAL FACILITY LENDERS

EXECUTED as a DEED by
DEUTSCHE BANK AG, LONDON BRANCH acting by:
EXECUTED as a DEED by
NOMURA INTERNATIONAL PLC acting by:
THE AGENT
EXECUTED as a DEED by
WILMINGTON TRUST (LONDON)
LIMITED acting by:

THE SECURITY AGENT
EXECUTED as a DEED by
WILMINGTON TRUST (LONDON)
LIMITED acting by: