

Amendment and restatement agreement relating to a facility agreement dated 13 March 2020

Dated 22 July 2022

ERGOMED PLC
(the Parent)

HSBC UK Bank plc
(acting as Arranger)

HSBC UK Bank plc
(acting as Agent)

HSBC UK Bank plc
(acting as Security Agent)

Contents

1	Definitions and construction.....	1
2	Amendment and restatement	2
3	Confirmations	2
4	Representations and warranties	3
5	Further action	3
6	Fees and expenses	3
7	Counterparts.....	3
8	Bail-in, governing law and enforcement.....	4
9	Finance Documents.....	4
	Schedule 1 – The Obligors.....	5
	Schedule 2 – Conditions precedent.....	6
	Appendix – Amended and restated Facility Agreement	13

Amendment and restatement agreement

Dated 22 July 2022

Between

- (1) **ERGOMED PLC**, a company incorporated in England and Wales with registered number 04081094 (the **Parent**);
- (2) the Parent as original borrower (in this capacity, the **Original Borrower**);
- (3) the Subsidiaries of the Parent listed in Schedule 1 (*The Obligors*) as guarantors as at the date of this Agreement (together with the Parent being the **Guarantors**);
- (4) **HSBC UK Bank plc** as mandated lead arranger (the **Arranger**);
- (5) **HSBC UK Bank plc** as lender (the **Lender**);
- (6) **HSBC UK Bank plc** as agent of the other Finance Parties (the **Agent**); and
- (7) **HSBC UK Bank plc** as security trustee for the Secured Parties (the **Security Agent**).

Recitals

- A. This Agreement is supplemental to and amends and restates a senior multicurrency revolving facility agreement dated 13 March 2020 between, among others, the Parent and the Agent (the **Facility Agreement**).
- B. The Parties have agreed to amend and restate the Facility Agreement on the terms of this Agreement.

It is agreed:

1 Definitions and construction

1.1 Definitions

Words and expressions defined in the Facility Agreement, as amended and restated by this Agreement, shall have the same meanings in this Agreement. In addition, in this Agreement:

Effective Date means the day on which the Agent notifies the Parent that it has received, in form and substance satisfactory to it (or that it has waived the receipt of) all of the documents and other evidence listed in Schedule 2 (*Conditions precedent*).

Obligors means each of the parties listed in Schedule 1 (*The Obligors*).

Parties means the parties to this Agreement.

Updated Base Case Model means the financial model relating to the Group including profit and loss, balance sheet and cashflow projections with title '2022 to 2025 Ergomed and ADAMAS consolidated financials FM HSBC.xlsx.'

1.2 Construction and interpretation

The principles of construction set out in Clause 1.2 (*Construction*) and Clauses 1.5 (*Dutch terms*) to 1.7 (*Provision of information by directors*) of the Facility Agreement shall apply to this Agreement, insofar as they are relevant to it, as they apply to the Facility Agreement.

1.3 Third party rights

The provisions of Clause 1.4 (*Third party rights*) of the Facility Agreement shall apply to this Agreement as they apply to the Facility Agreement.

2 Amendment and restatement

2.1 Amendment and restatement

With effect from the Effective Date, the Facility Agreement shall be amended and restated in the form set out in the Appendix (*Amended and restated Facility Agreement*).

2.2 Effective Date

The Effective Date must occur on or before 29 July 2022 (or such later date as the Agent (acting on the instructions of the Lenders) may otherwise agree).

3 Confirmations

3.1 Without prejudice to the rights of any Finance Party which have arisen on or before the Effective Date:

- (a) each Obligor confirms that, on and after the Effective Date:
 - (i) the Facility Agreement (as amended and restated by this Agreement), and the other Finance Documents, will remain in full force and effect; and
 - (ii) the Transaction Security Documents to which it is a party will remain in full force and effect and will continue to secure all liabilities which are expressed to be secured by them; and
- (b) each Guarantor confirms that, on and after the Effective Date, its guarantee, undertaking and indemnity under Clause 21 (*Guarantee and indemnity*) of the Facility Agreement will (subject to any limitations referred to in Clause 21 (*Guarantee and indemnity*) of the Facility Agreement or in any Accession Deed pursuant to which it acceded to the Facility Agreement as an Additional Guarantor) remain in full force and effect and will continue to apply to each Obligor's obligations under the Finance Documents as amended from time to time (including as amended and restated by this Agreement).

3.2 To the extent that a Guarantor's guarantee, undertaking or indemnity under Clause 21 (*Guarantee and indemnity*) of the Facility Agreement is not, for any reason, enforceable on or after the Effective Date in relation to each Obligor's obligations under the Finance Documents (as amended and restated by this Agreement), that Guarantor guarantees to, undertakes with and indemnifies each Finance Party on the terms of those clauses in relation to those obligations on and after the Effective Date (subject, in each case, to any limitations referred to in Clause 21 (*Guarantee and indemnity*) of the Facility Agreement or in any Accession Deed pursuant to which it acceded to the Facility Agreement as an Additional Guarantor).

4 Representations and warranties

4.1 The representations and warranties set out in Clause 22 (*Representations and warranties*) of the Facility Agreement are deemed to be repeated by each Obligor by reference to the facts and circumstances then existing on:

- (a) the date of this Agreement; and
- (b) the Effective Date,

provided that (i) in the case of the representation and warranty in Clause 22.25 (*Group Structure Chart*) of the Facility Agreement the reference in that clause to “Group Structure Chart” shall be to the Group Structure Chart delivered to the Agent as a condition precedent to this Agreement (ii) in the case of the representations and warranties contained in paragraphs (a) to (d) of Clause 22.13 (*Financial Statements*) of the Facility Agreement, those representations and warranties shall not be made by reference to the Original Financial Statements referred to therein but the relevant financial statements most recently delivered under Clause 23.3 (*Financial statements*) of the Facility Agreement.

4.2 In addition to the above, on the date of this Agreement and on the Effective Date, the Obligors represent that all written information provided by any Group Company (including its advisors) to a Finance Party prior to the date of this Agreement including, without limitation, the Updated Base Case Model, was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any material respect as at such date.

5 Further action

Each Obligor shall, at its own expense, promptly take any action and sign or execute any further documents which the Agent may require in order to give effect to the requirements of this Agreement.

6 Fees and expenses

6.1 Fee

The Parent shall pay to the Agent (for the account of the Arranger) on or before the Effective Date a fee of £300,000.

6.2 Amendment costs

Subject to any cap on such costs and expenses agreed between the Parent and the Agent or the Security Agent prior to signing this Agreement, the Parent shall reimburse the Agent and the Security Agent for the amount of all costs and expenses (including legal and other professional fees and VAT) reasonably incurred by them in connection with this Agreement.

7 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.

8 Bail-in, governing law and enforcement

The provisions of Clause 46 (*Bail-In*) and Clauses 47 (*Governing law*) to 49 (*Enforcement*) of the Facility Agreement shall apply to this Agreement as they apply to the Facility Agreement.

9 Finance Documents

This Agreement is a Finance Document.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

Schedule 1 – The Obligors

Name of Original Borrower	Original Jurisdiction	Registration number (or equivalent, if any)
ERGOMED PLC	England and Wales	04081094

Name of Current Guarantor	Original Jurisdiction	Registration number (or equivalent, if any)
ERGOMED PLC	England and Wales	04081094
PrimeVigilance Limited	England and Wales	06740849
Ergomed B.V. (previously PSR Group B.V.)	Netherlands	34161008
PrimeVigilance s.r.o	Czech Republic	24730416
PrimeVigilance USA Inc.	North Carolina, United States of America	0547713
PrimeVigilance Inc.	Delaware, United States of America	6075240
Ergomed Clinical Research, Inc.	Delaware, United States of America	3919042
MS Clinical Services, LLC	Texas, United States of America	0801385683
ADAMAS Consulting LLC	North Carolina, United States of America	0927547
Ergomed Clinical Research Limited	England and Wales	05094681
ADAMAS Consulting Limited	England and Wales	03403717
ADAMAS Consulting Group Limited	England and Wales	08299519

Schedule 2 – Conditions precedent

The documents and other evidence referred to in the definition of **Effective Date** are as follows:

1 Obligors

- 1.1 A copy of the Constitutional Documents and of the constitutional documents of each other Obligor.
- 1.2 A copy of a resolution of the executive directors, the board or, if applicable, a committee of the board of directors of each Obligor:
- (a) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party;
 - (b) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party;
 - (d) in respect of a Dutch Obligor only, containing a confirmation that no works council (*ondernemingsraad*) having jurisdiction over that Dutch Obligor has been installed and no works council will be installed in the foreseeable future nor any person working for an enterprise of the Dutch Obligor has requested the board of directors that a works council be installed;
 - (e) resolving that the entry into this Agreement and any other Finance Documents to which it is a party is in the best interests of and to the benefit of the relevant Obligor (as applicable); and
 - (f) in the case of an Obligor other than the Parent, authorising the Parent to act as its agent in connection with the Finance Documents.
- 1.3 If applicable, a copy of a resolution of the board of directors of the relevant company, establishing the committee referred to in paragraph 1.2 above (or, in the case of the Parent, certified extracts from the minutes of the meeting pursuant to which the relevant committee was established).
- 1.4 Certificate as of a recent date of good standing of each Obligor incorporated in the United States of America under the laws of its jurisdiction of incorporation, organization or formation (or equivalent), as applicable.
- 1.5 A specimen of the signature of each person authorised by the resolution referred to in paragraph 1.2 above in relation to the Finance Documents and related documents.
- 1.6 Where required, a copy of a resolution signed by all the holders of the issued shares in each Obligor (other than the Parent), approving the terms of, and the transactions contemplated by, the Finance Documents to which each Obligor is a party.

- 1.7 Where required, a copy of a resolution of the board of directors of each corporate shareholder of each Obligor approving the terms of the resolution referred to in paragraph 1.6 above.
- 1.8 A certificate of the Parent (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments (as at the date of the Effective Date) would not cause any borrowing, guarantee, security or similar limit binding on any Obligor to be exceeded (taking into account, in the case of an Obligor, any guarantee limitation language included in the Facility Agreement).
- 1.9 A certificate of each Obligor certifying that each copy document relating to it specified 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 date of this Agreement.
- 1.10 In respect of each Czech Obligor:
- (a) an up-to-date extract from the relevant Czech Commercial Register and other documents evidencing the authority of the relevant signatories;
 - (b) an up-to-date extract from the relevant insolvency registry evidencing that no insolvency proceedings is pending in relation to the relevant Czech Obligor;
 - (c) an up-to-date extract from the UBO Register;
 - (d) a copy of a resolution of the general meeting of the relevant Czech Obligor or the sole shareholder acting in the capacity of the general meeting of the relevant Czech Obligor, as the case may be:
 - (i) approving the terms of and the transactions contemplated by, the Finance Documents to which it is a party;
 - (ii) resolving that it executes such documents;
 - (iii) confirming that the sole shareholder or the general meeting has not identified any reason on the basis of which it should forbid the relevant Czech Obligor to enter into, and to perform the transactions contemplated by such documents;
 - (iv) confirming that entering into, creation of security and the performance of the transactions contemplated by and/or the obligations arising under, this Agreement and the Finance Documents to which the Czech Obligor is or is to be a party do not constitute gratuitous performance within the meaning of section 40(5) of the Czech Act on Business Corporations;
 - (v) confirming that the general meeting or the sole shareholder has been informed by the executive directors of the relevant Czech Obligor within the meaning of section 54 *et seq* of the Czech Act on Business Corporations of their potential conflict of interest with the interest of the relevant Czech Obligor; and
 - (vi) confirming that the general meeting or the sole shareholder has not suspended performance of any member of any of the relevant Czech Obligor's bodies.

2 Finance Documents

- 2.1 This Agreement duly executed by each party to it.
- 2.2 At least two originals of the following Transaction Security Document executed by the Parent:

Name of Original Obligor	Transaction Security Document
ERGOMED PLC	Debenture

- 2.3 A copy of all notices required to be sent under the Transaction Security Document referred to above executed by the Parent and duly acknowledged by the addressee.

3 Legal opinions

- 3.1 A legal opinion of Dentons UK and Middle East LLP, legal advisers to the Agent and the Arranger as to English law substantially in the form distributed to the Agent prior to signing this Agreement.
- 3.2 A legal opinion of Dentons Europe LLP, legal advisers to the Agent and the Arranger as to Dutch law substantially in the form distributed to the Agent prior to signing this Agreement.
- 3.3 A legal opinion of Dentons Europe CS LLP, legal advisers to the Agent and the Arranger as to Czech law substantially in the form distributed to the Agent prior to signing this Agreement.
- 3.4 A legal opinion of Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP , legal advisors to the Obligors as to North Carolina law substantially in the form distributed to the Agent prior to signing this Agreement.
- 3.5 A legal opinion of Richards, Layton & Finger, P.A., legal advisors to the Obligors as to Delaware law substantially in the form distributed to the Agent prior to signing this Agreement.
- 3.6 A legal opinion of Vorys, Sater, Seymour and Pease LLP, legal advisors to the Obligors as to Texas law substantially in the form distributed to the Agent prior to signing this Agreement.

4 Other documents and evidence

- 4.1 The Group Structure Chart.
- 4.2 A certificate signed by an authorised signatory of the Parent confirming which companies within the Group are Material Companies and that the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA), the aggregate gross assets and aggregate turnover of the Obligors (calculated on an unconsolidated basis and excluding all intra-Group items and investments in Subsidiaries of any Group Company) exceeds 85% of EBITDA, the consolidated gross assets and consolidated turnover of the Group.
- 4.3 In respect of each company incorporated in the United Kingdom whose shares are the subject of the Transaction Security (a **Charged Company**), either:
- (a) a certificate of an authorised signatory of the Parent certifying that:

- (i) each Group Company has complied within the relevant timeframe with any notice it has received pursuant to Part 21A of the Act from that Charged Company; and
- (ii) no "warning notice" or "restrictions notice" (in each case as defined in Schedule 1B of the Act) has been issued in respect of those shares,

together with a copy of the "PSC register" (within the meaning of section 790C(10) of the Act) of that Charged Company, which, in the case of a Charged Company that is a Group Company, is certified by an authorised signatory of the Parent to be correct, complete and not amended or superseded as at a date no earlier than the date of this Agreement; or

- (b) a certificate of an authorised signatory of the Parent certifying that such Charged Company is not required to comply with Part 21A of the Act.

4.4 Evidence that the fees, costs and expenses then due from the Parent pursuant to Clause 6 (*Fees and expenses*) have been paid or will be paid by the Effective Date.

4.5 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 Parent accordingly prior to the date of this Agreement) 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.

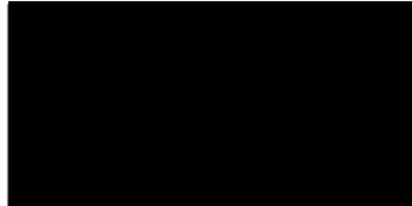
The Parent

SIGNED by)
)
for and on behalf of)
ERGOMED PLC)



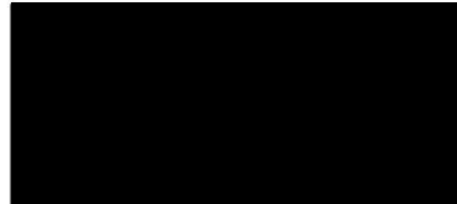
The Original Borrower

SIGNED by)
)
for and on behalf of)
ERGOMED PLC)

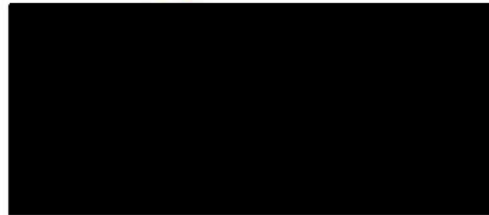


The Guarantors

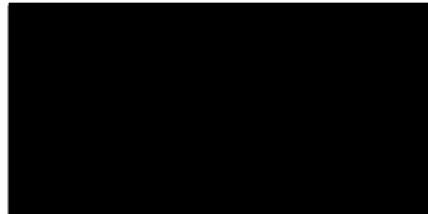
SIGNED by)
)
for and on behalf of)
ERGOMED PLC)



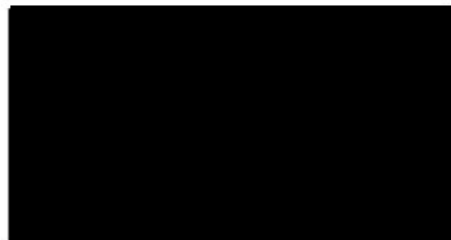
SIGNED by)
)
for and on behalf of)
PRIMEVIGILANCE LIMITED)



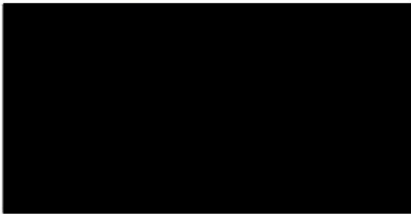
SIGNED by)
)
for and on behalf of)
ERGOMED B.V. (previously PSR)
GROUP B.V.))



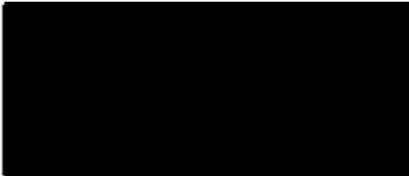
SIGNED by)
)
for and on behalf of)
PRIMEVIGILANCE S.R.O.)



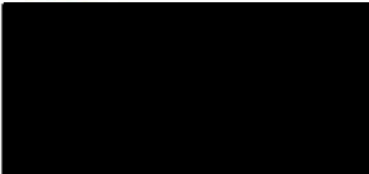
SIGNED by)
)
for and on behalf of)
PRIMEVIGILANCE USA INC.)



SIGNED by)
)
for and on behalf of)
ERGOMED CLINICAL RESEARCH, INC.)



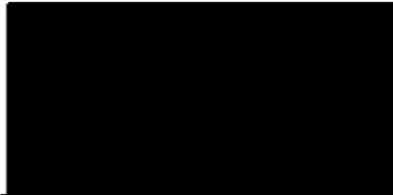
SIGNED by)
)
for and on behalf of)
MS CLINICAL SERVICES, LLC)



SIGNED by)
)
for and on behalf of)
ADAMAS CONSULTING LLC)



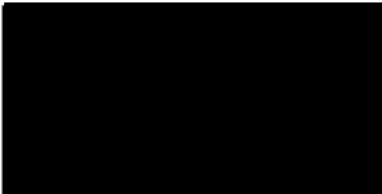
SIGNED by)
)
for and on behalf of)
ERGOMED CLINICAL RESEARCH)
LIMITED)



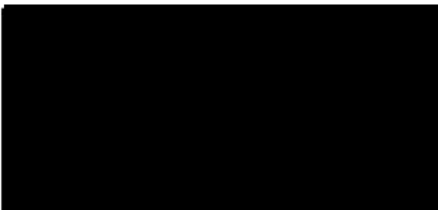
SIGNED by)
)
for and on behalf of)
ADAMAS CONSULTING LIMITED)



SIGNED by)
)
for and on behalf of)
ADAMAS CONSULTING GROUP)
LIMITED)



SIGNED by)
)
for and on behalf of)
PRIMEVIGILANCE INC.)



The Arranger

SIGNED by
[REDACTED] [REDACTED]
for and on behalf of
HSBC UK BANK PLC

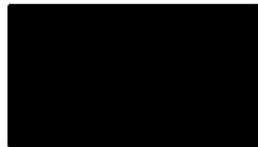
)
)
)
)



The Original Lender

SIGNED by
[REDACTED] [REDACTED]
for and on behalf of
HSBC UK BANK PLC

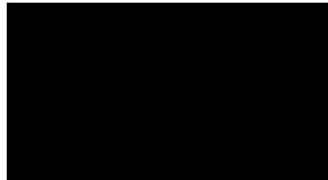
)
)
)
)



The Agent

SIGNED by
[REDACTED] [REDACTED]
for and on behalf of
HSBC UK BANK PLC

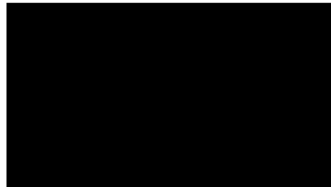
)
)
)
)



The Security Agent

SIGNED by
[REDACTED] [REDACTED]
for and on behalf of
HSBC UK BANK PLC

)
)
)
)



Appendix – Amended and restated Facility Agreement

Senior multicurrency revolving facility agreement dated
13 March 2020 as amended and restated by way of the
Amendment and Restatement Agreement

ERGOMED PLC

(the Parent)

HSBC UK Bank plc

(acting as Arranger)

HSBC UK Bank plc

(acting as Agent)

HSBC UK Bank plc

(acting as Security Agent)

Contents

Section 1 – Interpretation	1
1 Definitions and interpretation	1
Section 2 – The Facility	41
2 The Facility	41
3 Purpose	48
4 Conditions of utilisation	48
Section 3 – Utilisations	50
5 Utilisation	50
6 Optional Currencies	51
7 Ancillary Facilities	52
Section 4 – Repayment, prepayment and cancellation	56
8 Repayment	56
9 Illegality, voluntary prepayment and cancellation	57
10 Mandatory prepayment Exit	59
11 Restrictions	59
Section 5 – Costs of utilisation	61
12 Interest	61
13 Interest Periods	63
14 Changes to the calculation of interest	63
15 Fees	65
Section 6 – Additional payment obligations	67
16 Tax gross-up and indemnities	67
17 Increased Costs	76
18 Other indemnities	78
19 Mitigation by the Lenders	80
20 Costs and expenses	81
Section 7 – Guarantee	83
21 Guarantee and indemnity	83
Section 8 – Representations, warranties, undertakings and Events of Default	89
22 Representations and warranties	89
23 Information undertakings	98

24	Financial covenants	103
25	General undertakings	108
26	Events of Default	117
	Section 9 – Changes to Parties	122
27	Changes to the Lenders	122
28	Restriction on Debt Purchase Transactions	128
29	Changes to the Obligors	128
	Section 10 – The Finance Parties	131
30	Role of the Agent, the Arranger and others	131
31	The Security Agent	141
32	Application of proceeds	154
33	Conduct of business by the Finance Parties	157
34	Sharing among the Finance Parties	157
	Section 11 – Administration	159
35	Payment mechanics	159
36	Set-off	163
37	Notices	163
38	Calculations and certificates	167
39	Partial invalidity	168
40	Remedies and waivers	168
41	Amendments and waivers	168
42	Confidential Information	175
43	Confidentiality of Funding Rates	179
44	Disclosure of Lender details by Agent	180
45	Counterparts	182
46	Bail-In	182
	Section 12 – Governing law and enforcement	184
47	Governing law	184
48	Acceptance of power of attorney	184
49	Enforcement	184
	Schedule 1 – The Original Parties	185
	Schedule 2 – Conditions precedent	187
	Schedule 3 – Utilisation Request	195

Schedule 4 – Form of Transfer Certificate	196
Schedule 5 – Form of Assignment Agreement	199
Schedule 6 – Form of Accession Deed	202
Schedule 7 – Form of Resignation Letter	205
Schedule 8 – Form of Compliance Certificate	206
Schedule 9 – Timetables	208
Schedule 10 – Material Companies	209
Schedule 11 – Form of Increase Confirmation	210
Schedule 12 – Form of Extension Request	213
Schedule 13 – Accordion Option	214
Schedule 14 – Form of Acquisition Spike Period Notice	218
Schedule 15 – Reference Rate Terms	219
Schedule 16 – Daily Non-Cumulative Compounded RFR Rate	229
Schedule 17 – Cumulative Compounded RFR Rate	231

Senior multicurrency revolving facility agreement dated 13 March 2020 as amended and restated by way of the Amendment and Restatement Agreement

Between

- (1) **ERGOMED PLC**, a public limited company incorporated in England and Wales with registered number 04081094 (the **Parent**);
- (2) The Parent as original borrower (in this capacity, the **Original Borrower**);
- (3) The Subsidiaries of the Parent listed in Part 1 of Schedule 1 (*The Original Parties*) as guarantors as at the Effective Date (together with the Parent being the **Existing Guarantors**);
- (4) **HSBC UK Bank plc** as mandated lead arranger (the **Arranger**);
- (5) The financial institutions listed in Part 2 of Schedule 1 (*The Original Parties*) as lenders (the **Original Lenders**);
- (6) **HSBC UK Bank plc** as agent of the other Finance Parties (the **Agent**); and
- (7) **HSBC UK Bank plc** as security trustee for the Secured Parties (the **Security Agent**).

It is agreed:

Section 1 – Interpretation

1 Definitions and interpretation

1.1 Definitions

In this Agreement:

Acceding Accordion Lender has the meaning given to that term in Clause 2.4 (*Accordion Option*).

Acceptable Bank means:

- (a) a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of A- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or A3 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency; or
- (b) any other bank or financial institution approved by the Agent.

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

Accounting Principles means:

- (a) in relation to the Group as a whole or any Group Company established or incorporated in the United Kingdom, generally accepted accounting principles in the United Kingdom, including IFRS; and

- (b) in relation to any Group Company incorporated or established outside of the United Kingdom, at the election of the Parent, the principles referred to in paragraph (a) above or generally accepted accounting principles in the jurisdiction of incorporation or establishment of that Group Company.

Accounting Reference Date means 31 December.

Act means the Companies Act 2006.

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

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

Additional Czech Borrower means an Additional Borrower incorporated in the Czech Republic.

Additional Czech Guarantor means an Additional Guarantor incorporated in the Czech Republic.

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

Additional Guarantor means a company which becomes an Additional Guarantor in accordance with Clause 29 (*Changes to the Obligors*).

Additional Obligor means an Additional Borrower or an Additional Guarantor.

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

Agent's Spot Rate of Exchange means, on any day:

- (a) the Agent's spot rate of exchange; or
- (b) (if the Agent does not have an available spot rate of exchange) any other publicly available spot rate of exchange selected by the Agent (acting reasonably),

for the purchase of the relevant currency with the Base Currency in the London foreign exchange market at or about 11:00 a.m. on that day.

Amendment and Restatement Agreement means the amendment and restatement agreement in relation to this Agreement dated 22 July 2022 between, among others, the Parent and the Agent.

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.

Ancillary Commitment means, in relation to an Ancillary Lender and an Ancillary Facility, the maximum Base Currency Amount which that Ancillary Lender has agreed (whether or not subject to satisfaction of conditions precedent) to make available from time to time under an Ancillary Facility and which has been authorised as such under Clause 7 (*Ancillary Facilities*)

to the extent that amount is not cancelled or reduced under this Agreement or the Ancillary Documents relating to that Ancillary Facility.

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

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

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

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

- (a) the principal amount under each overdraft facility and on-demand short term loan facility (net of any Available Credit Balance);
- (b) the face amount of each guarantee, bond and letter of credit under that Ancillary Facility; and
- (c) the amount fairly representing the aggregate exposure (excluding interest and similar charges) of that Ancillary Lender under each other type of accommodation provided under that Ancillary Facility,

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

Annual Financial Statements has the meaning given to that term in Clause 23 (*Information undertakings*).

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.

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

Availability Period means the period from and including the date of this Agreement to but excluding the date falling one Month before the Termination Date.

Available Commitment means a Lender's Commitment minus (subject as set out below):

- (a) the Base Currency Amount of its participation in any outstanding Loans and the Base Currency Amount of the aggregate of its (and its Affiliate's) Ancillary Commitments; and
- (b) in relation to any proposed Loan, the Base Currency Amount of its participation in any other Loans that are due to be made on or before the proposed Utilisation Date and the Base Currency Amount of the aggregate of its (and its Affiliate's) Ancillary Commitment in relation to any new Ancillary Facility that is due to be made available on or before the proposed Utilisation Date.

For the purposes of calculating a Lender's Available Commitment in relation to any proposed Loan the following amounts shall not be deducted from that Lender's Commitment:

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

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

Available Facility means the aggregate for the time being of each Lender's Available Commitment.

Base Case Model means the financial model including profit and loss, balance sheet and cashflow projections in agreed form relating to the Group prepared by the Parent.

Base Currency means sterling.

Base Currency Amount means:

- (a) in relation to a Loan, the amount specified in the Utilisation Request delivered by a Borrower for that Loan (or, if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is three Business Days before the Utilisation Date or, if later, on the date the Agent receives the Utilisation Request in accordance with the terms of this Agreement); and
- (b) in relation to an Ancillary Commitment, the amount specified as such in the notice delivered to the Agent by the Parent pursuant to Clause 7.2 (*Availability*) (or, if the amount specified is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is three Business Days before the Ancillary Commencement Date for that Ancillary Facility or, if later, the date the Agent receives the notice of the Ancillary Commitment in accordance with the terms of this Agreement),

as adjusted to reflect any repayment, prepayment, consolidation or division of a Loan, or (as the case may be) cancellation or reduction of an Ancillary Facility.

Borrower means the Original Borrower or an Additional Borrower unless it has ceased to be a Borrower in accordance with Clause 29 (*Changes to the Obligors*).

Break Costs means any amount specified as such in the applicable Reference Rate Terms.

Budget means:

- (a) in relation to the period beginning on 1 January 2020 and ending on 31 December 2020, the Base Case Model to be delivered by the Parent to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*); and

- (b) in relation to any other period, any budget delivered by the Parent to the Agent in respect of that period pursuant to Clause 23.6 (*Budget*).

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

- (a) (in relation to any date for payment or purchase of a currency other than euro) the principal financial centre of the country of that currency;
- (b) (in relation to any date for payment or purchase of euro) any TARGET Day; or
- (c) (in relation to:
 - (i) the fixing of an interest rate in relation to a Term Rate Loan;
 - (ii) any date for payment or purchase of an amount relating to a Compounded Rate Loan; or
 - (iii) the determination of the first day or the last day of an Interest Period for a Compounded Rate Loan, or otherwise in relation to the determination of the length of such an Interest Period),

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

Capital Expenditure has the meaning given to that term in Clause 24.1 (*Financial definitions*).

Cash means, at any time, cash denominated in sterling, euros or dollars in hand or at bank and (in the latter case) credited to an account in the name of a Group Company with an Acceptable Bank and to which a Group Company is alone (or together with other Group Companies) beneficially entitled and for so long as:

- (a) that cash is repayable on demand;
- (b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of any Group Company or of any other person whatsoever or on the satisfaction of any other condition;
- (c) there is no Security over that cash except for Transaction Security or any Permitted Security constituted by security in favour of account-holding banks arising under their standard general terms and conditions or a netting or set-off arrangement entered into by members of the Group in the ordinary course of their banking arrangements; and
- (d) the cash is freely and immediately available to be applied in repayment or prepayment of the Facilities.

Cash Equivalent Investments means at any time:

- (a) certificates of deposit maturing within one year after the relevant date of calculation and issued by an Acceptable Bank;
- (b) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom, any member state

of the European Economic Area or any Participating Member State or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;

- (c) commercial paper not convertible or exchangeable to any other security:
 - (i) for which a recognised trading market exists;
 - (ii) issued by an issuer incorporated in the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State;
 - (iii) which matures within one year after the relevant date of calculation; and
 - (iv) which has a credit rating of either A-1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody's Investors Service Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;
- (d) sterling bills of exchange eligible for rediscount at the Bank of England and accepted by an Acceptable Bank (or their dematerialised equivalent);
- (e) any investment in money market funds which:
 - (i) have a credit rating of either A-1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody's Investors Service Limited; and
 - (ii) invest substantially all their assets in securities of the types described in paragraphs (a) to (d) above,to the extent that investment can be turned into cash on not more than 30 days' notice; or
- (f) any other debt security approved by the Majority Lenders,

in each case, denominated in sterling, euros or dollars to which any Group Company is (alone or together with other Group Companies) beneficially entitled at that time and which is not issued or guaranteed by any Group Company or subject to any Security (other than Security arising under the Transaction Security Documents).

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

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

Change of Control means any person or group of persons acting in concert gains direct or indirect control of the Parent. For the purposes of this definition:

- (a) **control** of the Parent means:

- (i) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (A) cast, or control the casting of, more than 30 per cent. of the maximum number of votes that might be cast at a general meeting of the Parent;
 - (B) appoint or remove all, or the majority, of the directors or other equivalent officers of the Parent; or
 - (C) give directions with respect to the operating and financial policies of the Parent with which the directors or other equivalent officers of the Parent are obliged to comply; or
 - (ii) the holding beneficially of more than 30% of the issued share capital of the Parent (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital); and
- (b) **acting in concert** means, a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition directly or indirectly of shares in the Parent by any of them, either directly or indirectly, to obtain or consolidate control of the Parent.

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 on which the first Loan is made or is to be made.

Code means the US Internal Revenue Code of 1986, as amended.

Commitment means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Commitment" in Part 2 of Schedule 1 (*The Original Parties*) and the amount of any other Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*) and Clause 2.4 (*Accordion Option*); and
- (b) in relation to any other Lender, the amount in the Base Currency of any Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*) and Clause 2.4 (*Accordion Option*),

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

Compliance Certificate means a certificate substantially in the form set out in Schedule 8 (*Form of Compliance Certificate*), or otherwise in form and substance satisfactory to the Agent.

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

Compounded Rate Interest Payment means the aggregate amount of interest that:

- (a) is, or is scheduled to become, payable under any Finance Document; and

(b) relates to a Compounded Rate Loan.

Compounded Rate Loan means, any Loan or, if applicable, Unpaid Sum which is not a Term Rate Loan.

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

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

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

Confidential Information means all information relating to the Parent, any Obligor, the Group, the Finance Documents or the 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 the Facility from either:

- (a) any Group Company or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any Group Company 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 (*Confidential Information*); or
 - (B) is identified in writing at the time of delivery as non-confidential by any Group Company or any of its advisers; or
- (ii) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and 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
- (iii) any Funding Rate.

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

Constitutional Documents means the certificate of incorporation (and any certificate of incorporation on change of name), the memorandum of association and the articles of association of the Parent.

CTA means the Corporation Tax Act 2009.

Cumulative Compounded RFR Rate means, in relation to an Interest Period for a Compounded Rate Loan, the percentage rate per annum determined by the Agent (or by any other Finance Party which agrees to determine that rate in place of the Agent) in accordance with the methodology set out in Schedule 17 (*Cumulative Compounded RFR Rate*) or in any relevant Compounding Methodology Supplement.

Daily Non-Cumulative Compounded RFR Rate means, in relation to any RFR Banking Day during an Interest Period for a Compounded Rate Loan, the percentage rate per annum determined by the Agent (or by any other Finance Party which agrees to determine that rate in place of the Agent) in accordance with the methodology set out in Schedule 16 (*Daily Non-Cumulative Compounded RFR Rate*) or in any relevant Compounding Methodology Supplement.

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

Czech Act on Business Corporations means the Act of the Czech Republic No. 90/2012 Coll., the Act on Business Corporations, as amended.

Czech Borrower means a Borrower incorporated in the Czech Republic.

Czech Guarantor means a Guarantor incorporated in the Czech Republic.

Czech Obligor means a Czech Borrower or a Czech Guarantor.

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

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

any Commitment or amount outstanding under this Agreement.

Default means an Event of Default or any event or circumstance 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.

Defaulting Lender means any Lender:

- (a) which has failed to make its participation in a Loan available (or has notified the Agent or the Parent (which has notified the Agent) that it will not make its participation in a Loan available) by the Utilisation Date of that Loan in accordance with Clause 5.4 (*Lenders' participation*);

- (b) which has otherwise rescinded or repudiated a Finance Document; or
- (c) with respect to which an Insolvency Event has occurred and is continuing,
unless, in the case of paragraph (a) above:
 - (i) its failure to pay is caused by:
 - (A) administrative or technical error; or
 - (B) a Disruption Event; andpayment is made within 5 Business Days of its due date; or
 - (ii) the Lender is disputing in good faith whether it is contractually obliged to make the payment in question.

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

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

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

Disruption Event means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the 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.

Dutch Obligor means a Borrower or a Guarantor incorporated in the Netherlands.

EBITDA has the meaning given to that term in Clause 24.1 (*Financial definitions*).

Effective Date has the meaning given to this term in the Amendment and Restatement Agreement.

Eligible Institution means any Lender or other bank, financial institution, trust, fund or other entity selected by the Parent and which, in each case, is not a Group Company.

Employee Plan means any "employee benefit plan" as defined in section 3(2) of ERISA which is or was sponsored, maintained or contributed to by, or required to be contributed by, an Obligor or any ERISA Affiliate or with respect to which an Obligor or any ERISA Affiliate has or could reasonably be expected to have liability, contingent or otherwise.

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

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

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

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

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

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

ERISA means, at any date, the United States Employee Retirement Income Security Act of 1974 and the regulations promulgated under it, as the same may from time to time be amended.

ERISA Affiliate means each person (as defined in Section 3(9) of ERISA) that is a member of a controlled group of, or under common control with, any Obligor within the meaning of Section 414(b), (c), (m) or (o) of the Code.

Event of Default means any event or circumstance specified as such in Clause 26 (*Events of Default*).

Existing HSBC Facilities means any Financial Indebtedness of a Group Company with the Original Lender or its Affiliate as at the date of this Agreement.

Extension Option means the option of the Parent to request an extension of the Termination Date under Clause 2.3 (*Extension Option*).

Extension Request means a request by the Parent under Clause 2.3 (*Extension Option*) to extend the Termination Date, substantially in the form of Schedule 12 (*Form of Extension Request*).

Facility means the revolving credit facility made available under this Agreement as described in paragraph (a) of Clause 2.1 (*The Facility*).

Facility Office means:

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

Fallback Interest Period means, in relation to a Term Rate Loan, the period specified as such in the applicable Reference Rate Terms.

FATCA means:

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

FATCA Application Date means:

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

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

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

Fee Letter means:

- (a) any letter or letters dated on or about either the date of this Agreement or the Effective Date between the Arranger and the Parent (or the Agent and the Parent or the Security Agent and the Parent) setting out any of the fees referred to in Clause 15

(Fees) or any of the fees referred to in the Amendment and Restatement Agreement;
and

- (b) any agreement setting out fees payable to a Finance Party referred to in paragraph (f) of Clause 2.2 (*Increase*), Clause 2.4 (*Accordion Option*) or Clause 15.5 (*Interest, commission and fees on Ancillary Facilities*) or under any other Finance Document.

Finance Document means this Agreement, any Accession Deed, any Ancillary Document, any Compliance Certificate, any Fee Letter, any Resignation Letter, any Transaction Security Document, any Utilisation Request, the Amendment and Restatement Agreement, any Reference Rate Supplement, any Compounding Methodology Supplement and any other document designated as a Finance Document by the Agent and the Parent.

Finance Lease has the meaning given to that term in Clause 24.1 (*Financial definitions*).

Finance Party means the Agent, the Arranger, the Security Agent, a Lender or any Ancillary Lender.

Financial Indebtedness means any indebtedness for or in respect of:

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
- (c) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of Finance Leases;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirement for de-recognition under the Accounting Principles);
- (f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of (i) an underlying liability of an entity which is not a Group Company which liability would fall within one of the other paragraphs of this definition or (ii) any liabilities of any Group Company relating to any post-retirement benefit scheme;
- (h) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before the Termination Date or are otherwise classified as borrowings under the Accounting Principles;
- (i) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the

agreement is in respect of the supply of assets or services and payment is due more than 60 days after the date of supply;

- (j) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles (but for the avoidance of doubt excluding any trade credit given to any Group Company in the ordinary course of trade on the provider's normal terms of business); and
- (k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above.

Financial Quarter means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

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

F.R.S. Board means the Board of Governors of the Federal Reserve System of the United States or any successor thereto.

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

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

Group means the Parent and each of its Subsidiaries for the time being.

Group Company means any member of the Group.

Group Structure Chart means the group structure chart in the agreed form, delivered to the Agent pursuant to Schedule 2 (*Conditions precedent*).

Guarantor means an Existing Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 29 (*Changes to the Obligors*).

Haemostatik Loan means the loan of £7,900,000 provided by the Parent to Haemostatik Ltd.

Historic Primary Term Rate means, in relation to any Term Rate Loan, the most recent applicable Primary Term Rate for a period equal in length to the Interest Period of that Loan and which is as of a day which is no more than 2 Business Days before the Quotation Day.

HMT means Her Majesty's Treasury of the United Kingdom.

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

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

Impaired Agent means the Agent at any time when:

- (a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;
- (b) the Agent otherwise rescinds or repudiates a Finance Document;
- (c) (if the Agent is also a Lender) it is a Defaulting Lender under paragraph (a) or (b) of the definition of **Defaulting Lender**; or
- (d) an Insolvency Event has occurred and is continuing with respect to the Agent;

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

- (i) its failure to pay is caused by:
 - (A) administrative or technical error; or
 - (B) a Disruption Event; andpayment is made within 5 Business Days of its due date; or
- (ii) the Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

Increase Confirmation means a confirmation substantially in the form set out in Schedule 11 (*Form of Increase Confirmation*).

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

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.

Insolvency Regulation means Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast).

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 Group Company (which may now or in the future subsist).

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 12.4 (*Default interest*).

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

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

each of which is as of a day which is no more than 2 Business Days before the Quotation Day.

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

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

each of which is as of a day which is no more than 2 Business Days before the Quotation Day.

ITA means the Income Tax Act 2007.

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

Legal Opinion means any legal opinion delivered to the Agent under Clause 4.1 (*Initial conditions precedent*) or Clause 29 (*Changes to the Obligors*) or as a condition precedent under the Amendment and Restatement Agreement.

Legal Reservations means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court, and the limitations on enforcement imposed by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;
- (c) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and
- (d) any other matters which are set out as qualifications or reservations as to matters of law of general application in the Legal Opinions.

Lender means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party as a Lender in accordance with Clause 2.2 (*Increase*), Clause 2.4 (*Accordion Option*) or Clause 27 (*Changes to the Lenders*),

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

Lender Accordion Accession Agreement means an agreement substantially in the form set out in Part 3 of Schedule 13 (*Accordion Option*).

Limitation Acts means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984.

LMA means the Loan Market Association.

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

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

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

Margin means:

- (a) prior to the Effective Date, the amount as calculated in accordance with this Agreement prior to the Effective Date; and
- (b) on and from the Effective Date, 2.10 per cent. per annum,

but if:

- (i) no Event of Default has occurred and is continuing; and
- (ii) Adjusted Leverage in respect of the most recently completed Relevant Period is within a range set out below,

then the Margin for each Loan for each Relevant Period ending after the Effective Date will be the percentage per annum set out below opposite that range in the table below:

Adjusted Leverage	Margin (per cent. per annum)
Greater than or equal to 3.0:1	3.60
Less than 3.0:1 but greater than or equal to 2.5:1	3.30
Less than 2.5:1 but greater than or equal to 2.0:1	3.00
Less than 2.0:1 but greater than or equal to 1.5:1	2.70
Less than 1.5:1 but greater than or equal to 1.0:1	2.40
Less than 1.0:1	2.10

However:

- (i) any increase or decrease in the Margin for a Loan shall take effect on the date (the **reset date**) which is five Business Days after receipt by the Agent of the Compliance Certificate for the applicable Relevant Period pursuant to Clause 23.4 (*Provision and contents of Compliance Certificate*);
- (ii) if, following receipt by the Agent of the Compliance Certificate related to the relevant Annual Financial Statements, that Compliance Certificate does not confirm the basis for a reduced or, as applicable, increased Margin, then the provisions of paragraph (b) of Clause 12.3 (*Payment of interest*) shall apply and the Margin for that Loan shall be the percentage per annum determined using the table above and the revised ratio of Adjusted Leverage calculated using the figures in that Compliance Certificate;
- (iii) while an Event of Default is continuing, the Margin for each Loan shall be the highest percentage per annum set out above, provided that upon such Event of Default ceasing to be continuing the Margin will be recalculated on the basis set out above using the most recent Compliance Certificate and any such change shall take effect as of the date that the Agent is satisfied that the relevant Event of Default ceased to be continuing; and
- (iv) for the purpose of determining the Margin, **Adjusted Leverage** and **Relevant Period** shall be determined in accordance with Clause 24.1 (*Financial definitions*).

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

Material Adverse Effect means a material adverse effect on:

- (a) the business, operations, property or condition (financial or otherwise) 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;
- (c) the ability of the Parent to comply with its obligations under Clause 24.2 (*Financial condition*); or
- (d) subject to the Legal Reservations, the validity or enforceability of, or the effectiveness or ranking of any Security granted or purporting to be granted pursuant to any of, the Finance Documents or the rights or remedies of any Finance Party under any of the Finance Documents.

Material Company means, at any time:

- (a) an Obligor; or
- (b) a wholly-owned Group Company that holds shares in an Obligor; or
- (c) a Subsidiary of the Parent which:
 - (i) is listed in Schedule 10 (*Material Companies*); or

- (ii) has earnings before interest, tax, depreciation and amortisation calculated on the same basis as EBITDA representing five per cent or more of EBITDA or has gross assets or turnover (excluding intra-group items) representing five per cent, or more of the gross assets or turnover of the Group, calculated on a consolidated basis.

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

A report by the Parent's Auditors that a Subsidiary is or is not a Material Company shall, in the absence of manifest error, be conclusive and binding on all Parties.

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

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-Obligor means any Group Company that is not an Obligor.

Obligor means a Borrower or a Guarantor.

Obligors' Agent means the Parent, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to Clause 2.6 (*Obligors' Agent*).

OFAC means the Department of the Treasury's Office of Foreign Assets Control of the United States of America.

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

Original Financial Statements means:

- (a) in relation to the Parent, the audited consolidated financial statements (including all additional information and notes to the accounts) together with the relevant directors' report and Auditors' report for its Financial Year ended 31 December 2018;
- (b) in relation to each Original Obligor other than the Parent, its audited financial statements for its Financial Year ended 31 December 2018; and

- (c) in relation to any other Obligor, its annual financial statements (audited if required to be audited under the applicable laws in the relevant jurisdiction) delivered to the Agent as required by Clause 29 (*Changes to the Obligors*).

Original Guarantor each Guarantor that was a party to this Agreement as a Guarantor as at the date of this Agreement.

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

Original Obligor means an Original Borrower or an Original Guarantor.

Parallel Debt has the meaning given to that term in paragraph (a) of Clause 31.2 (*Parallel Debt*).

Parent's Auditors means KPMG or any other firm appointed by the Parent to act as its statutory auditors.

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.

Pensions Regulator means the body corporate called the Pensions Regulator established under Part I of the Pensions Act 2004.

Permitted Acquisition means:

- (a) an acquisition by a Group Company of an asset sold, leased, transferred or otherwise disposed of by another Group Company in circumstances constituting a Permitted Disposal;
- (b) an acquisition of shares or securities pursuant to a Permitted Share Issue;
- (c) an acquisition of securities which are Cash Equivalent Investments so long as, if acquired by a Group Company which has granted (or is otherwise required under the terms of the Finance Documents to grant) Transaction Security, those Cash Equivalent Investments become subject to the Transaction Security as soon as is reasonably practicable;
- (d) an acquisition for cash consideration, Permitted Deferred Consideration and/or consideration constituted by the issue of shares in the Parent pursuant to a Permitted Share Issue (**Share Consideration**) of (A) all of the issued share capital of a limited liability company or (B) (if the acquisition is made by a limited liability company whose sole purpose is to make the acquisition) a business or undertaking carried on as a going concern (in each case, the **Acquisition Target**), but only if:
 - (i) no Default is continuing on the closing date for the acquisition or would occur as a result of the acquisition;

- (ii) the Acquisition Target is not incorporated in, or is established in, and does not carry on its principal business in, a country or territory that is the target or subject of Sanctions and is engaged in a business substantially the same as that carried on by the Group;
- (iii) the EBITDA of the Acquisition Target is projected to be positive in the 12 months following completion of the Acquisition;
- (iv) the consideration (including any Permitted Deferred Consideration and/or Share Consideration, as well as all associated costs and expenses) for the acquisition and any Financial Indebtedness or other assumed actual or contingent liability, in each case remaining in the acquired company (or any such business) at the date of acquisition (when aggregated with the consideration (including any Permitted Deferred Consideration and/or Share Consideration, as well as all associated costs and expenses) for any other Permitted Acquisition and any Financial Indebtedness or other assumed actual or contingent liability, in each case remaining in any such acquired companies or businesses at the time of acquisition (the **Total Purchase Price**) together with the amount of any investment in any Permitted Joint Venture) does not exceed £120,000,000 (or its equivalent) in total during the period from the Effective Date until the Termination Date and does not exceed £30,000,000 (or its equivalent) for each single acquisition;
- (v) the Parent has delivered to the Agent not later than 5 Business Days before legally committing to make such acquisition a certificate signed by two directors of the Parent to which is attached a copy of the latest audited accounts (or if not available, management accounts) of the Acquisition Target and setting out calculations showing in reasonable detail that:
 - (A) the Parent would have remained in compliance with its obligations under Clause 24 (*Financial covenants*) if the covenant tests were recalculated for the Relevant Period ending on the most recent Quarter Date consolidating the financial statements of the target company (consolidated if it has Subsidiaries) or business with the financial statements of the Group for such period on a pro forma basis and as if the consideration for the proposed acquisition had been paid at the start of that Relevant Period; and
 - (B) that, on a twelve month look forward basis and taking into account the proposed acquisition, the Parent will remain in compliance with its obligations under Clause 24 (*Financial covenants*) on the last day of each Relevant Period falling in the twelve Months following the proposed acquisition;
- (vi) in the case of a single acquisition the Total Purchase Price of which exceeds £10,000,000 (or its equivalent), the Parent has supplied to the Agent for the Lenders (at the same time as or prior to the certificate referred to above), a copy of any due diligence reports obtained by the Group in relation to the Acquisition Target, which may be on a reliance or on a non-reliance basis (subject to the Agent and any other Finance Party signing any required hold harmless letter); and

- (vii) in the case of a single acquisition the Total Purchase Price of which exceeds £20,000,000 (or its equivalent), the Parent has supplied to the Agent for the Lenders (at the same time as or prior to the certificate referred to above), copies of financial and legal due diligence reports, on a reliance basis to the extent reliance is obtainable in accordance with the general policy of the provider of such reports (subject to the Agent and any other Finance Party signing any required reliance letter), the Parent having used its best endeavours to secure such reliance.

Permitted Deferred Consideration means, in respect of any Permitted Acquisition, an amount of deferred consideration which must be no greater than the 50 per cent. of the Total Purchase Price for that acquisition. For the avoidance of doubt, the amount of any earn out liabilities will be ignored for the purposes of this calculation unless, at the time of entering into a legally binding commitment with respect to that Permitted Acquisition, the quantum of such liabilities would (to the extent the acquisition had been completed) be recognised in the relevant accounts as non-contingent liabilities in accordance with the Accounting Principles.

Permitted Disposal means any sale, lease, licence, transfer or other disposal (each a **Disposal**) which, except in the case of paragraph (b) , is on arm's length terms:

- (a) of trading stock or cash made by any Group Company in the ordinary course of trading of the disposing entity;
- (b) of any asset by a Group Company (the **Disposing Company**) to another Group Company (the **Acquiring Company**) provided that no Default shall occur as a result of such Disposal, and the Parent remains in compliance with its obligations under Clause 25.29 (*Guarantors*) and Clause 25.30 (*Sanctions*) following such Disposal;
- (c) of assets (other than shares, businesses, Real Property or Intellectual Property) in exchange for other assets comparable or superior as to type, value and quality (other than an exchange of a non-cash asset for cash);
- (d) of obsolete or redundant assets provided that where such assets have a greater than de minimis cash value that is capable of being obtained, such disposal is made for cash;
- (e) of Cash Equivalent Investments for cash or in exchange for other Cash Equivalent Investments;
- (f) constituted by a licence of Intellectual Property permitted by Clause 25.25 (*Intellectual Property*);
- (g) to a Joint Venture, to the extent permitted by Clause 25.10 (*Joint ventures*);
- (h) arising as a result of any Permitted Security or as part of a Permitted Reorganisation; and
- (i) of assets (other than shares) for cash where the higher of the market value and net consideration receivable (when aggregated with the higher of the market value and net consideration receivable for any other sale, lease, licence, transfer or other disposal not allowed under the preceding paragraphs or as a Permitted Transaction) does not exceed £250,000 (or its equivalent) in total during the period from the

Effective Date to the Termination Date and does not exceed £100,000 (or its equivalent) in any Financial Year of the Parent.

Permitted Financial Indebtedness means Financial Indebtedness:

- (a) arising under the Existing HSBC Facilities;
- (b) arising in respect of corporate credit card facilities used by a Group Company in the ordinary course of trading, provided that the aggregate principal amount outstanding thereunder for all members of the Group does not exceed £200,000 at any time;
- (c) to the extent covered by a letter of credit, guarantee or indemnity issued under an Ancillary Facility;
- (d) arising under a foreign exchange transaction entered into in connection with protection against fluctuation in currency rates where that foreign exchange exposure arises in the ordinary course of trade or in respect of Loans made in Optional Currencies, but not a foreign exchange transaction for investment or speculative purposes;
- (e) arising under a Permitted Loan or a Permitted Guarantee or as permitted by Clause 25.28 (*Treasury Transactions*);
- (f) of any person acquired by a Group Company after the Closing Date which is incurred under arrangements in existence at the date of acquisition, but not incurred or increased (save by way of accrual or capitalisation of interest on the terms in existence as at the date of acquisition) or having its maturity date extended in contemplation of, or since, that acquisition, and outstanding only for a period of no more than three months following the date of acquisition;
- (g) under Finance Leases of vehicles, plant, equipment or computers, **provided that** the aggregate capital value of all such items so leased under outstanding leases by Group Companies does not exceed £100,000 (or its equivalent in other currencies) at any time;
- (h) arising pursuant to any Permitted Deferred Consideration; and
- (i) not permitted by the preceding paragraphs or as a Permitted Transaction and the outstanding principal amount of which does not exceed £500,000 (or its equivalent) in aggregate for the Group at any time.

Permitted Gross Outstandings means, in relation to a Multi-account Overdraft, any amount, not exceeding its Designated Gross Amount, which is the amount of the Gross Outstandings of that Multi-account Overdraft.

Permitted Guarantee means:

- (a) the endorsement of negotiable instruments in the ordinary course of trade;
- (b) any performance or similar bond guaranteeing performance by a Group Company under any contract entered into in the ordinary course of trade;
- (c) any guarantee of a Joint Venture to the extent permitted by Clause 25.10 (*Joint ventures*);

- (d) any guarantee permitted under Clause 25.19 (*Financial Indebtedness*) or otherwise granted in respect of any Permitted Financial Indebtedness;
- (e) guarantees to landlords in respect of rent payable by a Group Company in respect of real property used by that Group Company in the ordinary course of its business on that landlord's standard terms of business, provided that the aggregate amount of liabilities guaranteed by such arrangements does not exceed £500,000 in aggregate for all Group Companies at any time;
- (f) any guarantee given in respect of the netting or set-off arrangements permitted pursuant to paragraph (c) of the definition of Permitted Security;
- (g) any indemnity given in the ordinary course of the documentation of an acquisition or disposal transaction which is a Permitted Acquisition or Permitted Disposal which indemnity is in a customary form and subject to customary limitations;
- (h) arising under guarantees entered into pursuant to Section 2:403 of the Dutch Civil Code in respect of a Group Company incorporated in the Netherlands and any residual liability with respect to such guarantees arising under Section 2:404 of the Dutch Civil Code; or
- (i) any guarantee or guarantees not permitted by the preceding paragraphs and the outstanding liability thereunder does not exceed £250,000) or its equivalent in other currencies) in aggregate for the Group at any time.

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

- (a) the Joint Venture is engaged in a business substantially the same as that carried on by the Group; and
- (b) in any financial year of the Parent, the aggregate (the **Joint Venture Investment**) of:
 - (i) all amounts subscribed for shares in, lent to, or invested in all such Joint Ventures by any Group Company;
 - (ii) the contingent liabilities of any Group Company under any guarantee given in respect of the liabilities of any such Joint Venture; and
 - (iii) the market value of any assets transferred by any Group Company to any such Joint Venture,

when aggregated with the Total Purchase Price in respect of Permitted Acquisitions in that Financial Year permitted pursuant to paragraph (d) of the definition of **Permitted Acquisition** does not exceed £1,000,000 (or its equivalent in other currencies).

Permitted Loan means:

- (a) any trade credit extended by any Group Company to its customers on normal commercial terms and in the ordinary course of its trading activities;
- (b) Financial Indebtedness which is referred to in the definition of, or otherwise constitutes, Permitted Financial Indebtedness (except under paragraph (d) of that definition);

- (c) a loan made to a Joint Venture to the extent permitted under Clause 25.10 (*Joint ventures*);
- (d) a loan made by an Obligor to another Obligor or made by a Group Company which is not an Obligor to another Group Company;
- (e) the Haemostatik Loan is an amount not exceeding £7,900,000 on the terms in existence as at the date of this Agreement, and provided that no amount that is repaid or written off under such loan can subsequently be re-borrowed;
- (f) any deferred consideration arising in respect of Permitted Disposals provided that such deferred consideration does not exceed 50 per cent. of the total consideration receivable in respect of that disposal;
- (g) any loan made or credit extended by an Obligor to a Group Company which is not an Obligor so long as the aggregate amount of the Financial Indebtedness made in reliance on this paragraph (g) does not exceed £2,000,000 (or its equivalent in other currencies) at any time;
- (h) amounts arising in respect of payments due for services which have been provided by one Group Company to another Group Company on an arm's length basis for due consideration until such time as those services are paid for in accordance with the Group's usual procedures for settlement of such amounts on a quarterly basis,

so long as in the case of paragraphs (d) and (g) above the creditor of such Financial Indebtedness shall (if it is an Obligor which has granted (or is required to grant) Transaction Security) grant security over its rights in respect of such Financial Indebtedness in favour of the Secured Parties on terms acceptable to the Agent (acting on the instructions of the Majority Lenders).

Permitted Reorganisation means:

- (a) in the case of any Obligor (other than the Parent) a re-organisation, merger, liquidation or amalgamation, in each case, on a solvent basis of that Obligor (the **Old Obligor**) if:
 - (i) no Default is continuing or would result from the proposed re-organisation, merger, liquidation or amalgamation;
 - (ii) the Parent is and remains in compliance with its obligations under Clause 25.29 (*Guarantors*) on a pro-forma basis following such re-organisation, merger, liquidation or amalgamation and the provisions of 25.29(b) (*Guarantors*) do not apply to a greater extent following such re-organisation, merger, liquidation or amalgamation;
 - (iii) the re-organisation, merger, liquidation or amalgamation takes place within (and the entity which results from the re-organisation, merger, liquidation or amalgamation is also incorporated in) the same jurisdiction as the jurisdiction of incorporation of the Old Obligor and if not already an Obligor the entity which results from the merger or amalgamation shall on completion of such merger or amalgamation become an Additional Obligor pursuant to Clause 29 (*Changes to the Obligors*);

- (iv) any payments or assets distributed as a result of such reorganisation, merger, liquidation or amalgamation are distributed to the Old Obligor's shareholders (following settlement of liabilities to creditors, if any) (provided that if the Old Obligor the subject of the reorganisation, merger, liquidation or amalgamation is not wholly owned, not greater than a pro rata proportion of such payments or assets may be distributed to its minority shareholders); and
 - (v) the reorganisation, merger, liquidation or amalgamation would not have an adverse impact on the Transaction Security (or any interests of the Finance Parties thereunder) or on any guarantee granted in favour of the Finance Parties in any material respect; and
- (b) the solvent re-organisation, merger, liquidation or amalgamation of any Group Company which is not an Obligor so long as any payments or assets distributed as a result of such re-organisation, merger, liquidation or amalgamation are distributed to other Group Companies (provided that if the Group Company the subject of the reorganisation, merger, liquidation or amalgamation is not wholly owned not greater than a pro rata proportion of such payments or assets may be distributed to its minority shareholders).

Permitted Security means:

- (a) any Security given in connection with the Existing HSBC Facilities;
- (b) any lien arising by operation of law and in the ordinary course of trading, and not as a result of any default or omission by any Group Company;
- (c) any netting or set-off arrangement entered into by any Group Company with a Lender or an Ancillary Lender or in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of Group Companies (including a Multi-account Overdraft) but only so long as (i) such arrangement does not permit credit balances of Obligors to be netted or set off against debit balances of Group Companies which are not Obligors and (ii) such arrangement does not give rise to other Security over the assets of Obligors in support of liabilities of Group Companies which are not Obligors except, in the case of (i) and (ii) above, to the extent such netting, set-off or Security relates to, or is granted in support of, a loan permitted pursuant to paragraph (g) of the definition of **Permitted Loan**;
- (d) any payment or close out netting or set-off arrangement pursuant to any Treasury Transaction or foreign exchange transaction entered into by a Group Company which constitutes Permitted Financial Indebtedness, excluding any Security or Quasi-Security under a credit support arrangement;
- (e) any Security or Quasi-Security over or affecting any asset acquired by a Group Company after the Closing Date if:
 - (i) the Security or Quasi-Security was not created in contemplation of the acquisition of that asset by a Group Company;
 - (ii) the principal amount secured has not been increased in contemplation of or since the acquisition of that asset (otherwise than by the capitalisation of

- interest on terms in existence as at the date of acquisition) by a Group Company; and
- (iii) the Security or Quasi-Security is removed or discharged within three Months of the date of acquisition of such asset;
- (f) any Security or Quasi-Security over or affecting any asset of any company which becomes a Group Company after the Closing Date, where the Security or Quasi-Security is created prior to the date on which that company becomes a Group Company; if
- (i) the Security or Quasi-Security was not created in contemplation of the acquisition of that company;
 - (ii) the principal amount secured has not increased in contemplation of or since the acquisition of that company (otherwise than by the capitalisation of interest on terms in existence as at the date of acquisition); and
 - (iii) the Security or Quasi-Security is removed or discharged within three Months of that company becoming a Group Company;
- (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 Group Company in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any Group Company;
- (h) any Quasi-Security arising as a result of a disposal which is a Permitted Disposal;
- (i) any Security or Quasi-Security arising as a consequence of any Finance Lease permitted pursuant to paragraph (g) of the definition of **Permitted Financial Indebtedness**;
- (j) any netting or set-off or escrow arrangement entered into by a Group Company with a trading counterparty in the ordinary course of trading on such counterparty's standard terms of business;
- (k) any rent deposit or other equivalent arrangement entered into with a landlord in respect of any real property leased by a Group Company in the ordinary course of its business provided that the aggregate amount of liabilities secured by such arrangements does not exceed £1,000,000 in aggregate for all Group Companies at any time;
- (l) any Security arising under Article 24 or 25 of the general terms and conditions (Algemene Bank Voorwaarden) of any member of the Dutch Bankers' Association (Nederlandse Vereniging van Banken) or similar term applied by a financial institution in the Netherlands pursuant to its general terms and conditions; or
- (m) any Security securing indebtedness the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other indebtedness which has the benefit of Security given by any Group Company other than any permitted under paragraphs (a) to (l) above) does not exceed £150,000 (or its equivalent in other currencies).

Permitted Share Issue means an issue of:

- (a) ordinary shares by the Parent which by their terms are not redeemable prior to the Termination Date and where (i) such shares are of the same class and on the same terms as those initially issued by the Parent and (ii) such issue does not lead to a Change of Control; or
- (b) shares by a Group Company which is a Subsidiary to its immediate Holding Company for non-cash consideration where (if the existing shares of the Subsidiary are the subject of the Transaction Security) the newly-issued shares also become subject to the Transaction Security on the same terms.

Permitted Transaction means:

- (a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the Finance Documents or the Existing HSBC Facilities;
- (b) any step contemplated by the definition of a Permitted Reorganisation;
- (c) any conversion of the Haemostatik Loan into distributable reserves or share capital of Haemostatik Ltd or any other capitalisation, forgiveness, waiver, release or other discharge of that loan provided that it does not result in a material tax liability for the Group which would be due and payable prior to the Termination Date; or
- (d) transactions (other than (i) any sale, lease, license, transfer or other disposal and (ii) the granting or creation of Security or the incurring or permitting to subsist of Financial Indebtedness) conducted in the ordinary course of trading on arm's length terms.

Plan Assets means "plan assets" as defined in US Department of Labor Regulation 29 C.F.R. 2510.3-101, as modified by Section 3(42) of ERISA.

Primary Term Rate means the rate specified as such in the applicable Reference Rate Terms.

Qualifying Lender has the meaning given to that term in Clause 16 (*Tax gross-up and indemnities*).

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

Quasi-Security has the meaning given to that term in Clause 25.13 (*Negative pledge*).

Quotation Day means the day specified as such in the applicable Reference Rate Terms.

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

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

Real Property means:

- (a) any freehold, leasehold or immovable property; and

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

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

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

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

Reference Rate Terms means in relation to:

- (a) a currency;
- (b) a Loan or an Unpaid Sum in that currency;
- (c) an Interest Period for that Loan or Unpaid Sum (or other period for the accrual of commission or fees in a currency); or
- (d) any term of this Agreement relating to the determination of a rate of interest in relation to such a Loan or Unpaid Sum,

the terms set out for that currency, and (where such terms are set out for different categories of Loan, Unpaid Sum or accrual of commission or fees in that currency) for the category of that Loan, Unpaid Sum or accrual, in Schedule 15 (*Reference Rate Terms*) or in any Reference Rate Supplement.

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

Relevant Jurisdiction means, in relation to an Obligor:

- (a) its Original Jurisdiction;
- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it.

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

Relevant Period has the meaning given to that term in Clause 24.1 (*Financial definitions*).

Repayment Date means the last day of an Interest Period for a Loan.

Repeating Representations means each of the representations and warranties set out in Clauses 22.2 (*Status*) to 22.7 (*Governing law and enforcement*), paragraph (a) of Clause 22.11 (*No default*), paragraph (g) of Clause 22.12 (*No misleading information*), Clause 22.13 (*Financial Statements*), Clauses 22.20 (*Ranking*) to 22.22 (*Legal and beneficial ownership*), Clause 22.31 (*Sanctions*) and Clause 22.32 (*ERISA*).

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

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

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

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

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

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

Rollover Loan means one or more Loans:

- (a) made or to be made on the same day that a maturing Loan is due to be repaid;
- (b) the aggregate amount of which is equal to or less than the amount of the maturing Loan;
- (c) in the same currency as the maturing Loan (unless arising as a result of the operation of Clause 6.2 (*Unavailability of a currency*)); and
- (d) made or to be made to the same Borrower for the purpose of refinancing that maturing Loan.

Sanctions has the meaning given to that term in Clause 22.31 (*Sanctions*).

Secured Liabilities means the liabilities of the Obligors to the Secured Parties under or pursuant to the Finance Documents.

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

Security means a mortgage, charge, pledge, lien, assignment by way of security, retention of title provision, trust or flawed asset arrangement (for the purpose of, or which has the effect

of, granting security) or other security interest securing any obligation of any person or any other agreement or arrangement in any jurisdiction having a similar effect.

Security Property means:

- (a) the Transaction Security expressed to be granted in favour of the Security Agent as trustee for the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by an Obligor to pay amounts in respect of the Secured Liabilities to the Security Agent as trustee for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by an Obligor or any other person in favour of the Security Agent as trustee for the Secured Parties; and
- (c) 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 Finance Documents to hold as trustee on trust for the Secured Parties.

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

Separate Trustee means any separate trustee appointed by the Security Agent under Clause 31.23 (*Additional Security Agents*).

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

Subsidiary means:

- (a) a subsidiary undertaking within the meaning of section 1162 of the Act; and
- (b) any company which would be a subsidiary undertaking within the meaning of section 1162 of the Act but for any Security subsisting over the shares in that company from time to time.

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

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

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

Termination Date means, subject to the provisions of Clause 2.3 (*Extension Option*), 3 years from the Effective Date.

Term Rate Currency means:

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

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

Term Rate Loan means any Loan or, if applicable, Unpaid Sum in a Term Rate Currency to the extent that it is not, or has not become, a Compounded Rate Loan.

Term Reference Rate means, in relation to a Term Rate Loan:

- (a) the applicable Primary Term Rate as of the Quotation Time for a period equal in length to the Interest Period of that Loan; or
- (b) as otherwise determined pursuant to Clause 14.1 (*Interest calculation if no Primary Term Rate*)

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

Total Commitments means the aggregate of the Commitments, being £50,000,000 as at the Effective Date.

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:

- (a) listed as being a Transaction Security Document in paragraph 2.3 of Schedule 2 (*Conditions precedent*);
- (b) required to be delivered to the Agent under paragraph 14 of Part 2 of Schedule 2 (*Conditions precedent*);
- (c) listed as being a Transaction Security Document in Schedule 1 to the Amendment and Restatement Agreement; and
- (d) any other document entered into by any Obligor creating or expressed to create, or evidencing the grant of any Security in favour of the Secured Parties (or any of them) over all or any part of its assets in respect of the liabilities of any of the Obligors to the Secured Parties under any of the Finance Documents.

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

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

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

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

UBO Act means Czech Act No. 37/2021 Coll., on Registration of Ultimate Beneficial Owners.

UBO Register means the Register of Ultimate Beneficial Owners (in Czech *evidence skutečných majitelů*), established and maintained pursuant to the UBO Act.

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

US means the United States of America.

US Guarantor means each of:

- (a) PrimeVigilance USA, Inc., being a company incorporated in North Carolina, United States of America, with registration number 0547713;
- (b) PrimeVigilance Inc., being a company incorporated in Delaware, United States of America, with registration number 6075240;
- (c) Ergomed Clinical Research, Inc., being a company incorporated in Delaware, United States of America, with registration number 3919042;
- (d) MS Clinical Services, LLC, being a company incorporated in Texas, United States of America, with registration number 0801385683;
- (e) ADAMAS Consulting LLC, being a company incorporated in North Carolina, United States of America, with registration number 0927547; and
- (f) any company which becomes an Additional Guarantor in accordance with Clause 29 (*Changes to the Obligors*) and that is organized under the laws of the United States of America, any state thereof or the District of Columbia.

US Tax Obligor means:

- (a) a Borrower which is resident for tax purposes in the US; or
- (b) an Obligor some or all of whose payments under the Finance Documents are from sources within the US for US federal income tax purposes.

Utilisation means a utilisation of the 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 Schedule 3 (*Utilisation Request*).

VAT means:

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

1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
- (i) the **Agent**, the **Arranger**, any **Finance Party**, any **Lender**, any **Obligor**, any **Party**, any **Secured Party**, the **Security Agent** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents (including any Separate Trustee);
 - (ii) a document in **agreed form** is a document which is previously agreed in writing by or on behalf of the Parent and the Agent,
 - (iii) **assets** includes present, future, actual and contingent properties, revenues and rights of every description;
 - (iv) a Lender's **cost of funds** in relation to its participation in a Loan is a reference to the average cost (determined either on an actual or a notional basis) which that Lender would incur if it were to fund, from whatever source(s) it may reasonably select, an amount equal to the amount of that participation in that Loan for a period equal in length to the Interest Period of that Loan and to the Agent's **cost of funds** is a reference to the average cost (determined either on an actual or notional basis) which the Agent would incur if it were to fund, from whatever source(s) it may reasonably select, an amount equal to the amount referred to in paragraph (b) of Clause 35.4 (*Clawback and pre-funding*);
 - (v) a **Finance Document** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended, restated or replaced from time to time;
 - (vi) a **group of Lenders** includes all the Lenders;
 - (vii) **guarantee** means (other than in Clause 21 (*Guarantee and indemnity*)) any guarantee, letter of credit, bond, indemnity, documentary or other credit or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
 - (viii) **debt** or **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 and whether owed jointly or severally or in any other capacity;
 - (ix) a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);

- (x) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law being of a type which the person to whom it applies customarily complies) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - (xi) any **statute** or **statutory provision** includes any statute or statutory provision which amends, extends, consolidates or replaces it, or which has been amended, extended, consolidated or replaced by it, and any orders, regulations, instruments or other subordinate legislation made under it;
 - (xii) a time of day is a reference to London time;
 - (xiii) the **European interbank market** is to the interbank market for the euro operating in Participating Member States;
 - (xiv) a **Clause** or **Schedule** is to be construed as a reference to the relevant clause of, or schedule to, this Agreement; and
 - (xv) a reference to **the date of this Agreement** is to 13 March 2020.
- (b) The determination of the extent to which a rate is **for a period equal in length** to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
 - (c) Section, clause and schedule headings are for ease of reference only.
 - (d) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
 - (e) A Borrower providing **cash cover** for an Ancillary Facility means a Borrower paying an amount in the currency of the Ancillary Facility to an interest-bearing account in the name of the Borrower and the following conditions being met:
 - (i) the account is with the Ancillary Lender for which that cash cover is to be provided;
 - (ii) until no amount is or may be outstanding under that Ancillary Facility, withdrawals from the account may only be made to pay the relevant Finance Party amounts due and payable to it under this Agreement in respect of that Ancillary Facility; and
 - (iii) the Borrower has executed a security document over that account, in form and substance satisfactory to the Finance Party with which that account is held, creating a first ranking security interest over that account.
 - (f) A Default (other than an Event of Default) is **continuing** if it has not been remedied or waived and an Event of Default is **continuing** if it has not been waived.
 - (g) A Borrower **repaying** or **prepaying** Ancillary Outstandings means:

- (i) that Borrower providing cash cover in respect of those 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 a 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) A reference in this Agreement to a page or screen of an information service displaying a rate shall include:
 - (i) any replacement page of that information service which displays that rate; and
 - (ii) the appropriate page of such other information service which displays that rate from time to time in place of that information service,

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

- (j) A reference in this Agreement to a Central Bank Rate shall include any successor rate to, or replacement rate for, that rate.
- (k) Any Reference Rate Supplement relating to a currency overrides anything relating to that currency in:
 - (i) Schedule 15 (*Reference Rate Terms*); or
 - (ii) any earlier Reference Rate Supplement.
- (l) A Compounding Methodology Supplement relating to the Daily Non-Cumulative Compounded RFR Rate or the Cumulative Compounded RFR Rate overrides anything relating to that rate in:
 - (i) Schedule 16 (*Daily Non-Cumulative Compounded RFR Rate*) or Schedule 17 (*Cumulative Compounded RFR Rate*), as the case may be; or
 - (ii) any earlier Compounding Methodology Supplement.

1.3 Currency symbols and definitions

- (a) \$, USD and dollars denote the lawful currency of the United States of America.
- (b) £, GBP and sterling denote the lawful currency of the United Kingdom.
- (c) €, EUR and euro denote the single currency of the Participating Member States.

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) 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.
- (c) Any Receiver, Delegate or any person described in Clause 30.10 (*Exclusion of liability*), may, subject to this Clause 1.4 and the Third Parties Act, rely on any Clause of this Agreement which expressly confers rights on it.

1.5 Dutch terms

In this Agreement, where it relates to an Obligor incorporated in the Netherlands, a reference to:

- (a) **the Netherlands** means the European part of the Kingdom of The Netherlands and Dutch means in or of the Netherlands.
- (b) a **necessary action to authorise** where applicable, includes without limitation:
 - (i) any action required to comply with the Works Councils Act of the Netherlands (*Wet op de ondernemingsraden*);
 - (ii) obtaining unconditional positive advice (*advies*) from each competent works council which, if conditional, contains conditions which can reasonably be complied with and would not cause and are not reasonably likely to cause a breach with any term of any the Finance Documents;
- (c) a **legal relationship** includes a rechtsverhouding;
- (d) **Constitutional Documents** includes articles of association (*statuten*), deed of incorporation (*the akte van oprichting*) and an excerpt from the trade register of the Chamber of Commerce (*handelsregister van de Kamer van Koophandel*), relating to a Dutch Obligor;
- (e) **works council** includes a works council (*ondernemingsraad*), central works council (*centrale ondernemingsraad*), group works council (*groepsondernemingsraad*), SE works council (*SE-ondernemingsraad*) and staff meeting (*personeelsvergadering*) having jurisdiction over that Dutch Obligor;
- (f) a **security interest** or **security** includes any mortgage (*hypotheek*), pledge (*pandrecht*), retention of title arrangement (*eigendomsvoorbehoud*), right of retention (*recht van retentie*), right to reclamation (*recht van reclame*), and, any right in rem (*beperkt recht*), created for the purpose of granting security (*goederenrechtelijk zekerheidsrecht*);
- (g) a **winding-up, administration** or **dissolution** includes the Dutch Obligor being declared bankrupt (*failliet verklaard*) or dissolved (*ontbonden*);
- (h) a **moratorium** includes (*voorlopige surseance van betaling*) and a **moratorium is declared** or **occurs** includes (*voorlopige surseance verleend*);

- (i) **insolvency** includes a bankruptcy, moratorium and emergency regulation (*noodregeling*);
- (j) any **step** or **procedure** taken in connection with insolvency proceedings includes a Dutch Obligor having filed a notice under section 36 of the Tax Collection Act of the Netherlands (*Invorderingswet 1990*);
- (k) a **receiver** or an **administrative receiver** does not include a *curator* or *bewindvoerder*;
- (l) a **liquidator** includes a curator or a *beoogd curator*;
- (m) an **administrator** includes a *bewindvoerder* or a *stille bewindvoerder*;
- (n) an **attachment** includes a *conservatoir beslag* or *executoriaal beslag*;
- (o) **negligence** means *schuld*;
- (p) **gross negligence** means *grove schuld*; and
- (q) **wilful misconduct** means *opzet*.

1.6 Czech terms

Where it relates to a Czech Obligor, a reference to:

- (a) a **Security** or **security interest** includes *zástavní právo, zadržovací právo, převod finančního kolaterálu, zajišťovací převod práva and zajišťovací postoupení pohledávky*;
- (b) a **bankruptcy** or **insolvency** includes *insolvenční řízení, konkurz, reorganizace and oddlužení*;
- (c) being **insolvent** includes being *v úpadku, předlužený and platebně neschopný*;
- (d) **constitutional documents** includes *společenská smlouva, zakladatelská listina, zakladatelská smlouva and stanovky*;
- (e) **Czech** means in or of the Czech Republic;
- (f) an expropriation, attachment, sequestration, distress or execution includes *vyvlastnění, exekuce and výkon rozhodnutí*;
- (g) **winding up, administration** or **dissolution** includes *likvidace, zrušení s likvidací and zrušení bez likvidace bez právního nástupce*;
- (h) **liquidator, receiver, administrative receiver, administrator, compulsory manager** or **other similar officer** includes *likvidátor, insolvenční správce* (including *predběžný správce, zástupce insolvenčního správce, oddělený insolvenční správce and zvláštní insolvenční správce*), *správce závodu* and *soudní exekutor*;
- (i) a **moratorium** includes *moratorium*;

- (j) **shares**, when used in relation to a Czech limited liability company (*společnost s ručením omezeným*), includes any ownership interest (*podíl*) in the relevant Czech limited liability company; and
- (k) **any resolution on insolvency** includes *rozhodnutí o upadku*.

1.7 Provision of information by directors

If any provision of a Finance Document requires a director, secretary or other authorised officer of any Group Company to provide any information, certify any matter or to make any presentation, any such provision, certificate or presentation shall (provided that it is made in good faith) be made without personal liability on the part of such director, secretary or other authorised officer (other than in the case of fraud, wilful default or gross negligence). For the avoidance of doubt, nothing in this clause will limit the liability of any Group Company for any action or omission made by any director, secretary or other authorised officer on its behalf.

Section 2 – The Facility

2 The Facility

2.1 The Facility

- (a) Subject to the terms of this Agreement, the Lenders make available to the Borrowers a multicurrency revolving credit facility in an aggregate amount the Base Currency Amount of which is equal to the Total Commitments.
- (b) Subject to the terms of this Agreement and the Ancillary Documents, an Ancillary Lender may make all or part of its Commitment available to any Borrower as an Ancillary Facility.

2.2 Increase

- (a) The Parent may by giving prior notice to the Agent by no later than the date falling 10 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:
 - (A) Clause 9.1 (*Illegality*); or
 - (B) paragraph (a) of Clause 9.4 (*Right of cancellation and repayment in relation to a single Lender*),

request that the Commitments be increased (and the Commitments 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:

- 1) the increased Commitments will be assumed by one or more Eligible Institutions (each an **Increase Lender**) each of which confirms in writing (whether in the relevant Increase Confirmation or otherwise) its willingness to assume and does assume all the obligations of a Lender corresponding to that part of the increased Commitments which it is to assume, as if it had been an Original Lender in respect of those Commitments;
- 2) each of the Obligors and any Increase Lender shall assume obligations towards one another and/or acquire rights against one another as the Obligors and the Increase Lender would have assumed and/or acquired had the Increase Lender been an Original Lender in respect of that part of the increased Commitments which it is to assume;
- 3) each Increase Lender, if it is not already a Lender, shall become a Party as a **Lender** and any Increase Lender and each of the other Finance Parties shall assume obligations

towards one another and acquire rights against one another as that Increase Lender and those Finance Parties would have assumed and/or acquired had the Increase Lender been an Original Lender in respect of that part of the increased Commitments which it is to assume;

- 4) the Commitments of the other Lenders shall continue in full force and effect; and
 - 5) any increase in the Commitments shall take effect on the date specified by the Parent in the notice referred to above or any later date on which the Agent executes an otherwise duly completed Increase Confirmation delivered to it by the relevant Increase Lender.
- (b) The Agent shall, subject to paragraph (c) below, as soon as reasonably practicable after receipt by it of a duly completed Increase Confirmation appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Increase Confirmation.
- (c) The Agent shall only be obliged to execute an Increase Confirmation delivered to it by an Increase 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 assumption of the increased Commitments by that Increase Lender.
- (d) Each Increase Lender, by executing the Increase Confirmation, confirms (for the avoidance of doubt) that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the increase becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as it would have been had it been an Original Lender.
- (e) The Parent shall promptly on demand pay the Agent and the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by either of them and, in the case of the Security Agent, by any Receiver or Delegate in connection with any increase in Commitments under this Clause 2.2.
- (f) The Increase Lender shall, on the date upon which the increase takes effect, pay to the Agent (for its own account) a fee in an amount equal to the fee which would be payable under Clause 27.4 (*Assignment or transfer fee*) if the increase was a transfer pursuant to Clause 27.6 (*Procedure for transfer*) and if the Increase Lender was a New Lender.
- (g) The Parent may pay to the Increase Lender a fee in the amount and at the times agreed between the Parent and the Increase Lender in a Fee Letter.
- (h) Neither the Agent nor any Lender shall have any obligation to find an Increase Lender and in no event shall any Lender whose Commitment is replaced by an Increase Lender be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents.

- (i) Clause 27.5 (*Limitation of responsibility of Existing Lenders*) shall apply *mutatis mutandis* in this Clause 2.2 in relation to an Increase Lender as if references in that Clause to:
 - (i) an **Existing Lender** were references to all the Lenders immediately prior to the relevant increase;
 - (ii) the **New Lender** were references to that **Increase Lender**; and
 - (iii) a **re-transfer** and **re-assignment** were references to respectively a **transfer** and **assignment**.

2.3 Extension Option

- (a) In this Clause 2.3:

Extended Termination Date means the date which is four years after the Effective Date (or, if such Extended Termination Date would not be a Business Day, the immediately preceding Business Day).

Extending Lender means a Lender which notifies the Agent, within the timeframe set out in paragraph (e) below, that it accepts an Extension Request.

Extension Date means the first anniversary of the Effective Date.

- (b) The Parent may request the exercise of the Extension Option by submitting an Extension Request to the Agent. Any Extension Request is irrevocable and may not be withdrawn.
- (c) An Extension Request shall not be valid unless it is delivered to the Agent on a day falling not more than sixty (60) days and not less than thirty (30) days prior to the Extension Date.
- (d) Upon receipt of a valid Extension Request, the Agent shall promptly notify each Lender. Each such Lender shall have the right, in its absolute discretion to accept or decline such Extension Request.
- (e) Any such Lender that wishes to accept the Extension Request shall so notify the Agent no later than ten (10) days prior to the Extension Date. If no notice is received by the Agent from a Lender within this period, the availability of such Lender's Commitment shall not be extended.
- (f) The Agent will provide the Parent with a list of the Lenders that have accepted the Extension Request as soon as practicable after the Agent has received responses from all the Lenders in relation to that Extension Request, and in any event, prior to the Extension Date.
- (g) If there are any Extending Lenders, then on the Extension Date, the Termination Date applicable to the participation and Commitment of each such Extending Lender shall be extended to the Extended Termination Date.
- (h) The Agent will notify each of the Lenders in writing of the Commitments that have been extended as soon as practicable after it has received responses from all the

Lenders in relation to an Extension Request, and in any event, prior to the Extension Date.

- (i) The Parent shall pay to the Agent for the account of each Extending Lender, no later than the Extension Date, an extension fee in an amount to be agreed on or prior to that Extension Date.
- (j) The obligations of each Extending Lender are subject to the further conditions precedent that on the date of an Extension Request and on the Extension Date:
 - (i) the Repeating Representations are correct in all material respects (except to the extent waived in accordance with Clause 41 (*Amendments and waivers*) on that date; and
 - (ii) no Default is continuing or would be reasonably likely to result from the proposed extension.

2.4 Accordion Option

- (a) At any time during the period from the Effective Date to and including the date falling six months prior to the Termination Date, the Parent may by giving prior notice to the Agent substantially in the form of Part 1 (*Form of Accordion Option Request*) of Schedule 13 (*Accordion Option*) (which shall promptly notify the Lenders) (an **Accordion Option Request**) request that the Total Commitments under the Facility be increased on a particular date as set out in such notice (each such date being an **Accordion Effective Date**) by an amount which, when aggregated with all other amounts by which the Total Commitments have been increased by means of the operation of this Clause, does not exceed £30,000,000 (the **Requested Amount**). Any Accordion Option Request must specify the proposed fee or commission proposed to be payable to the Lenders for such increase. No more than two requests may be made by the Borrower under this Clause 2.4, and each Requested Amount must be for a minimum of £5,000,000.
- (b) Upon receipt of an Accordion Option Request, the Agent shall provide a copy of the Accordion Option Request to each Lender and notify them of each Lender's potential pro rata share of the Requested Amount (calculated by reference to such Lender's Commitment as a proportion of the Total Commitments on the date of the Accordion Option Request). From the date of receipt of the Accordion Option Request, each Lender will have up to 10 Business Days to request via the Agent, such further information relating to the Group from the Parent as it may reasonably require.
- (c) Each Lender shall, in its absolute discretion, decide whether it agrees to increase its Commitment by an amount of its pro rata share of the Requested Amount (calculated in accordance with paragraph (b) above), and shall notify the Agent accordingly in writing within 20 Business Days of the receipt of such Accordion Option Request (such period being the **Tender Period**) whether it wishes to provide all or any part of the Requested Amount. Any Lender who has not responded within a Tender Period shall be deemed to have not consented to increase its Commitments in respect of the relevant Accordion Option Request.
- (d) If, at the end of the Tender Period (or earlier if all of the Lenders have responded by such date) the Requested Amount has not been fully subscribed for by the Lenders (the amount by which the subscribed amount is less than the Requested Amount

being the **Shortfall**), the Parent may invite (at its discretion and in order to cover the Shortfall only):

- (i) any Lender who has already agreed to increase its Commitment to further increase its Commitment to an amount in excess of its pro rata share of the Requested Amount (and each such Lender must reply to such invitation within 10 Business Days in order for it to be deemed to have accepted it); and
 - (ii) to the extent that the application of paragraph (d)(i) above still results in the amount subscribed for being less than the Requested Amount, any other banks or financial institutions to accede to this Agreement (in accordance with Clause 27.11 (*Acceding Accordion Lenders*) and subject to paragraphs (k) and (l) below) in order to participate in that part of the increase to the Total Commitments that is not covered by the Existing Lenders under paragraphs (c) and/or (d)(i) above by delivering to the Agent a duly completed and executed Lender Accordion Accession Agreement on or prior to the date specified in paragraph (e) below) and any other Finance Documents as a Lender (an **Acceding Accordion Lender**). The Parent shall not offer to any Acceding Accordion Lender any higher fee or commission to that offered to the Lenders under paragraph (a) above.
- (e) If more than one Lender under each of paragraphs (d)(i) and (d)(ii) above (including in respect of paragraph (d)(ii) above, an Acceding Accordion Lender which agrees to participate) agrees to provide additional Commitments in order to cover the Shortfall, then the amount of the Shortfall to be provided by each such Lender will be agreed by the Parent in consultation with such Lender provided that no Lender is required to assume any Commitment or increased Commitment in an amount which is in excess of the amount which that Lender has agreed to assume and no Acceding Accordion Lender will be entitled to participate in providing any of a Requested Amount other than to the extent that it is not to be provided by the Existing Lenders under paragraphs (c) and/or (d)(i) above.
- (f) Once the procedures outlined at paragraphs (a) to (e) above have been followed, and either the Requested Amount has all been allocated or the Parent has agreed that it will not all be so allocated, the Parent may then serve a notice on the Agent identifying the allocation of the Requested Amount (the **Accordion Option Notice**) substantially in the form set out in Part 2 (*Form of Accordion Option Notice*) of Schedule 13 (*Accordion Option*).
- (g) On each Accordion Effective Date (or such later date as the Agent confirms that the following three conditions have been satisfied), provided that:
- (i) no Event of Default is continuing on such date and the Repeating Representations to be made by each Obligor are true in all material respects on such date;
 - (ii) any Acceding Accordion Lender which is to provide a Commitment in respect of any part of the Requested Amount has confirmed that it has obtained all applicable internal approvals and the Agent confirms that such Lender has acceded to this Agreement as a Lender; and

- (iii) on a twelve month look forward basis, the Parent has provided the Agent with evidence (in form and substance satisfactory to the Finance Parties) to show that the Parent will remain in compliance with its obligations under Clause 24 (*Financial covenants*) on the last day of each Relevant Period falling in the twelve Months following the proposed Accordion Effective Date (taking into account the proposed increase in the Total Commitments on that date),

then the Total Commitments will be increased by an amount equal to the Requested Amount (or such lower amount as constitutes the aggregate amount that has been subscribed for by all Lenders and Acceding Accordion Lenders) (such amount being the **Increased Amount**), and the Parent may, at any time during the Availability Period, deliver a Utilisation Request in accordance with the terms of this Agreement in respect of the Total Commitments as increased by such Increased Amount.

- (h) Any utilisation of additional amounts made available under this Clause 2.4 (*Accordion Option*) shall, for the avoidance of doubt:
 - (i) constitute a Loan for the purposes of this Agreement; and
 - (ii) be repaid in accordance with the terms of this Agreement.
- (i) Clause 27.5 (*Limitation of responsibility of Existing Lenders*) shall apply mutatis mutandis in this Clause 2.4 (*Accordion Option*) in relation to an Acceding Accordion Lender as if reference in that Clause 27.5 (*Limitation of responsibility of Existing Lenders*) to:
 - (i) an **Existing Lender** were references to all the Lenders immediately prior to the relevant increase; and
 - (ii) the **New Lender** were references to that Acceding Accordion Lender.
- (j) The Parent shall pay to the Agent (for the account of the relevant Lenders) a fee in the amount and at the times agreed in a Fee Letter, such fee being calculated at the same rate in regard of each Existing Lender who has agreed to increase its Commitment and, to the extent applicable, each Acceding Accordion Lender
- (k) The Acceding Accordion Lender shall, on the date upon which the accession takes effect, pay to the Agent (for its own account) a fee in an amount equal to the fee which would be payable under Clause 27.4 (*Assignment or transfer fee*) if the increase was a transfer pursuant to Clause 27.6 (*Procedure for transfer*) and if the Acceding Accordion Lender was a New Lender.
- (l) The Agent shall only be obliged to execute a Lender Accordion Accession Agreement delivered to it in accordance with paragraph (d)(ii) above 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 assumption of the accession of the Acceding Accordion Lender to this Agreement and any other Finance Document.
- (m) Each Acceding Accordion Lender, by executing the Lender Accordion Accession 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 increase to the Total Commitments becomes effective.

2.5 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 the Facility or its role under a Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Finance Party by that Obligor.
- (c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

2.6 Obligors' Agent

- (a) Each Obligor (other than the Parent) by its execution of this Agreement or an Accession Deed irrevocably appoints the Parent (acting through one or more authorised signatories) to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
 - (i) the Parent on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give and receive all notices, instructions and other communications (including, in the case of a Borrower, Utilisation Requests), to sign all certificates, to make such agreements and to effect the relevant amendments, supplements, variations and waivers capable of being given, made or effected by any Obligor notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and
 - (ii) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Parent,and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions (including, without limitation, any Utilisation Requests) or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.
- (b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice, instruction (including any Utilisation Request) 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

agreed, executed, made, given or concurred with it or received the relevant notice, demand or other communication. 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

Each Borrower shall apply all amounts borrowed by it under the Facility towards the general corporate and working capital purposes of the Group (including funding any Permitted Acquisition) or, in the case of any utilisation of any Ancillary Facility, towards prepayment of any Loan).

3.2 Monitoring

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

4 Conditions of utilisation

4.1 Initial conditions precedent

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

4.2 Further conditions precedent

Subject to Clause 4.1 (*Initial conditions precedent*), the Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) in the case of a Rollover Loan, no Event of Default is continuing or would result from the proposed Loan and, in the case of any other Loan, no Default is continuing or would result from the proposed Loan; and
- (b) in relation to any Loan on the Closing Date, all the representations and warranties in Clause 22 (*Representations and warranties*) or, in relation to any other Loan (other than a Rollover Loan), the Repeating Representations to be made by each Obligor are true in all material respects.

4.3 Conditions relating to Optional Currencies

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

- (i) it is readily available in the amount required and freely convertible into the Base Currency in the wholesale market for that currency at the Specified Time and on the Utilisation Date for that Loan;
 - (ii) it is euro, dollars or has been approved by the Agent (acting on the instructions of all the Lenders) on or prior to receipt by the Agent of the relevant Utilisation Request for that Loan; and
 - (iii) there are Reference Rate Terms for that currency.
- (b) If the Agent has received a written request from the Parent for a currency to be approved under paragraph (a)(ii) above, the Agent will confirm to the Parent by the Specified Time:
- (i) whether or not the Lenders have granted their approval; and
 - (ii) if approval has been granted, the minimum amount for any subsequent Loan in that currency.

4.4 Maximum number of Loans

- (a) A Borrower (or the Parent) may not deliver a Utilisation Request if as a result of the proposed Utilisation, eleven or more Loans would be outstanding.
- (b) Any Loan made by a single Lender under Clause 6.2 (*Unavailability of a currency*) shall not be taken into account in this Clause 4.4.
- (c) Any Separate Loan shall not be taken into account in this Clause 4.4.

Section 3 – Utilisations

5 Utilisation

5.1 Delivery of a Utilisation Request

A Borrower (or the Parent on its behalf) may utilise the 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 is irrevocable and will not be regarded as having been duly completed unless:
 - (i) the proposed Utilisation Date is a Business Day within the Availability Period;
 - (ii) the currency and amount of the Loan comply with Clause 5.3 (*Currency and amount*); and
 - (iii) the proposed Interest Period complies with Clause 13 (*Interest Periods*).
- (b) Only one Loan may be requested in each subsequent Utilisation Request.

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be the Base Currency or an Optional Currency.
- (b) The amount of the proposed Loan must be:
 - (i) if the currency selected is the Base Currency, a minimum of £500,000 or, if less, the Available Facility; or
 - (ii) if the currency selected is euro, a minimum of EUR 500,000 or, if less, the Available Facility; or
 - (iii) if the currency selected is dollars, a minimum of USD 500,000 or, if less, the Available Facility; or
 - (iv) if the currency selected is an Optional Currency other than euros or dollars, the minimum amount specified by the Agent pursuant to paragraph (b)(ii) of Clause 4.3 (*Conditions relating to Optional Currencies*) or, if less, the Available Facility,

and in any event such that its Base Currency Amount is less than or equal to the Available 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 paragraph (c) below, the amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.
- (c) If a Loan is made to repay Ancillary Outstandings, each Lender's participation in that Loan will be in an amount (as determined by the Agent) which will result as nearly as possible in the aggregate amount of its participation in the Loans then outstanding bearing the same proportion to the aggregate amount of Loans then outstanding as its Commitment bears to the Total Commitments.
- (d) The Agent shall determine the Base Currency Amount of each Loan which is to be made in an Optional Currency and notify each Lender of the amount, currency and the Base Currency Amount of each Loan, the amount of its participation in that Loan 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 Commitment

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

6 Optional Currencies

6.1 Selection of currency

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

6.2 Unavailability of a currency

If before the Specified Time:

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

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

6.3 Agent's calculations

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

7 Ancillary Facilities

7.1 Type of and amount of Facility

- (a) An Ancillary Facility may be by way of:
 - (i) an overdraft facility;
 - (ii) a guarantee, bonding, documentary or stand-by letter of credit facility;
 - (iii) a short term loan facility;
 - (iv) a derivatives facility;
 - (v) a foreign exchange facility; or
 - (vi) any other facility or accommodation required in connection with the business of the Group and which is agreed by the Parent with an Ancillary Lender.
- (b) The maximum aggregate Base Currency Amount of the Ancillary Commitments of all the Lenders shall not at any time exceed £7,500,000.

7.2 Availability

- (a) If the Parent and a Lender agree and except as otherwise provided in this Agreement, the Lender may provide all or part of its Commitment as an Ancillary Facility.
- (b) An Ancillary Facility shall not be made available unless, not later than three Business Days prior to the Ancillary Commencement Date for an Ancillary Facility, the Agent has received from the Parent:
 - (i) a notice in writing of the establishment of an Ancillary Facility and specifying:
 - (A) the proposed Borrower(s) which may use the Ancillary Facility;
 - (B) the proposed Ancillary Commencement Date and expiry date of the Ancillary Facility;
 - (C) the proposed type of Ancillary Facility to be provided;
 - (D) the proposed Ancillary Lender;
 - (E) the proposed Ancillary Commitment, the maximum amount of the Ancillary Facility and, 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 promptly notify the Ancillary Lender and the other Lenders of the establishment of an Ancillary Facility.
- (d) Subject to compliance with paragraph (b) above:
 - (i) the Lender concerned will become an Ancillary Lender; and
 - (ii) the Ancillary Facility will be available,with effect from the date agreed by the Parent 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 Parent.
- (b) Those terms:
 - (i) must be based upon normal commercial terms at that time (except as varied by this Agreement);
 - (ii) may allow only Borrowers to use the Ancillary Facility;
 - (iii) may not allow the Ancillary Outstandings to exceed the Ancillary Commitment;
 - (iv) may not allow a Lender's Ancillary Commitment to exceed that Lender's Available Commitment (before taking into account the effect of that 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 (or such earlier date as the 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 and interest calculation*) which shall not prevail for the purposes of calculating fees, interest or commission relating to an Ancillary Facility;
 - (ii) an Ancillary Facility comprising more than one account where the terms of the Ancillary Documents shall prevail to the extent required to permit the netting of balances on those accounts; and
 - (iii) where the relevant term of this Agreement would be contrary to, or inconsistent with, the law governing the relevant Ancillary Document, in which case that term of this Agreement shall not prevail.
- (d) Interest, commission and fees on Ancillary Facilities are dealt with in Clause 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 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 Commitments have been cancelled in full, or all outstanding Loans 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; 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 Loan.
- (d) If a Loan is made to repay Ancillary Outstandings in full, the relevant Ancillary Commitment shall be reduced to zero.

7.5 Limitation on Ancillary Outstandings

Each Borrower 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 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.

7.7 Affiliates of Lenders as Ancillary Lenders

- (a) Subject to the terms of this Agreement, an Affiliate of a Lender may become an Ancillary Lender. In such case, the Lender and its Affiliate shall be treated as a single Lender whose 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 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 Parent shall specify any relevant Affiliate of a Lender in any notice delivered by the Parent to the Agent pursuant to paragraph (b)(i) of Clause 7.2 (*Availability*).
- (c) 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.
- (d) 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.

7.8 Commitment amounts

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

- (a) its Ancillary Commitment; or
- (b) the Ancillary Commitment of its Affiliate.

7.9 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.

Section 4 – Repayment, prepayment and cancellation

8 Repayment

8.1 Repayment of Loans

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

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

- (A) if the amount of the maturing Loan exceeds the aggregate amount of the new Loans:
 - 1) the relevant 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 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 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 Loans; and
- (B) if the amount of the maturing Loan is equal to or less than the aggregate amount of the new Loans:
 - 1) the relevant 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 Loans only to the extent that its participation in the new Loans exceeds that Lender's participation in the maturing Loan and the remainder of that Lender's participation in the new 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 Loan.

- (c) At any time when a Lender becomes a Defaulting Lender, the maturity date of each of the participations of that Lender in the Loans then outstanding will be automatically extended to the Termination Date and will be treated as separate Loans (the **Separate Loans**) denominated in the currency in which the relevant participations are outstanding.
- (d) If the Borrower makes a prepayment of a Loan pursuant to Clause 9.3 (*Voluntary prepayment*), a Borrower to whom a Separate Loan is outstanding may prepay that Loan by giving not less than 5 Business Days' prior notice to the Agent. The proportion borne by the amount of the prepayment of the Separate Loan to the amount of the Separate Loans shall not exceed the proportion borne by the amount of the prepayment of the Loan to the Loans. The Agent will forward a copy of a prepayment notice received in accordance with this paragraph (d) to the Defaulting Lender concerned as soon as practicable on receipt.
- (e) Interest in respect of a Separate Loan will accrue for successive Interest Periods selected by the Borrower by the time and date specified by the Agent (acting reasonably) and will be payable by that Borrower to the Agent (for the account of that Defaulting Lender) on the last day of each Interest Period of that Loan.
- (f) The terms of this Agreement relating to Loans generally shall continue to apply to Separate Loans other than to the extent inconsistent with paragraphs (c) to (e) above, in which case those paragraphs shall prevail in respect of any Separate Loan.

9 Illegality, voluntary prepayment and cancellation

9.1 Illegality

If, in any applicable jurisdiction, it becomes unlawful for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Loan or it becomes unlawful for any Affiliate of a Lender for that Lender to do so:

- (a) that Lender shall promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying the Parent, each Available Commitment of that Lender will be immediately cancelled; and
- (c) each Borrower shall repay that Lender's participation in the Loans made to that Borrower on the last day of the Interest Period for each Loan occurring after the Agent has notified the Parent or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment(s) shall be cancelled in the amount of the participations repaid.

9.2 Voluntary cancellation

The Parent may, if it gives the Agent not less than 5 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 £500,000 of the Available Facility). Any cancellation under this Clause 9.2 shall reduce the Commitments of the Lenders rateably.

9.3 Voluntary prepayment

A Borrower to which a Loan has been made may, if it or the Parent gives the Agent not less than:

- (a) in the case of a Term Rate Loan, five Business Days' (or such shorter period as the Majority Lenders may agree) prior notice; or
- (b) in the case of a Compounded Rate Loan, five RFR Banking Days' (or such shorter period as the Majority Lenders and the Agent 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 the Loan by a minimum amount of £500,000 and provided that, in respect of any Compounded Rate Loan, there are no more than four such prepayments in part in any calendar year).

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

- (a) If:
 - (i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (c) of Clause 16.2 (*Tax gross-up*); or
 - (ii) any Lender claims indemnification from the Parent or an Obligor under Clause 16.3 (*Tax indemnity*) or Clause 17.1 (*Increased Costs*), or
 - (iii) any Lender becomes a Defaulting Lender,

the Parent may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, or whilst such Lender remains a Defaulting Lender, give the Agent notice of cancellation of the Commitment(s) of that Lender and its intention to procure the repayment of that Lender's participation in the Loans.

- (b) On receipt of a notice referred to in paragraph (a) above in relation to a Lender, the Commitment(s) of that Lender shall immediately be reduced to zero.
- (c) On the last day of each Interest Period which ends after the Parent has given notice under paragraph (a) above in relation to a Lender (or, if earlier, the date specified by the Parent in that notice), each Borrower to which a Loan is outstanding shall repay that Lender's participation in that Loan together with all interest and other amounts accrued in relation to such repaid amount under the Finance Documents.

9.5 Right of cancellation in relation to a Defaulting Lender

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

- (b) On the notice referred to in paragraph (a) above becoming effective, each Available Commitment of the Defaulting Lender shall immediately be reduced to zero.
- (c) The Agent shall as soon as practicable after receipt of a notice referred to in paragraph (a) above, notify all the Lenders.

10 Mandatory prepayment Exit

Upon the occurrence of:

- (a) a Change of Control; or
- (b) the sale of all or substantially all of the assets of the Group whether in a single transaction or a series of related transactions,

the Facility will be cancelled and all outstanding Loans and Ancillary Outstandings, together with accrued interest, and all other amounts accrued under the Finance Documents, shall become immediately due and payable.

11 Restrictions

11.1 Notices of cancellation or prepayment

Any notice of cancellation, prepayment, authorisation or other election given by any Party under Clause 9 (*Illegality, voluntary prepayment and cancellation*) shall (subject to the terms of that Clause) be irrevocable and, unless a contrary indication appears in this Agreement, any such notice shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

11.2 Interest and other amounts

Any prepayment under this Agreement shall be made together with:

- (a) accrued interest on the amount prepaid; and
- (b) any Break Costs,

but otherwise without premium or penalty.

11.3 Re-borrowing

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

11.4 Prepayment in accordance with Agreement

No Borrower shall repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

11.5 No reinstatement of Commitments

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

11.6 Agent's receipt of notices

If the Agent receives a notice under Clause 9 (*Illegality, voluntary prepayment and cancellation*), it shall promptly forward a copy of that notice to either the Parent or the affected Lender, as appropriate.

11.7 Effect of repayment and prepayment on Commitments

If all or part of any Lender's participation in a Loan is repaid or prepaid and is not available for redrawing (other than by operation of Clause 4.2 (*Further conditions precedent*)), an amount of that Lender's Commitment (equal to the Base Currency Amount of the amount of the participation which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment.

11.8 Application of prepayments

Any prepayment of a Loan (other than a prepayment pursuant to Clause 9.1 (*Illegality*) or Clause 9.4 (*Right of cancellation and repayment in relation to a single Lender*)) shall be applied in the following order:

- (a) first, in or towards payment pro rata of all amounts outstanding under the Facility; and
- (b) second, in or towards payment pro rata of amounts outstanding under any Ancillary Facility up to £7,500,000.

Section 5 – Costs of utilisation

12 Interest

12.1 Calculation of interest – Term Rate Loans

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

- (a) Margin; and
- (b) Term Reference Rate.

12.2 Calculation of interest – Compounded Rate Loans

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

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

(b) If any day during an Interest Period for a Compounded Rate Loan is not an RFR Banking Day, the rate of interest on that Compounded Rate Loan for that day will be the rate applicable to the immediately preceding RFR Banking Day.

12.3 Payment of interest

(a) The Borrower to which a Loan has been made shall pay accrued interest on that Loan on the last day of each Interest Period (and, if in respect of a Term Rate Loan the Interest Period is longer than six Months, on the dates falling at six Monthly intervals after the first day of the Interest Period).

(b) If the Compliance Certificate received by the Agent which relates to the relevant Annual Financial Statements shows that a higher or lower Margin should have applied during a certain period, then the next interest payment(s) shall be increased or reduced (as appropriate) by (i) if a higher Margin should have been applied, the amount necessary to put the Lenders in the position they would have been in had the appropriate rate of the Margin applied during such period or (ii) if a lower Margin should have been applied, the aggregate of the amounts received by Lenders which were in excess of the amount they should have received had the Margin been calculated correctly, provided that the amount of such reduction in respect of each Lender will be capped at the amount of excess interest that that Lender received during the period in which the lower Margin should have applied.

12.4 Default interest

(a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is one per cent per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest

accruing under this Clause 12.4 shall be immediately payable by the Obligor on demand by the Agent.

- (b) If any overdue amount consists of all or part of a Term Rate Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:
 - (i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
 - (ii) the rate of interest applying to the overdue amount during that first Interest Period shall be one per cent per annum higher than the rate which would have applied if the overdue amount had not become due.
- (c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

12.5 Notification of rates of interest

- (a) The Agent shall promptly notify the Lenders and the relevant Borrower (or the Parent) of the determination of a rate of interest relating to a Term Rate Loan.
- (b) The Agent shall promptly upon a Compounded Rate Interest Payment being determinable, notify:
 - (i) the relevant Borrower (or the Parent) of that Compounded Rate Interest Payment;
 - (ii) each Lender of the proportion of that Compounded Rate Interest Payment which relates to that Lender's participation in the relevant Compounded Rate Loan; and
 - (iii) the Lenders and the relevant Borrower (or the Parent) of:
 - (A) each applicable rate of interest relating to the determination of that Compounded Rate Interest Payment; and
 - (B) to the extent it is then determinable, the Market Disruption Rate (if any) relating to the relevant Compounded Rate Loan.
- (c) This paragraph (b) shall not apply to any Compounded Rate Interest Payment determined pursuant to Clause 14.4 (*Cost of funds*).
- (d) The Agent shall promptly notify the relevant Borrower (or the Parent) of each Funding Rate relating to a Loan.
- (e) The Agent shall promptly notify the Lenders and the relevant Borrower (or the Parent) of the determination of a rate of interest relating to a Compounded Rate Loan to which Clause 14.4 (*Cost of funds*) applies.
- (f) This Clause 12.5 shall not require the Agent to make any notification to any Party on a day which is not a Business Day.

13 Interest Periods

13.1 Selection of Interest Periods and Terms

- (a) A Borrower (or the Parent on behalf of a Borrower) may select an Interest Period for a Loan in the Utilisation Request for that Loan.
- (b) Subject to this Clause 13.1, a Borrower (or the Parent) may select an Interest Period of any period specified in the applicable Reference Rate Terms or of any other period agreed between the Parent, the Agent and all the Lenders in relation to the relevant Loan.
- (c) An Interest Period for a Loan shall not extend beyond the Termination Date.
- (d) A Loan has one Interest Period only, starting on the Utilisation Date applicable to that Loan.
- (e) No Interest Period in respect of a Compounded Rate Loan shall be longer than six Months.

13.2 Non-Business Days

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

14 Changes to the calculation of interest

14.1 Interest calculation if no Primary Term Rate

- (a) *Interpolated Primary Term Rate:* If no Primary Term Rate is available for the Interest Period of a Term Rate Loan, the applicable Term Reference Rate shall be the Interpolated Primary Term Rate for a period equal in length to the Interest Period of that Loan.
- (b) *Shortened Interest Period:* If paragraph (a) above applies but it is not possible to calculate the Interpolated Primary Term Rate, the Interest Period of the Loan shall (if it is longer than the applicable Fallback Interest Period) be shortened to the applicable Fallback Interest Period and the applicable Term Reference Rate shall be determined pursuant to the definition of Term Reference Rate.
- (c) *Shortened Interest Period and Historic Primary Term Rate:* If paragraph (b) above applies but no Primary Term Rate is available for the Interest Period of that Loan and it is not possible to calculate the Interpolated Primary Term Rate, the applicable Term Reference Rate shall be the Historic Primary Term Rate for that Loan.
- (d) *Shortened Interest Period and Interpolated Historic Primary Term Rate:* If paragraph (c) above applies but no Historic Primary Term Rate is available for the Interest Period of the Loan, the applicable Term Reference Rate shall be the Interpolated Historic Primary Term Rate for a period equal in length to the Interest Period of that Loan.
- (e) *Cost of funds:* If paragraph (d) above applies but it is not possible to calculate the Interpolated Historic Primary Term Rate, the Interest Period of that Loan shall, if it has been shortened pursuant to paragraph (d) above, revert to its previous length

and there shall be no Primary Term Rate for that Loan and Clause 14.4 (*Cost of funds*) shall apply to that Loan for that Interest Period.

14.2 Interest calculation if no RFR or Central Bank Rate

If:

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

Clause 14.4 (*Cost of funds*) shall apply to that Loan for that Interest Period.

14.3 Market disruption

If:

- (a) a Market Disruption Rate is specified in the Reference Rate Terms for a Loan; and
- (b) before the Reporting Time for that Loan, the Agent receives notifications from a Lender or Lenders (whose participations in that Loan exceed 30 per cent. of that Loan) that its cost of funds relating to its participation in that Loan would be in excess of that Market Disruption Rate,

then Clause 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 applies to a Loan for an Interest Period, neither Clause 12.1 (*Calculation of interest – Term Rate Loans*) nor Clause 12.2 (*Calculation of interest – Compounded Rate Loans*) shall apply to that Loan for that Interest Period and, 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 by the Reporting Time for that Loan, to be that which expresses as a percentage rate per annum its cost of funds relating to its participation in that Loan and, if any such rate is below zero, such rate shall be deemed to be zero.
- (b) If this Clause 14.4 applies and the Agent or the Parent so requires, the Agent and the Parent shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.
- (c) Subject to Clause 41.4 (*Changes to reference rates*), any alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders and the Parent, be binding on all Parties.
- (d) If this Clause 14.4 applies pursuant to Clause 14.3 (*Market disruption*): and

- (i) a Lender's Funding Rate is less than the relevant Market Disruption Rate; or
- (ii) a Lender does not notify a rate to the Agent by the relevant Reporting Time,

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

14.5 Notification to Parent

If Clause 14.4 (*Cost of funds*) applies, the Agent shall, as soon as is practicable, notify the Parent.

14.6 Break Costs

- (a) If an amount is specified as Break Costs in the Reference Rate Terms for a Loan or Unpaid Sum, each Borrower shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs (if any) attributable to all or any part of that Loan or Unpaid Sum being paid by that Borrower on a day prior to the last day of an Interest Period for that Loan or Unpaid Sum.
- (b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in respect of which they become, or may become, payable.

15 Fees

15.1 Commitment fee

- (a) The Parent shall pay to the Agent (for the account of each Lender) a fee in the Base Currency computed at a rate per annum which is equal to 40 per cent. of the applicable Margin from time to time on that Lender's Available Commitment for the Availability Period.
- (b) The accrued commitment fee is payable on the last day of each successive period of three Months which ends during the Availability Period, on the last day of the Availability Period and, if cancelled in full, on the cancelled amount of the relevant Lender's Commitment 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 Parent shall pay to the Arranger an arrangement fee in the amount and at the times agreed in a Fee Letter.

15.3 Agency fee

At all times following the first date upon which there is more than one Lender under the Facility, the Parent 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

At all times following the first date upon which there is more than one Lender under the Facility, the Parent 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.

Section 6 – Additional payment obligations

16 Tax gross-up and indemnities

16.1 Definitions

In this Agreement:

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

- (a) where it relates to a Treaty Lender that is an Original Lender, contains the scheme reference number and jurisdiction of tax residence stated opposite that Lender's name in Part 2 of Schedule 1 (*The Original Parties*), and
 - (i) where the Borrower is an Original Borrower, is filed with HM Revenue & Customs within 30 days of the date of this Agreement; or
 - (ii) where the Borrower is an Additional Borrower, is filed with HM Revenue & Customs within 30 days of the date on which that Borrower becomes an Additional Borrower; or
- (b) 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
 - (i) 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
 - (ii) 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:

- (a) a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document and is:
 - (i) a Lender:
 - (A) which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under a Finance Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payments apart from section 18A of the CTA; or

- (B) in respect of an advance made under a Finance Document by a person that was a bank (as defined for the purpose of section 879 of the ITA) at the time that that advance was made and within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or
- (ii) a Lender which is:
 - (A) a company resident in the United Kingdom for United Kingdom tax purposes;
 - (B) a partnership each member of which is:
 - 1) a company so resident in the United Kingdom; or
 - 2) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA;
 - (C) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company; or
- (iii) a Treaty Lender; or
- (b) a Lender which is a building society (as defined for the purposes of section 880 of the ITA) making an advance under a Finance Document.

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

- (a) a company resident in the United Kingdom for United Kingdom tax purposes;
- (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
- (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.

Tax Credit means a credit against, relief or remission for, or repayment of any Tax.

Tax Deduction means a deduction or withholding for or on account of Tax from a payment under a Finance Document other than a FATCA Deduction.

Tax Payment means either the increase in a payment made by an Obligor to a Finance Party under Clause 16.2 (*Tax gross-up*) or a payment under Clause 16.3 (*Tax indemnity*).

Treaty Lender means a Lender which:

- (a) is treated as a resident of a Treaty State for the purposes of the Treaty; and
- (b) does not carry on a business in the United Kingdom through a permanent establishment with which that Lender's participation in the Loan is effectively connected.

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 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.

Unless a contrary indication appears, in this Clause 16 a reference to **determines** or **determined** means a determination made in the absolute discretion of the person making the determination.

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 Parent shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Parent and that Obligor.
- (c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) A payment shall not be increased under paragraph (c) above by reason of a Tax Deduction on account of Tax imposed by the United Kingdom, if on the date on which the payment falls due:
 - (i) the payment could have been made to the relevant Lender without a Tax Deduction if the Lender had been a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or Treaty, or any published practice or published concession of any relevant taxing authority; or

- (ii) the relevant Lender is a Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of Qualifying Lender; and
 - (A) an officer of H.M. Revenue & Customs has given (and not revoked) a direction (a **Direction**) under section 931 of the ITA which relates to the payment and that Lender has received from the Obligor making the payment or from the Parent a certified copy of that Direction; and
 - (B) the payment could have been made to the Lender without any Tax Deduction if that Direction had not been made; or
- (iii) the relevant Lender is a Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of Qualifying Lender and:
 - (A) the relevant Lender has not given a Tax Confirmation to the Parent; and
 - (B) the payment could have been made to the Lender without any Tax Deduction if the Lender had given a Tax Confirmation to the Parent, on the basis that the Tax Confirmation would have enabled the Parent to have formed a reasonable belief that the payment was an "excepted payment" for the purpose of section 930 of the ITA; or
- (iv) the relevant Lender is a Treaty Lender and the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under paragraphs (g) or (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 thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Agent for the Finance Party entitled to the payment a statement under section 975 of the ITA or other evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
- (g)
 - (i) Subject to paragraph (ii) below, a Treaty Lender and each Obligor which makes a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.
 - (ii)
 - (A) 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

(B) 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 paragraph (i) above.

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

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

- (i) If a Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph (g)(ii) above, no Obligor shall make a Borrower DTTP Filing or file any other form relating to the HMRC DT Treaty Passport scheme in respect of that Lender's Commitment(s) 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 that 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 Parent by entering into this Agreement.
- (l) A UK Non-Bank Lender shall promptly notify the Parent and the Agent if there is any change in the position from that set out in the Tax Confirmation.

16.3 Tax indemnity

- (a) The Parent shall (within three Business Days of demand by the Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:

- (i) with respect to any Tax assessed on a Finance Party:
 - (A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; 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 for solely because one of the exclusions in paragraph (d) of Clause 16.2 (*Tax gross-up*) applied; or
 - (C) relates to a FATCA Deduction required to be made by a Party.
- (c) A Protected Party making, or intending to make, a claim under paragraph (a) above shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Parent.
- (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 16.3, 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 an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Finance Party has obtained and utilised that Tax Credit,

the Finance Party shall pay an amount to the Obligor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

16.5 Lender status confirmation

Each Lender which is not an Original Lender shall indicate, in the documentation which it executes on becoming a Party as a Lender, for the benefit of the Agent and without liability to any Obligor, which of the following categories it falls in:

- (a) not a Qualifying Lender;

- (b) a Qualifying Lender (other than a Treaty Lender); or
- (c) a Treaty Lender.

If 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 Parent). For the avoidance of doubt, the 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 Parent shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to any stamp duty, registration and other similar Taxes payable in respect of any Finance Document save for any such Taxes payable in respect of an assignment or transfer of a Lender's interests in respect of any Finance Document.

16.7 Value added tax

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the **Supplier**) to any other Finance Party (the **Recipient**) under a Finance Document, and any Party other than the Recipient (the **Relevant Party**) is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
 - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.

- (c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) Any reference in this Clause 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 paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
 - (i) confirm to that other Party whether it is:
 - (A) a FATCA Exempt Party; or
 - (B) not a FATCA Exempt Party;
 - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
 - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Finance Party to do anything and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.

- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
- (e) If a Borrower is a US Tax Obligor or the Agent reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, each Lender shall, within ten Business Days of:
 - (i) where an Original Borrower is a US Tax Obligor and the relevant Lender is an Original Lender, the date of this Agreement;
 - (ii) where a Borrower is a US Tax Obligor on a date on which any other Lender becomes a Party as a Lender, that date;
 - (iii) the date a new US Tax Obligor accedes as a Borrower; or
 - (iv) where a Borrower is not a US Tax Obligor, the date of a request from the Agent,supply to the Agent:
 - (A) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or
 - (B) any withholding statement or other document, authorisation or waiver as the Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
- (f) The Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the relevant Borrower.
- (g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Agent). The Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the relevant Borrower.
- (h) The Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraphs (e) or (g) above without further verification. The Agent shall not be liable for any action taken by it under or in connection with paragraph (e), (f) or (g) above.

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 Parent 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 Parent shall, within three Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or (ii) compliance with any law or regulation made after the date of this Agreement, or (iii) the implementation, administration or application of Basel III or CRD IV or any other law or regulation that implements Basel III or CRD IV.

- (b) In this Agreement:

Basel III means:

- (a) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity, risk measurement, standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
- (b) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement – Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated;
- (c) the agreements contained in "Basel III: Finalising post-crisis reforms" published by the Basel Committee on Banking Supervision in December 2017 as amended, supplemented or restated; and
- (d) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III".

CRDIV means EU CRDIV and UK CRDIV.

EU CRDIV means:

- (a) "Regulation (EU) No 575/2013 of the European Parliament and of the Council dated 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012", as amended from time to time; and

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

Increased Costs means:

- (a) a reduction in the rate of return from the 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.

UK CRDIV means:

- (a) "Regulation (EU) No 575/2013 of the European Parliament and of the Council dated 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012" as it forms part of domestic law of the United Kingdom by virtue of the European Union (Withdrawal) Act 2018 (the "**Withdrawal Act**"); and
- (b) the law of the United Kingdom or any part of it, which immediately before IP completion day (as defined in the European Union (Withdrawal Agreement) Act 2020) implemented Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC and its implementing measures; and
- (c) direct EU legislation (as defined in the Withdrawal Act), which immediately before IP completion day (as defined in the European Union (Withdrawal Agreement) Act 2020) implemented EU CRDIV as it forms part of domestic law of the United Kingdom by virtue of the Withdrawal Act.

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 Parent.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

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 paragraph (b) of Clause 16.3 (*Tax indemnity*) applied);
 - (iv) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation;
 - (v) attributable to the implementation or application of or compliance with the "International Convergence of Capital Measurement and Capital Standards, a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement (but excluding any amendment arising out of Basel III) ("**Basel II**") or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates) which for the avoidance of doubt shall not include any changes pursuant to Basel III; or
 - (vi) attributable to the implementation or application of, or compliance with Basel III or CRDIV or any other law or regulation which implements Basel III or CRDIV, in each case to the extent that the relevant Finance Party knew the relevant Increased Cost on the date it became a Finance Party and such Increased Costs were reasonably quantifiable at that date.
- (b) In this Clause 17.3, a reference to a Tax Deduction has the same meaning given to the 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; or
 - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Secured Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (i) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (ii) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

18.2 Other indemnities

The Parent shall (or shall procure that an Obligor will), within three Business Days of demand, indemnify the Arranger and each other Secured Party against any cost, loss or liability incurred by that Secured Party as a result of:

- (a) the occurrence of any Event of Default;
- (b) 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*);
- (c) funding, or making arrangements to fund, its participation in a Loan requested by the Parent or a Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or
- (d) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by a Borrower or the Parent.

18.3 Indemnity to the Agent

The Parent shall promptly indemnify the Agent against:

- (a) any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:
 - (i) investigating any event which it reasonably believes is a Default (and the Agent shall subsequently notify the Parent of such investigation); or
 - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
 - (iii) subject to the prior consent of the Parent (unless the Agent reasonably believes that a Default has occurred and is continuing), instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and
- (b) any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 35.11 (*Disruption to payment systems etc.*)) notwithstanding the Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent in acting as Agent under the Finance Documents.
- (c) This indemnity given by the Parent under or in connection with this Agreement is a continuing obligation, independent of the Parent's other obligations under or in connection with that or any other document and survives after that document is terminated. It is not necessary for a person to pay any amount or incur any expense before enforcing an indemnity under or in connection with this Agreement or any other document.

18.4 Indemnity to the Security Agent

- (a) Each Obligor jointly and severally shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:
- (i) any failure by the Parent to comply with its obligations under Clause 20 (*Costs and expenses*);
 - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
 - (iii) the taking, holding, protection or enforcement of the Transaction Security;
 - (iv) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law;
 - (v) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; or
 - (vi) acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Charged Property (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct).
- (b) The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 18.4 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.
- (c) Each indemnity given by a Party under or in connection with a Finance Document is a continuing obligation, independent of the Party's other obligations under or in connection with that or any other Finance Document and survives after that Finance Document is terminated. It is not necessary for a person to pay any amount or incur any expense before enforcing an indemnity under or in connection with a Finance Document.

19 Mitigation by the Lenders**19.1 Mitigation**

- (a) Each Finance Party shall, in consultation with the Parent, take all reasonable steps to mitigate any circumstances which arise and which would result in:
- (i) the Facility ceasing to be available; or
 - (ii) 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) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

19.2 Limitation of liability

- (a) The Parent shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 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

Subject to any cap on such costs and expenses agreed between the Parent and the Finance Parties prior to signing this Agreement, the Parent shall promptly on demand pay the Agent, the Arranger and the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution and perfection of:

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

20.2 Amendment costs

If:

- (a) an Obligor requests an amendment, waiver or release of, or consent in relation to, any Finance Document; or
- (b) an amendment is required to any Finance Document pursuant to Clause 35.10 (*Change of currency*),

the Parent shall, within 5 Business Days of demand, reimburse each of the Agent and the Security Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by the Agent and/ or 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 and subject to, in the case of paragraph (a) above, any cap on such costs and expenses agreed between the Parent and the Agent or Security Agent at the time the relevant Obligor makes such request.

20.3 Security Agent's management time and additional remuneration

- (a) To the extent that there is more than one Lender under this Agreement, any amount payable to the Security Agent under Clause 18.4 (*Indemnity to the Security Agent*) and this Clause 20 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 Parent and the Lenders, and is in addition to any other fee paid or payable to the Security Agent.

- (b) Without prejudice to paragraph (a) above and to the extent that there is more than one Lender under this Agreement, in the event of:
- (i) a Default which is continuing;
 - (ii) the Security Agent being requested by an Obligor or the Majority Lenders to undertake duties which the Security Agent and the Parent agree to be of an exceptional nature or outside the scope of the normal duties of the Security Agent under the Finance Documents; or
 - (iii) the Security Agent and the Parent agreeing that it is otherwise appropriate in the circumstances,

the Parent shall pay to the Security Agent any additional remuneration that may be agreed between them or determined pursuant to paragraph (c) below.

- (c) If the Security Agent and the Parent 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 Parent 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 Parent) and the determination of any investment bank shall be final and binding upon the Parties.

20.4 Enforcement and preservation costs

The Parent shall, within three Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including legal 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.

20.5 Reference rate transition costs

The Parent shall, within three Business Days of demand, reimburse the Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by the Agent in responding to, evaluating, negotiating or complying with any amendment or waiver requested or made pursuant to Clause 41.4 (*Changes to reference rates*).

Section 7 – Guarantee

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 were the principal obligor; and
- (c) agrees with each Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Finance Party immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 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, recovery 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 21, 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 Group Company;

- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or Security including without limitation any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or Security;
- (f) any unenforceability, illegality or invalidity of any obligation of, or any Security created by any person under any Finance Document or any other document; 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:

- (a) business acquisitions of any nature;
- (b) increasing working capital;
- (c) enabling investor distributions to be made;
- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new borrowers;
- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and
- (i) 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

- (a) Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, and unless the Agent otherwise directs, 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:
 - (i) to be indemnified by an Obligor;
 - (ii) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
 - (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Finance Party under any Finance Document or of any other guarantee or Security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
 - (iv) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 21.1 (*Guarantee and indemnity*);
 - (v) to exercise any right of set-off against any Obligor; and/or
 - (vi) to claim or prove as a creditor of any Obligor in competition with any Finance Party.
- (b) If a Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust 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 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 in the future held by any Finance Party.

21.11 Guarantee limitations – English and US Guarantors

- (a) 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 Act or any equivalent and applicable provisions under the laws of the Original Jurisdiction of the relevant Guarantor and, with respect to any Additional Guarantor, is subject to any limitations set out in the Accession Deed applicable to such Additional Guarantor.
- (b) Each US Guarantor acknowledges that it will receive valuable direct or indirect benefits as a result of the transactions contemplated by the Finance Documents (including utilisations thereunder).
- (c) Notwithstanding anything to the contrary contained herein or in any other Finance Document, each Finance Party agrees that the maximum liability of each US Guarantor under this Clause 21 (*Guarantee and indemnity*) shall in no event exceed an amount equal to the greatest amount that would not render such US Guarantor's obligations hereunder and under the other Finance Documents subject to avoidance under US Bankruptcy Law or to being set aside, avoided or annulled under any applicable bankruptcy, fraudulent transfer or fraudulent conveyance statute and any related case law (in each case applicable to any US Guarantor under federal or state laws of the US) ("Fraudulent Transfer Law"), in each case after giving effect to (i) all other liabilities of such US Guarantor, contingent or otherwise, that are relevant under such Fraudulent Transfer Law and (ii) the value as assets of such US Guarantor (as determined under the applicable provisions of such Fraudulent Transfer Law) of any rights to subrogation, contribution, reimbursement, indemnity or similar rights held by such US Guarantor pursuant to (A) applicable law or (B) any other agreement providing for an equitable allocation among such US Guarantor and the Borrowers and other Guarantors of obligations arising under this Agreement or other guarantees of such obligations by such parties.

21.12 Guarantee limitations – Czech Guarantors

- (a) The guarantee and/or indemnity of any Czech Guarantor pursuant to this Clause 21 (*Guarantee and indemnity*) shall not include any payment undertaking, obligations and liabilities to the extent it would result in such guarantee and/or indemnity infringing or circumventing the prohibition on financial assistance set forth by Czech law.
- (b) Without prejudice to paragraph (a), the maximum amount of the obligations and liabilities of any Czech Guarantor under the guarantee pursuant to this Clause 21 shall on each date be limited to an amount equal to the Czech Limitation Amount, being:

$$\text{Czech Limitation Amount} = \frac{G}{O} \times A$$

where:

- (A) **A** means the net book value of all assets of the relevant Czech Guarantor recorded in its latest annual unconsolidated financial statements (as defined in the accounting standards applicable to the relevant Czech Guarantor) available to the Agent or, if they are more up-to-date and supplied to the Agent within 15 Business Days following its request, its latest interim unconsolidated financial statements available to the Agent or the Security Agent;
- (B) **G** means all amounts guaranteed by the relevant Czech Guarantor under this Agreement or any other Finance Document has the Czech Limitation Amount not been applied;
- (C) **O** means all liabilities of the relevant Czech Guarantor recorded in its latest annual unconsolidated financial statements as defined in the accounting standards applicable to that Czech Guarantor available to the Agent or the Security Agent or, if they are more up-to-date and supplied to the Agent or the Security Agent within 15 Business Days following its request, its latest interim unconsolidated financial statements. The term liabilities shall have the meaning attached to it under the accounting standards applicable to the relevant Czech Guarantor but, notwithstanding the foregoing, shall at all times:
- 1) exclude equity capital (*vlastní kapitál*) of the relevant Czech Guarantor; and
 - 2) include the liabilities guaranteed by the relevant Czech Guarantor under this Agreement, any other Finance Document or otherwise; and
 - 3) include the liabilities of third parties guaranteed and/or secured by the relevant Czech Guarantor under any agreement or otherwise; and
 - 4) include any other off-balance sheet liabilities of the relevant Czech Guarantor.

For the avoidance of doubt, in each case any identical liabilities of the relevant Czech Guarantor mentioned in the previous sentence will be included in the "O" amount (as set out in paragraph (C) above) only once, and so that the amount of any contingent liability as described above shall be calculated as the maximum liability upon the occurrence of the contingency giving rise to the relevant liability.

- (ii) The term "net book value" used for the purpose of the calculation of the Czech Limitation Amount means the book value reduced by corrections and provisions (*opravné položky a oprávkky (korekce)*) as set out in the Czech Accounting Standards. "Czech Accounting Standards" means Czech accounting standards, namely (i) Czech Act No. 563/1991 Coll., on Accounting, as amended, (ii) Czech Decree No. 500/2002, Coll., implementing certain provisions of Act No. 563/1991 Coll., on Accounting, as amended, in respect of accounting units constituting businesses keeping double-entry accounting, as amended, (iii) the Czech Accounting Standards for Businesses, issued on the basis of Czech Act No. 563/1991 Coll., on Accounting, as amended, in Financial Bulletin No. 11-12/1/2003, as amended, (iv) any decrees (*opatření*) of the Czech Ministry of Finance issued on the basis of Czech Act No. 563/1991 Coll., on Accounting, as amended, relating from time to time, to the accounting matters of the relevant Czech Guarantor and (v) any other laws applicable, from time to time, to the accounting matters of the relevant Czech Guarantor.

Section 8 – Representations, warranties, undertakings and Events of Default

22 Representations and warranties

22.1 General

Each Obligor makes the representations and warranties set out in this Clause 22 to each Finance Party. Each Finance Party is relying on these representations and warranties when entering this Agreement.

22.2 Status

- (a) It is a limited liability corporation or public limited company (as relevant), duly incorporated and validly existing under the law of its Original Jurisdiction.
- (b) Each of its Subsidiaries is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (c) It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.
- (d) No Czech Obligor is an entity listed in Section 2(1) of Act No. 340/2015 Coll., on the special requirements for the effectiveness of certain contracts, the disclosure of these contracts and their registration (the **Contract Registry Act**), and as such the Contract Registry Act does not apply to the Finance Documents.
- (e) No Obligor, nor any of its Subsidiaries is:
 - (i) subject to regulation under the US Public Utility Holding Company Act of 2005 or the US Federal Power Act;
 - (ii) required to be registered as an "investment company" under the Investment Company Act of 1940; or
 - (iii) engaged in the business of extending credit for the purpose of purchasing or carrying margin stock, and no proceeds of any Loan obtained hereunder shall be used for a purpose which violates, or would be inconsistent with, Regulation T, U or X of the F.R.S. Board,

meanings for which terms are provided in Regulation T, U or X of the F.R.S. Board or any regulations substituted therefor, as from time to time in effect.
- (f) Each Czech Obligor maintains the information contained in the UBO Register with respect to it in accordance and in compliance with the UBO Act.
- (g) The entry into this Agreement, establishment of the Transaction Security under the Transaction Security Documents and performance by the relevant Czech Obligor of its obligations under this Agreement do not constitute gratuitous performance by the Czech Obligor within the meaning of the first sentence of Section 40(5) of the Czech Act on Business Corporations.

22.3 Binding obligations

Subject to the Legal Reservations:

- (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 paragraph (a) above), each Transaction Security Document to which it is a party creates the security interests which that Transaction Security Document purports to create and those security interests are valid and effective.

22.4 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents to which it is a party and the granting of the Transaction Security do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) the constitutional documents of any Group Company; or
- (c) any agreement or instrument binding upon it or any Group Company or any of its or any Group Company's assets or constitute a default or termination event (however described) under any such agreement or instrument.

22.5 Power and authority

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is or will be a party and the transactions contemplated by those Finance Documents.
- (b) No limit on its powers will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by the Finance Documents to which it is a party.

22.6 Validity and admissibility in evidence

- (a) All Authorisations required or desirable:
 - (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and
 - (ii) to make the Finance Documents to which it is a party admissible in evidence in its Relevant Jurisdictions;

have been obtained or effected and are in full force and effect except any Authorisation referred to in paragraph (b) of Clause 22.9 (*No filing or stamp taxes*), which Authorisations will be promptly obtained or effected after the date of the relevant Finance Document.

- (b) All Authorisations necessary for the conduct of the business, trade and ordinary activities of the Group Companies have been obtained or effected and are in full force and effect if failure to obtain or effect those Authorisations has or is reasonably likely to have a Material Adverse Effect.

22.7 Governing law and enforcement

Subject to the Legal Reservations:

- (a) the choice of governing law of each Finance Document to which it is a party will be recognised and enforced in its Relevant Jurisdictions; and
- (b) any judgment obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in its Relevant Jurisdictions.

22.8 Insolvency

No:

- (a) corporate action, legal proceeding or other procedure or step described in paragraph (a) of Clause 26.7 (*Insolvency proceedings*); or
- (b) creditors' process described in Clause 26.8 (*Creditors' process*),

has been taken or, to the knowledge of the Parent, threatened in relation to a Group Company; and none of the circumstances described in Clause 26.6 (*Insolvency*) applies to a Group Company.

22.9 No filing or stamp taxes

Under the laws of its Relevant Jurisdiction it is not necessary that any of the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction, or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to any of the Finance Documents or any of the transactions contemplated by the Finance Documents except:

- (a) registration of particulars of the Transaction Security Documents at Companies House in England and Wales under Part 25 (*Company Charges*) of the Act or any regulations relating to the registration of charges made under, or applying the provisions of, the Act and payment of associated fees;
- (b) registration of the Transaction Security Documents at HM Land Registry or Land Charges Register in England and Wales and payment of associated fees,

which registrations, filings, taxes and fees will be made and paid promptly after the date of the relevant Finance Document.

22.10 Deduction of Tax

It is not required to make any deduction for or on account of Tax from any payment it may make under any Finance Document to a Lender which is:

- (a) a Qualifying Lender:
 - (i) falling within paragraph (a)(i) of the definition of Qualifying Lender in Clause 16.1 (*Definitions*); or

- (ii) except where a Direction has been given under section 931 of the ITA in relation to the payment concerned, falling within paragraph (a)(ii) of the definition of Qualifying Lender in Clause 16.1 (*Definitions*); or
- (iii) falling within paragraph (b) of the definition of Qualifying Lender in Clause 16.1 (*Definitions*); or
- (b) a Treaty Lender and the payment is one specified in a direction given by the Commissioners of Revenue & Customs under Regulation 2 of the Double Taxation Relief (Taxes on Income) (General) Regulations 1970 (SI 1970/488).

22.11 No default

- (a) No Event of Default and, on the Effective Date, no Default is continuing or is reasonably likely to result from the making of any Loan or the entry into, the performance of, or any transaction contemplated by, any Finance Document.
- (b) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (however described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which has or is reasonably likely to have a Material Adverse Effect.

22.12 No misleading information

Save as disclosed in writing to the Agent and the Arranger prior to the date of this Agreement:

- (a) any factual information contained in the Base Case Model was true and accurate in all material respects as at the date of the relevant report or document containing the information or (as the case may be) as at the date the information is expressed to be given;
- (b) the Base Case Model has been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements, and the financial projections contained in the Base Case Model have been prepared on the basis of recent historical information, are fair and based on reasonable assumptions and have been approved by the board of directors of the Parent;
- (c) any financial projection or forecast contained in the Base Case Model has been prepared on the basis of recent historical information and on the basis of reasonable assumptions and was fair (as at the date of the relevant report or document containing the projection or forecast) and arrived at after careful consideration;
- (d) the expressions of opinion or intention provided by or on behalf of an Obligor for the purposes of the Base Case Model were made after careful consideration and (as at the date of the relevant report or document containing the expression of opinion or intention) were fair and based on reasonable grounds;
- (e) no event or circumstance has occurred or arisen and no information has been omitted from the Base Case Model and no information has been given or withheld that results in the information, opinions, intentions, forecasts or projections contained in the Base Case Model being untrue or misleading in any material respect;

- (f) all material information provided to a Finance Party by or on behalf of the Parent in connection with the Group on or before the date of this Agreement and not superseded before that date (whether or not contained in the Base Case Model) is accurate and not misleading in any material respect and all projections provided to any Finance Party on or before the date of this Agreement have been prepared in good faith on the basis of assumptions which were reasonable at the time at which they were prepared and supplied; and
- (g) all other written information provided by any Group Company (including its advisers) to a Finance Party was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any material respect as at such date.

22.13 Financial Statements

- (a) Its Original Financial Statements were prepared in accordance with the Accounting Principles consistently applied unless expressly disclosed to the Agent in writing to the contrary. However in the case of monthly and quarterly statements, normal year end adjustments were not made.
- (b) Its unaudited Original Financial Statements fairly present its financial condition and its results of operations as at the end of and for the relevant period to which they relate unless expressly disclosed to the Agent in writing to the contrary prior to the date of this Agreement.
- (c) Its audited Original Financial Statements fairly present its financial condition and its results of operations during the relevant financial year unless expressly disclosed to the Agent in writing to the contrary prior to the date of this Agreement.
- (d) There has been no material adverse change in its assets, business or financial condition (or the assets, business or consolidated financial condition of the Group, in the case of the Parent) since the date of the Original Financial Statements.
- (e) Its most recent financial statements delivered pursuant to Clause 23.3 (*Financial statements*):
 - (i) have been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements and the Base Case Model; and
 - (ii) fairly present its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.
- (f) The budgets and forecasts supplied under this Agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were reasonable as at the date they were prepared and supplied.
- (g) Since the date of the most recent financial statements delivered pursuant to Clause 23.3 (*Financial statements*) there has been no material adverse change in the assets, business or financial condition of the Group.

22.14 No proceedings

- (a) No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, are reasonably

likely to have a Material Adverse Effect have (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened against it or any of its Subsidiaries,

- (b) No judgment or order of a court, arbitral body or agency which is reasonably likely to have a Material Adverse Effect has (to the best of its knowledge and belief (having made due and careful enquiry)) been made against it or any of its Subsidiaries.

22.15 No breach of laws

- (a) It has not (and none of its Subsidiaries has) breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.
- (b) No labour disputes are current or, to the best of its knowledge and belief (having made due and careful enquiry), threatened against any Group Company which have or are reasonably likely to have a Material Adverse Effect.

22.16 Environmental Laws

- (a) Each Group Company is in compliance with Clause 25.3 (*Environmental compliance*) and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.
- (b) No Environmental Claim has been commenced or (to the best of its knowledge and belief (having made due and careful enquiry)) is threatened against any Group Company where that claim has or is reasonably likely, if determined against that Group Company, to have a Material Adverse Effect.
- (c) The cost to the Group of compliance with Environmental Laws (including Environmental Permits) is (to the best of its knowledge and belief, having made due and careful enquiry) adequately provided for in the Base Case Model.

22.17 Taxation

- (a) It is not (and none of its Subsidiaries is) materially overdue in the filing of any Tax returns and it is not (and none of its Subsidiaries is) overdue in the payment of any amount in respect of Tax which might reasonably be expected to have a Material Adverse Effect.
- (b) No claims or investigations are being, or are reasonably likely to be, made or conducted against it (or any of its Subsidiaries) with respect to Taxes such that a material liability of, or claim against, any Group Company is reasonably likely to arise.
- (c) It is resident for Tax purposes only in its Original Jurisdiction.

22.18 Anti-corruption law

Each Group Company has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

22.19 Security and Financial Indebtedness

- (a) No Security or Quasi-Security exists over all or any of the present or future assets of any Group Company other than as permitted by this Agreement.
- (b) No Group Company has any Financial Indebtedness outstanding other than as permitted by this Agreement.

22.20 Ranking

Subject to the Legal Reservations, the Transaction Security has or will have first ranking priority and it is not subject to any prior ranking or *pari passu* ranking Security.

22.21 Good title to assets

It and each of its Subsidiaries has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted if failure to do so has or is reasonably likely to have a Material Adverse Effect.

22.22 Legal and beneficial ownership

Each Obligor who has provided Transaction Security is the sole legal and beneficial owner of the respective assets over which it purports to grant Security.

22.23 Shares

- (a) The shares of any Group Company which are subject to the Transaction Security are fully paid and not subject to any option to purchase or similar rights.
- (b) The constitutional documents of each Group Company whose shares are subject to the Transaction Security do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security.
- (c) There are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of any Group Company (including any option or right of pre-emption or conversion).

22.24 Intellectual Property

It and each of its Subsidiaries:

- (a) is the sole legal and beneficial owner of or has licensed to it on normal commercial terms all the Intellectual Property which is material in the context of its business and which is required by it in order to carry on its business as it is being conducted and as contemplated in the Base Case Model;
- (b) does not (nor does any of its Subsidiaries), in carrying on its businesses, infringe any Intellectual Property of any third party in any respect which has or is reasonably likely to have a Material Adverse Effect; and
- (c) has taken all formal or procedural actions (including payment of fees) required to maintain any material Intellectual Property owned by it.

22.25 Group Structure Chart

The Group Structure Chart delivered to the Agent pursuant to Schedule 2 (*Conditions precedent*) is true, complete and accurate in all material respects and shows the following information:

- (a) each Group Company, including current name and company registration number, its Original Jurisdiction (in the case of an Obligor), its jurisdiction of incorporation (in the case of a Group Company which is not an Obligor) and/or its jurisdiction of establishment, a list of shareholders (other than in respect of the Parent) and indicating whether a company is not a company with limited liability; and
- (b) all minority interests in any Group Company and any person in which any Group Company holds shares in its issued share capital or equivalent ownership interest of such person.

22.26 Obligors

The aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA), aggregate gross assets and aggregate turnover of the Guarantors on the Closing Date (calculated on an unconsolidated basis and excluding all intra-Group items and investments in Subsidiaries of any Group Company) exceeds 85% of EBITDA, the consolidated gross assets and consolidated turnover of the Group.

22.27 Accounting Reference Date

The Accounting Reference Date of each Group Company is 31 December.

22.28 Centre of main interests and establishments

For the purposes of the Insolvency Regulation its centre of main interest (as that term is used in Article 3(1) of the Insolvency Regulation) is situated in its Original Jurisdiction and it has no "establishment" (as that term is used in Article 2(10) of the Insolvency Regulation) in any other jurisdiction.

22.29 Pensions

- (a) Neither it nor any of its Subsidiaries is or has at any time been an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pensions Schemes Act 1993).
- (b) Neither it nor any of its Subsidiaries is or has at any time been "connected" with or an "associate" (as those terms are used in sections 38 and 43 of the Pensions Act 2004) of such an employer.

22.30 No adverse consequences

- (a) It is not necessary under the laws of its Relevant Jurisdictions:
 - (i) in order to enable any Finance Party to enforce its rights under any Finance Document; or

- (ii) by reason of the execution of any Finance Document or the performance by it of its obligations under any Finance Document,

that any Finance Party should be licensed, qualified or otherwise entitled to carry on business in any of its Relevant Jurisdictions.

- (b) No Finance Party is or will be deemed to be resident, domiciled or carrying on business in its Relevant Jurisdictions by reason only of the execution, performance and/or enforcement of any Finance Document.

22.31 Sanctions

No Obligor, nor any of their Subsidiaries, nor any director or officer or any employee, agent, or affiliate of an Obligor or any of their Subsidiaries is an individual or entity (**Person**) that is, or is owned or controlled by Persons that are (i) the target or subject of any sanctions administered or enforced by the US Department of the Treasury's Office of Foreign Assets Control, the US Department of State, the United Nations Security Council, the European Union, Her Majesty's Treasury, or the Hong Kong Monetary Authority (collectively, **Sanctions**), or (ii) located, organised or resident in a country or territory that is the target or subject of Sanctions, including currently the Crimea region, Cuba, Iran, North Korea and Syria other than to the extent that such representation/warranty would result in a violation of Council Regulation (EC) No 2271/96, as amended (or any implementing law or regulation in any member state of the European Union or the United Kingdom).

22.32 ERISA

- (a) None of the Obligors have underlying assets which constitute Plan Assets; and
- (b) No Obligor nor any ERISA Affiliate maintains, contributes to or is obligated to maintain or contribute to, or has maintained, contributed to or been obligated to maintain or contribute to, any Employee Plan.

22.33 Investment Company Act and Public Utility Holding Company Act

It is not subject to regulation under the US Public Utility Holding Company Act of 2005 or the US Federal Power Act. It is not required to register as an "investment company", or a company "controlled" by an "investment company" or an "affiliated person" of, or "promoter" or "principal underwriter" for, an "investment company", as such terms are defined in the US Investment Company Act of 1940, as amended (15 U.S.C. ss.80a-1 et seq.) and it is not subject to regulation under the Investment Company Act of 1940.

22.34 DAC 6

No transaction contemplated by the Finance Documents nor any transaction to be carried out in connection by the Finance Documents meets any hallmark set out in Annex IV of the Council Directive of 25 May 2018 (2018/822/EU) amending 2011/16/EU.

22.35 Times when representations and warranties made

- (a) All the representations and warranties in this Clause 22 are made by each Original Obligor on the date of this Agreement.

- (b)
 - (i) Subject to paragraph (ii) below, the Repeating Representations are deemed to be made by each Obligor:
 - (A) on the date of each Utilisation Request;
 - (B) on each Utilisation Date;
 - (C) on the first day of each Interest Period; and
 - (D) on the Extension Option Date and each Accordion Effective Date.
 - (ii) The Repeating Representations contained in paragraphs (a) to (e) of Clause 22.13 (*Financial Statements*) will cease to be deemed to be made by each Obligor once subsequent financial statements have been delivered under this Agreement.
- (c) All the representations and warranties in this Clause 22 except Clause 22.12 (*No misleading information*) and Clause 22.25 (*Group Structure*) are deemed to be made by each Additional Obligor on the day on which it becomes (or it is proposed that it becomes) an Additional Obligor.
- (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

23.1 Duration

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

23.2 Definitions

In this Clause 23:

Annual Financial Statements means the financial statements for a Financial Year delivered pursuant to paragraph (a) of Clause 23.3 (*Financial statements*).

Quarterly Financial Statements means the financial statements delivered pursuant to paragraph (b) of Clause 23.3 (*Financial statements*).

23.3 Financial statements

The Parent shall supply to the Agent in sufficient copies for all the Lenders:

- (a) as soon as they are available, but in any event within 180 days after the end of each of its Financial Years:
 - (i) its audited consolidated financial statements for that Financial Year;

- (ii) the financial statements (consolidated if appropriate) of each Obligor for that Financial Year (audited if required by applicable law in the relevant jurisdiction of that Obligor to be audited); and
 - (iii) the financial statements of any other Subsidiary for that Financial Year if requested by the Agent (audited if required by applicable law in the relevant jurisdiction of that Subsidiary to be audited);
- (b) as soon as they are available, but in any event within 30 days after the end of each Financial Quarter of each of its Financial Years its consolidated financial statements for that Financial Quarter;

23.4 Provision and contents of Compliance Certificate

- (a) The Parent shall supply a Compliance Certificate to the Agent with each set of its Annual Financial Statements and each set of its Quarterly Financial Statements.
- (b) The Compliance Certificate shall, amongst other things, set out (in reasonable detail) computations as to compliance with Clause 24 (*Financial covenants*).
- (c) Each Compliance Certificate shall be signed by two directors of the Parent (one of whom to be the chief financial officer).

23.5 Requirements as to financial statements

- (a) The Parent shall procure that each set of Annual Financial Statements and Quarterly Financial Statements includes a balance sheet, profit and loss account and cashflow statement. In addition the Parent shall procure that:
 - (i) each set of its Annual Financial Statements shall be audited by the Parent's Auditors;
 - (ii) each set of Quarterly Financial Statements includes:
 - (A) a cashflow forecast in respect of the Group relating to the twelve month period commencing at the end of the relevant Financial Quarter; and
 - (B) a statement by the directors of the Parent commenting on the performance of the Group for the Financial Quarter to which the financial statements relate and the Financial Year to date and any material developments or proposals affecting the Group or its business.
- (b) Each set of financial statements delivered pursuant to Clause 23.3 (*Financial statements*):
 - (i) shall be certified by a director of the relevant Group Company as fairly presenting its (where appropriate, consolidated) financial condition and operations as at the end of and for the period in relation to which those financial statements were drawn up and, in the case of the Annual Financial Statements of the Parent and the Annual Financial Statements of any other Obligor where the relevant jurisdiction of that Obligor requires such Annual Financial Statements to be audited as a matter of law, shall be accompanied

by any letter addressed to the management of the relevant Group Company by the auditors of those Annual Financial Statements and accompanying those Annual Financial Statements;

- (ii) in the case of consolidated financial statements of the Group, shall be accompanied by a statement by the directors of the Parent comparing actual performance for the period to which the financial statements relate to:
 - (A) the projected performance for that period set out in the Budget; and
 - (B) the actual performance for the corresponding period in the preceding Financial Year of the Group, and
- (iii) shall be prepared using the Accounting Principles, accounting practices and financial reference periods consistent with those applied:
 - (A) in the case of the Parent, in the preparation of the Base Case Model; and
 - (B) in the case of any Obligor, in the preparation of the Original Financial Statements for that Obligor,

unless, in relation to any set of financial statements, the Parent notifies the Agent that there has been a change in the Accounting Principles or the accounting practices and the Parent's Auditors (or, if appropriate, the auditors of the Obligor) deliver to the Agent:

- 1) a description of any change necessary for those financial statements to reflect the Accounting Principles, accounting practices upon which the Base Case Model or, as the case may be, that Obligor's Original Financial Statements were prepared; and
- 2) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 24 (*Financial covenants*) has been complied with, to determine the Margin as set out in the definition of Margin and to make an accurate comparison between the financial position indicated in those financial statements and the Base Case Model (in the case of the Parent) or that Obligor's Original Financial Statements (in the case of an Obligor).

Any reference in this Agreement to any financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Base Case Model, or, as the case may be, the Original Financial Statements were prepared.

- (c) If the Agent wishes to discuss the financial position of any Group Company with the auditors of that Group Company, the Agent may notify the Parent, stating the questions or issues which the Agent wishes to discuss with those auditors. In this event, the Parent must ensure that those auditors are authorised (at the expense of the Parent):

- (i) to discuss the financial position of the relevant Group Company with the Agent on request from the Agent; and
- (ii) to disclose to the Agent for the Finance Parties any information which the Agent may reasonably request.

23.6 Budget

- (a) The Parent shall supply to the Agent in sufficient copies for all the Lenders, as soon as the same become available but in any event within 15 days before the start of each of its Financial Years, an annual Budget for that Financial Year.
- (b) The Parent shall ensure that each Budget for a financial year:
 - (i) is in a form reasonably acceptable to the Agent and includes:
 - (A) a projected consolidated profit and loss, balance sheet and cashflow statement for the Group;
 - (B) projected financial covenant calculations,for that financial year and for each Financial Quarter of that financial year;
 - (ii) is prepared in accordance with the Accounting Principles and the accounting practices and financial reference periods applied to financial statements under Clause 23.3 (*Financial statements*); and
 - (iii) has been approved by the board of directors of the Parent.
- (c) If the Parent updates or changes the Budget to any material extent, it shall promptly deliver to the Agent, in sufficient copies for each of the Lenders, such updated or changed Budget together with a written explanation of the main changes in that Budget.

23.7 Group companies

The Parent shall, at the request of the Agent, supply to the Agent a report issued by the Parent's Auditors stating which of its Subsidiaries are Material Companies and confirming that the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA), aggregate gross assets and aggregate turnover of the Guarantors (calculated on an unconsolidated basis and excluding all intra-Group items and investments in Subsidiaries of any Group Company) exceeds 85% of EBITDA, the consolidated gross assets and consolidated turnover of the Group (taking into account for these purposes the limitations contained in Clause 25.29 (*Guarantors*)).

23.8 Presentations

Once in every Financial Year, or more frequently if requested to do so by the Agent if the Agent reasonably suspects a Default is continuing or may have occurred or may occur, at least two directors of the Parent (one of whom shall be the chief financial officer) must give a presentation to the Finance Parties, about the on-going business and financial performance of the Group.

23.9 Year-end

The Parent shall not change its Accounting Reference Date and shall procure that the end of each annual accounting period of each Group Company falls on 31 December (other than to the extent that in any particular jurisdiction that jurisdiction imposes a statutory accounting period).

23.10 Information: miscellaneous

The Parent shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

- (a) at the same time as they are dispatched, copies of all documents dispatched by the Parent to its shareholders generally (or any class of them) or dispatched by the Parent or any Obligors to its creditors generally (or any class of them);
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any Group Company, and which, if adversely determined, are reasonably likely to have a Material Adverse Effect;
- (c) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral body or agency which is made against any Group Company and which is reasonably likely to have a Material Adverse Effect;
- (d) promptly, such information as the Security Agent may reasonably require about the Charged Property and compliance of the Obligors with the terms of any Transaction Security Documents; and
- (e) promptly on request, such further information regarding the financial condition, assets and operations of the Group and/or any Group Company.

23.11 Notification of default

- (a) Each Obligor shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).
- (b) Promptly upon a request by the Agent, the Parent shall supply to the Agent a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

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 date of this Agreement;
 - (ii) any change in the status of an Obligor (or of a Holding Company of an Obligor) or the composition of the shareholders of an Obligor (or of a Holding Company of an Obligor) after the date of this Agreement; or

- (iii) a proposed assignment or transfer by a Lender of any of its rights and/or obligations under this Agreement to a party that is not a Lender before such assignment or transfer,

obliges the Agent or any Lender (or, in the case of paragraph (iii) above, any prospective new Lender) to comply with know your customer or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (iii) above, on behalf of any prospective new Lender) in order for the Agent or such Lender or, in the case of the event described in paragraph (iii) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary know your customer or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or the Security Agent) in order for the Agent or the Security Agent to carry out and be satisfied it has complied with all necessary know your customer or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.
- (c) The Parent shall, by not less than 10 Business Days' prior written notice to the Agent, notify the Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Obligor pursuant to Clause 29 (*Changes to the Obligors*).
- (d) Following the giving of any notice pursuant to paragraph (c) above, if the accession of such Additional Obligor obliges the Agent or any Lender to comply with know your customer or similar identification procedures in circumstances where the necessary information is not already available to it, the Parent shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective new Lender) in order for the Agent or such Lender or any prospective new Lender to carry out and be satisfied it has complied with all necessary know your customer or other similar checks under all applicable laws and regulations pursuant to the accession of such Subsidiary to this Agreement as an Additional Obligor.

24 Financial covenants

24.1 Financial definitions

Adjusted EBITDA means, in relation to a Relevant Period, EBITDA for that Relevant Period adjusted by:

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

- (b) excluding the operating profit before interest, tax, depreciation, and amortisation (calculated on the same basis as EBITDA) attributable to any Group Company (or to any business or assets) disposed of during the Relevant Period for that part of the Relevant Period.

Adjusted Leverage means, in respect of any Relevant Period, the ratio of Total Net Debt on the last day of that Relevant Period to Adjusted EBITDA in respect of that Relevant Period.

Borrowings means, at any time, the aggregate outstanding principal, capital or nominal amount (and any fixed or minimum premium payable on prepayment or redemption) of any indebtedness of members of the Group for or in respect of:

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any acceptances under any acceptance credit or bill discount facility (or dematerialised equivalent);
- (c) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) any Finance Lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of (i) an underlying liability of an entity which is not a Group Company which liability would fall within one of the other paragraphs of this definition or (ii) any liabilities of any Group Company relating to any post-retirement benefit scheme;
- (g) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before any applicable Termination Date or are otherwise classified as borrowings under the Accounting Principles;
- (h) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind the entry into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 60 days after the date of supply;
- (i) any amount raised under any other transaction (including any forward sale or purchase agreement, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles; and
- (j) (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (i) above.

EBITDA means, in respect of any Relevant Period, the consolidated operating profit of the Group before taxation (excluding the results from discontinued operations):

- (a) before deducting any interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments whether paid, payable or capitalised by any Group Company (calculated on a consolidated basis) in respect of that Relevant Period;
- (b) not including any accrued interest owing to any Group Company;
- (c) after adding back any amount attributable to the amortisation or depreciation assets of members of the Group;
- (d) before taking into account any Exceptional Items;
- (e) after deducting the amount of any profit (or adding back the amount of any loss) of any Group Company which is attributable to minority interests;
- (f) before taking into account any unrealised gains or losses on any derivative instrument or financial instrument (other than any derivative instrument which is accounted for on a hedge accounting basis);
- (g) before taking into account any gain or loss arising from an upward or downward revaluation of any other asset at any time;
- (h) before taking into account any Pension Items; and
- (i) excluding the charge to profit represented by the expensing of stock options,

in each case, to the extent added, deducted or taken into account, as the case may be, for the purposes of determining operating profits of the Group before taxation.

Exceptional Items means any 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) disposals, revaluations, write downs or impairment of non-current assets or any reversal of any write down or impairment;
- (c) disposals of assets associated with discontinued operations; and
- (d) any other examples of "exceptional items".

Finance Charges means, for any Relevant Period, the aggregate amount of the accrued interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments in respect of Borrowings paid or payable by any Group Company (calculated on a consolidated basis) in cash or capitalised in respect of that Relevant Period:

- (a) **excluding** any upfront fees or costs which are included as part of the effective interest rate adjustments;
- (b) **including** the interest (but not the capital) element of payments in respect of Finance Leases;

- (c) **including** any commission, fees, discounts and other finance payments payable by (and deducting any such amounts payable to) any Group Company under any interest rate hedging arrangement;
- (d) **excluding** any interest cost or expected return on plan assets in relation to any post-employment benefit schemes; and
- (e) taking no account of any unrealised gains or losses on any derivative instruments or financial instruments other than any derivative instruments which are accounted for on a hedge accounting basis,

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

Finance Lease means any lease or hire purchase contract, a liability under which would, in accordance with the Accounting Principles, be treated as a balance sheet liability (other than a lease or hire purchase contract which would, in accordance with the Accounting Principles in force prior to 1 January 2019, have been treated as an operating lease).

Interest Cover means the ratio of Adjusted EBITDA to Net Finance Charges in respect of any Relevant Period.

Net Finance Charges means, for any Relevant Period, the Finance Charges for that Relevant Period after **deducting** any interest payable in that Relevant Period to any Group Company (other than by another Group Company) on any Cash or Cash Equivalent Investment.

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

Relevant Period means each period of twelve months ending on or about the last day of each Financial Year and each period of twelve months ending on or about the last day of each Financial Quarter.

Total Net Debt means, at any time, the aggregate amount of all obligations of members of the Group for or in respect of Borrowings at that time but:

- (a) excluding any such obligations to any other Group Company;
- (b) including, in the case of Finance Leases only, their capitalised value; and
- (c) deducting the aggregate amount of Cash and Cash Equivalent Investments held by any Group Company at that time,

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

24.2 Financial condition

The Parent shall ensure that:

- (a) *Interest Cover*: Interest Cover in respect of any Relevant Period shall not be less than 4.0:1

- (b) *Adjusted Leverage*: Adjusted Leverage in respect of any Relevant Period shall not exceed 2.75:1.

24.3 Acquisition Spike

- (a) For the purposes of this Clause 24.3:
- (i) **Acquisition Spike Period** means the period commencing on (and including) the date on which the Parent delivers an Acquisition Spike Period Notice to the Agent in accordance with paragraph (b) below and ending on and including the last day of the fourth Relevant Period which ends on a date falling after delivery of that Acquisition Spike Period Notice;
 - (ii) **Acquisition Spike Period Notice** means a notice substantially in the form set out in Schedule 14 (*Acquisition Spike Period Notice*); and
 - (iii) **Total Purchase Price** has the meaning given to that term in the definition of Permitted Acquisition in Clause 1.1 (*Definitions*).
- (b) The Parent may elect to increase the Adjusted Leverage Covenant threshold as set out in Clause 24.2(b) (*Financial condition*) above for the duration of the Acquisition Spike Period by delivering to the Agent an Acquisition Spike Period Notice within 5 Business Days of the completion of a Permitted Acquisition the Total Purchase Price of which exceeds £5,000,000 (or the equivalent in another currency) (an **Eligible Acquisition**).
- (c) The Parent may only deliver an Acquisition Spike Period Notice to the Agent:
- (i) once during the life of the Facility; and
 - (ii) on or prior to the second anniversary of the Effective Date (or, if the Termination Date is extended to the Extended Termination Date in accordance with Clause 2.3 (*Extension Option*), on or prior to the third anniversary of the Effective Date).
- (d) During an Acquisition Spike Period, the Parent shall be in compliance with the provisions of Clause 24.2(b) (*Financial condition*) provided that it ensures that Adjusted Leverage in respect of:
- (i) any Relevant Period ending in the period up to 6 Months after delivery of the relevant Acquisition Spike Period Notice (the **Initial Period**) shall not exceed 3.25:1;
 - (ii) any Relevant Period ending in the period from the day after the last day of the Initial Period until the last day of the relevant Acquisition Spike Period shall not exceed 3.0:1; and
 - (iii) at all times thereafter, 2.75:1.
- (e) For the avoidance of doubt, the Agent shall not be obliged to accept an Acquisition Spike Period Notice which is delivered to it in breach paragraph (c).

24.4 Financial testing

The financial covenants set out in Clause 24.2 (*Financial condition*) above shall be calculated in accordance with the Accounting Principles and tested by reference to each of the financial statements delivered pursuant to Clause 23.3 (*Financial statements*) and/or each Compliance Certificate delivered pursuant to Clause 23.4 (*Provision and contents of Compliance Certificate*).

25 General undertakings

The undertakings in this Clause 24.2(b) remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

Authorisations and compliance with laws

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) at the Agent's request, supply certified copies to the Agent of,

any Authorisation required under any law or regulation of any Relevant Jurisdiction to:

- (i) enable it to perform its obligations under the Finance Documents;
- (ii) ensure the legality, validity, enforceability or admissibility in evidence in each Relevant Jurisdiction of any Finance Document; and
- (iii) carry on its business, where failure to do so has or is reasonably likely to have a Material Adverse Effect.

25.2 Compliance with laws

Each Obligor shall (and the Parent shall ensure that each Group Company will) comply in all respects with all laws to which it may be subject, if failure so to comply has or is reasonably likely to have a Material Adverse Effect.

25.3 Environmental compliance

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

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

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

25.4 Environmental Claims

Each Obligor shall (through the Parent), promptly upon becoming aware of the same, inform the Agent in writing of:

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

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

25.5 Anti-corruption law

- (a) No Obligor shall (and the Parent shall ensure that no other Group Company will) directly or indirectly use the proceeds of the Facility for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.
- (b) Each Obligor shall (and the Parent shall ensure that each other Group Company will):
 - (i) conduct its businesses in compliance with applicable anti-corruption laws; and
 - (ii) maintain policies and procedures designed to promote and achieve compliance with such laws.

25.6 Taxation

- (a) Each Obligor shall (and the Parent shall ensure that each Group Company will) pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:
 - (i) such payment is being contested in good faith;
 - (ii) adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements delivered to the Agent under Clause 23.3 (*Financial statements*); and
 - (iii) such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.
- (b) No Group Company may change its residence for Tax purposes.

Restrictions on business focus

25.7 Merger

No Obligor shall (and the Parent shall ensure that no other Group Company will) enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction other than a

Permitted Transaction or any sale, lease, transfer or other disposal permitted pursuant to Clause 25.14 (*Disposals*).

25.8 Change of business

The Parent shall procure that no substantial change is made to the general nature of the business of the Parent, the Obligors or the Group taken as a whole from that carried on by the Group at the date of this Agreement.

25.9 Acquisitions

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

25.10 Joint ventures

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

Restrictions on dealing with assets and security

25.11 Preservation of assets

Each Obligor shall (and the Parent shall ensure that each other Group Company will) maintain in good working order and condition (ordinary wear and tear excepted) all of its

assets necessary in the conduct of its business where, in the case of any Non-Obligor, the failure to maintain such assets to such standard has or is reasonably likely to have a Material Adverse Effect.

25.12 Pari passu ranking

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

25.13 Negative pledge

In this Clause 25.13, **Quasi-Security** means an arrangement or transaction described in paragraph (b) below.

Except as permitted under paragraph (c) below:

- (a) No Obligor shall (and the Parent shall ensure that no other Group Company will) create or permit to subsist any Security over any of its assets.
- (b) No Obligor shall (and the Parent shall ensure that no other Group Company will):
 - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other Group Company;
 - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
 - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
 - (iv) enter into any other preferential arrangement having a similar effect,in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.
- (c) Paragraphs (a) and (b) above do not apply to any Security or (as the case may be) Quasi-Security, which is:
 - (i) Permitted Security; or
 - (ii) a Permitted Transaction.

25.14 Disposals

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other Group Company will) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal which is:

- (i) a Permitted Disposal; or
- (ii) a Permitted Transaction.

25.15 Arm's length basis

- (a) Except as permitted by paragraph (b) below, no Obligor shall (and the Parent shall ensure no other Group Company will) enter into any transaction with any person except on arm's length terms and for full market value.
- (b) The following transactions shall not be a breach of this Clause 25.15:
 - (i) intra-Group loans permitted under Clause 25.16 (*Loans or credit*);
 - (ii) fees, costs and expenses payable under the Finance Documents in the amounts set out in the Finance Documents delivered to the Agent under Clause 4.1 (*Initial conditions precedent*) or agreed by the Agent; and
 - (iii) any Permitted Transaction.

Restrictions on movement of cash – cash out

25.16 Loans or credit

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

25.17 No guarantees or indemnities

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

25.18 Dividends and share redemption

Following the occurrence of an Event of Default which is continuing, the Parent shall not (and will ensure that no other Group Company will):

- (a) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);

- (b) repay or distribute any dividend or share premium reserve;
- (c) pay or allow any Group Company to pay any management, advisory or other fee to or to the order of any of the shareholders of the Parent; or
- (d) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.

Restrictions on movement of cash - cash in

25.19 Financial Indebtedness

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

25.20 Share capital

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

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

Miscellaneous

25.21 Insurance

- (a) Each Obligor shall (and the Parent shall ensure that each Group Company will) maintain insurances on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.
- (b) All insurances must be with reputable independent insurance companies or underwriters.

25.22 Pensions

- (a) The Parent shall ensure that all pension schemes operated by or maintained for the benefit of Group Companies and/or any of their employees are fully funded based on the statutory funding objective under sections 221 and 222 of the Pensions Act 2004 and that no action or omission is taken by any Group Company in relation to such a pension scheme which has or is reasonably likely to have a Material Adverse Effect (including, without limitation, the termination or commencement of winding-up proceedings of any such pension scheme or any Group Company ceasing to employ any member of such a pension scheme).

- (b) The Parent shall ensure that no Group Company is or has been at any time an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pension Schemes Act 1993) or "connected" with or an "associate" of (as those terms are used in sections 38 or 43 of the Pensions Act 2004) such an employer.
- (c) The Parent shall deliver to the Agent at such times as those reports are prepared in order to comply with the then current statutory or auditing requirements (as applicable either to the trustees of any relevant schemes or to the Parent), actuarial reports in relation to all pension schemes mentioned in paragraph (a) above.
- (d) The Parent shall promptly notify the Agent of any material change in the rate of contributions to any pension scheme mentioned in paragraph (a) above paid or recommended to be paid (whether by the scheme actuary or otherwise) or required (by law or otherwise).

25.23 People with Significant Control regime

Each Obligor shall (and the Parent shall ensure that each other Group Company will):

- (i) within the relevant timeframe, comply with any notice it receives pursuant to Part 21A of the Act from any company incorporated in the United Kingdom whose shares are the subject of the Transaction Security; and
- (ii) promptly provide the Security Agent with a copy of that notice.

25.24 Access

Each Obligor shall, and the Parent shall ensure that each Group Company will, (not more than once in every Financial Year unless the Agent reasonably suspects an Event of Default is continuing or may occur) 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 Parent to (a) the premises, assets, books, accounts and records of each Group Company and (b) meet and discuss matters with Senior Management.

25.25 Intellectual Property

- (a) Each Obligor shall (and the Parent shall procure that each other Group Company will):
 - (i) preserve and maintain the subsistence and validity of the Intellectual Property necessary for the business of the relevant Group Company;
 - (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 Group Company to use such property; and

- (v) not discontinue the use of the Intellectual Property,

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

- (b) Failure to comply with any part of paragraph (a) above shall not be a breach of this Clause 25.25 to the extent that any dealing with Intellectual Property which would otherwise be a breach of paragraph (a) is contemplated by the definition of Permitted Transaction.

25.26 Amendments

- (a) No Obligor shall (and the Parent shall ensure that no other Group Company will) amend, vary, novate, supplement, supersede, waive or terminate any term of a Finance Document or any other document delivered to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*) or 29 (*Changes to the Obligors*) or enter into any agreement with any shareholders of the Parent or any of their Affiliates which is not a Group Company except in writing:
 - (i) in accordance with Clause 41 (*Amendments and waivers*); or
 - (ii) in a way which could not be reasonably expected to materially and adversely affect the interests of the Lenders under the Finance Documents.
- (b) The Parent shall promptly supply to the Agent a copy of any document relating to any of the matters referred to in paragraphs (i) to (ii) above.

25.27 Financial assistance

Each Obligor shall (and the Parent shall procure each other Group Company will) comply in all respects with sections 678 and 679 of the Act 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.

25.28 Treasury Transactions

No Obligor shall (and the Parent shall procure that no other Group Company will) enter into any Treasury Transaction, other than:

- (a) hedging arrangements in respect of the Facility;
- (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 Group Company for a period of not more than twelve Months and not for speculative purposes.

25.29 Guarantors

- (a) The Parent shall ensure that at all times after the Closing Date, the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA), the aggregate gross assets and aggregate turnover of the Guarantors (calculated on an unconsolidated basis and excluding all intra-group items and investments in Subsidiaries of any Group Company) exceeds 85 per cent of EBITDA, the consolidated gross assets and consolidated turnover of the Group. Any Group Company generating negative earnings before interest, tax, depreciation and amortisation shall be treated as having before earnings before interest, tax, depreciation and amortisation of zero for the purposes of determining compliance with this paragraph (a).
- (b) The Parent need only perform its obligations under paragraph (a) above if it is not unlawful for the relevant person to become a Guarantor and that person becoming a Guarantor would not result in personal liability for that person's directors or other management. Each Obligor must use, and must procure that the relevant person uses, all reasonable endeavours lawfully available to avoid any such unlawfulness or personal liability. This includes agreeing to a limit on the amount guaranteed. The Agent may (but shall not be obliged to) agree to such a limit if, in its opinion, to do so would avoid the relevant unlawfulness or personal liability.

25.30 Sanctions

No Borrower nor any of its Subsidiaries will, directly or indirectly, use the proceeds of the Loans or the Ancillary Facilities, or lend, contribute or otherwise make available such proceeds to any 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 the target or subject of Sanctions or (ii) in any other manner that would result in a violation of Sanctions by any Person (including any Person participating in the Loans or Ancillary Facilities, whether as agent, security agent, arranger, lender, underwriter, advisor, investor or otherwise), other than to the extent that such action would result in a violation of Council Regulation (EC) No 2271/96, as amended (or any implementing law or regulation in any member state of the European Union or the United Kingdom).

25.31 ERISA

No Obligor nor any ERISA Affiliate shall or will maintain, contribute to or become obligated to maintain or contribute to any Employee Plan.

25.32 Further assurance

- (a) Each Obligor shall (and the Parent shall procure that each other Group Company will) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
 - (i) to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the

Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law;

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

26 Events of Default

Each of the events or circumstances set out in this Clause 26 is an Event of Default (save for Clause 26.18 (*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 at 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 three Business Days of its due date.

26.2 Financial covenants and other obligations

- (a) Any requirement of Clause 24 (*Financial covenants*) is not satisfied or an Obligor does not comply with the provisions of Clause 23.4 (*Provision and contents of Compliance Certificate*) and/ or Clause 25.30 (*Sanctions*).
- (b) An Obligor does not comply with any provision of any Transaction Security Document.

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*) and Clause 26.2 (*Financial covenants and other obligations*)).
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within ten Business Days of the earlier of (i) the Agent giving notice to the Parent or relevant Obligor and (ii) the Parent or an Obligor becoming aware of the failure to comply.

26.4 Misrepresentation

- (a) Any representation, warranty or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading when made or deemed to be made in any material respect.
- (b) No Event of Default under paragraph (a) above will occur if the circumstances giving rise to the misrepresentation are capable of remedy and are remedied within ten Business Days of the earlier of (i) the Agent giving notice to the Parent or relevant Obligor and (ii) the Parent or an Obligor becoming aware of such circumstances.

26.5 Cross default

- (a) Any Financial Indebtedness of any Group Company is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of any Group Company is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness of any Group Company is cancelled or suspended by a creditor of any Group Company as a result of an event of default (however described).
- (d) Any creditor of any Group Company becomes entitled to declare any Financial Indebtedness of any Group Company due and payable prior to its specified maturity as a result of an event of default (however described).
- (e) No Event of Default will occur under this Clause 26.5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above is less than £100,000 (or its equivalent in any other currency or currencies).

26.6 Insolvency

- (a) A Group Company:
 - (i) is unable or admits inability to pay its debts as they fall due;
 - (ii) is deemed to, or is declared to, be unable to pay its debts under applicable law (other than, subject to paragraph (b) below, as a result of the value of its assets being less than its liabilities);
 - (iii) suspends or threatens to suspend making payments on its debt generally or any one of its debts (other than any debt which it is contesting in good faith is lawfully due); or
 - (iv) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Finance Party in its capacity as such) with a view to rescheduling any of its indebtedness.
- (b)

- (i) The value of the assets of any Obligor who provides Transaction Security is less than its liabilities (taking into account contingent and prospective liabilities) at the time that it enters into such Transaction Security; or
 - (ii) the aggregate value of the assets of the Group is less than the aggregate liabilities of the Group (taking into account contingent and prospective liabilities).
- (c) A moratorium is declared in respect of any indebtedness of any Group Company. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

26.7 Insolvency proceedings

- (a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:
- (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Group Company;
 - (ii) a composition, compromise, assignment or arrangement with any creditor of any Group Company;
 - (iii) the appointment of a liquidator, supervisor, receiver, administrative receiver, administrator, compulsory manager, trustee or other similar officer in respect of any Group Company or any of its assets; or
 - (iv) enforcement of any Security over any assets of any Group Company,
- or any analogous procedure or step is taken in any jurisdiction.
- (b) Paragraph (a) above shall not apply to:
- (i) any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement; or
 - (ii) any step or procedure contemplated by paragraph (b) of the definition of Permitted Transaction.

26.8 Creditors' process

Any expropriation, attachment, sequestration, distress, or execution (including by way of executory attachment (*executoriaal beslag*) or interlocutory attachment (*conservatoir beslag*)), or any analogous process in any jurisdiction, affects any asset or assets of a Group Company where that asset or assets is worth in excess of £100,000 (or its equivalent in any other currency or currencies).

26.9 Unlawfulness and invalidity

- (a) It is or becomes unlawful for any Obligor 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.

- (b) Any obligation or obligations of any Obligor under any Finance Documents are not (subject to the Legal Reservations) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lenders under the Finance Documents.
- (c) Subject to the Legal Reservations, any Finance Document ceases to be in full force and effect or any Transaction Security or any guarantee granted by a Guarantor under the Finance Documents ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective.

26.10 Cessation of business

Any Group Company suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business except as a result of a Permitted Disposal or a Permitted Transaction.

26.11 Change of ownership

- (a) After the Closing Date, an Obligor (other than the Parent) ceases to be a wholly-owned Subsidiary of the Parent; or
- (b) An Obligor ceases to own at least the same percentage of shares in a Material Company as on the Closing Date,

except, in either case, as a result of a disposal which is a Permitted Disposal or a Permitted Transaction.

26.12 Audit qualification

The Parent's Auditors qualify the audited annual consolidated financial statements of the Parent.

26.13 Expropriation

The authority or ability of any Group Company to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to any Group Company or any of its assets.

26.14 Repudiation and rescission of agreements

An Obligor (or any other relevant party) rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or any of the Transaction Security or evidences an intention to rescind or repudiate a Finance Document or any Transaction Security.

26.15 Litigation

Any litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency are started or threatened, or any judgment or order of a court, arbitral body or agency is made, in relation to the Finance Documents or the transactions contemplated in the Finance Documents or against any Group Company or its assets which have, or has, or are, or is, reasonably likely to have a Material Adverse Effect.

26.16 Material adverse change

Any event or circumstance occurs which has or is reasonably likely to have a Material Adverse Effect.

26.17 Licences

Any operating licence or other regulatory authorisation which is required for the ongoing activities of the Group is lost or terminated or restricted in any material respect, or it is likely in the opinion of the Finance Parties (acting reasonably) that it will be so lost, terminated or restricted.

26.18 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Lenders:

- (a) by notice to the Parent:
 - (i) cancel the Total Commitments and/or Ancillary Commitments at which time they shall immediately be cancelled;
 - (ii) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, at which time they shall become immediately due and payable;
 - (iii) declare that all or part of the Loans be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders;
 - (iv) 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
 - (v) 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
- (b) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

Section 9 – Changes to Parties

27 Changes to the Lenders

27.1 Assignments and transfers by the Lenders

Subject to this Clause 27 and to Clause 28 (*Restriction on Debt Purchase Transactions*), a Lender (the **Existing Lender**) may:

- (a) assign any of its rights; or
- (b) transfer by novation any of its rights and obligations,

under any Finance Document to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the **New Lender**).

27.2 Parent consultation

An Existing Lender must consult with the Parent for no more than 5 days before it may make an assignment or transfer in accordance with Clause 27.1 (*Assignments and transfers by the Lenders*) unless the assignment or transfer is:

- (a) to another Lender or an Affiliate of any Lender;
- (b) to a fund which is a Related Fund of that Existing Lender; or
- (c) made at a time when an Event of Default is continuing.

27.3 Other conditions of assignment or transfer

- (a) An assignment will only be effective on:
 - (i) receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the other Finance Parties and the other Secured Parties as it would have been under if it had been an Original Lender; and
 - (ii) 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.
- (b) A transfer will only be effective if the procedure set out in Clause 27.6 (*Procedure for transfer*) is complied with.
- (c) 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.

- (d) 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.

27.4 Assignment or transfer fee

- (a) Subject to paragraph (b) below, the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of £2,500.
- (b) No fee is payable pursuant to paragraph (a) above if:
 - (i) the Agent agrees that no fee is payable; or
 - (ii) the assignment or transfer is made by an Existing Lender:
 - (A) to an Affiliate of that Existing Lender; or
 - (B) to a fund which is a Related Fund of that Existing Lender.

27.5 Limitation of responsibility of Existing Lenders

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
 - (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents, the Transaction Security or any other documents;
 - (ii) the financial condition of any Obligor;
 - (iii) the performance and observance by any Obligor or any other Group Company of its obligations under the Finance Documents or any other documents; or
 - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender, the other Finance Parties and the Secured Parties that it:

- (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender or any other Finance Party in connection with any Finance Document 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.

27.6 Procedure for transfer

- (a) Subject to the conditions set out in Clause 27.2 (*Parent consultation*) and Clause 27.3 (*Other conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (c) below, when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.
- (b) The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender 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 27.10 (*Pro rata interest settlement*), on the Transfer Date:
 - (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents and in respect of the Transaction Security each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (being the **Discharged Rights and Obligations**);
 - (ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor or other Group Company and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

- (iii) the Agent, the Arranger, the Security Agent, the New Lender, the other Lenders and any relevant Ancillary Lender shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Arranger, the Security Agent 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.

27.7 Procedure for assignment

- (a) Subject to the conditions set out in Clause 27.2 (*Parent consultation*) and Clause 27.3 (*Other conditions of assignment or transfer*) an assignment may be effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.
- (b) The Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied 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 27.10 (*Pro rata interest settlement*), on the Transfer Date:
 - (i) the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents and in respect of the Transaction Security expressed to be the subject of the assignment in the Assignment Agreement;
 - (ii) the Existing Lender will be released from the obligations (the **Relevant Obligations**) expressed to be the subject of the release in the Assignment Agreement (and any corresponding obligations by which it is bound in respect of the Transaction Security); and
 - (iii) the New Lender shall become a Party as a Lender and will be bound by obligations equivalent to the Relevant Obligations.
- (d) Lenders may utilise procedures other than those set out in this Clause 27.7 to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with Clause 27.6 (*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 (*Parent consultation*) and Clause 27.3 (*Other conditions of assignment or transfer*).

27.8 Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Parent

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate, an Assignment Agreement or an Increase Confirmation, send to the Parent a copy of that Transfer Certificate, Assignment Agreement or Increase Confirmation.

27.9 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) 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.

27.10 Pro rata interest settlement

- (a) If the Agent has notified the Lenders that it is able to distribute interest payments on a "pro rata basis" to Existing Lenders and New Lenders then (in respect of any transfer pursuant to Clause 27.6 (*Procedure for transfer*) or any assignment pursuant to Clause 27.7 (*Procedure for assignment*) the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period):

- (i) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date (**Accrued Amounts**) and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer than six Months, on the next of the dates which falls at six Monthly intervals after the first day of that Interest Period); and
- (ii) the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts so that, for the avoidance of doubt:
 - (A) when the Accrued Amounts become payable, those Accrued Amounts will be payable for the account of the Existing Lender; and

- (B) the amount payable to the New Lender on that date will be the amount which would, but for the application of this Clause 27.10, have been payable to it on that date, but after deduction of the Accrued Amounts.
- (b) In this Clause 27.10 references to Interest Period shall be construed to include a reference to any other period for accrual of fees.
- (c) An Existing Lender which retains the right to the Accrued Amounts pursuant to this Clause 27.10 but which does not have a Commitment shall be deemed not to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve any request for a consent, waiver, amendment or other vote of Lenders under the Finance Documents.

27.11 Acceding Accordion Lenders

- (a) Any bank or financial institution which is due to become an Acceding Accordion Lender pursuant to Clause 2.4 (*Accordion Option*), may only become a party to this Agreement as a Lender provided that the Commitment to be assumed by such Acceding Accordion Lender is additional to, and not in replacement of, the Total Commitments as at the time immediately prior to such Acceding Accordion Lender becoming a party to this Agreement.
- (b) Subject to paragraph (a) above, each of the Parties hereby agrees that an Acceding Accordion Lender shall become a party to this Agreement as a Lender upon the execution and delivery by such Acceding Accordion Lender to the Agent of a Lender Accordion Accession Agreement and upon the countersignature by the Agent of such document. Each Party (other than the Agent) hereby irrevocably authorises the Agent to execute a Lender Accordion Accession Agreement for this purpose.
- (c) The Agent shall, subject to paragraph (d) below, after receipt by it of a duly completed Lender Accordion Accession 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 Lender Accordion Accession Agreement on the date specified in Clause 2.4(g) (*Accordion Option*).
- (d) The Agent shall only be obliged to execute a Lender Accordion Accession Agreement delivered to it by an Acceding Accordion 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 such Acceding Accordion Lender.
- (e) On the date that the Agent executes a Lender Accordion Accession Agreement:
 - (i) the Agent, the Security Agent, the Acceding Accordion Lender party to that Lender Accordion Accession Agreement, the other Lenders and the Obligors shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had that Acceding Accordion Lender been an Original Lender with the Commitment specified by it in that Lender Accordion Accession Agreement, and
 - (ii) that Acceding Accordion Lender shall become a Party as a Lender.

28 Restriction on Debt Purchase Transactions

The Parent shall not, and shall procure that no other Group Company will, enter into any Debt Purchase Transaction or beneficially own all or any part of the share capital of a company that is a Lender or a party to a Debt Purchase Transaction of the type referred to in paragraphs (b) or (c) of the definition of Debt Purchase Transaction.

29 Changes to the Obligors

29.1 Assignment and transfers by Obligors

No Obligor or any other Group Company may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

29.2 Additional Borrowers

- (a) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 23.12 (*Know your customer checks*), the Parent may request that any of its wholly owned Subsidiaries becomes a Borrower. That Subsidiary shall become a Borrower if:
- (i) it is incorporated in the same jurisdiction as an existing Borrower and the Majority Lenders approve the addition of that Subsidiary or otherwise if all the Lenders approve the addition of that Subsidiary;
 - (ii) the Parent and that Subsidiary deliver to the Agent a duly completed and executed Accession Deed;
 - (iii) the Subsidiary is (or becomes) a Guarantor prior to becoming a Borrower;
 - (iv) the Parent confirms that no Default is continuing or would occur as a result of that Subsidiary becoming an Additional Borrower; and
 - (v) the Agent has received all of the documents and other evidence listed in Part 2 of Schedule 2 (*Conditions precedent*) in relation to that Additional Borrower, each in form and substance satisfactory to the Agent.
- (b) The Agent shall notify the Parent and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part 2 of Schedule 2 (*Conditions precedent*).
- (c) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (b) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

29.3 Resignation of a Borrower

- (a) With the prior consent of all the Lenders, the Parent may request that a Borrower (a **Resigning Borrower**) ceases to be a Borrower by delivering to the Agent a Resignation Letter.
- (b) The Agent shall accept a Resignation Letter and notify the Parent and the other Finance Parties of its acceptance if:

- (i) the Parent has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;
 - (ii) the Resigning Borrower is under no actual or contingent obligations as a Borrower under any Finance Documents; and
 - (iii) where the Resigning Borrower is also a Guarantor (unless its resignation has been accepted in accordance with Clause 29.5 (*Resignation of a Guarantor*)), its obligations in its capacity as Guarantor continue to be legal, valid, binding and enforceable and in full force and effect (subject to the Legal Reservations) and the amount guaranteed by it as a Guarantor is not decreased (and the Parent has confirmed this is the case).
- (c) Upon notification by the Agent to the Parent of its acceptance of the resignation of a Resigning Borrower, that Resigning Borrower shall cease to be a Borrower and shall have no further rights or obligations under the Finance Documents as a Borrower.
- (d) The Agent may, at the cost and expense of the Parent, require a legal opinion from counsel to the Agent confirming the matters set out in paragraph (b)(iii) above and the Agent shall be under no obligation to accept a Resignation Letter until it has obtained such opinion in form and substance satisfactory to it.

29.4 Additional Guarantors

- (a) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 23.12 (*Know your customer checks*), the Parent may request that any of its wholly owned Subsidiaries becomes a Guarantor.
- (b) The Parent shall procure that any other Group Company which is a Material Company shall, as soon as possible after becoming a Material Company, become an Additional Guarantor and grant Security as the Agent may require.
- (c) A Group Company shall become an Additional Guarantor if:
 - (i) the Parent and the proposed Additional Guarantor deliver to the Agent a duly completed and executed Accession Deed; and
 - (ii) the Agent has received all of the documents and other evidence listed in Part 2 of Schedule 2 (*Conditions precedent*) in relation to that Additional Guarantor, each in form and substance satisfactory to the Agent.
- (d) The Agent shall notify the Parent and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part 2 of Schedule 2 (*Conditions precedent*).
- (e) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (d) above, the Lenders authorise (but do not require) the Agent to give that notification.

The Agent shall not be liable for any damages, costs or losses whatsoever as a result of such notification.

29.5 Resignation of a Guarantor

- (a) The Parent may request that a Guarantor (other than the Parent) ceases to be a Guarantor by delivering to the Agent a Resignation Letter if all the Lenders have consented to the resignation of that Guarantor.
- (b) The Agent shall accept a Resignation Letter and notify the Parent, the Lenders and the Security Agent of its acceptance if:
 - (i) the Parent has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;
 - (ii) no payment is due from the Guarantor under Clause 21.1 (*Guarantee and indemnity*); and
 - (iii) where the Guarantor is also a Borrower, it is under no actual or contingent obligations as a Borrower and has resigned and ceased to be a Borrower under Clause 29.3 (*Resignation of a Borrower*).

29.6 Repetition of Representations

Delivery of an Accession Deed constitutes confirmation by the relevant Subsidiary that the representations and warranties referred to in paragraph (c) of Clause 22.35 (*Times when representations and warranties made*) are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

Section 10 – The Finance Parties

30 Role of the Agent, the Arranger and others

30.1 Appointment of the Agent

- (a) Each of the Arranger and the Lenders appoints the Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the Arranger and the Lenders authorises the Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.
- (c) Until such time as there is more than one Lender under this Facility, the duties of the Agent will be carried out by the Original Lender.

30.2 Instructions

- (a) The Agent shall:
 - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by:
 - (A) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision;
 - (B) the Super Majority Lenders if the relevant Finance Document stipulates the matter is a Super Majority Lender decision; and
 - (C) in all other cases, the Majority Lenders; and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) Save in the case of decisions stipulated to be a matter for any other Lender or group of Lenders under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties save for the Security Agent.
- (d) The Agent may refrain from acting in accordance with any instructions of any Lender or group of Lenders until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the

Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.

- (e) In the absence of instructions, the Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
- (f) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document. This paragraph (f) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Transaction Security Documents or enforcement of the Transaction Security or Transaction Security Documents.

30.3 Duties of the Agent

- (a) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.
- (c) Without prejudice to Clause 27.8 (*Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Parent*), paragraph (b) above shall not apply to any Transfer Certificate, any Assignment Agreement or any Increase Confirmation.
- (d) Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (f) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent, the Arranger or the Security Agent) under this Agreement it shall promptly notify the other Finance Parties.
- (g) The Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

30.4 Role of the Arranger

Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

30.5 No fiduciary duties

- (a) Nothing in any Finance Document constitutes the Agent or the Arranger as a trustee or fiduciary of any other person.

- (b) None of the Agent, the Arranger or any Ancillary Lender shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

30.6 Business with the Group

The Agent, the Arranger and each Ancillary Lender may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Group Company.

30.7 Rights and discretions

- (a) The Agent may:
 - (i) assume that:
 - (A) any instructions received by it from the Majority Lenders, any Lenders or any group of Lenders are duly given in accordance with the terms of the Finance Documents; and
 - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
 - (ii) rely on a certificate from any person:
 - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
 - (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 26.1 (*Non-payment*));
 - (ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised;
 - (iii) any notice or request made by the Parent (other than a Utilisation Request) is made on behalf of and with the consent and knowledge of all the Obligor.
- (c) Subject to prior consultation with the Parent (if reasonably practicable and not required when the Agent reasonably suspects that a Default has occurred and is continuing) the Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Lenders) if the Agent in its reasonable opinion deems this to be desirable.

- (e) The Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Agent may act in relation to the Finance Documents through its officers, employees and agents and the Agent shall not:
 - (i) be liable for any error of judgment made by any such person; or
 - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part, of any such person,unless such error or such loss was directly caused by the Agent's gross negligence or wilful misconduct.
- (g) Unless a Finance Document expressly provides otherwise the Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- (h) Without prejudice to the generality of paragraph (g) above, the Agent:
 - (i) may disclose; and
 - (ii) on the written request of the Parent or the Majority Lenders shall, as soon as reasonably practicable, disclose,the identity of a Defaulting Lender to the Parent and to the other Finance Parties.
- (i) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Arranger is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (j) Notwithstanding any provision of any Finance Document to the contrary, the Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

30.8 Responsibility for documentation

None of the Agent, the Arranger or any Ancillary Lender nor any of their respective officers, employees or agents from time to time is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Agent, the Arranger, an Ancillary Lender, an Obligor or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; or

- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security; or
- (c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

30.9 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

whether any other event specified in any Finance Document has occurred.

30.10 Exclusion of liability

- (a) Without limiting paragraph (b) below, (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent or any Ancillary Lender), neither the Agent nor any Ancillary Lender shall be liable (including, without limitation, for negligence or any other category of liability) for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Transaction Security, unless directly caused by its gross negligence or wilful misconduct;
 - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Transaction Security; or
 - (iii) without prejudice to the generality of paragraphs (i) and (ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
 - (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 any 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 shall not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Agent or the 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 or for any Affiliate of any Lender,

on behalf of any Lender and each Lender confirms to the Agent and the Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Arranger.

- (e) Without prejudice to any provision of any Finance Document excluding or limiting the Agent's liability, any liability of the Agent arising under or in connection with any Finance Document or the Transaction Security shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent at any time which increase the amount of that loss. In no event shall the Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent has been advised of the possibility of such loss or damages.

30.11 Lenders' indemnity to the Agent

- (a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 35.11 (*Disruption to payment systems etc.*) notwithstanding the Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) in

acting as Agent under the Finance Documents (unless the Agent has been reimbursed by an Obligor pursuant to a Finance Document).

- (b) Subject to paragraph (c) below, the Parent shall immediately on demand reimburse any Lender for any payment that Lender makes to the Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Agent to an Obligor.

30.12 Resignation of the Agent

- (a) The Agent may resign and appoint one of its Affiliates acting through an office in the United Kingdom as successor by giving notice to the Lenders and the Parent.
- (b) Alternatively the Agent may resign by giving 30 days' notice to the Lenders and the Parent, in which case the Majority Lenders (after consultation with the Parent) may appoint a successor Agent.
- (c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Agent (after consultation with the Parent) may appoint a successor Agent (acting through an office in the United Kingdom).
- (d) If the Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Agent is entitled to appoint a successor Agent under paragraph (c) above, the Agent may (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 30 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 Parent shall, within three Business Days of demand, reimburse the retiring Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.
- (f) The Agent's resignation notice shall only take effect upon the appointment of a successor.
- (g) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (e) above) but shall remain entitled to the benefit of Clause 18.3 (*Indemnity to the Agent*) and this Clause 29 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and

obligations amongst themselves as they would have had if such successor had been an original Party.

- (h) The Agent shall resign in accordance with paragraph (b) above 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 the Parent or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
 - (ii) the information supplied by the Agent pursuant to Clause 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 Parent and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) the Parent or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, and the Parent or that Lender, by notice to the Agent, requires it to resign.

30.13 Replacement of the Agent

- (a) After consultation with the Parent, the Majority Lenders may, by giving 30 days' notice to the Agent (or, at any time the Agent is an Impaired Agent, by giving any shorter notice determined by the Majority Lenders) replace the Agent by appointing a successor Agent (acting through an office in the United Kingdom).
- (b) The retiring Agent shall (at its own cost if it is an Impaired Agent and otherwise at the expense of the Lenders) make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (c) The appointment of the successor Agent shall take effect on the date specified in the notice from the Majority Lenders to the retiring Agent. As from this date, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) above) but shall remain entitled to the benefit of Clause 18.3 (*Indemnity to the Agent*) and this Clause 30.13 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date).
- (d) Any successor Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

30.14 Confidentiality

- (a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

- (b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.

30.15 Relationship with the Lenders

- (a) Subject to Clause 27.10 (*Pro rata interest settlement*), the Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
 - (i) entitled to or liable for any payment due under any Finance Document on that day; and
 - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

- (b) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address and (where communication by electronic mail or other electronic means is permitted under Clause 37.7 (*Electronic communication*)) electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, electronic mail address (or such other information), department and officer by that Lender for the purposes of Clause 37.3 (*Addresses*) and paragraph (ii) of Clause 37.7 (*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.

30.16 Credit appraisal by the Lenders and the 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, the Arranger and each Ancillary Lender that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each Group Company;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
- (c) whether that Lender or Ancillary Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, the transactions contemplated

by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;

- (d) the adequacy, accuracy or completeness of the Base Case Model 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.

30.17 Agent's management time

To the extent that there is more than one Lender under this Agreement, any amount payable to the Agent under Clause 18.3 (*Indemnity to the Agent*), Clause 20 (*Costs and expenses*) and Clause 30.11 (*Lenders' indemnity to the Agent*) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Parent and the Lenders, and is in addition to any fee paid or payable to the Agent under Clause 15 (*Fees*).

30.18 Deduction from amounts payable by the Agent

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

30.19 Amounts paid in error

- (a) If the Agent pays an amount to another Party and the Agent notifies that Party that such payment was an Erroneous Payment then the Party to whom that amount was paid by the Agent shall as soon as reasonably practicable and within 2 Business Days following written 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.
- (b) Neither:
 - (i) the obligations of any Party to the Agent; nor
 - (ii) the remedies of the Agent,

(whether arising under this Clause 30.19 or otherwise) which relate to an Erroneous Payment will be affected by any act, omission, matter or thing which, but for this paragraph (b), would reduce, release or prejudice any such obligation or remedy (whether or not known by the Agent or any other Party).

- (c) All payments to be made by a Party to the Agent (whether made pursuant to this Clause 30.19 or otherwise) which relate to an Erroneous Payment shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.
- (d) In this Agreement, **Erroneous Payment** means a payment of an amount by the Agent to another Party which the Agent determines (in its sole discretion) was made in error.

30.20 Reliance and engagement letters

Each Finance Party and each Secured Party confirms that each of the Arranger and the Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Arranger or Agent) the terms of any 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 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..

30.21 Agent's regulatory position

The Agent is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Nothing in this Agreement shall require the Agent to carry on an activity of the kind specified by any provision of Part II (other than article 5 (accepting deposits)) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or to lend money to any Borrower in its capacity as Agent.

30.22 Money held as banker

The Agent shall be entitled to deal with money paid to it by any person for the purposes of this Agreement in the same manner as other money paid to a banker by its customers except that it shall not be liable to account to any person for any interest or other amounts in respect of the money.

30.23 Abatement of fees

The fees, commissions and expenses payable to the Agent for services rendered and the performance of its obligations under this Agreement shall not be abated by any remuneration or other amounts or profits receivable by the Agent (or by any of its associates) in connection with any transaction effected by the Agent with or for the Lenders or the Parent.

31 The Security Agent

31.1 Security Agent as trustee

- (a) The Security Agent declares that it holds the Security Property on trust for the Secured Parties on the terms contained in this Agreement.
- (b) Each of the other Finance Parties authorises the Security Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

- (c) Until such time as there is more than one Lender under this Facility, the duties of the Security Agent will be carried out by the Original Lender.

31.2 Parallel Debt

- (a) Notwithstanding any other provision of this Agreement, each Obligor hereby irrevocably and unconditionally undertakes to pay to the Security Agent (the **Parallel Debt**), as creditor in its own right and not as representative of the other Finance Parties, sums equal to and in the currency of each amount payable by each Borrower and any of the other Obligors to each of the Finance Parties under each of the Finance Documents as and when that amount falls due for payment under the relevant Finance Document.
- (b) The Security Agent shall have its own independent right to demand payment of the amounts payable by each Obligor under this Clause 31.2.
- (c) Any amount due and payable by a Borrower to the Security Agent under this Clause 31.2 shall be decreased to the extent that the other Finance Parties have received (and are able to retain) payment in full of the corresponding amount under the other provisions of the Finance Documents and any amount due and payable by any Obligor to the other Finance Parties under those provisions shall be decreased to the extent that the Security Agent has received (and is able to retain) payment in full of the corresponding amount under this Clause 31.2.
- (d) The rights of the Finance Parties (other than the Security Agent) to receive payment of amounts payable by the Borrower under the Finance Documents are several and are separate and independent from, and without prejudice to, the rights of the Security Agent to receive payment under this Clause 31.2.

31.3 Security Agent as a joint and several creditor

Notwithstanding anything to the contrary in Clause 31.2 (*Parallel Debt*) above, for the purposes of any Transaction Security governed by Czech law:

- (a) the Security Agent is, in relation to any amounts outstanding under a Finance Document from any of the Obligors to any Finance Party (with the exception of the Security Agent in its position as a Finance Party), a joint and several creditor of such Transaction Obligor together with each such individual Finance Party. The Security Agent shall be entitled (as a joint and several creditor of the Obligors together with each individual Finance Party) to claim from each Obligor payment of any amount owed by such Obligor to any Finance Party hereunder (with the exception of the Security Agent in its position as a Finance Party), including, without limitation, any amounts to be paid by such Obligor under Clause 8 (*Repayment*), Clause 9 (*Illegality, voluntary prepayment and cancellation*), Clause 10 (*Mandatory prepayment Exit*), Clause 12 (*Interest*), Clause 15 (*Fees*), Clause 16 (*Tax gross-up and indemnities*), Clause 17 (*Increased Costs*), Clause 18 (*Other indemnities*), Clause 20 (*Costs and expenses*) or other provisions of the Finance Documents and each of the Obligors undertakes to pay any and all such amounts to the Security Agent under this Clause 31.3; and
- (b) each of the Finance Parties is aware of the fact that (i) under this Clause 31.3 the Security Agent is a joint and several creditor together with each individual Finance Party and (ii) all the Transaction Security is established in favour of the Security

Agent. Accordingly, all Finance Parties (except for the Security Agent as a Finance Party) shall exercise their rights under the Finance Documents (if exercising of such rights could jeopardize in any way the existence, effectiveness or enforceability of the Transaction Security, including in particular the claiming and enforcing of any monetary receivable against any of the Obligors) exclusively through the Security Agent.

31.4 Authority to Security Agent

- (a) Each Finance Party confirms its approval of the Transaction Security and the Transaction Security Documents, and each Finance Party (other than the Security Agent) authorises and instructs the Security Agent to:
 - (i) execute and deliver the Transaction Security Documents and any other Finance Documents to which it is a party;
 - (ii) perform the duties and exercise the rights, powers, discretions and remedies given to the Security Agent under or in connection with the Finance Documents, and to exercise any other incidental rights, powers and discretions; and
 - (iii) give or make any Authorisations and confirmations to be given by the Security Agent on behalf of the Secured Parties under the Transaction Security Documents.

31.5 Instructions

- (a) The Security Agent shall:
 - (i) subject to paragraphs (d) and (f) below, exercise or refrain from exercising any right, power, authority or discretion vested in it as Security Agent in accordance with any instructions given to it by the Majority Lenders (or the Agent on their behalf);
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above (or if this Agreement stipulates the matter is a decision for any other Lender or group of Lenders in accordance with instructions given to it by that Lender or group of Lenders).
- (b) The Security Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or the Agent on their behalf) (or, if this Agreement stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Security 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 this Agreement and unless a contrary intention appears in this Agreement, any instructions given to the Security Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Secured Parties.
- (d) Paragraph (a) above shall not apply:

- (i) where a contrary indication appears in this Agreement;
- (ii) where this Agreement requires the Security Agent to act in a specified manner or to take a specified action;
- (iii) in respect of any provision which protects the Security Agent's own position in its personal capacity as opposed to its role of Security Agent for the Secured Parties including, without limitation, Clauses 31.8 (*No duty to account*) to Clause 31.12 (*Exclusion of liability*), Clause 31.15 (*Confidentiality and disclosure*) to Clause 31.21 (*Custodians and nominees*) and Clause 31.24 (*Acceptance of title*) to Clause 31.27 (*Disapplication of Trustee Acts*); or
- (iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:
 - (A) Clause 32.1 (*Order of application*);
 - (B) Clause 32.2 (*Prospective liabilities*);
 - (C) Clause 32.3 (*Treatment of cash cover and Lender cash collateral*); and
 - (D) Clause 32.6 (*Permitted Deductions*).
- (e) In exercising any discretion to exercise a right, power or authority under the Finance Documents where either:
 - (i) it has not received any instructions as to the exercise of that discretion; or
 - (ii) the exercise of that discretion is subject to paragraph (d)(iv) above,the Security Agent shall do so having regard to the interests of all the Secured Parties.
- (f) The Security 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 (together with any associated VAT) which it may incur in complying with those instructions.
- (g) Without prejudice to the provisions of the remainder of this Clause 31.5, in the absence of instructions, the Security Agent may act (or refrain from acting) as it considers in its discretion to be appropriate.

31.6 Duties of the Security Agent

- (a) The Security Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) The Security Agent shall promptly:
 - (i) forward to the Agent a copy of any document received by the Security Agent from any Obligor under any Finance Document; and

- (ii) forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party.
- (c) The Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (d) If the Security Agent receives notice from a Party referring to any Finance Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the Lenders.
- (e) The Security Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

31.7 No fiduciary duties to Obligor

Nothing in this agreement constitutes the Security Agent as an agent, trustee or fiduciary of any Obligor.

31.8 No duty to account

The Security Agent shall not be bound to account to any other Secured Party for any sum or the profit element of any sum received by it for its own account.

31.8.1 Business with the Group

The Security Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Group Company.

31.9 Rights and discretions

- (a) The Security Agent may:
 - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
 - (ii) assume that:
 - (A) any instructions received by it from the Majority Lenders, the Lenders or any group of Lenders are duly given in accordance with the terms of the Finance Documents;
 - (B) unless it has received actual notice of revocation, that those instructions have not been revoked; and
 - (C) if it receives any instructions to act in relation to the Transaction Security, that all applicable conditions under the Finance Documents for so acting have been satisfied; and
 - (iii) rely on a certificate from any person:
 - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or

- (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of paragraph (a)(iii)(A) above, may assume the truth and accuracy of that certificate.

- (b) The Security Agent shall be entitled to carry out all dealings with the Lenders through the Agent and may give to the Agent any notice or other communication required to be given by the Security Agent to the Lenders.
- (c) The Security Agent may 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 Finance Parties has not been exercised; and
 - (iii) any notice made by an Obligor is made on behalf of and with the consent and knowledge of all the Obligors.
- (d) The Security Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (e) Without prejudice to the generality of paragraphs (d) above or (f) below, the Security Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Security Agent (and so separate from any lawyers instructed by the Lenders and/or the Agent) if the Security Agent in its reasonable opinion deems this to be desirable.
- (f) The Security 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 Security Agent or by any other Secured Party) and shall not be responsible or liable for any losses to any person, any diminution in value or any liability arising as a result of its so relying.
- (g) The Security Agent, any Receiver and any Delegate may act in relation to the Finance Documents and the Transaction Security 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 the Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct.
- (h) Unless this Agreement expressly specifies otherwise, the Security Agent may disclose to any other Party any information it reasonably believes it has received as security trustee under this Agreement.
- (i) Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to do or omit to do anything if it would, or might in its

reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

- (j) Notwithstanding any provision of any Finance Document to the contrary, the Security Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

31.10 Responsibility for documentation

None of the Security Agent, any Receiver nor any Delegate is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Agent, an Obligor or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance 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 Finance Document or the Security Property; or
- (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.

31.11 No duty to monitor

The Security Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.

31.12 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Security Agent, any Receiver or Delegate), none of the Security Agent, any Receiver nor any Delegate will be liable (including for negligence or any other category of liability) 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 Security Property unless directly caused by its gross negligence or wilful misconduct;
 - (ii) exercising or not exercising any right, power, authority or discretion given to it by, or in connection with, any Finance 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 Finance Document or the Security Property;

- (iii) any shortfall which arises on the enforcement or realisation of the Security Property;
- (iv) without prejudice to the generality of paragraphs (a)(i) to (a)(iii) above, any damages, costs, losses, diminution in value or liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) No Party (other than the Security Agent, that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Transaction Security.
- (c) Nothing in this Agreement shall oblige the Security Agent to carry out:
 - (i) any "know your customer" or other checks in relation to any person; or
 - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any other Secured Party,

on behalf of any other Secured Party and each other Secured Party confirms to the Security Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Agent.

- (d) Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Security Agent, any Receiver or Delegate, any liability of the Security Agent, any Receiver or Delegate arising under or in connection with any Finance Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Agent, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Agent, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Security Agent, any Receiver

or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Agent, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

31.13 Lenders' indemnity to the Security Agent

- (a) Each Lender shall (in the proportion that its Commitments bear to the Total Commitments for the time being (or, if the Total Commitments 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, Receiver or Delegate under, or exercising any authority conferred under, the Finance Documents (unless the relevant Security Agent, Receiver or Delegate has been reimbursed by an Obligor pursuant to a Finance Document).
- (b) Subject to paragraph (c) below, the Parent shall immediately on demand reimburse any Lender for any payment that Lender makes to the Security Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Security Agent to an Obligor.
- (d) Each indemnity given by a Party under or in connection with a Finance Document is a continuing obligation, independent of the Party's other obligations under or in connection with that or any other Finance Document and survives after that Finance Document is terminated. It is not necessary for a person to pay any amount or incur any expense before enforcing an indemnity under or in connection with a Finance Document.

31.14 Resignation of the Security Agent

- (a) The Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the Lenders and the Parent.
- (b) Alternatively the Security Agent may resign by giving 30 days' notice to the other Finance Parties and the Parent, in which case the Majority Lenders may appoint a successor Security Agent.
- (c) If the Majority Lenders have not appointed a successor Security Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Security Agent (after consultation with the Agent) may appoint a successor Security Agent.
- (d) The retiring Security Agent shall, at its own cost, make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Finance Documents. The Parent 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) The Security Agent's resignation notice shall only take effect upon:
 - (i) the appointment of a successor; and
 - (ii) the transfer of all the Transaction Security to that successor.
- (f) Upon the appointment of a successor, the retiring Security Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) of Clause 31.25 (*Winding up of trust*) and paragraph (d) above) but shall remain entitled to the benefit of this Clause 31.13(d) and Clause 18.4 (*Indemnity to the Security Agent*) (and any Security Agent fees for the account of the retiring Security Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (g) The Majority Lenders may, 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 (d) above but the cost referred to in paragraph (d) above shall be for the account of the Parent.

31.15 Confidentiality and disclosure

- (a) In acting as security trustee for the Secured Parties under this Agreement, the Security Agent shall be regarded as acting through its trustee 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 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.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

31.16 Information from the Finance Parties

Each other Finance Party shall supply the Security Agent with any information that the Security Agent may reasonably request as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent.

31.17 Credit appraisal by the Secured Parties

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Secured Party confirms to the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each Group Company;

- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (c) 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 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 Security Property;
- (d) the adequacy, accuracy or completeness of any information provided by the Security 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.

31.18 Reliance and engagement letters

The Security Agent may obtain and rely on any certificate or report from any Obligor's auditor and may enter into any reliance letter or engagement letter relating to that certificate or report on such terms as it may consider appropriate (including, without limitation, restrictions on the auditor's liability and the extent to which that certificate or report may be relied on or disclosed).

31.19 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 Obligor 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 Finance Document 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 law or regulation or to give notice to any person of the execution of any Finance Document or of the Transaction Security;
- (d) take, or to require any Obligor to take, any step to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under any law or regulation; or
- (e) require any further assurance in relation to any Transaction Security Document.

31.20 Insurance by Security Agent

- (a) The Security Agent shall not be obliged:
 - (i) to insure any of the Charged Property;
 - (ii) to require any other person to maintain any insurance; or
 - (iii) to verify any obligation to arrange or maintain insurance contained in any Finance Document.

and the Security Agent shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.

- (b) Where the Security Agent is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Majority Lenders request it to do so in writing and the Security Agent fails to do so within fourteen days after receipt of that request.

31.21 Custodians and nominees

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any asset 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.

31.22 Delegation by the Security Agent

- (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 right, power, authority or discretion vested in it as Security Agent, Receiver or Delegate.
- (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.
- (c) The Security Agent, Receiver or Delegate shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

31.23 Additional Security Agents

- (a) The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee 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 requirement, restriction or condition 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 Parent and the Lenders of that appointment.

- (b) Any person so appointed shall have the rights, powers, authorities and discretions (not exceeding those given to the Security Agent under or in connection with the Finance Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.
- (c) 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.

31.24 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 Obligor may have to any of the Charged Property and shall not be liable for, or bound to require any Obligor to remedy, any defect in its right or title.

31.25 Winding up of trust

If the Security Agent, with the approval of the Agent, determines that:

- (a) all of the Secured Liabilities and all other obligations secured by the Transaction Security Documents have been fully and finally discharged; and
- (b) no Secured Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Obligor pursuant to the Finance Documents,

then:

- (i) the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Transaction Security Documents; and
- (ii) any Security Agent which has resigned pursuant to Clause 31.14 (*Resignation of the Security Agent*) shall release, without recourse or warranty, all of its rights under each Transaction Security Document.

31.26 Powers supplemental to Trustee Acts

The rights, powers, authorities and discretions given to the Security Agent under or in connection with the Finance Documents shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by law or regulation or otherwise.

31.27 Disapplication of Trustee Acts

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent allowed by law and regulation, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act.

31.28 Enforcement of Transaction Security

- (a) This Clause 31.28 is subject to Clause 32.3 (*Treatment of cash cover and Lender cash collateral*).
- (b) The Security Agent may refrain from enforcing the Transaction Security unless instructed to do so in accordance with Clause 31.5 (*Instructions*).
- (c) The Security Agent shall enforce the Transaction Security (including, without limitation, the selection of any administrator of any Obligor to be appointed by the Security Agent) in accordance with Clause 31.5 (*Instructions*).
- (d) The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under the Transaction Security Documents except through the Security Agent.
- (e) Upon a disposal of any of the Charged Property pursuant to the enforcement of the Transaction Security by a Receiver or the Security Agent, the Security Agent is irrevocably authorised (at the cost of the Obligors and without any consent, sanction, authority or further confirmation from any other Secured Party) to release, without recourse or warranty, that property from the Transaction Security, any release of the Transaction Security or other claim over that asset and to issue any certificates of non crystallisation of floating charges that may be required or desirable.

32 Application of proceeds

32.1 Order of application

- (a) Subject to Clause 32.2 (*Prospective liabilities*) and Clause 32.3 (*Treatment of cash cover and Lender cash collateral*), all amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Finance Documents or in connection with the realisation or enforcement of all or any part of the Transaction Security (for the purposes of this Clause 32.1 and Clause 32.2 (*Prospective liabilities*), the **Recoveries**) shall be held by the Security Agent on trust 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) in discharging any sums owing to the Security Agent (in its capacity as such), any Receiver or any Delegate;
 - (ii) in payment of all costs and expenses incurred by any Secured Party in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of this Agreement;

- (iii) in payment or distribution to the Agent, on its behalf and on behalf of the other Secured Parties, for application towards the discharge of all sums due and payable by any Obligor under any of the Finance Documents in accordance with Clause 35.6 (*Partial payments*);
- (iv) if none of the Obligors is under any further actual or contingent liability under any Finance Document, in payment or distribution to any person to whom the Security Agent is obliged to pay or distribute in priority to any Obligor; and
- (v) the balance, if any, in payment or distribution to the relevant Obligor.

32.2 Prospective liabilities

Following enforcement of any of the Transaction Security the Security Agent may, in its discretion, hold any amount of the Recoveries 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 (the interest being credited to the relevant account) for later application under Clause 32.1 (*Order of application*) in respect of:

- (a) any sum to the Security Agent, any Receiver or any Delegate; and
- (b) any part of the Secured Liabilities,

that the Security Agent reasonably considers, in each case, might become due or owing at any time in the future.

32.3 Treatment of cash cover and Lender cash collateral

- (a) To the extent that any cash cover is not held with the Ancillary Lender for which it was provided, all amounts from time to time received or recovered in connection with the realisation or enforcement of that cash cover shall be paid to the Security Agent and shall be held by the Security Agent on trust 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 Ancillary Lender for which the cash cover was provided, towards the discharge of the liabilities for which that cash cover was provided; and
 - (ii) the balance, if any, in accordance with Clause 32.1 (*Order of application*).
- (b) To the extent that any cash cover is held with the Ancillary Lender for which it was provided, nothing in this Agreement shall prevent that Ancillary Lender receiving and retaining any amount in respect of that cash cover.

32.4 Investment of proceeds

Prior to the application of the proceeds of the Transaction Security in accordance with Clause 32.1 (*Order of application*) the Security Agent may, at its discretion, hold all or part of those proceeds in one or more interest bearing suspense or impersonal accounts in the name of the Security Agent with any financial institution (including itself) and for so long as the Security Agent thinks fit (the interest being credited to the relevant account) pending the application from time to time of those monies at the Security Agent's discretion in accordance with the provisions of Clause 32.1 (*Order of application*).

32.5 Currency conversion

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities the Security Agent may convert any moneys received or recovered by the Security Agent from one currency to another, at the spot rate at which the Security Agent is able to purchase the currency in which the Secured Liabilities are due with the amount received.
- (b) The obligations of any Obligor 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.

32.6 Permitted Deductions

The Security Agent shall be entitled in its discretion:

- (a) to set aside by way of reserve amounts required to meet and to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any law or regulation to make from any distribution or payment made by it under this Agreement; and
- (b) 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 Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

32.7 Good discharge

- (a) Any distribution or payment to be made in respect of the Secured Liabilities by the Security Agent:

- (i) may be made to the Agent on behalf of the Lenders; or
- (ii) may be made to the relevant Ancillary Lender in accordance with paragraph (a)(i) of Clause 32.3 (*Treatment of cash cover and Lender cash collateral*),

and any distribution or payment made in that way shall be a good discharge, to the extent of that payment or distribution, by the Security Agent.

- (b) The Security Agent is under no obligation to make payment to the Agent in the same currency as that in which any Unpaid Sum is denominated.

32.8 Calculation of Amounts

For the purpose of calculating any person's share of any amount payable to or by it, the Security Agent shall be entitled to:

- (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 amounts received or recovered as a result of the enforcement or realisation of the Security Property are applied in discharge of the liabilities in accordance with the terms of the Finance Documents under which those liabilities have arisen.

33 Conduct of business by the Finance Parties

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

34 Sharing among the Finance Parties

34.1 Payments to Finance Parties

- (a) Subject to paragraph (b) below, if a Finance Party (a **Recovering Finance Party**) receives or recovers any amount from an Obligor other than in accordance with Clause 35 (*Payment mechanics*) (a **Recovered Amount**) and applies that amount to a payment due under the Finance Documents then:
 - (i) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;
 - (ii) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 35 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
 - (iii) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the **Sharing Payment**) equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 35.6 (*Partial payments*).
- (b) Paragraph (a) above shall not apply to any amount received or recovered by an 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 35.6 (*Partial payments*) towards the obligations of that Obligor to the Sharing Finance Parties.

34.3 Recovering Finance Party's rights

On a distribution by the Agent under Clause 34.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from an Obligor, as between the relevant Obligor and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Obligor.

34.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (**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 the other Finance Party of the legal or arbitration proceedings; and
 - (ii) the other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

34.6 Ancillary Lenders

- (a) This Clause 34 shall not apply to any receipt or recovery by a Lender in its capacity as an Ancillary Lender at any time prior to the Agent exercising any of its rights under Clause 26.18 (*Acceleration*).
- (b) Following the exercise by the Agent of any of its rights under Clause 26.18 (*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.

Section 11 – Administration

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 the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London as specified by the Agent) 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*) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank specified by that Party in the principal financial centre of the country of that currency (or, in relation to euro, 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 paragraph (c) below applies, if the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.
- (c) If the Agent is willing to make available amounts for the account of a Borrower before receiving funds from the Lenders then if and to the extent that the Agent does so but

it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to a Borrower:

- (i) the Agent shall notify the Parent 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 Impaired Agent

- (a) If, at any time, the Agent becomes an Impaired Agent, an Obligor or a Lender which is required to make a payment under the Finance Documents to the Agent in accordance with Clause 35.1 (*Payments to the Agent*) may instead either:
 - (i) pay that amount direct to the required recipient(s); or
 - (ii) if in its absolute discretion it considers that it is not reasonably practicable to pay that amount direct to the required recipient(s), pay that amount or the relevant part of that amount to an interest-bearing account held with an Acceptable Bank within the meaning of paragraph (a) of the definition of Acceptable Bank and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Obligor or the Lender making the payment (the **Paying Party**) and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents (the **Recipient Party** or **Recipient Parties**).

In each case such payments must be made on the due date for payment under the Finance Documents.

- (b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the Recipient Party or the Recipient Parties pro rata to their respective entitlements.
- (c) A Party which has made a payment in accordance with this Clause 35.5 shall be discharged of the relevant payment obligation under the Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.
- (d) Promptly upon the appointment of a successor Agent in accordance with Clause 30.13 (*Replacement of the Agent*), each Paying Party shall (other than to the extent that that Party has given an instruction pursuant to paragraph (e) below) give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution to the relevant Recipient Party or Recipient Parties in accordance with Clause 35.2 (*Distributions by the Agent*).
- (e) A Paying Party shall, promptly upon request by a Recipient Party and to the extent:
 - (i) that it has not given an instruction pursuant to paragraph (d) above; and

- (ii) that it has been provided with the necessary information by that Recipient Party,

give all requisite instructions to the bank with whom the trust account is held to transfer the relevant amount (together with any accrued interest) to that Recipient Party.

35.6 Partial payments

- (a) If the Agent receives or recovers a payment for application against amounts due in respect of any Finance Documents that is insufficient to discharge all the amounts then due and payable by an Obligor under those Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under 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 those Finance Documents;
 - (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under those Finance Documents; and
 - (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (a)(iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

35.7 Set-off by Obligors

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

35.8 Business Days

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

35.9 Currency of account

- (a) Subject to paragraphs (b) to (e) below, the Base Currency is the currency of account and payment for any sum due from an Obligor under any Finance Document.

- (b) A repayment of a Loan or Unpaid Sum or a part of a Loan or Unpaid Sum shall be made in the currency in which that Loan or Unpaid Sum is denominated, pursuant to this Agreement, on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated, pursuant to this Agreement, when that interest accrued.
- (d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (e) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

35.10 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Parent); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Parent) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise to reflect the change in currency.

35.11 Disruption to payment systems etc.

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Parent that a Disruption Event has occurred:

- (a) the Agent may, and shall if requested to do so by the Parent, consult with the Parent with a view to agreeing with the Parent such changes to the operation or administration of the Facility as the Agent may deem necessary in the circumstances;
- (b) the Agent shall not be obliged to consult with the Parent in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;

- (d) any such changes agreed upon by the Agent and the Parent shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 41 (*Amendments and waivers*);
- (e) the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 35.11; and
- (f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

36 Set-off

36.1 Set-off right

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

36.2 Ancillary Facility

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 letter.

37.2 Security Agent's communications with other Finance Parties

The Security Agent shall be entitled to carry out all dealings with the other Finance Parties through the Agent, and may give to the Agent any notice, document or other communication required to be given by the Security Agent to another Finance Party.

37.3 Addresses

- (a) The address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:
 - (i) in the case of the Parent, the Agent or the Security Agent, that identified with its name below; and

- (ii) in the case of each Lender, each Ancillary Lender or any other Obligor, that notified in writing to the Agent on or before the date on which it becomes a Party,

or any substitute address or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

- (b) The addresses referred to in paragraph (a) above are as follows:

- (i) The Parent:

Ergomed PLC
1, Occam Court, Occam Road,
Surrey Research Park, Guildford,
GU2 7HJ, UK

Attention: Chief Financial Officer and
Senior Legal Counsel and Company Secretary

Email: [REDACTED]
[REDACTED]

- (ii) The Agent:

HSBC UK Bank plc
6th Floor
71 Queen Victoria Street
London
EC4V 4AY

Attention: [REDACTED]

Email: [REDACTED]

- (iii) The Security Agent:

HSBC UK Bank plc
6th Floor
71 Queen Victoria Street
London
EC4V 4AY

Attention: [REDACTED]

Email: [REDACTED]

37.4 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 if by way of letter, when it has been left at the relevant address or two 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 37.3 (*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 (as the case may be) the Security Agent and then only if it is expressly marked for the attention of the department or officer identified in paragraph (b) of Clause 37.3 (*Addresses*) (or any substitute department or officer as the Agent or (as the case may be) the Security Agent shall specify for this purpose).
- (c) All notices under this Agreement from or to an Obligor shall be sent through the Agent.
- (d) Any communication or document made or delivered to the Parent in accordance with this Clause 37.4 will be deemed to have been made or delivered to each of the Obligors.
- (e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

37.5 Notification of address

Promptly upon changing its address, the Agent shall notify the other Parties.

37.6 Communication when Agent is Impaired Agent

If the Agent is an Impaired Agent the Parties may, instead of communicating with each other through the Agent, communicate with each other directly and (while the Agent is an Impaired Agent) all the provisions of the Finance Documents which require communications to be made or notices to be given to or by the Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Agent has been appointed.

37.7 Electronic communication

- (a) Any communication or document to be made or delivered by one Party to another under or in connection with the Finance Documents may be made or delivered by electronic mail or other electronic means (including by way of posting to a secure website) if those two Parties:
 - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
 - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication or delivery as specified in paragraph (a) above to be made between an Obligor and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication or delivery.

- (c) Any such electronic communication or document as specified in paragraph (a) above made or delivered by one Party to another will be effective only when actually received (or made available) in readable form and in the case of any electronic communication or document made or delivered by a Party to the Agent or the Security Agent only if it is addressed in such a manner as the Agent or Security Agent shall specify for this purpose.
- (d) Any electronic communication or document which becomes effective, in accordance with paragraph (c) above, after 5.00 p.m. in the place in which the Party to whom the relevant communication or document is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day^①.
- (e) Any reference in a Finance Document to a communication being sent or received or a document being delivered shall be construed to include that communication or document being made available in accordance with this Clause 37.7.
- (f) Where any information required to be delivered to the Agent under the Finance Documents in copies sufficient for all the Lenders is delivered by electronic communication, a single copy of such information will suffice unless the Agent specifically notifies the Parent to the contrary.

37.8 Use of websites

- (a) The Parent may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the **Website Lenders**) who accept this method of communication by posting this information onto an electronic website designated by the Parent and the Agent (the **Designated Website**) if:
 - (i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
 - (ii) both the Parent and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and
 - (iii) the information is in a format previously agreed between the Parent and the Agent.

If any Lender (a **Paper Form Lender**) does not agree to the delivery of information electronically then the Agent shall notify the Parent accordingly and the Parent shall at its own cost supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Parent shall at its own cost supply the Agent with at least one copy in paper form of any information required to be provided by it.

- (b) The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Parent and the Agent.
- (c) The Parent shall promptly upon becoming aware of its occurrence notify the Agent if:
 - (i) the Designated Website cannot be accessed due to technical failure;
 - (ii) the password specifications for the Designated Website change;

- (iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;
- (iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or
- (v) the Parent becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Parent notifies the Agent under paragraphs (c)(i) or (c)(v) above, all information to be provided by the Parent under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

- (d) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Parent shall at its own cost comply with any such request within ten Business Days.

37.9 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 and interest calculation

- (a) Any interest, commission or fee accruing under a Finance Document will accrue from day to day and the amount of any such interest, commission or fee is calculated:

- (i) on the basis of the actual number of days elapsed and a year of 360 days (or, in any case where the practice in the Relevant Market differs, in accordance with that market practice); and
 - (ii) subject to paragraph (b) below, without rounding.
- (b) The aggregate amount of any accrued interest, commission or fee which is, or becomes, payable by an Obligor under a Finance Document shall be rounded to 2 decimal places.

39 Partial invalidity

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

40 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of any Finance Party or Secured Party, any right or remedy under a Finance Document shall operate as a waiver, of any such right or remedy or constitute an election to affirm any Finance Document. No election to affirm any Finance Document on the part of any Finance Party or Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

41 Amendments and waivers

41.1 Required consents

- (a) Subject to Clause 41.2 (*All Lender matters*) and Clause 41.3 (*Other exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Parent and any such amendment or waiver will be binding on all Parties.
- (b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 41.
- (c) The Security Agent may effect any amendment or waiver of a Transaction Security Document permitted by this Clause 41.
- (d) Without prejudice to the generality of paragraphs (c), (d) and (e) of Clause 30.7 (*Rights and discretions*), the Agent or the Security Agent (as the case may be) may engage, pay for and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this Agreement.
- (e) Each Obligor agrees to any such amendment or waiver permitted by this Clause 41 which is agreed to by the Parent. This includes any amendment or waiver which would, but for this paragraph (e), require the consent of all of the Guarantors.

- (f) Paragraph (c) of Clause 27.10 (*Pro rata interest settlement*) shall apply to this Clause 41.

41.2 All Lender matters

Subject to Clause 41.4 (*Changes to reference rates*), an amendment, waiver or (in the case of a Transaction Security Document) a consent of, or in relation to, any term of any Finance Document that has the effect of changing or which relates to:

- (a) the definition of **Majority Lenders** in Clause 1.1 (*Definitions*);
- (b) an extension to the date of payment of any amount under the Finance Documents (other than in relation to Clause 10 (*Mandatory prepayment*)) and, subject to, for the avoidance of doubt, the provisions of Clause 2.3 (*Extension Option*);
- (c) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
- (d) a change in currency of payment of any amount under any Finance Document;
- (e) an increase in any Commitment or the Total Commitments (otherwise than pursuant to, for the avoidance of doubt, the operation of Clause 2.2 (*Increase*) or Clause 2.4 (*Accordion Option*)), an extension of the Availability Period (subject to, for the avoidance of doubt, the provisions of Clause 2.3 (*Extension Option*)) or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably under the Facility;
- (f) a change to the Borrowers or Guarantors other than in accordance with Clause 29 (*Changes to the Obligors*);
- (g) any provision which expressly requires the consent of all the Lenders;
- (h) Clause 2.5 (*Finance Parties' rights and obligations*), Clause 5.1 (*Delivery of a Utilisation Request*), Clause 9 (*Illegality, voluntary prepayment and cancellation*), Clause 10 (*Mandatory prepayment Exit*), the definition of **Change of Control** in Clause 1.1 (*Definitions*), Clause 11.8 (*Application of prepayments*), Clause 27 (*Changes to the Lenders*), Clause 29 (*Changes to the Obligors*), this Clause 41, Clause 47 (*Governing law*) or Clause 49.1 (*Jurisdiction of English courts*);
- (i) (other than as expressly permitted by the provisions of any Finance Document) the nature or scope of:
 - (i) the guarantee and indemnity granted under Clause 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 paragraphs (ii) and (iii) above, insofar as it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document);

- (j) the release or partial release of any guarantee and indemnity granted under Clause 21 (*Guarantee and indemnity*) or of any Transaction Security in each case unless permitted under this Agreement or any other Finance Document or relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document (or has otherwise been consented to by the Majority Lenders); or
 - (k) Clause 22.31 (*Sanctions*), Clause 25.30 (*Sanctions*) or the definition of "Sanctions",
- shall not be made or given without the prior consent of all the Lenders.

41.3 Other exceptions

An amendment or waiver which relates to, or would otherwise affect, the rights or obligations of the Agent, the Arranger, the Security Agent or an Ancillary Lender (each in their capacity as such) may not be effected without the consent of the Agent, the Arranger, the Security Agent or that Ancillary Lender as the case may be.

41.4 Changes to reference rates

- (a) Subject to Clause 41.4 (*Changes to reference rates*), if a Published Rate Replacement Event has occurred in relation to any Published Rate for a currency which can be selected for a Loan, any amendment or waiver which relates to:
 - (i) providing for the use of a Replacement Reference Rate in relation to that currency in place of that Published Rate; and
 - (ii)
 - (A) aligning any provision of any Finance Document to the use of that Replacement Reference Rate;
 - (B) enabling that Replacement Reference Rate to be used for the calculation of interest under this Agreement (including any consequential changes required to enable that Replacement Reference Rate to be used for the purposes of this Agreement);
 - (C) implementing market conventions applicable to that Replacement Reference Rate;
 - (D) providing for appropriate fallback (and market disruption) provisions for that Replacement Reference Rate; or
 - (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Reference Rate (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Parent.

- (b) If any Lender fails to respond to a request for an amendment or waiver described in paragraph (a) above within 10 Business Days (or such longer time period in relation to any request which the Parent and the Agent may agree) of that request being made:
 - (i) its Commitment(s) shall not be included for the purpose of calculating the Total Commitments when ascertaining whether any relevant percentage of Total Commitments has been obtained to approve that request; and
 - (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.
- (c) In this Clause 41.4:

Published Rate means:

- (a) the Primary Term Rate for any Quoted Tenor; or
- (b) an RFR.

Published Rate Replacement Event means, in relation to a Published Rate :

- (a) the methodology, formula or other means of determining that Published Rate has, in the opinion of the Majority Lenders and the Parent, materially changed;
- (b)
 - (i)
 - (A) the administrator of that Published Rate or its supervisor publicly announces that such administrator is insolvent; or
 - (B) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Published Rate is insolvent,

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

- (v) in the case of the Primary Term Rate for any Quoted Tenor for any Term Rate Currency, the supervisor of the administrator of that Primary Term Rate makes a public announcement or publishes information stating that that Primary Term Rate for that Quoted Tenor is no longer or, as of a specified future date will no longer be, representative of the underlying market or economic reality that it is intended to measure and that representativeness will not be restored (as determined by such supervisor);
- (c) the administrator of that Published Rate (or the administrator of an interest rate which is a constituent element of that Published Rate) determines that that Published Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
 - (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Parent) temporary; or
 - (ii) that Published Rate is calculated in accordance with any such policy or arrangement for a period no less than 30 days; or
- (d) in the opinion of the Majority Lenders and the Parent, that Published Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

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

Replacement Reference Rate means a reference rate which is:

- (a) formally designated, nominated or recommended as the replacement for a Published Rate by:
 - (i) the administrator of that Published Rate (provided that the market or economic reality that such reference rate measures is the same as that measured by that Published Rate); or
 - (ii) any Relevant Nominating Body,and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the "Replacement Reference Rate" will be the replacement under paragraph (ii) above;
- (b) in the opinion of the Majority Lenders and the Parent, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to a Published Rate; or
- (c) in the opinion of the Majority Lenders and the Parent, an appropriate successor to a Published Rate.

41.5 Excluded Commitments

If:

- (a) any Defaulting Lender fails to respond to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document or any other vote of Lenders under the terms of this Agreement within 20 Business Days of that request being made (unless the Parent and the Agent agree to a longer time period in relation to any request):
 - (i) its Commitment(s) shall not be included for the purpose of calculating the Total Commitments when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments has been obtained to approve that request; and
 - (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

41.6 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; 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 will be reduced by the amount of its Available Commitments and, to the extent that that reduction results in that Defaulting Lender's Total Commitments being zero, that Defaulting Lender shall be deemed not to be a Lender for the purposes of paragraphs (i) and (ii) above.
- (b) For the purposes of this Clause 41.6, 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.

41.7 Replacement of a Defaulting Lender

- (a) The Parent may, at any time a Lender has become and continues to be a Defaulting Lender, by giving 5 Business Days' prior written notice to the Agent and such Lender:
- (i) replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 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 Commitment of the Lender; or
 - (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 Facility,
- to an Eligible Institution (a **Replacement Lender**) 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:
- (A) in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Loans and all accrued interest (to the extent that the Agent has not given a notification under Clause 27.10 (*Pro rata interest settlement*), Break Costs and other amounts payable in relation thereto under the Finance Documents; or
 - (B) in an amount agreed between that Defaulting Lender, the Replacement Lender and the Parent and which does not exceed the amount described in sub-paragraph (A) above.
- (b) Any transfer of rights and obligations of a Defaulting Lender pursuant to this Clause 41.7 shall be subject to the following conditions:
- (i) the Parent shall have no right to replace the Agent or Security Agent;
 - (ii) neither the Agent nor the Defaulting Lender shall have any obligation to the Parent to find a Replacement Lender;
 - (iii) the transfer must take place no later than 10 Business Days after the notice referred to in paragraph (a) above;
 - (iv) in no event shall the Defaulting Lender be required to pay or surrender to the Replacement Lender any of the fees received by the Defaulting Lender pursuant to the Finance Documents; and
 - (v) the Defaulting Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer to the Replacement Lender.

- (c) The Defaulting Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Parent when it is satisfied that it has complied with those checks.

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 shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
 - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent or Security Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligors and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (iii) appointed by any Finance Party or by a person to whom paragraphs (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph (b) of Clause 30.15 (*Relationship with the Lenders*));
 - (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraphs (b)(i) or (ii) above;

- (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
- (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- (vii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 27.9 (*Security over Lenders' rights*);
- (viii) who is a Party; or
- (ix) with the consent of the Parent;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (ii) and (iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
 - (B) in relation to paragraph (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
 - (C) in relation to paragraphs (b)(v), (vi) and (vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom paragraphs (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Parent and the relevant Finance Party; and

- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

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 Facility and/or one or more Obligors the following information:
 - (i) names of Obligors;
 - (ii) country of domicile of Obligors;
 - (iii) place of incorporation of Obligors;
 - (iv) date of this Agreement;
 - (v) Clause 47 (*Governing law*);
 - (vi) the names of the Agent and the Arranger;
 - (vii) date of each amendment and restatement of this Agreement;
 - (viii) amount of the Facility;
 - (ix) amount of Total Commitments;
 - (x) currencies of the Facility;
 - (xi) type of Facility;
 - (xii) ranking of Facility;
 - (xiii) Termination Date for Facility;
 - (xiv) changes to any of the information previously supplied pursuant to paragraphs (i) to (xiii) above; and
 - (xv) such other information agreed between such Finance Party and the Parent,to enable such numbering service provider to provide its usual syndicated loan numbering identification services.
- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facility 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) Each Obligor represents that none of the information set out in paragraphs (a)(i) to (a)(xv) above is, nor will at any time be, unpublished price-sensitive information.
- (d) The Agent shall notify the Parent and the other Finance Parties of:
 - (i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facility and/or one or more Obligors; and
 - (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facility and/or one or more Obligors by such numbering service provider.

42.4 DAC 6

Nothing in any Finance Document shall prevent disclosure of any Confidential Information or other matter to the extent that preventing that disclosure would otherwise cause any transaction contemplated by the Finance Documents or any transaction carried out in connection with any transaction contemplated by the Finance Documents to become an arrangement in Part II A 1 of Annex IV of Directive 2011/16/EU.

42.5 Entire agreement

This Clause 42 constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

42.6 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.

42.7 Notification of disclosure

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Parent:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(v) of Clause 42.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 42.

42.8 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 twelve months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with the Finance Documents have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

43 Confidentiality of Funding Rates

43.1 Confidentiality and disclosure

- (a) The Agent and each Obligor agree to keep each Funding Rate confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b) and (c) below.
- (b) The Agent may disclose:
 - (i) any Funding Rate to the relevant Borrower pursuant to Clause 12.5 (*Notification of rates of interest*); and
 - (ii) any Funding Rate to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Agent and the relevant Lender.
- (c) The Agent may disclose any Funding Rate, and each Obligor may disclose any Funding Rate, to:
 - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or is otherwise bound by requirements of confidentiality in relation to it;
 - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances;
 - (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it

may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances; and

- (iv) any person with the consent of the relevant Lender.

43.2 Related obligations

- (a) The Agent and each Obligor acknowledge that each Funding Rate is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Agent and each Obligor undertakes not to use any Funding Rate for any unlawful purpose.
- (b) The Agent and each Obligor agree (to the extent permitted by law and regulation) to inform the relevant Lender:
 - (i) of the circumstances of any disclosure made pursuant to paragraph (c)(ii) of Clause 43.1 (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
 - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 43.

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 Disclosure of Lender details by Agent

44.1 Supply of Lender details to Parent

The Agent shall provide to the Parent within 5 Business Days of a request by the Parent (but no more frequently than once per calendar month), a list (which may be in electronic form) setting out the names of the Lenders as at the date of that request, their respective Commitments, the address (and the department or officer, if any, for whose attention any communication is to be made) of each Lender for any communication to be made or document to be delivered under or in connection with the Finance Documents, the electronic mail address and/or any other information required to enable the transmission of information by electronic mail or other electronic means to and by each Lender to whom any communication under or in connection with the Finance Documents may be made by that means and the account details of each Lender for any payment to be distributed by the Agent to that Lender under the Finance Documents.

44.2 Supply of Lender details at Parent's direction

- (a) The Agent shall, at the request of the Parent, disclose the identity of the Lenders and the details of the Lenders' Commitments to any:
 - (i) other Party or any other person if that disclosure is made to facilitate, in each case, a refinancing of the Financial Indebtedness arising under the Finance

Documents or a material waiver or amendment of any term of any Finance Document; and

- (ii) Group Company.
- (b) Subject to paragraph (c) below, the Parent shall procure that the recipient of information disclosed pursuant to paragraph (a) above shall keep such information confidential and shall not disclose it to anyone and shall ensure that all such information is protected with security measures and a degree of care that would apply to the recipient's own confidential information.
- (c) The recipient may disclose such information to any of its officers, directors, employees, professional advisers, auditors and partners as it shall consider appropriate if any such person is informed in writing of its confidential nature, except that there shall be no such requirement to so inform if that person is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by duties of confidentiality in relation to the information.

44.3 Supply of Lender details to other Lenders

- (a) If a Lender (a **Disclosing Lender**) indicates to the Agent that the Agent may do so, the Agent shall disclose that Lender's name and Commitment to any other Lender that is, or becomes, a Disclosing Lender.
- (b) The Agent shall, if so directed by the Requisite Lenders, request each Lender to indicate to it whether it is a Disclosing Lender.

44.4 Lender enquiry

If any Lender believes that any entity is, or may be, a Lender and:

- (a) that entity ceases to have an Investment Grade Rating; or
- (b) an Insolvency Event occurs in relation to that entity;

the Agent shall, at the request of that Lender, indicate to that Lender the extent to which that entity has a Commitment.

44.5 Lender details definitions

In this Clause 44:

Investment Grade Rating means, in relation to an entity, a rating for its long-term unsecured and non credit-enhanced debt obligations of BBB- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency.

Requisite Lenders means a Lender or Lenders whose Commitments aggregate 15 per cent. (or more) of the Total Commitments (or if the Total Commitments have been reduced to zero, aggregated 15 per cent. (or more) of the Total Commitments immediately prior to that reduction).

45 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.

46 Bail-In

46.1 Definitions

In this Clause 46:

Article 55 BRRD means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

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

Bail-In Legislation means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time;
- (b) in relation to the United Kingdom, the UK Bail-In Legislation; and
- (c) in relation to any state other than such an EEA Member Country and the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

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

EU Bail-In Legislation Schedule means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

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

UK Bail-In Legislation means Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

Write-down and Conversion Powers means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule;
- (b) in relation to the UK Bail-In Legislation, any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such person or

any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers; and

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

46.2 Contractual recognition of bail-in

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

Section 12 – Governing law and enforcement

47 Governing law

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

48 Acceptance of power of attorney

If a Party is represented by one or more attorneys in connection with the execution of this Agreement or any other Finance Document, and the relevant power of attorney is expressed to be governed by the laws of the Netherlands or any other law, that choice of law is hereby accepted by each other Party, in accordance with Article 14 of the Hague Convention on the Law Applicable to Agency of 14 March 1978.

49 Enforcement

49.1 Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a **Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

49.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in England and Wales):
 - (i) irrevocably appoints the Parent as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document (and the Parent by its execution of this Agreement, accepts that appointment); and
 - (ii) agrees that failure by an agent for service of process to notify the relevant Obligor 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 Parent (on behalf of all the Obligors) must immediately (and in any event within 10 days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may appoint another agent for this purpose.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

Schedule 1 – The Original Parties

Part 1 – The Obligors

Name of Original Borrower	Original Jurisdiction	Registration number (or equivalent, if any)
Ergomed PLC	England and Wales	04081094

Name of Existing Guarantor	Original Jurisdiction	Registration number (or equivalent, if any)
Ergomed PLC	England and Wales	04081094
PrimeVigilance Limited	England and Wales	06740849
Ergomed B.V. (previously PSR Group B.V.)	Netherlands	34161008
PrimeVigilance s.r.o	Czech Republic	24730416
PrimeVigilance USA Inc.	North Carolina, United States of America	0547713
PrimeVigilance Inc.	Delaware, United States of America	6075240
Ergomed Clinical Research, Inc.	Delaware, United States of America	3919042
MS Clinical Services, LLC.	Texas, United States of America	0801385683
ADAMAS Consulting LLC	North Carolina, United States of America	0927547
Ergomed Clinical Research Limited	England and Wales	05094681
ADAMAS Consulting Limited	England and Wales	03403717
ADAMAS Consulting Group Limited	England and Wales	08299519

Part 2 – The Original Lenders

Name of Original Lender	Commitment (£)	Treaty passport scheme reference number and jurisdiction of tax residence (if applicable)
HSBC UK Bank plc	50,000,000	N/A

Schedule 2 – Conditions precedent

[now historic]

Part 1

1 Obligors

- 1.1 A copy of the Constitutional Documents and of the constitutional documents of each other Original Obligor.
- 1.2 A copy of a resolution of the executive directors/ the board or, if applicable, a committee of the board of directors of each Original Obligor:
 - (a) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party;
 - (b) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party;
 - (d) in respect of a Dutch Obligor only, containing a confirmation that no works council (*ondernemingsraad*) having jurisdiction over that Dutch Obligor has been installed and no works council will be installed in the foreseeable future nor any person working for an enterprise of the Dutch Obligor has requested the board of directors that a works council be installed;
 - (e) resolving that the entry into this Agreement and any other Finance Documents to which it is a party is in the best interests of and to the benefit of the relevant Original Obligor (as applicable); and
 - (f) in the case of an Original Obligor other than the Parent, authorising the Parent to act as its agent in connection with the Finance Documents.
- 1.3 If applicable, a copy of a resolution of the board of directors of the relevant company, establishing the committee referred to in paragraph 1.2 above (or, in the case of the Parent, certified extracts from the minutes of the meeting pursuant to which the relevant committee was established).
- 1.4 Certificate as of a recent date of good standing of each Obligor incorporated in the United States of America under the laws of its jurisdiction of incorporation, organization or formation (or equivalent), as applicable.
- 1.5 A specimen of the signature of each person authorised by the resolution referred to in paragraph 1.2 above in relation to the Finance Documents and related documents.

- 1.6 Where required, a copy of a resolution signed by all the holders of the issued shares in each Original Guarantor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Original Guarantor is a party.
- 1.7 Where required, a copy of a resolution of the board of directors of each corporate shareholder of each Original Guarantor approving the terms of the resolution referred to in paragraph 1.6 above.
- 1.8 A certificate of the Parent (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments (as at the date of this Agreement) would not cause any borrowing, guarantee, security or similar limit binding on any Original Obligor to be exceeded (taking into account, in the case of an Original Guarantor, any guarantee limitation language included in this Agreement).
- 1.9 A certificate of an authorised signatory of the Parent or other relevant Original Obligor certifying that each copy document relating to it specified in this Part 1 of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement.
- 1.10 In respect of each Czech Obligor:
- (a) an up-to-date extract from the relevant Czech Commercial Register and other documents evidencing the authority of the relevant signatories;
 - (b) an up-to-date extract from the relevant insolvency registry evidencing that no insolvency proceedings is pending in relation to the relevant Czech Obligor;
 - (c) a copy of a resolution of the general meeting of the relevant Czech Obligor or the sole shareholder acting in the capacity of the general meeting of the relevant Czech Obligor, as the case may be, (i) approving the terms of and the transactions contemplated by, the Finance Documents to which it is a party, (ii) resolving that it executes such documents, (iii) confirming that the sole shareholder or the general meeting has not identified any reason on the basis of which it should forbid the relevant Czech Obligor to enter into, and to perform the transactions contemplated by such documents, (iv) confirming that the general meeting or the sole shareholder has been informed by the executive directors of the relevant Czech Obligor within the meaning of section 54 *et seq* of the Czech Act on Business Corporations of their potential conflict of interest with the interest of the relevant Czech Obligor and (v) confirming that the general meeting or the sole shareholder has not suspended performance of any member of any of the relevant Czech Obligor's bodies.

2 Finance Documents

- 2.1 This Agreement executed by the Group Companies party to this Agreement.
- 2.2 The Fee Letter referred to in Clause 15.2 (*Arrangement fee*) executed by the Parent.
- 2.3 At least two originals of the following Transaction Security Document executed by the Parent:

Name of Original Obligor	Transaction Security Document
ERGOMED PLC	Debenture

- 2.4 A copy of all notices required to be sent under the Transaction Security Document referred to above executed by the Parent and duly acknowledged by the addressee.
- 2.5 All share certificates, transfers and stock transfer forms or equivalent duly executed by the Parent 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 Document referred to above.

3 Legal opinions

- 3.1 The following legal opinions, each addressed to the Agent, the Security Agent and the Original Lenders.
- (a) A legal opinion of Dentons UK and Middle East LLP, legal advisers to the Agent and the Arranger as to English law substantially in the form distributed to the Original Lenders prior to signing this Agreement.
 - (b) A legal opinion of Dentons Europe LLP, legal advisers to the Agent and the Arranger as to Dutch law substantially in the form distributed to the Original Lenders prior to signing this Agreement.
 - (c) A legal opinion of Dentons Europe CS LLP, legal advisers to the Agent and the Arranger as to Czech law substantially in the form distributed to the Original Lenders prior to signing this Agreement.
 - (d) A legal opinion of Smith Anderson, legal advisers to the Obligors as to North Carolina law substantially in the form distributed to the Original Lenders prior to signing this Agreement.

4 Other documents and evidence

- 4.1 The Group Structure Chart.
- 4.2 The Budget.
- 4.3 Utilisation Requests relating to any Loans to be made on the Closing Date.
- 4.4 A copy, certified by an authorised signatory of the Parent to be a true copy, of the Original Financial Statements of each Obligor.
- 4.5 A certificate signed by an authorised signatory of the Parent confirming which companies within the Group are Material Companies and that the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA), the aggregate gross assets and aggregate turnover of the Original Guarantors (calculated on an unconsolidated basis and excluding all intra-Group items and investments in Subsidiaries of any Group Company) exceeds 85% of EBITDA, the consolidated gross assets and consolidated turnover of the Group.
- 4.6 In respect of each company incorporated in the United Kingdom whose shares are the subject of the Transaction Security (a **Charged Company**), either:
- (a) a certificate of an authorised signatory of the Parent certifying that:

- (i) each Group Company has complied within the relevant timeframe with any notice it has received pursuant to Part 21A of the Act from that Charged Company; and
- (ii) no "warning notice" or "restrictions notice" (in each case as defined in Schedule 1B of the Act) has been issued in respect of those shares,

together with a copy of the "PSC register" (within the meaning of section 790C(10) of the Act) of that Charged Company, which, in the case of a Charged Company that is a Group Company, is certified by an authorised signatory of the Parent to be correct, complete and not amended or superseded as at a date no earlier than the date of this Agreement; or

- (b) a certificate of an authorised signatory of the Parent certifying that such Charged Company is not required to comply with Part 21A of the Act.

- 4.7 Evidence that the fees, costs and expenses then due from the Parent pursuant to Clause 15 (*Fees*), Clause 15.5 (*Interest, commission and fees on Ancillary Facilities*), Clause 16.6 (*Stamp taxes*) and Clause 20 (*Costs and expenses*) have been paid or will be paid by the Closing Date.
- 4.8 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 Parent accordingly prior to the date of this Agreement) 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 executed by the Additional Obligor and the Parent.
- 2 A copy of the constitutional documents of the Additional Obligor.
- 3 A copy of a resolution of the executive directors/ the board or, if applicable, a committee of the board of directors of the Additional Obligor:
 - (a) approving the terms of, and the transactions contemplated by, the Accession Deed and the Finance Documents and resolving that it execute, deliver and perform the Accession Deed and any other Finance Document to which it is party;
 - (b) authorising a specified person or persons to execute the Accession Deed and other Finance Documents on its behalf;
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices (including, in relation to an Additional Borrower, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party;
 - (d) resolving that the entry into the Accession Deed and any other Finance Documents to which it is a party is in the best interests of and to the benefit of the relevant Obligor; and
 - (e) authorising the Parent 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 Additional Obligor, 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 applicable, 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 If applicable, a copy of a resolution of the board of directors of each corporate shareholder of the Additional Obligor approving the terms of the resolution referred to in paragraph 6 above.
- 8 A certificate of the Additional Obligor (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments (as at the date of the relevant Accession Deed) would not (taking into account, in the case of an Additional Guarantor, any guarantee limitation language included in this Agreement or the applicable Accession Deed) cause any borrowing, guarantee, security or similar limit binding on it to be exceeded.
- 9 A certificate of an authorised signatory of the Additional Obligor certifying that each copy document listed in this Part 2 of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Deed.

- 10 A copy of any other Authorisation or other document, opinion or assurance which the Agent considers to be necessary or desirable in connection with the entry into and performance of the transactions contemplated by the Accession Deed or for the validity and enforceability of any Finance Document.
- 11 If available, the latest audited financial statements of the Additional Obligor.
- 12 The following legal opinions, each addressed to the Agent, the Security Agent and the Lenders as at the date of the relevant Accession Deed:
- (a) A legal opinion of the legal advisers to the Agent in England, as to English law in the form distributed to the Lenders prior to signing the Accession Deed.
 - (b) If the Additional Obligor is incorporated in or has its centre of main interest or establishment (as referred to in Clause 22.28 (*Centre of main interests and establishments*)) in a jurisdiction other than England and Wales or is executing a Finance Document which is governed by a law other than English law, a legal opinion of the legal advisers to the Agent in the jurisdiction of its incorporation, centre of main interest or establishment (as applicable) or, as the case may be, the jurisdiction of the governing law of that Finance Document (the **Applicable Jurisdiction**) as to the law of the Applicable Jurisdiction and in the form distributed to the Lenders prior to signing the Accession Deed.
- 13 Evidence that the Additional Obligor has complied in full with all money laundering regulations of the Lenders.
- 14 Any security documents which are required by the Agent executed by the proposed Additional Obligor.
- 15 Where the shares in an Additional Guarantor will become (or are required to become) subject to the Transaction Security and are requested to be delivered by the Security Agent, share certificates in respect of the entire issued share capital of the Additional Obligor together with duly executed transfers in blank in respect of those shares together with such other documents as are necessary to ensure the Security Agent has security over that issued share capital in form and substance satisfactory to it.
- 16 Any notices or documents required to be given or executed under the terms of any security documents referred to in paragraph 14 above.
- 17 If the Additional Obligor is a public limited company incorporated in England and Wales, Scotland or Northern Ireland, evidence that the Additional Obligor has (where applicable) done all that is necessary (including by re-registering as a private company) to avoid any breach of the prohibitions in Chapter 2 (*Financial assistance for purchase of own shares*) of Part 18 of the Act in order to enable that Additional Obligor to enter into the Finance Documents and perform its obligations under the Finance Documents.
- 18 If the Additional Obligor is not incorporated in England and Wales, Scotland or Northern Ireland, such 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.
- 19 If the Additional Obligor is a company incorporated in the United Kingdom whose shares are the subject of the Transaction Security (a **Charged Company**), either:

- (a) a certificate of an authorised signatory of the Parent certifying that:
 - (i) each Group Company has complied within the relevant timeframe with any notice it has received pursuant to Part 21A of the Act from that Charged Company; and
 - (ii) no "warning notice" or "restrictions notice" (in each case as defined in Schedule 1B of the Act) has been issued in respect of those shares,together with a copy of the "PSC register" (within the meaning of section 790C(10) of the Act) of that Charged Company, certified by an authorised signatory of the Parent to be correct, complete and not amended or superseded as at a date no earlier than the date of the relevant Accession Deed; or
- (b) a certificate of an authorised signatory of the Parent certifying that such Charged Company is not required to comply with Part 21A of the Act.

20 In respect of each Additional Czech Obligor:

- (a) an up-to-date extract from the relevant Czech Commercial Register and other documents evidencing the authority of the relevant signatories;
- (b) an up-to-date extract from the relevant insolvency registry evidencing that no insolvency proceedings is pending in relation to the respective Additional Czech Obligor;
- (c) an up-to-date extract from the UBO Register;
- (d) a copy of a resolution of the general meeting of the respective Additional Czech Obligor or the sole shareholder acting in the capacity of the general meeting of the respective Additional Czech Obligor, as the case may be, (i) approving the terms of and the transactions contemplated by, the Accession Deed and the Finance Documents to which it is a party, (ii) resolving that it executes such documents, (iii) confirming that the sole shareholder or the general meeting has not identified any reason on the basis of which it should forbid the relevant Additional Czech Obligor to enter into, and to perform the transactions contemplated by such documents, (iv) confirming that entering into, creation of security and the performance of the transactions contemplated by and/or the obligations arising under, the Accession Deed and the Finance Documents to which the Additional Czech Obligor is or is to be a party do not constitute gratuitous performance within the meaning of section 40(5) of the Czech Act on Business Corporations, (v) confirming that the general meeting or the sole shareholder has been informed by the executive directors of the respective Additional Czech Obligor within the meaning of section 54 *et seq* of the Czech Act on Business Corporations of their potential conflict of interest with the interest of the respective Additional Czech Obligor and (v) confirming that the general meeting or the sole shareholder has not suspended performance of any member of any of the relevant Additional Czech Obligor's bodies.
- (e) copies of documents required by Section 200 (in case of an Additional Czech Obligor being a limited liability company) and/or Section 311 (in case of an Additional Czech Obligor being a joint stock company) of the Czech Act on Business Corporations, in particular:

- (i) the report on the provision of the financial assistance pursuant to the relevant provisions of the Czech Act on Business Corporations to be issued by the executive body of an Additional Czech Obligor; and
- (f) the resolution of the general meeting of an Additional Czech Obligor pursuant to the relevant provisions of the Czech Act on Business Corporations on approval of the provision on financial assistance.

Schedule 3 – Utilisation Request

From: [Borrower] [Parent]*

To: [Agent]

Dated:

Dear Sirs

ERGOMED PLC – senior facility agreement originally dated 13 March 2020 (as amended and restated) (the Facility Agreement)

- 1 We refer to the Facility Agreement. This is a Utilisation Request. Terms defined in the Facility Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
- 2 We wish to borrow a Loan on the following terms:
 - (a) Borrower: []
 - (b) Proposed Utilisation Date: [] (or, if that is not a Business Day, the next Business Day)
 - (c) Currency of Loan: []
 - (d) Amount: [] or, if less, the Available Facility
 - (e) Interest Period: []
- 3 We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) of the Facility Agreement 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 Loan.] [The proceeds of this Loan should be credited to [account]].
- 5 This Utilisation Request is irrevocable.

Yours faithfully

.....

authorised signatory for
[the Parent on behalf of] [] [insert name of relevant Borrower]*

Notes:

* Amend as appropriate. The Utilisation Request can be given by the Borrower or by the Parent.

Schedule 4 – Form of Transfer Certificate

To: [] as Agent and [] as Security Agent

From: [] (the **Existing Lender**) and [] (the **New Lender**)

Dated:

ERGOMED PLC – senior facility agreement originally dated 13 March 2020 (as amended and restated) (the Facility Agreement)

- 1 We refer to the Facility Agreement. This agreement (the **Agreement**) shall take effect as a Transfer Certificate for the purposes of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
- 2 We refer to Clause 27.6 (*Procedure for transfer*) of the Facility Agreement:
 - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation, and in accordance with Clause 27.6 (*Procedure for transfer*) of the Facility Agreement, all of the Existing Lender's rights and obligations under the Facility Agreement, the other Finance Documents and in respect of the Transaction Security which relate to that portion of the Existing Lender's Commitment(s) and participations in Loans under the Facility Agreement as specified in the Schedule.
 - (b) The proposed Transfer Date is [].
 - (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 37.3 (*Addresses*) of the Facility Agreement are set out in the Schedule.
- 3 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 27.5 (*Limitation of responsibility of Existing Lenders*) of the Facility Agreement.
- 4 The New Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is:
 - (a) [a Qualifying Lender (other than a Treaty Lender);]
 - (b) [a Treaty Lender;]
 - (c) [not a Qualifying Lender].*
- 5 [The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:
 - (a) a company resident in the United Kingdom, for United Kingdom tax purposes;
 - (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or

- (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
 - (c) [a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.] **
- 6 [The New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number []) and is tax resident in []***, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax, and requests that the Parent notify:
 - (a) each Borrower which is a Party as a Borrower as at the Transfer Date; and
 - (b) each Additional Borrower which becomes an Additional Borrower after the Transfer Date,that it wishes that scheme to apply to the Facility Agreement.]****
- 7 This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
- 8 English law governs this Agreement, its interpretation and any non-contractual obligations arising from or connected with it.
- 9 This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Lender's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

The Schedule – Commitment(s)/rights and obligations to be transferred

[]

[] [Facility Office address, fax number and attention details for notices and account details for payments,]

[Existing Lender]

[New Lender]

By: []

By: []

This Agreement is accepted as a Transfer Certificate for the purposes of the Facility Agreement by the Agent and the Transfer Date is confirmed as [].

[] [Agent]

By: []

[] [Security Agent]

By: []

Notes:

* Delete as applicable – each New Lender is required to confirm which of these three categories it falls within.

** Include only if New Lender is a UK Non-Bank Lender i.e. falls within paragraph (a)(ii) of the definition of Qualifying Lender in Clause 16.1 (*Definitions*).

*** Insert jurisdiction of tax residence.

**** Include if the New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facility Agreement.

Schedule 5 – Form of Assignment Agreement

To: [] as Agent and [] as Security Agent and [] as Parent,
for and on behalf of each Obligor

From: [] (the **Existing Lender**) and [] (the **New Lender**)

Dated:

ERGOMED PLC – senior facility agreement originally dated 13 March 2020 (as amended and restated) (the Facility Agreement)

- 1 We refer to the Facility Agreement. This is an Assignment Agreement. This agreement (the **Agreement**) shall take effect as an Assignment Agreement for the purposes of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
- 2 We refer to Clause 27.7 (*Procedure for assignment*) of the Facility Agreement.
 - (a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Facility Agreement, the other Finance Documents and in respect of the Transaction Security which correspond to that portion of the Existing Lender's Commitment(s) and participations in Loans under the Facility Agreement as specified in the Schedule.
 - (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitment(s) and participations in Loans under the Facility Agreement specified in the Schedule.
 - (c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.
- 3 The proposed Transfer Date is [].
- 4 On the Transfer Date the New Lender becomes party to the relevant Finance Documents as a Lender.
- 5 The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 37.3 (*Addresses*) of the Facility Agreement are set out in the Schedule.
- 6 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 27.5 (*Limitation of responsibility of Existing Lenders*) of the Facility Agreement.
- 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:
 - (i) a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA;] or
 - (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.**
- 9 [The New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number []) and is tax resident in[] ***, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify:
- (a) each Borrower which is a Party as a Borrower as at the Transfer Date; and]
 - (b) each Additional Borrower which becomes an Additional Borrower after the Transfer Date,
- that it wishes that scheme to apply to the Facility Agreement.]****
- 10 This Agreement acts as notice to the Agent (on behalf of each Finance Party) and upon delivery in accordance with Clause 27.8 (*Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Parent*) to the Parent (on behalf of each Obligor) of the assignment referred to in this Agreement.
- 11 This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
- 12 English law governs this Agreement, its interpretation and any non-contractual obligations arising from or connected with it.
- 13 This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Assignment Agreement may not transfer a proportionate share of the Existing Lender's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

Schedule 6 – Form of Accession Deed

To: [] as Agent and [] as Security Agent

From: [*Subsidiary*] and [*Parent*]

Dated:

Dear Sirs

ERGOMED PLC – senior facility agreement originally dated 13 March 2020 (as amended and restated) (the Facility Agreement)

- 1 We refer to the Facility Agreement. This deed (the **Accession Deed**) shall take effect as an Accession Deed for the purposes of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in paragraphs 1-[3]/[4] of this Accession Deed unless given a different meaning in this Accession Deed.
- 2 [*Subsidiary*] agrees to become an Additional [Borrower]/[Guarantor] and to be bound by the terms of the Facility Agreement and the other Finance Documents as an Additional [Borrower]/[Guarantor] pursuant to Clause [29.2 (*Additional Borrowers*)]/[Clause 29.4 (*Additional Guarantors*)] of the Facility Agreement. [*Subsidiary*] is a company duly incorporated under the laws of [name of relevant jurisdiction] and is a limited liability company with registered number [].
- 3 The Parent confirms that no Default is continuing or would occur as a result of [*Subsidiary*] becoming an Additional Borrower. *
- 4 [*Subsidiary's*] administrative details for the purposes of the Facility Agreement are as follows:

Address:

Fax No.:

Attention:
- 5 [*Subsidiary*] (for the purposes of this paragraph 5, the **Acceding Debtor**) intends to [incur Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]:

[Insert details (date, parties and description) of relevant documents]

the **Relevant Documents**, and

IT IS AGREED as follows:
 - (a) 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 Transaction Security Documents;

The Security Agent

[Full Name of Current Security Agent]

By:

Date:

Notes:

* Include in the case of an Additional Borrower.

Schedule 7 – Form of Resignation Letter

To: [] as Agent
From: [] [*resigning Obligor*] and [] [*Parent*]
Dated: []

Dear Sirs

ERGOMED PLC – senior facility agreement originally dated 13 March 2020 (as amended and restated) (the Facility Agreement)

- 1 We refer to the Facility Agreement. This is a Resignation Letter. Terms defined in the Facility Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.
- 2 Pursuant to [Clause 29.3 (*Resignation of a Borrower*)] [Clause 29.5 (*Resignation of a Guarantor*)] of the Facility Agreement, we request that [*resigning Obligor*] be released from its obligations as a [Borrower] [Guarantor] under the Facility Agreement and the Finance Documents.
- 3 We confirm that:
 - (a) no Default is continuing or would result from the acceptance of this request; and
 - (b) *[this request is given in relation to a Third Party Disposal of [*resigning Obligor*]];
 - (c) []***
- 4 English law governs this Resignation Letter and any non-contractual obligations arising out of or in connection with it.

[Parent]

[*resigning Obligor*]

By:

By:

Notes:

* Insert where resignation only permitted in case of a Third Party Disposal

** Insert any other conditions required by the Facility Agreement.

Schedule 8 – Form of Compliance Certificate

To: [] as Agent

From: [] [*Parent*]

Dated: []

Dear Sirs

ERGOMED PLC – senior facility agreement originally dated 13 March 2020 (as amended and restated) (the Facility Agreement)

- 1 We refer to the Facility Agreement. This is a Compliance Certificate. Terms defined in the Facility Agreement have the same meaning in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
- 2 We confirm that:

As of the last day of or for the Financial Quarter ending _____, 20__, the financial ratios referred to in Clause 24 (*Financial covenants*) of the Facility Agreement are as follows:

	Actual	Required
Interest Cover	___ to 1	Greater than 4.0 to 1
Adjusted Leverage	___ to 1	Less than [2.75] / [3.0] / [3.25] ¹ to 1

- 3 We confirm that no Default is continuing. *
- 4 We confirm that the following companies constitute Material Companies for the purposes of the Facility Agreement: [].

We confirm that the aggregate of the earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA), the aggregate gross assets and aggregate turnover of the Guarantors (calculated on an unconsolidated basis and excluding all intra-group items and investments in Subsidiaries of any Group Company) exceeds 85% of EBITDA, the consolidated gross assets and consolidated turnover of the Group.

¹ Delete as applicable depending on when the Relevant Period ends in an Acquisition Spike Period or otherwise.

Signed
Chief Financial Officer Director
of of
[Parent] [Parent]

Notes:

* If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.

Schedule 9– Timetables

	Loans in euro	Loans in sterling	Loans in other currencies
Agent notifies the Parent if a currency is approved as an Optional Currency in accordance with Clause 4.3 (<i>Conditions relating to Optional Currencies</i>)	-	-	U-4
Delivery of a duly completed Utilisation Request (Clause 5.1 (<i>Delivery of a Utilisation Request</i>))	U-3 9.30am	U-2 9.30am	U-3 9.30am
Agent determines (in relation to a Loan) the Base Currency Amount of the Loan, if required under Clause 5.4 (<i>Lenders' participation</i>) and notifies the Lenders of the Loan in accordance with Clause 5.4 (<i>Lenders' participation</i>)	U-3 noon	U-2 noon	U-3 noon
Agent receives a notification from a Lender under Clause 6.2 (<i>Unavailability of a currency</i>)	Quotation Day 9.30am		Quotation Day 9.30am
Agent gives notice in accordance with Clause 6.2 (<i>Unavailability of a currency</i>)	Quotation Day 5.30pm		Quotation Day 5.30pm

U = date of utilisation

U – X = X Business Days (or in the case of loans in euro, TARGET Days) before U

Schedule 10 – Material Companies

ERGOMED PLC

PrimeVigilance Limited

Ergomed B.V. (previously PSR Group B.V.)

PrimeVigilance s.r.o

PrimeVigilance USA Inc.

PrimeVigilance Inc.

Ergomed Clinical Research, Inc.

MS Clinical Services, LLC

ADAMAS Consulting LLC

Ergomed Clinical Research Limited

ADAMAS Consulting Limited

ADAMAS Consulting Group Limited

Schedule 11 – Form of Increase Confirmation

To: [] as Agent, [] as Security Agent and [] as Parent,
for and on behalf of each Obligor

From: [the Increase Lender] (the **Increase Lender**)

Dated:

ERGOMED PLC – senior facility agreement originally dated 13 March 2020 (as amended and restated) (the Facility Agreement)

- 1 We refer to the Facility Agreement. This agreement (the **Agreement**) shall take effect as an Increase Confirmation for the purposes of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
- 2 We refer to Clause 2.2 (*Increase*) of the Facility Agreement.
- 3 The Increase Lender agrees to assume and will assume all of the obligations corresponding to the Commitment(s) specified in the Schedule (the **Relevant Commitment(s)**) as if it had been an Original Lender under the Facility Agreement in respect of the Relevant Commitment(s).
- 4 The proposed date on which the increase in relation to the Increase Lender and the Relevant Commitment(s) is to take effect (the **Increase Date**) is [].
- 5 On the Increase Date, the Increase Lender becomes party to the relevant Finance Documents as a Lender.
- 6 The Facility Office and address, fax number and attention details for notices to the Increase Lender for the purposes of Clause 37.3 (*Addresses*) of the Facility Agreement are set out in the Schedule.
- 7 The Increase Lender expressly acknowledges the limitations on the Lenders' obligations referred to in paragraph (i) of Clause 2.2 (*Increase*) of the Facility 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;]
 - (c) [not a Qualifying 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; or

- (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
- (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]***

10 [The Increase Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number []) and is tax resident in [] ****, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify:

- (a) each Borrower which is a Party as a Borrower as at the Increase Date; and]
- (b) each Additional Borrower which becomes an Additional Borrower after the Increase Date,

that it wishes the scheme to apply to the Facility Agreement.*****

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

12 English law governs this Agreement, its interpretation and any non-contractual obligations arising out of or in connection with it.

13 This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Increase Confirmation may not be sufficient for the Increase Lender to obtain the benefit of the Transaction Security in all jurisdictions. It is the responsibility of the Increase Lender to ascertain whether any other documents or other formalities are required to obtain the benefit of the Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

The Schedule

Relevant Commitment(s)/rights and obligations to be assumed by the Increase Lender

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments]

[Increase Lender]

By:

This Agreement is accepted as an Increase Confirmation for the purposes of the Facility Agreement by the Agent and the Increase Date is confirmed as [].

Agent

By:

Security Agent

By:

Notes:

** Delete as applicable - each Increase Lender is required to confirm which of these three categories it falls within.

*** Include only if Increase Lender is a UK Non-Bank Lender i.e. falls within paragraph (a)(ii) of the definition of Qualifying Lender in Clause 16.1 (*Definitions*).

**** Insert jurisdiction of tax residence.

***** Include if the Increase Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facility Agreement.

Schedule 12 – Form of Extension Request

To: [] as Agent

From: Ergomed PLC as Parent

Dated: []

ERGOMED PLC – senior facility agreement originally dated 13 March 2020 (as amended and restated) (the Facility Agreement)

- 1 We refer to the Facility Agreement. This is the Extension Request referred to in Clause 2.3 (*Extension Option*) of the Facility Agreement.
- 2 We wish to request the extension of the Facility. The Extension Option Date is [].
- 3 We confirm that no Event of Default is continuing or would result from the acceptance of this Extension Request.
- 4 This request is irrevocable.

Yours faithfully

.....
Authorised signatory for and on behalf of
Ergomed PLC

Schedule 13 – Accordion Option

Part 1– Form of Accordion Option Request

To: [] as Agent

From: Ergomed PLC as Parent

Date: []

ERGOMED PLC – senior facility agreement originally dated 13 March 2020 (as amended and restated) (the Facility Agreement)

- 1 We refer to the Agreement. This is an Accordion Option Request for the purposes of the Agreement. Terms defined in the Agreement have the same meaning in this Accordion Option Request unless given a different meaning in this Accordion Option Request.
- 2 We refer to Clause 2.4 (*Accordion Option*) of the Agreement.
- 3 We request that the Total Commitments be increased by [] on and from [].
- 4 The proposed [fee][commission] payable to the Lenders is [].
- 5 This Accordion Option Request and any non-contractual obligations arising out of or in connection with it are governed by English law.

By:

Ergomed PLC as Parent

Part 2 – Form of Accordion Option Notice

To: [] as Agent

From: Ergomed PLC as Parent

Date: []

ERGOMED PLC – senior facility agreement originally dated 13 March 2020 (as amended and restated) (the Facility Agreement)

- 1 We refer to the Agreement. This is an Accordion Option Notice for the purposes of the Agreement. Terms defined in the Agreement have the same meaning in this Accordion Option Notice unless given a different meaning in this Accordion Option Notice.
- 2 We refer to Clause 2.4 (*Accordion Option*) of the Agreement.
- 3 We have agreed with the following institutions that they will provide the following amounts as part of the Requested Amount for the purposes of Clause 2.4 (*Accordion Option*) of the Agreement:

Name of Institution	Existing Lender (yes/no)	Amount
TOTAL		

- 4 The date on which the Requested Amount referred to above is to become effective is [] (the **Effective Date**).
- 5 We confirm that no Event of Default has occurred and is continuing and no Event of Default would occur on the Effective Date as a result of the assumption of the Requested Amount.
- 6 We confirm that the Repeating Representations are true and correct in all material respects on the Effective Date.
- 7 This Accordion Option Notice and any non-contractual obligations arising out of or in connection with it are governed by English law.

By:

Ergomed PLC as Parent

Part 3 – Form of Lender Accordion Accession Agreement

To: [] as Agent

Dated: []

ERGOMED PLC – senior facility agreement originally dated 13 March 2020 (as amended and restated) (the Facility Agreement)

- 1 This Lender Accordion Accession Agreement is made on [date] by [insert name of acceding accordion lender] (the Acceding Accordion Lender).
- 2 We refer to the Agreement. This is a Lender Accordion Accession Agreement. Terms defined in the Agreement have the same meaning in this Lender Accordion Accession Agreement unless given a different meaning in this Lender Accordion Accession Agreement.
- 3 The Acceding Accordion Lender hereby agrees with each other person who is or who becomes a party to or bound by the provisions of the Agreement that with effect on and from the date on which this Agreement has been countersigned by the Agent (the **Effective Date**) it will become a party to the Agreement as a Lender and will accordingly become a Finance Party for the purposes of the Agreement.
- 4 The Facility Office and other notice details of the Acceding Accordion Lender for the purposes of the Agreement are as follows:

Address: []

Attention: []

E-mail: []
- 5 The Commitment(s) of the Acceding Accordion Lender for the purposes of the Agreement is £[].
- 6 The Acceding Accordion Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is:

[a Qualifying Lender (other than a Treaty Lender);]

[a Treaty Lender;]

[not a Qualifying Lender].²
- 7 [The Acceding Accordion Lender confirms, for the benefit of the Agent and without liability to any Obligor 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; a partnership each member of which is:

² Delete as applicable - each Acceding Accordion Lender is required to confirm which of these three categories it falls within.

- (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.³

8 The Acceding Accordion Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number []) and is tax resident in [] and wishes such passport to apply in respect of the Agreement, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax, and requests that the Parent notify:

- (a) each Borrower which is a Party as a Borrower as at the Effective Date; and
- (b) each Additional Borrower which becomes an Additional Borrower after the Effective Date,

that it wishes that scheme to apply to the Agreement.⁴

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

10 This Lender Accordion Accession Agreement is a Finance Document.

for and on behalf of

[insert name of Acceding Accordion Lender]

Countersigned by the Agent:

for and on behalf of []

Dated []

³ Include if Acceding Accordion Lender comes within paragraph (1)(b) of the definition of Qualifying Lender in Clause 16.1 (*Definitions*).

⁴ This confirmation must be included if the Acceding Accordion Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Agreement.

Schedule 14 – Form of Acquisition Spike Period Notice

To: [] as Agent

From: [] as Parent

Dated: []

ERGOMED PLC – senior facility agreement originally dated 13 March 2020 (as amended and restated) (the Facility Agreement)

- 1 We refer to the Facility Agreement. This is an Acquisition Spike Period Notice referred to in Clause 24.3 (*Acquisition Spike*) of the Facility Agreement.
- 2 Terms defined in the Agreement have the same meaning in this Acquisition Spike Period Notice.
- 3 We hereby notify you that:
 - (a) an Eligible Acquisition has been completed for the purposes of Clause 24.3(c) of the Facility Agreement; and
 - (b) from the date of this notice an Acquisition Spike Period shall apply and therefore, for the purposes of Adjusted Leverage, the financial covenant levels detailed in Clause 24.3(d) shall apply for the next four Relevant Periods.

Yours faithfully,

.....
Authorised signatory for and on behalf of
Ergomed PLC

Schedule 15 – Reference Rate Terms

Part 1 – Dollars

CURRENCY: Dollars.

Cost of funds as a fallback

Cost of funds will apply as a fallback.

Definitions

Additional Business Days: An RFR Banking Day.

Break Costs: None specified.

Business Day Conventions (definition of "Month" and Clause 13.2 (Non-Business Days)):

- (a) If any period is expressed to accrue by reference to a Month or any number of Months then, in respect of the last Month of that period:
 - (i) subject to paragraph (iii) below, if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
 - (ii) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
 - (iii) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.
- (b) If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

Central Bank Rate

- (a) The short-term interest rate target set by the US Federal Open Market Committee as published by the Federal Reserve Bank of New York from time to time; or
- (b) if that target is not a single figure, the arithmetic mean of:
 - (i) the upper bound of the short-term interest rate target range set by the US Federal Open Market Committee and published by the Federal Reserve Bank of New York; and
 - (ii) the lower bound of that target range.

Central Bank Rate Adjustment:

In relation to the Central Bank Rate prevailing at close of business on any RFR Banking Day, the mean (calculated by the Agent (or by any other Finance Party which agrees to do so in place of the Agent)) of the Central Bank Rate Spreads for the five most immediately preceding RFR Banking Days for which the RFR was available, excluding the days with the highest (and, if there is more than one highest spread, only one of those highest spreads) and lowest spreads (and, if there is more than one lowest spread, only one of those lowest spreads) to the Central Bank Rate.

Central Bank Rate Spread:

In relation to any RFR Banking Day, the difference (expressed as a percentage rate per annum) calculated by the Agent (or by any other Finance Party which agrees to do so in place of the Agent) of:

- (a) the RFR for that RFR Banking Day; and
- (b) the Central Bank Rate prevailing at close of business on that RFR Banking Day.

Daily Rate:

The Daily Rate for any RFR Banking Day is:

- (a) the RFR for that RFR Banking Day; or
- (b) if the RFR is not available for that RFR Banking Day, the percentage rate per annum which is the aggregate of:
 - (i) the Central Bank Rate for that RFR Banking Day; and
 - (ii) the applicable Central Bank Rate Adjustment; or
- (c) if paragraph (b) above applies but the Central Bank Rate for that RFR Banking Day is not available, the percentage rate per annum which is the aggregate of:
 - (i) the most recent Central Bank Rate for a day which is no more than five RFR

Banking Days before that RFR Banking Day; and

- (ii) the applicable Central Bank Rate Adjustment,

rounded, in either case, to four decimal places (with 0.00005 being rounded upwards) and if, in either case that rate is less than zero, the Daily Rate shall be deemed to be zero.

Lookback Period: Five RFR Banking Days.

Market Disruption Rate: The percentage rate per annum which is the aggregate of:

- (a) the Cumulative Compounded RFR Rate for the Interest Period of the relevant Loan; and
- (b) 0.42826 per cent per annum being the rate per annum which is the median difference between LIBOR for a six month tenor and SOFR compounded for the same tenor over a five year look-back period as at the 5 March 2021 (when such rate became fixed), in accordance with the formula for calculation of spread adjustment set out in the IBOR Fallback Rate Adjustments Rule Book dated 22 April 2020, as updated from time to time, jointly published by the International Swaps and Derivatives Association and Bloomberg Index Services Limited.

Relevant Market: The market for overnight cash borrowing collateralised by US Government securities.

Reporting Day: The Business Day which follows the day which is the Lookback Period prior to the last day of the Interest Period.

RFR: The secured overnight financing rate (SOFR) administered by the Federal Reserve Bank of New York (or any other person which takes over the administration of that rate) published by the Federal Reserve Bank of New York (or any other person which takes over the publication of that rate).

RFR Banking Day: Any day other than:

- (a) a Saturday or Sunday; and
- (b) a day on which the Securities Industry and Financial Markets Association (or any successor organisation) recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in US Government securities.

Interest Periods

Periods capable of selection as Interest Periods (paragraph (b) of One, three or six Months.

Clause 13.1 (*Selection of Interest Periods and Terms*):

Reporting Times

Deadline for Lenders to report market disruption in accordance with Clause 14.3 (*Market disruption*)

Close of business in London on the Reporting Day for the relevant Loan.

Deadline for Lenders to report their cost of funds in accordance with Clause 14.4 (*Cost of funds*)

Close of business on the date falling one Business Day after the Reporting Day for the relevant Loan (or, if earlier, on the date falling three Business Days before the date on which interest is due to be paid in respect of the Interest Period for that Loan).

Part 2 – Sterling

CURRENCY: Sterling.

Cost of funds as a fallback

Cost of funds will apply as a fallback.

Definitions

Additional Business Days: An RFR Banking Day.

Break Costs: None specified.

Business Day Conventions (definition of "Month" and Clause 13.2 (Non-Business Days)):

(a) If any period is expressed to accrue by reference to a Month or any number of Months then, in respect of the last Month of that period:

- (i) subject to paragraph (iii) below, if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (ii) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (iii) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

(b) If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

Central Bank Rate: The Bank of England's Bank Rate as published by the Bank of England from time to time.

Central Bank Rate Adjustment: In relation to the Central Bank Rate prevailing at close of business on any RFR Banking Day, the mean (calculated by the Agent (or by any other Finance Party which agrees to do so in place of the Agent)) of the Central Bank Rate Spreads for the five most immediately preceding RFR Banking Days for which the RFR was available, excluding the days with the highest (and, if there is more than one highest spread, only one of those highest spreads) and lowest spreads (and, if there is more than one lowest spread, only one of those lowest

spreads) to the Central Bank Rate.

Central Bank Rate Spread:

In relation to any RFR Banking Day, the difference (expressed as a percentage rate per annum) calculated by the Agent (or by any other Finance Party which agrees to do so in place of the Agent) of:

- (a) the RFR for that RFR Banking Day; and
- (b) the Central Bank Rate prevailing at close of business on that RFR Banking Day.

Daily Rate:

The Daily Rate for any RFR Banking Day is:

- (a) the RFR for that RFR Banking Day; or
- (b) if the RFR is not available for that RFR Banking Day, the percentage rate per annum which is the aggregate of:
 - (i) the Central Bank Rate for that RFR Banking Day; and
 - (ii) the applicable Central Bank Rate Adjustment; or
- (c) if paragraph (b) above applies but the Central Bank Rate for that RFR Banking Day is not available, the percentage rate per annum which is the aggregate of:
 - (i) the most recent Central Bank Rate for a day which is no more than five RFR Banking Days before that RFR Banking Day; and
 - (ii) the applicable Central Bank Rate Adjustment,

rounded, in either case, to four decimal places (with 0.00005 being rounded upwards) and if, in either case that rate is less than zero, the Daily Rate shall be deemed to be zero.

Lookback Period:

Five RFR Banking Days.

Market Disruption Rate:

The percentage rate per annum which is the aggregate of:

- (a) the Cumulative Compounded RFR Rate for the Interest Period of the relevant Loan; and
- (b) 0.2766 per cent per annum being the rate per annum which is the median difference between LIBOR for a six month tenor and SONIA compounded for the same tenor over a five year look-back period as at the 5 March 2021 (when such rate became fixed), in accordance with the

formula for calculation of spread adjustment set out in the IBOR Fallback Rate Adjustments Rule Book dated 22 April 2020, as updated from time to time, jointly published by the International Swaps and Derivatives Association and Bloomberg Index Services Limited.

Relevant Market:	The sterling wholesale market.
Reporting Day:	The day which is the Lookback Period prior to the last day of the Interest Period or, if that day is not a Business Day, the immediately following Business Day.
RFR:	The SONIA (sterling overnight index average) reference rate displayed on the relevant screen of any authorised distributor of that reference rate.
RFR Banking Day:	A day (other than a Saturday or Sunday) on which banks are open for general business in London.

Interest Periods

Periods capable of selection as Interest Periods (paragraph (b) of Clause 13.1 (<i>Selection of Interest Periods and Terms</i>)):	One, three or six Months.
---	---------------------------

Reporting Times

Deadline for Lenders to report market disruption in accordance with Clause 14.3 (<i>Market disruption</i>)	Close of business in London on the Reporting Day for the relevant Loan.
Deadline for Lenders to report their cost of funds in accordance with Clause 14.4 (<i>Cost of funds</i>)	Close of business on the date falling one Business Day after the Reporting Day for the relevant Loan (or, if earlier, on the date falling three Business Days before the date on which interest is due to be paid in respect of the Interest Period for that Loan).

Part 3 – Euro – Term Rate Loans

Cost of funds as a fallback

Cost of funds will apply as a fallback.

Definitions

Additional Business Days:

A TARGET Day.

Break Costs:

The amount (if any) by which the interest (excluding the Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in the relevant 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;

Business Day Conventions (definition of "Month" and Clause 13.2 (Non-Business Days)):

- (a) If any period is expressed to accrue by reference to a Month or any number of Months then, in respect of the last Month of that period:
 - (i) subject to paragraph (iii) below, if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
 - (ii) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
 - (iii) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.
- (b) If an Interest Period would otherwise end on a day which is

not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

Fallback Interest Period: one week

Market Disruption Rate: The Term Reference Rate.

Primary Term Rate: 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.

Quotation Day: Two TARGET Days before the first day of the relevant Interest Period (unless market practice differs in the Relevant Market, in which case the Quotation Day 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)).

Quotation Time: Quotation Day 11:00 a.m. (Brussels time).

Relevant Market: The European interbank market.

Reporting Day: The Quotation Day.

Interest Periods

Periods capable of selection as Interest Periods (paragraph (b) of Clause 13.1 (*Selection of Interest Periods and Terms*)): One, three or six Months.

Reporting Times

Deadline for Lenders to report market disruption in accordance with Clause 14.3 (*Market disruption*): Close of business in London on the Reporting Day for the relevant Loan.

Deadline for Lenders to report their cost of funds in accordance with Clause 14.4 (*Cost of funds*): Close of business on the date falling one Business Day after the Reporting Day for the relevant Loan (or, if earlier, on the date falling three Business Days before the date on which interest is due to be paid in respect of the Interest Period for that Loan).

Schedule 16 – Daily Non-Cumulative Compounded RFR Rate

The "**Daily Non-Cumulative Compounded RFR Rate** for any RFR Banking Day "i" during an Interest Period for a Compounded Rate Loan is the percentage rate per annum (without rounding, to the extent reasonably practicable for the Finance Party performing the calculation, taking into account the capabilities of any software used for that purpose) calculated as set out below:

$$(UCCDR_i - UCCDR_{i-1}) \times \frac{dcc}{n_i}$$

where:

UCCDR_i means the Unannualised Cumulative Compounded Daily Rate for that RFR Banking Day "i";

UCCDR_{i-1} means, in relation to that RFR Banking Day "i", the Unannualised Cumulative Compounded Daily Rate for the immediately preceding RFR Banking Day (if any) during that Interest Period;

dcc means 360 or, in any case where market practice in the Relevant Market is to use a different number for quoting the number of days in a year, that number;

n_i means the number of calendar days from, and including, that RFR Banking Day "i" up to, but excluding, the following RFR Banking Day; and

the **Unannualised Cumulative Compounded Daily Rate** for any RFR Banking Day (the **Cumulated RFR Banking Day**) during that Interest Period is the result of the below calculation (without rounding, to the extent reasonably practicable for the Finance Party performing the calculation, taking into account the capabilities of any software used for that purpose):

$$ACCDR \times \frac{tn_i}{dcc}$$

where:

ACCDR means the Annualised Cumulative Compounded Daily Rate for that Cumulated RFR Banking Day;

tn_i means the number of calendar days from, and including, the first day of the Cumulation Period to, but excluding, the RFR Banking Day which immediately follows the last day of the Cumulation Period;

Cumulation Period means the period from, and including, the first RFR Banking Day of that Interest Period to, and including, that Cumulated RFR Banking Day;

dcc has the meaning given to that term above; and

the **Annualised Cumulative Compounded Daily Rate** for that Cumulated RFR Banking Day is the percentage rate per annum (rounded to the same number of decimal places in the relevant Reference Rate Terms) calculated as set out below:

$$\left[\prod_{i=1}^{d_0} \left(1 + \frac{\text{DailyRate}_{i-LP} \times n_i}{dcc} \right) - 1 \right] \times \frac{dcc}{tn_i}$$

where:

d_0 means the number of RFR Banking Days in the Cumulation Period;

Cumulation Period has the meaning given to that term above;

i means a series of whole numbers from one to d_0 , each representing the relevant RFR Banking Day in chronological order in the Cumulation Period;

DailyRate _{i -LP} means, for any RFR Banking Day " i " in the Cumulation Period, the Daily Rate for the RFR Banking Day which is the applicable Lookback Period prior to that RFR Banking Day " i ";

n_i means, for any RFR Banking Day " i " in the Cumulation Period, the number of calendar days from, and including, that RFR Banking Day " i " up to, but excluding, the following RFR Banking Day;

dcc has the meaning given to that term above; and

tn_i has the meaning given to that term above.

Schedule 17– Cumulative Compounded RFR Rate

The **Cumulative Compounded RFR Rate** for any Interest Period for a Compounded Rate Loan is the percentage rate per annum (rounded to the same number of decimal places as is specified in the definition of **Annualised Cumulative Compounded Daily Rate** in Schedule 16 (*Daily Non-Cumulative Compounded RFR Rate*)) calculated as set out below:

$$\left[\prod_{i=1}^{d_0} \left(1 + \frac{\text{DailyRate}_{i-LP} \times n_i}{\text{dcc}} \right) - 1 \right] \times \frac{\text{dcc}}{d}$$

where:

d₀ means the number of RFR Banking Days during the Interest Period;

i means a series of whole numbers from one to **d₀**, each representing the relevant RFR Banking Day in chronological order during the Interest Period;

DailyRate_{i-LP} means for any RFR Banking Day "i" during the Interest Period, the Daily Rate for the RFR Banking Day which is the applicable Lookback Period prior to that RFR Banking Day "i";

n_i means, for any RFR Banking Day "i", the number of calendar days from, and including, that RFR Banking Day "i" up to, but excluding, the following RFR Banking Day;

dcc means 360 or, in any case where market practice in the Relevant Market is to use a different number for quoting the number of days in a year, that number; and

d means the number of calendar days during that Interest Period.

[Signature blocks removed as part of the Amendment and Restatement Agreement process]