

Dated 21 July 2025

INTERCREDITOR AGREEMENT

INSPIRED PLC
as the Company

with

GLOBAL LOAN AGENCY SERVICES LIMITED
acting as Original Senior Agent

GLAS TRUST CORPORATION LIMITED
acting as Security Agent

and others

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THIS AGREEMENT is dated 21 July 2025 and made between:

- (1) **INSPIRED PLC**, a public limited company, incorporated and existing under the laws of England and Wales, registered in the commercial register under 07639760, with registered office at Calder House, St Georges Park, Kirkham, Lancashire, United Kingdom PR4 2DZ (the "**Company**")
- (2) **THE COMPANIES** named in Schedule 4 (*The Original Debtors*) as Original Debtors (the "**Original Debtors**");
- (3) **THE COMPANIES** named in Schedule 5 (*The Original Intra-Group Lenders*) as Original Intra-Group Lenders (the "**Original Intra-Group Lenders**");
- (4) **THE FINANCIAL INSTITUTIONS** named on the signing pages as Original Senior Arranger (the "**Original Senior Arranger**");
- (5) **GLOBAL LOAN AGENCY SERVICES LIMITED** as agent under the Senior Facilities Agreement (the "**Original Senior Agent**");
- (6) **THE FINANCIAL INSTITUTIONS** named on the signing pages as Original Senior Lenders (the "**Original Senior Lenders**");
- (7) **THE FINANCIAL INSTITUTIONS** named on the signing pages as Original Super Senior Lenders (the "**Original Super Senior Lenders**");
- (8) **GLAS TRUST CORPORATION LIMITED** as security agent for the Secured Parties (the "**Security Agent**");
- (9) Upon accession each "**Senior Secured Notes Trustee**";
- (10) Upon accession each "**Cash Management Facility Agent**", each "**Cash Management Facility Lender**" and each "**Cash Management Facility Arranger**";
- (11) Upon accession each "**Super Senior Cash Management Facility Agent**", each "**Super Senior Cash Management Facility Lender**" and each "**Super Senior Cash Management Facility Arranger**";
- (12) Upon accession each "**Second Lien Agent**"; each "**Second Lien Lender**"; each "**Second Lien Arranger**" and each "**Second Lien Notes Trustee**";
- (13) Upon accession each "**Hedge Counterparty**";
- (14) Upon accession each "**Unsecured Creditor**"; and
- (15) Upon accession each "**Subordinated Creditor**" and each "**Third Party Security Provider**".

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"1992 ISDA Master Agreement" means the Master Agreement (Multicurrency-Cross Border) as published by the International Swaps and Derivatives Association, Inc.

"2002 ISDA Master Agreement" means the 2002 Master Agreement as published by the International Swaps and Derivatives Association, Inc.

"Acceleration Event" means a Senior Acceleration Event, a Super Senior Acceleration Event, a Cash Management Facility Acceleration Event, a Super Senior Cash Management Facility Acceleration Event, a Senior Secured Notes Acceleration Event, a Second Lien Lender Acceleration Event or a Second Lien Notes Acceleration Event.

"Acquired Indebtedness":

- (a) means any indebtedness incurred by an Acquired Person or Asset or in connection with the acquisition of an Acquired Person or Asset, whether or not incurred by such person in connection with such person becoming a Subsidiary of the Company or such acquisition; or
- (b) has the meaning given to any substantially equivalent term in any Finance Document or any provision in any Finance Document substantially equivalent to paragraph (a) above,

as the context requires.

"Acquired Person or Asset":

- (a) means:
 - (i) a person or any of its Subsidiaries that becomes a Subsidiary after the Closing Date;
 - (ii) a person that merges with or into or consolidates or otherwise combines with any Subsidiary after the Closing Date; or
 - (iii) assets of, or shares (or other ownership interests) in, any person listed in subparagraphs (a)(i) or (a)(ii) above, or otherwise acquired after the Closing Date; or
- (b) has the meaning given to any substantially equivalent term in any Finance Document or any provision in any Finance Document substantially equivalent to paragraph (a) above,

as the context requires.

"Additional Facility":

- (a) has the meaning given in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement, Second Lien Facility Agreement or Permitted Super Senior Secured Facilities Agreement,

as the context requires.

"Affiliate":

- (a) has the meaning given in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or Second Lien Facility Agreement,

as the context requires.

"Agent" means, at any time as applicable, each Senior Agent, each Super Senior Agent, each Senior Secured Notes Trustee, each Second Lien Agent and each Second Lien Notes Trustee at that time.

"Agent Liabilities" means all present and future liabilities and obligations, whether actual or contingent and whether incurred solely or jointly, of any Debtor and Third Party Security Provider to any Agent under the Debt Documents, including (without double-counting), any Notes Trustee Amounts.

"Agreed Security Principles":

- (a) has the meaning given in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or Second Lien Facility Agreement,

as the context requires.

"Ancillary Document":

- (a) has the meaning given in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement,

as the context requires.

"Ancillary Facility":

- (a) has the meaning given to that term or to the term "*Fronted Ancillary Facility*" in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement,

as the context requires.

"Ancillary Lender" means each Creditor (or an Affiliate of a Creditor) which makes an Ancillary Facility available pursuant to the terms of the Senior Facilities Agreement, any Permitted Senior Secured Facilities Agreement or any Permitted Super Senior Secured Facilities Agreement as the context requires and which becomes a Party as an Ancillary Lender pursuant to Clause 21.7 (*New Ancillary Lender*).

"Applicable Test Date" has the meaning given in the Senior Facilities Agreement whether or not the Super Senior Lender Discharge Date has occurred.

"Arranger" means each Senior Arranger, each Super Senior Arranger and each Second Lien Arranger.

"Arranger Liabilities" means all present and future liabilities and obligations (whether actual and contingent and whether incurred solely or jointly) of any Debtor and Third Party Security Provider to any Arranger under the Debt Documents.

"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

"Available Cash Management Facility Commitment" means in relation to a Cash Management Facility, a Cash Management Facility Lender's Cash Management Facility Commitment less the Cash Management Facility Outstandings in relation to that Cash Management Facility.

"Available Commitment" means any Available Senior Commitment, any Available Cash Management Facility Commitment, any Available Super Senior Cash Management Facility Commitment and any Available Second Lien Commitment as the context requires.

"Available Second Lien Commitment" has the meaning given in any Second Lien Facility Agreement to a term which is the same or substantially equivalent to the term *"Available Commitment"* under and as defined in the Senior Facilities Agreement.

"Available Senior Commitment":

- (a) has the meaning given to the term *"Available Commitment"* in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement,

as the context requires.

"Available Super Senior Cash Management Facility Commitment" means in relation to a Super Senior Cash Management Facility, a Super Senior Cash Management Facility Lender's Super Senior Cash Management Facility Commitment less the Super Senior Cash Management Facility Outstandings in relation to that Super Senior Cash Management Facility.

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

"Bail-In Legislation" means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time;
- (b) in relation to any state other than an EEA Member Country and the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation; and
- (c) in relation to the United Kingdom, the UK Bail-in Legislation.

"Borrowing Liabilities" means, in relation to a member of the Group, the liabilities (not being Guarantee Liabilities) it may have as a principal debtor to a Creditor (other than to an Agent,

Security Agent or Arranger in their capacity as such) or Debtor (including, as the context so determines, any party that is to accede to this Agreement as a Creditor or Debtor pursuant to Clause 21 (*Changes to the Parties*)) in respect of Liabilities arising under the Debt Documents (including, as the context so determines, any new Liabilities incurred or to be incurred under any document or arrangement intended by the Company to be designated as a Debt Document subject to the provisions of Clause 18 (*New Debt Financings*) and any facility or commitment in relation thereto) (whether incurred solely or jointly and including liabilities as a Super Senior Borrower, as a Senior Borrower, as a Second Lien Borrower, as a Notes Issuer, as a borrower or issuer under the Unsecured Finance Documents or as a borrower under and as defined in any Senior Secured Notes Proceeds Loan Agreement, as the context requires).

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in Dublin, London, Luxembourg and New York 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; and
- (c) (in relation to any date for payment by a Super Senior Borrower, Senior Borrower or Second Lien Borrower) in that Super Senior Borrower's, Senior Borrower's or Second Lien Borrower's jurisdiction of incorporation.

"Cash Management Facility" means any facility made available by one or more Cash Management Facility Lenders for working capital and/or general corporate purposes of the Group, including any of the following (or any combination of the following):

- (a) an overdraft, cheque clearing, automatic payment or other current account facility;
- (b) a guarantee, bonding or documentary or stand by letter of credit facility;
- (c) a short term loan facility;
- (d) a derivatives facility;
- (e) a foreign exchange facility; and
- (f) any other facility or accommodation as may be required or desirable in connection with the business of the Group and which is agreed by the Company and each relevant Cash Management Facility Lender.

"Cash Management Facility Acceleration Event" means:

- (a) a Cash Management Facility Lender (or, as applicable, any requisite class thereof specified in the applicable Cash Management Facility Documents) exercising any rights to accelerate amounts outstanding under the relevant Cash Management Facility pursuant to any Cash Management Facility Document; or
- (b) any Cash Management Facility Liabilities becoming due and payable by operation of any automatic acceleration provisions in any Cash Management Facility Document,

in each case, for the avoidance of doubt, not including any declaration that any amount is payable on demand but including the exercise of any right to demand payment of an amount previously placed on demand.

"Cash Management Facility Agent" means a Senior Agent in respect of any Cash Management Facility.

"Cash Management Facility Arranger" means a Senior Arranger in respect of any Cash Management Facility.

"Cash Management Facility Cash Cover" has the meaning given in any Cash Management Facility Document to a term which is the same or substantially equivalent to the term "*cash cover*" under and as defined in the Senior Facilities Agreement.

"Cash Management Facility Cash Cover Document" means, in relation to any Cash Management Facility Cash Cover, any Cash Management Facility Finance Document which creates or evidences, or is expressed to create or evidence, the Security required to be provided over that Cash Management Facility Cash Cover.

"Cash Management Facility Commitment" means, in relation to a Cash Management Facility Lender and a Cash Management Facility, the maximum Common Currency Amount which that Cash Management Facility Lender has agreed (whether or not subject to satisfaction of conditions precedent) to make available from time to time under a Cash Management Facility to the extent that amount is not cancelled or reduced under the Cash Management Facility Documents relating to that Cash Management Facility.

"Cash Management Facility Creditors" means the Cash Management Facility Arrangers, the Cash Management Facility Agents, any Issuing Bank in respect of any Cash Management Facility and the Cash Management Facility Lenders.

"Cash Management Facility Debt Purchase Transaction" has the meaning given in any Cash Management Facility Document to a term which is the same or substantially equivalent to the term "*Debt Purchase Transaction*" under and as defined in the Senior Facilities Agreement.

"Cash Management Facility Debtor" means each borrower of a Cash Management Facility and each Cash Management Facility Guarantor.

"Cash Management Facility Default" means a Default under one or more Cash Management Facility Documents.

"Cash Management Facility Discharge Date" means the first date on which all Cash Management Facility Liabilities have been fully and finally discharged to the satisfaction of the Cash Management Facility Lenders (including by way of defeasance in accordance with the Cash Management Facility Documents), whether or not as the result of an enforcement, and the Cash Management Facility Lenders (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under any of the Debt Documents.

"Cash Management Facility Document" means each facility agreement or other document or instrument which is designated as such by the Company (in its discretion) in each case by written notice to each Agent who is a Party at such time.

"Cash Management Facility Event of Default" means an Event of Default under one or more Cash Management Facility Documents.

"Cash Management Facility Finance Documents" has the meaning given in any Cash Management Facility Document to a term which is the same or substantially equivalent to the term "*Finance Document*" under and as defined in the Senior Facilities Agreement.

"Cash Management Facility Guarantor" means, at any time, each Debtor which is a Senior Facilities Guarantor at such time.

"Cash Management Facility LC" means any letter of credit, guarantee, indemnity or other instrument in a form requested by a borrower of a Cash Management Facility and agreed by the relevant Cash Management Facility Lenders (or any Issuing Bank on their behalf).

"Cash Management Facility Lender" means each person which makes a Cash Management Facility available pursuant to the terms of, and each Issuing Bank under, a Cash Management Facility Document.

"Cash Management Facility Liabilities" means the Liabilities owed by the Debtors and the Third Party Security Providers to the Cash Management Facility Creditors under or in connection with the Cash Management Facility Finance Documents.

"Cash Management Facility Mandatory Prepayment" means a mandatory prepayment of any of the Cash Management Facility Liabilities pursuant to the Cash Management Facility Documents.

"Cash Management Facility Outstanding" means, at any time, in relation to a Cash Management Facility Lender and a Cash Management Facility then in force the aggregate of the equivalents in the Common Currency of the following outstanding amounts under that Cash Management Facility:

- (a) the principal amount under each overdraft facility and on demand short term loan facility (**provided that**, for the purposes of this definition, any amount of any outstanding utilisation under any BACS facility, other intra-day exposure facilities (or similar) made available by a Cash Management Facility Lender shall be excluded, unless, in relation to that Cash Management Facility, otherwise agreed between the Company and the relevant Cash Management Facility Lender);
- (b) the principal amount of each other facility or each guarantee, bond and letter of credit under that Cash Management Facility; and
- (c) the amount fairly representing the aggregate exposure or equivalent outstanding (excluding interest and similar charges) of that Cash Management Facility Lender under each other type of accommodation provided under that Cash Management Facility,

in each case net of any credit balances on any account of any borrower of a Cash Management Facility with the Cash Management Facility Lender making available that Cash Management Facility to the extent that the credit balances are freely available to be set off by that Cash Management Facility Lender against liabilities owed to it by that borrower under that Cash Management Facility and in each case as determined by such Cash Management Facility Lender, acting reasonably and in accordance with the relevant Cash Management Facility Document, or (if not provided for in the relevant Cash Management Facility Document), after consultation with the relevant borrower, in accordance with its normal banking practice and in accordance with the relevant Cash Management Facility Document.

For the purposes of this definition:

- (i) in relation to any utilisation (howsoever described) denominated in the Common Currency, the amount of that utilisation (howsoever described) (determined as described in paragraphs (a) to (c) above) shall be used; and
- (ii) in relation to any utilisation or outstanding (howsoever described) not denominated in the Common Currency, the equivalent (calculated as specified in the relevant Cash Management Facility Document or, if not so specified, as the relevant Cash Management Facility Lender may specify, in each case in accordance with its usual practice at that time for calculating that equivalent in the Common Currency (acting reasonably)) of the amount of that utilisation (determined as described in paragraphs (a) to (c) above) shall be used.

"Cash Management Facility Payment Default" means any Cash Management Facility Event of Default arising by reason of any non-payment under a Cash Management Facility Document in respect of an amount: (a) constituting principal, interest or fees or (b) otherwise exceeding £1,500,000 (or its equivalent in other currencies).

"Cash Management Services" means any customary cash management, cash pooling or netting or setting off arrangements or arrangements for the honouring of cheques, drafts or similar instruments, including automated clearing house transactions, treasury, depository, credit or debit card, purchasing card, stored value card, electronic fund transfer services, operational intra-group balances and/or cash management services, controlled disbursement services, overdraft facilities, foreign exchange facilities, deposit and other accounts and merchant services or other cash management arrangements in the ordinary course of business or consistent with past practice.

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

"Close-Out Netting" means:

- (a) in respect of a Hedging Agreement or a Hedging Ancillary Document based on a 1992 ISDA Master Agreement, any step involved in determining the amount payable in respect of an Early Termination Date (as defined in the 1992 ISDA Master Agreement) under section 6(e) of the 1992 ISDA Master Agreement before the application of any subsequent Set-off (as defined in the 1992 ISDA Master Agreement);
- (b) in respect of a Hedging Agreement or a Hedging Ancillary Document based on a 2002 ISDA Master Agreement, any step involved in determining an Early Termination Amount (as defined in the 2002 ISDA Master Agreement) under section 6(e) of the 2002 ISDA Master Agreement; and
- (c) in respect of a Hedging Agreement or a Hedging Ancillary Document not based on an ISDA Master Agreement, any step involved on a termination of the hedging transactions under that Hedging Agreement or Hedging Ancillary Document pursuant to any provision of that Hedging Agreement which has a similar effect to either provision referenced in paragraphs (a) and (b) above.

"Closing Date" has the meaning given to that term in the Senior Facilities Agreement.

"Commitments" has the meaning given to that term in the Senior Facilities Agreement.

"Common Assurance" means any guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, the benefit of which (however conferred) is, to the extent legally possible and subject to any Agreed Security Principles, given to all the Secured Parties in respect of Secured Obligations.

"Common Currency" means Sterling.

"Common Currency Amount" means, in relation to an amount, that amount converted (to the extent not already denominated in the Common Currency) into the Common Currency at the Security Agent's Spot Rate of Exchange on the Business Day prior to the relevant calculation.

"Competitive Sales Process" means any public auction or other competitive sale process conducted with (and in accordance with) the advice of a Financial Adviser as selected by the Security Agent (it being acknowledged that the Security Agent shall have no obligation to select or engage any Financial Adviser unless it shall have been indemnified and/or secured and/or prefunded to its satisfaction) in respect of which the Secured Creditors are entitled to participate.

For the purposes of this definition, **"entitled to participate"** shall be interpreted to mean:

- (a) that any offer, or indication of a potential offer, that a holder of any Secured Liabilities makes shall be considered by those running the Competitive Sales Process against the same criteria as any offer, or indication of a potential offer, by any other bidder or potential bidder; and

- (b) any holder of any Secured Liabilities that is considering making an offer in any Competitive Sales Process is provided with the same information, including any due diligence reports, and access to management that is being provided to any other bidder at the same stage of the process.

If, after having applied the same criteria referred to in paragraph (a) above, the offer or indication of a potential offer made by a holder of any Secured Liabilities is not considered by those running the Competitive Sales Process to be sufficient to continue in the sales process, such consideration being against the same criteria as any offer, or indication of a potential offer, by any other bidder or potential bidder (such continuation may include being invited to review additional information or being invited to have an opportunity to make a subsequent or revised offer, whether in another round of bidding or otherwise), then the right of a holder of any Secured Liabilities under this Agreement to so participate shall be deemed to be satisfied.

"Consent" means any consent, approval, release or waiver or agreement to any amendment.

"Corresponding Debt" has the meaning given to that term in paragraph (b) of Clause 19.3 (*Parallel Debt (Covenant to Pay the Security Agent)*).

"Credit Participation" means the Super Senior Credit Participations, Pari Passu Credit Participations, the Second Lien Credit Participations and the Unsecured Credit Participations.

"Credit Related Close-Out" means any Permitted Hedge Close-Out which is not a Non-Credit Related Close-Out.

"Creditor/Agent Accession Undertaking" means:

- (a) an undertaking substantially in the form set out in Schedule 2 (*Form of Creditor/Agent Accession Undertaking*);
- (b) a Transfer Certificate or an Assignment Agreement (or any substantially equivalent term) in each case each as defined in the Senior Facilities Agreement, any Permitted Senior Secured Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement or any Second Lien Facility Agreement, as the context requires;
- (c) an Increase Confirmation (or any substantially equivalent term) in each case as defined in the Senior Facilities Agreement, any Permitted Senior Secured Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement or any Second Lien Facility Agreement, as the context requires; or
- (d) an Additional Facility Notice (or any substantially equivalent term) in each case as defined in the Senior Facilities Agreement, any Permitted Senior Secured Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement or any Second Lien Facility Agreement, as the context requires,

as the context may require, (and **provided that**, in the case of paragraphs (b), (c) and (d) above, such document includes accession wording to this Agreement substantially in the form set out in the undertaking referred to in paragraph (a) above) or,

- (e) in the case of an acceding Debtor which is expressed to accede as an Intra-Group Lender in the relevant Debtor/Third Party Security Provider Accession Undertaking, that Debtor/Third Party Security Provider Accession Undertaking.

"Creditor Conflict" means a conflict between:

- (a) the interests of any Super Senior Creditor and the interests of any Pari Passu Creditor or any Second Lien Creditor; or

(b) the interests of any Senior Secured Creditor and the interests of any Second Lien Creditor.

"Creditors" means the Senior Lenders, the Super Senior Lenders, the Senior Secured Noteholders, the Cash Management Facility Lenders, the Hedge Counterparties, the Agents, the Arrangers, the Second Lien Lenders, the Second Lien Noteholders, the Unsecured Creditors, the Intra-Group Lenders, the Subordinated Creditors, the Senior Secured Notes Proceeds Loan Lenders, as the context so determines.

"Debt Document" means each of this Agreement, the Senior Secured Finance Documents, any Senior Secured Notes Proceeds Loan Agreement, the Second Lien Finance Documents, the Unsecured Finance Documents, the Security Documents, any agreement evidencing the terms of the Subordinated Liabilities or the Intra-Group Liabilities and any other document designated as such by the Security Agent and the Company, as the context so determines.

"Debt Transfer" has the meaning given in paragraph (j) of Clause 15.1 (*Non-Distressed Disposals*).

"Debtor" means any Original Debtor and any person which becomes a Party as a Debtor in accordance with the terms of Clause 21 (*Changes to the Parties*).

"Debtor/Third Party Security Provider Accession Undertaking" means:

- (a) a deed substantially in the form set out in Schedule 1 (*Form of Debtor/Third Party Security Provider Accession Undertaking*);
- (b) (only in the case of a member of the Group which is acceding as a borrower or guarantor under the Senior Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement or any Permitted Senior Secured Facilities Agreement) an Accession Deed as defined in the Senior Facilities Agreement, or any substantially equivalent term in any Permitted Super Senior Secured Facilities Agreement or any Permitted Senior Secured Facilities Agreement, as the context requires; or
- (c) (only in the case of a member of the Group which is acceding as a borrower or guarantor under a Second Lien Facility Agreement) an Accession Deed as defined in that Second Lien Facility Agreement.

"Debtor Liabilities" means, in relation to a member of the Group, any Liabilities owed to any Debtor (whether actual or contingent and whether incurred solely or jointly) by that member of the Group.

"Debtor Resignation Request" means a notice substantially in the form set out in Schedule 3 (*Form of Debtor Resignation Request*).

"Default" means an Event of Default or any event or circumstance which would (with the expiry of a grace period, the making of any determination or the giving of notice provided for in the relevant definition of event of default under the relevant Debt Document or any combination of the foregoing) be an Event of Default, **provided that** any such event or circumstance which requires the satisfaction of a condition as to materiality or the making of a determination before it becomes an Event of Default shall not be a Default or an Event of Default until such condition is satisfied or determination made.

"Defaulting Cash Management Facility Lender" means, in relation to a Cash Management Facility Lender, a Cash Management Facility Lender which is a Defaulting Lender (or any substantially equivalent term) under, and as defined in, the relevant Cash Management Facility Document.

"Defaulting Lender" means a Defaulting Senior Lender, a Defaulting Super Senior Cash Management Facility Lender, a Defaulting Cash Management Facility Lender or a Defaulting Second Lien Lender, as the context requires.

"Defaulting Second Lien Lender" means, in relation to a Second Lien Lender, a Second Lien Lender which is a Defaulting Lender (or any substantially equivalent term) under, and as defined in, a Second Lien Facility Agreement.

"Defaulting Senior Lender" means, in relation to a Senior Lender or a Super Senior Lender, a Senior Lender or a Super Senior Lender which is a Defaulting Lender (or any substantially equivalent term) under, and as defined in, the Senior Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement, or any Permitted Senior Secured Facilities Agreement, as the context requires.

"Defaulting Super Senior Cash Management Facility Lender" means, in relation to a Super Senior Cash Management Facility Lender, a Super Senior Cash Management Facility Lender which is a Defaulting Lender (or any substantially equivalent term) under, and as defined in, the relevant Super Senior Cash Management Facility Document.

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

"Designation Date" means the first date after the date hereof that the Company designates any Liabilities as Super Senior Liabilities in accordance with, and subject to satisfaction of the requirements of, Clause 18 (*New Debt Financings*).

"Discharge Date" means a Final Discharge Date, a Second Lien Discharge Date, a Second Lien Lender Discharge Date, a Second Lien Notes Discharge Date, a Senior Discharge Date, a Super Senior Discharge Date, a Super Senior Lender Discharge Date, a Senior Lender Discharge Date, a Senior Secured Discharge Date or a Senior Secured Notes Discharge Date.

"Distress Event" means any of:

- (a) an Acceleration Event which has occurred and is continuing; or
- (b) the enforcement of any Transaction Security as a result of an Acceleration Event which has occurred and is continuing.

"Distressed Disposal" means a disposal of an asset or shares of, or other financial securities issued by, a member of the Group or, in the case of a Third Party Security Provider, any assets or shares or financial securities which are subject to the Transaction Security, which is:

- (a) being effected at the request of an Instructing Group in circumstances where the Transaction Security has become enforceable as a result of an Acceleration Event which was continuing at the time the request for enforcement was made;
- (b) being effected by enforcement of the Transaction Security as a result of an Acceleration Event which was continuing at the time the request for enforcement was made; or
- (c) being effected after the occurrence of a Distress Event, by a Debtor or a Third Party Security Provider to a person or persons which is not a member of the Group.

"EEA Member Country" means any member state of the European Union, Iceland, Liechtenstein and Norway and any other country that becomes a member of the European Economic Area on or after the date of this Agreement.

"Effective Date", in relation to any New Debt Financing, has the meaning given to such term in paragraph (b) of Clause 18.1 (*New Debt Financings*).

"Enforcement" means the enforcement of the Transaction Security, the requesting of a Distressed Disposal and/or the release or disposal of claims and/or Transaction Security on a Distressed Disposal under Clause 15.2 (*Distressed Disposals*), the giving of instructions as to actions with respect to the Transaction Security following an Insolvency Event under Clause 9.7 (*Security Agent Instructions*) and the taking of any other actions consequential on (or necessary to effect) any of those actions (but excluding the delivery of an Initial Enforcement Notice).

"Enforcement Action" means:

- (a) in relation to any Liabilities (other than Unsecured Liabilities):
 - (i) the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for a Secured Creditor to perform its obligations under, or of any voluntary or mandatory prepayment arising under, the Debt Documents);
 - (ii) the making of any declaration that any Liabilities are payable on demand;
 - (iii) the making of a demand for payment in relation to a Liability that is payable on demand;
 - (iv) the making of any demand against any member of the Group in relation to any Guarantee Liabilities of that member of the Group;
 - (v) the exercise of any right to require any member of the Group or any Third Party Security Provider to acquire any Liability (including exercising any put or call option against any member of the Group or any Third Party Security Provider for the redemption or purchase of any Liability but excluding any such right which arises as a result of clause 31 (*Notifiable Debt Purchase Transactions*) of the Senior Facilities Agreement or any substantially equivalent provisions in any Permitted Senior Secured Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement, the Senior Secured Notes Finance Documents, any Second Lien Lender Finance Documents or the Second Lien Notes Finance Documents (as relevant) and excluding any mandatory offer arising as a result of a change of control or asset sale or escrow special mandatory redemption (howsoever described) as set out in the Secured Debt Documents);
 - (vi) the exercise of any right of set-off, account combination or payment netting against any member of the Group or any Third Party Security Provider in respect of any Liabilities other than the exercise of any such right:
 - (A) as Close-Out Netting by a Hedge Counterparty or by a Hedging Ancillary Lender;
 - (B) as Payment Netting by a Hedge Counterparty or by a Hedging Ancillary Lender;
 - (C) as Inter-Hedging Agreement Netting by a Hedge Counterparty;
 - (D) as Inter-Hedging Ancillary Document Netting by a Hedging Ancillary Lender; and

- (E) which is otherwise expressly permitted under the Secured Debt Documents to the extent that the exercise of that right gives effect to a Permitted Payment; and
- (vii) the suing for, commencing or joining of any legal or arbitration proceedings against any member of the Group or a Third Party Security Provider to recover any Liabilities;
- (b) the premature termination or close-out of any hedging transaction under any Hedging Agreement save to the extent permitted by this Agreement;
- (c) the taking of any steps to enforce or require the enforcement of any Transaction Security (including the crystallisation of any floating charge forming part of the Transaction Security) as a result of an Acceleration Event which was continuing at the time the request for enforcement was made;
- (d) the entering into of any composition, compromise, assignment or similar arrangement with any Third Party Security Provider or any member of the Group which owes any Liabilities, or has given any Security, guarantee or indemnity or other assurance against loss in respect of the Liabilities (other than any action permitted under Clause 21 (*Changes to the Parties*) or any debt buy-backs pursuant to open market debt repurchases, tender offers or exchange offers entered into in accordance with the Secured Debt Documents, and not undertaken as part of an announced restructuring or turnaround plan or while a Default was outstanding under the relevant Secured Debt Document); or
- (e) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator or similar officer) in relation to, the winding up, dissolution, administration or reorganisation of any Third Party Security Provider or member of the Group which owes any Liabilities, or has given any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, or any of such Third Party Security Provider's or member of the Group's assets or any suspension of payments or moratorium of any indebtedness of any such Third Party Security Provider or member of the Group or any analogous procedure or step in any jurisdiction,

except that the following shall not constitute Enforcement Action:

- (i) the taking of any action falling within paragraphs (a)(vii) or (e) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods;
- (ii) any discussions or consultations between, or proposals made by, any of the Secured Parties with respect to instructions to enforce any Transaction Security pursuant to, prior to the Designation Date, Clause 13 (*Enforcement of Transaction Security prior to the Designation Date*) or, on and from the Designation Date, Clause 14 (*Enforcement of Transaction Security on or after the Designation Date*);
- (iii) bringing legal proceedings against any person in connection with any securities violation, securities or listing regulations or common law fraud or to restrain any actual or putative breach of the Debt Documents or for specific performance with no claims for damages;
- (iv) a Secured Party bringing legal proceedings against any person solely for the purpose of:

- (A) obtaining injunctive relief (or any analogous remedy outside England and Wales) to restrain any actual or putative breach of any Debt Document to which it is a party;
 - (B) obtaining specific performance (other than specific performance of an obligation to make a payment) with no claim for damages; or
 - (C) requesting judicial interpretation of any provision of any Debt Document to which it is a party with no claim for damages;
- (v) a demand made by a Subordinated Creditor or an Intra-Group Lender in relation to the Subordinated Liabilities or Intra-Group Liabilities to the extent:
 - (A) any resulting Payment would constitute a Permitted Subordinated Payment or a Permitted Intra-Group Payment; or
 - (B) any Subordinated Liability or Intra-Group Liability of a member of the Group being released or discharged in consideration for the issue of shares in that member of the Group, **provided that** the ownership interest of the member of the Group prior to such issue is not diluted as a result and **provided further that** (in any such case) in the event that the shares of such member of the Group are subject to Transaction Security prior to such issue, then the percentage of shares in such member of the Group subject to Transaction Security is not diluted;
- (vi) an Ancillary Lender, a Super Senior Cash Management Facility Lender, Cash Management Facility Lender, Hedge Counterparty, Issuing Bank, Second Lien Agent or Second Lien Notes Trustee bringing legal proceedings against any person solely for the purpose of:
 - (A) obtaining injunctive relief (or any analogous remedy outside England and Wales) to restrain any actual or putative breach of any Debt Document to which it is party;
 - (B) obtaining specific performance (other than specific performance of an obligation to make a payment) with no claim for damages;
 - (C) requesting judicial interpretation of any provision of any Debt Document to which it is party with no claim for damages; or
 - (D) bringing legal proceedings against any person in connection with any securities violation, securities or listing relations or common law fraud or to restrain any actual or putative breach of the Secured Debt Documents or for specific performance with no claims for damages; or
- (vii) the taking of any action by a member of the Group not prohibited by the Finance Documents.

"Enforcement Instructions" means, on or after the Designation Date, instructions as to Enforcement (including the manner and timing of such Enforcement) given by the Majority Super Senior Creditors or (where the Majority Super Senior Lenders are taking Enforcement Action under Clause 3.7 (*Permitted Enforcement: Super Senior Creditors*), the Majority Super Senior Lenders) or the Majority Pari Passu Creditors to the Security Agent as contemplated by the terms of this Agreement, **provided that** instructions not to undertake an enforcement or an absence of instructions as to enforcement shall not constitute "*Enforcement Instructions*".

"Enforcement Objective" has the meaning given to that term in Schedule 6 (*Enforcement Principles*).

"Enforcement Principles" means the principles set out in Schedule 6 (*Enforcement Principles*).

"Enforcement Proceeds" means any amount paid to or otherwise realised by a Secured Party under or in connection with any Enforcement and, following the occurrence of a Distress Event, any other proceeds of, or arising from, any of the Charged Property.

"Enforcement Realisation Period" means, in relation to a Super Senior Material Event of Default, a period of:

- (a) 180 days after the date of delivery of a Super Senior Enforcement Notice in respect of that Super Senior Material Event of Default (the **"Initial Enforcement Realisation Period"**); or
- (b) if upon the expiry of the Initial Enforcement Realisation Period:
 - (i) the Security Agent is taking Material Enforcement Action; or
 - (ii) a Distressed Disposal has been requested by the Security Agent and is subject only to regulatory or competition review, consent or clearance (including where applicable time periods have elapsed implying the relevant consents or clearance),

210 days after the date of delivery of a Super Senior Enforcement Notice in respect of that Super Senior Material Event of Default.

"Enhanced Majority Pari Passu Creditors" means, at any time, those Pari Passu Creditors whose Pari Passu Credit Participations at that time aggregate more than sixty-six and two-thirds ($66\frac{2}{3}$) per cent. of the total Pari Passu Credit Participations at that time, after the application of:

- (a) clause 42.8 (*Excluded Commitments*);
- (b) clause 31 (*Notifiable Debt Purchase Transactions*); and
- (c) paragraph (k) of clause 42.5 (*Other Exceptions*);

of the Senior Facilities Agreement (or any substantially equivalent provisions in a Permitted Super Senior Secured Facilities Agreement or a Permitted Senior Secured Facilities Agreement, as contained in that Permitted Super Senior Secured Facilities Agreement or a Permitted Senior Secured Facilities Agreement) as the context requires.

"Enhanced Majority Second Lien Creditors" means those Second Lien Creditors whose Second Lien Credit Participations at that time aggregate more than sixty-six and two-thirds ($66\frac{2}{3}$) per cent. of the total Second Lien Credit Participations at that time.

"Enhanced Majority Super Senior Creditors" means, at any time, those Super Senior Creditors whose Super Senior Credit Participations at that time aggregate more than sixty-six and two-thirds ($66\frac{2}{3}$) per cent. of the total Super Senior Credit Participations at that time, after the application of:

- (a) clause 42.8 (*Excluded Commitments*);
- (b) clause 31 (*Notifiable Debt Purchase Transactions*); and
- (c) paragraph (k) of clause 42.5 (*Other Exceptions*);

of the Senior Facilities Agreement (or any substantially equivalent provisions in a Permitted Super Senior Secured Facilities Agreement or a Permitted Senior Secured Facilities Agreement, as contained in that Permitted Super Senior Secured Facilities Agreement or a Permitted Senior Secured Facilities Agreement) as the context requires.

"EU Bail-In Legislation Schedule" means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

"Event of Default":

- (a) has the meaning given in the Senior Facilities Agreement; and
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in any other Debt Document,

as the context requires.

"Excluded Swap Obligation" has the meaning given to such term in paragraph 12 (*Excluded Swap Obligations*) of Schedule 7 (*Hedge Counterparties' Guarantee and Indemnity*), paragraph 12 (*Excluded Swap Obligations*) of Schedule 8 (*Cash Management Facility Creditors' Guarantee and Indemnity*) and paragraph 12 (*Excluded Swap Obligations*) of Schedule 9 (*Super Senior Cash Management Facility Creditors' Guarantee and Indemnity*).

"Facilities" has the meaning given to that term in the Senior Facilities Agreement.

"Final Discharge Date" means the latest to occur of the Super Senior Discharge Date, the Senior Secured Discharge Date and the Second Lien Discharge Date.

"Finance Documents" means each of the Senior Facilities Agreement, any Permitted Senior Secured Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement, any Senior Secured Notes Indenture, any Second Lien Facility Agreement, any Second Lien Notes Indenture and any Unsecured Finance Documents.

"Financial Adviser" means a reputable, independent and internationally recognised investment bank or firm of accountants or (if all such banks or firms of accountants are subject to conflicting and client or potential client issues and are unable to act in relation to the relevant matter), a reputable, independent and internationally recognised third party professional firm which is regularly engaged in providing valuations of businesses or assets similar or comparable to those subject to the relevant Transaction Security; and in each case not being (x) a firm appointed or selected as auditors or as administrator (or other holder of an office in respect of an insolvency) or other relevant officer of the applicable Obligor or Debtor or Third Party Security Provider or (y) a Secured Creditor or an Affiliate of a Secured Creditor.

"GBP", "£" and "Sterling" means the lawful currency for the time being of the United Kingdom.

"Group" means the Company and each of its Subsidiaries from time to time.

"Guarantee Liabilities" means, in relation to a member of the Group, the liabilities under the Debt Documents (including, as the context so determines, any new Liabilities incurred or to be incurred under any document or arrangement intended by the Company to be designated as a Debt Document subject to the provisions of Clause 18 (*New Debt Financings*) and any facility or commitment in relation thereto) (present or future, actual or contingent and whether incurred solely or jointly) it may have to a Creditor (other than to an Agent, Security Agent or Arranger in their capacity as such) or Debtor (including, as the context so determines, any party that is to accede to this Agreement as a Creditor or Debtor pursuant to Clause 21 (*Changes to the Parties*)) as or as a result of it being a guarantor or surety including liabilities arising by way of guarantee, indemnity, surety, parallel debt,

contribution or subrogation and in particular any guarantee or indemnity arising under or in respect of the Secured Debt Documents or the Unsecured Finance Documents.

"Guarantee Limitations" means:

- (a) in respect of a Debtor and any payments it is required to make in respect of its Guarantee Liabilities under the Debt Documents; or
- (b) in respect of an Intra-Group Lender and any subordination it is subject to in accordance with the terms of this Agreement,

the limitations and restrictions applicable to such entity as set out in Schedule 7 (*Hedge Counterparties' Guarantee and Indemnity*), Schedule 8 (*Cash Management Facility Creditors' Guarantee and Indemnity*) or Schedule 9 (*Super Senior Cash Management Facility Creditors' Guarantee and Indemnity*) hereof or otherwise within this Agreement or as set out in clause 23 (*Guarantee and Indemnity*) of the Senior Facilities Agreement or agreed to pursuant to clause 32.3 (*Additional Guarantors*) of the Senior Facilities Agreement, in each case as if references to the relevant "*Obligor*" or "*Guarantor*" under such provisions are references to the relevant "*Debtor*" or "*Intra-Group Lender*", as applicable and any substantially equivalent provisions in any Secured Debt Document or any Unsecured Finance Document.

"Guarantor" means a Senior Secured Guarantor, a Second Lien Guarantor, an Unsecured Guarantor and/or a Hedging Guarantor (as the context requires).

"Hedge Counterparty" means any person which becomes Party as a Hedge Counterparty pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*).

"Hedge Counterparty Obligations" means the obligations owed by any Hedge Counterparty to the Debtors under or in connection with the Hedging Agreements.

"Hedge Transfer" means a transfer to one or more of the Pari Passu Creditors or the Second Lien Creditors (or to a nominee or nominees of the Pari Passu Creditors or the Second Lien Creditors) of each Hedging Agreement together with:

- (a) all the rights and benefits in respect of the Hedging Liabilities owed by the Debtors and Third Party Security Providers to each Hedge Counterparty; and
- (b) all the Hedge Counterparty Obligations owed by each Hedge Counterparty to the Debtors and Third Party Security Providers,

in accordance with Clause 21.3 (*Accession or Change of Hedge Counterparty*) as described in Clause 6.15 (*Hedge Transfer: Second Lien Creditors*).

"Hedging Agreement" means any agreement, document or instrument entered into by a Debtor (or any member of the Group that is to become a Debtor) and a Hedge Counterparty in relation to any derivative or hedging arrangement which is designated as such by the Company (in its discretion) in each case by written notice to each Agent who is a Party at such time.

"Hedging Ancillary Document" means an Ancillary Document which relates to or evidences the terms of a Hedging Ancillary Facility.

"Hedging Ancillary Facility" means an Ancillary Facility which is made available by way of a hedging facility.

"Hedging Ancillary Lender" means an Ancillary Lender to the extent that that Ancillary Lender makes available a Hedging Ancillary Facility.

"Hedging Debtor" means any Debtor to the Hedge Counterparties under or in connection with the Hedging Agreements.

"Hedging Guarantor" means, at any time, each Debtor which is a Senior Facilities Guarantor at such time.

"Hedging Liabilities" means:

- (a) prior to the Designation Date, the Liabilities owed by any Debtor or Third Party Security Provider to the Hedge Counterparties under or in connection with the Hedging Agreements and, which are incurred for the purpose of hedging the interest rate liabilities and/or the exchange rate risks of members of the Group in relation to the Facilities in a notional amount hedged not exceeding the greater of the Commitments in respect of the Facilities (x) on the Closing Date and (y) on any other date on which such Liabilities are incurred; or
- (b) on and from the Designation Date, the Super Senior Hedging Liabilities and the Pari Passu Hedging Liabilities.

"Hedging Purchase Amount" means, in respect of a hedging transaction under a Hedging Agreement, the amount that would be payable to (expressed as a positive number) or by (expressed as a negative number) the relevant Hedge Counterparty on the relevant date if:

- (a) that date was an Early Termination Date (as defined in the relevant ISDA Master Agreement); and
- (b) the relevant Debtor was the Defaulting Party (under and as defined in the relevant ISDA Master Agreement),

(or the equivalent thereto in the case of any Hedging Agreement not based on an ISDA Master Agreement), in each case as certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

"Holding Company":

- (a) has the meaning given in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement, or Second Lien Facility Agreement,

as the context requires.

"Impaired Security Agent" means the Security 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, subject always to the Security Agent having been provided with such funds;
- (b) the Security Agent otherwise disaffirms, rescinds or repudiates a Finance Document or any term thereof;
- (c) (if the Security Agent is also a Senior Lender, Super Senior Lender or Second Lien Lender) it is a Defaulting Lender under:
 - (i) paragraphs (a) or (b) of the definition of "Defaulting Lender" in the Senior Facilities Agreement;

- (ii) the same or substantially equivalent provisions in any Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or Second Lien Facility Agreement; or
 - (d) an Insolvency Event has occurred and is continuing with respect to the Security 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 (as defined in the Senior Facilities Agreement or any Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or Second Lien Facility Agreement); and

payment is made within three (3) Business Days of its due date; or
 - (ii) the Security Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

"Indebtedness":

- (a) has the meaning given to the term "*Financial Indebtedness*" in the Senior Facilities Agreement; and
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or Second Lien Facility Agreement,

as the context requires.

"Initial Enforcement Notice" has the meaning given in paragraph (b) of Clause 14.3 (*Enforcement Instructions - Transaction Security*).

"Insolvency Event" means, in relation to an Obligor, Material Company or Third Party Security Provider:

- (a) any resolution is passed or order made for its insolvency, bankruptcy, winding up, dissolution, administration, examination or reorganisation (excluding solvent reorganisations);
- (b) a moratorium is declared in relation to any of its indebtedness;
- (c) the appointment of any liquidator, receiver, examiner, administrator, administrative receiver, compulsory manager or other similar officer in respect of it or any of its assets; or
- (d) any analogous procedure or step is taken in any jurisdiction,

other than (in each case):

- (i) any proceedings which are frivolous or vexatious and which, if capable of remedy, are discharged, stayed or dismissed within twenty (20) Business Days of commencement or, if earlier, the date on which it is advertised (or such other period as agreed between the Company and the Instructing Group);

- (ii) (in the case of an application to appoint an administrator or commence proceedings) any proceedings which the Security Agent is satisfied (acting on the instructions of the Instructing Group) will be withdrawn before it is heard or will be unsuccessful; and
- (iii) as permitted in the Senior Facilities Agreement or in any Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or a Second Lien Facility Agreement, or otherwise not constituting a Default.

"Instructing Group" means:

- (a) if the Designation Date has not occurred:
 - (i) prior to the Senior Secured Discharge Date, the Enhanced Majority Pari Passu Creditors; and
 - (ii) on or after the Senior Secured Discharge Date, the Enhanced Majority Second Lien Creditors; and
- (b) at any time on or after the occurrence of the Designation Date and:
 - (i) prior to the later of the Senior Secured Discharge Date and the Super Senior Discharge Date, the Priority Instructing Group; or
 - (ii) on or after the later of the Senior Secured Discharge Date and the Super Senior Discharge Date, the Enhanced Majority Second Lien Creditors,

in each case, after the application of:

- (iii) clause 42.8 (*Excluded Commitments*) of the Senior Facilities Agreement;
- (iv) clause 31 (*Notifiable Debt Purchase Transactions*) of the Senior Facilities Agreement;
- (v) paragraph (k) of clause 42.5 (*Other Exceptions*) of the Senior Facilities Agreement; and
- (vi) Clause 27.7 (*Disenfranchisement of Conflicted Lenders*),

or any substantially equivalent provisions in any other Finance Document, as the context requires.

"Intercreditor Amendment" means any amendment or waiver which is subject to Clause 27 (*Consents, Amendments and Override*).

"Inter-Hedging Agreement Netting" means the exercise of any right of set-off, account combination, close-out netting or payment netting (whether arising out of a cross agreement, netting agreement or otherwise) by a Hedge Counterparty against liabilities owed to a Debtor by that Hedge Counterparty under a Hedging Agreement in respect of Hedging Liabilities owed to that Hedge Counterparty by that Debtor under another Hedging Agreement.

"Inter-Hedging Ancillary Document Netting" means the exercise of any right of set-off, account combination, close-out netting or payment netting (whether arising out of a cross agreement, netting agreement or otherwise) by a Hedging Ancillary Lender against liabilities owed to a Debtor by that Hedging Ancillary Lender under a Hedging Ancillary Document in respect of Senior Lender Liabilities or Super Senior Lender Liabilities (as applicable) owed to that Hedging Ancillary Lender by that Debtor under another Hedging Ancillary Document.

"Intra-Group Lenders" means each Original Intra-Group Lender and each member of the Group which has made a loan available to, granted credit to or made any other financial arrangement having similar effect with another member of the Group (other than under any Cash Management Services) and which is required to become, or otherwise becomes, a party as an Intra-Group Lender in accordance with the terms of Clause 21 (*Changes to the Parties*).

"Intra-Group Liabilities" means the Liabilities owed by any member of the Group to any of the Intra-Group Lenders (but not including, for the avoidance of doubt, any Subordinated Liabilities or any Senior Secured Notes Proceeds Loan Liabilities or any loan, credit or other financial arrangement arising under any Cash Management Services and any trades receivables incurred in the ordinary course of business).

"Investor Affiliate"

- (a) has the meaning given to the term "*Sponsor Affiliate*" in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in a Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement or Second Lien Facility Agreement,

as the context requires.

"Investors"

- (a) has the meaning given in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in any other Finance Document,

as the context requires.

"IPO Event" means:

- (a) the listing or the admission to trading of all or any part of the share capital of any member of the Group or any Holding Company (the only material assets of which are shares or other investments (directly or indirectly in the Group)) of a member of the Group (other than the Investors) on any recognised investment exchange (as that term is used in the Financial Services and Markets Act 2000) or in or on any other exchange or market in any jurisdiction or country or any other sale or issue by way of listing, flotation or public offering or any equivalent circumstances in relation to any member of the Group or any such Holding Company of any member of the Group (other than the Investors and their Holding Companies) in any jurisdiction or country; or
- (b) a listing of all or any part of the share capital of the Company or any Holding Company of the Company (other than the Investors) on Euronext, the New York Stock Exchange, NASDAQ, Deutsche Börse, the London Stock Exchange Group or on any other recognised investment exchange (as that term is used in the Financial Services and Markets Act 2000) or any other sale or issue by way of flotation or public offering in relation to the Company or any such Holding Company of the Company in any jurisdiction or country.

"ISDA Master Agreement" means a 1992 ISDA Master Agreement or a 2002 ISDA Master Agreement.

"Issuing Bank"

- (a) has the meaning given in the Senior Facilities Agreement;

- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement or a Permitted Super Senior Secured Facilities Agreement;
- (c) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Cash Management Facility Document; or
- (d) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Super Senior Cash Management Facility Document,

as the context requires.

"Legal Reservations"

- (a) has the meaning given in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement or a Permitted Super Senior Secured Facilities Agreement and (as applicable) Second Lien Facility Agreement,

as the context requires.

"Letter of Credit"

- (a) has the meaning given in the Senior Facilities Agreement;
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement and each Permitted Super Senior Secured Facilities Agreement;
- (c) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Cash Management Facility Document; or
- (d) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Super Senior Cash Management Facility Document,

as the context requires.

"Liabilities" means all present and future liabilities and obligations at any time of any member of the Group or any Third Party Security Provider to any Creditor, Agent or Security Agent under the Debt Documents (including by way of the grant of Security under such documents), both actual and contingent and whether incurred solely or jointly or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (a) any refinancing, novation, deferral or extension;
- (b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;
- (c) any claim for damages or restitution; and
- (d) any claim as a result of any recovery by any Debtor or Third Party Security Provider of a Payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

"Liabilities Acquisition" means, in relation to a person and to any Liabilities, a transaction where that person:

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

the rights and benefits in respect of those Liabilities.

"Lower Ranking Security" means all Transaction Security which, in accordance with the applicable law of such Transaction Security, is expressed to be lower ranking.

"Majority Pari Passu Creditors" means, at any time, those Pari Passu Creditors whose Pari Passu Credit Participations at that time aggregate more than fifty (50) per cent. of the total Pari Passu Credit Participations at that time.

"Majority Second Lien Creditors" means those Second Lien Creditors whose Second Lien Credit Participations at that time aggregate more than fifty (50) per cent. of the total Second Lien Credit Participations at that time.

"Majority Second Lien Lenders" has the meaning given in any Second Lien Facility Agreement to a term which is the same or substantially equivalent to the term "*Majority Lenders*" under and as defined in the Senior Facilities Agreement, after the application of provisions which are substantially equivalent to:

- (a) clause 42.8 (*Excluded Commitments*);
- (b) clause 31 (*Notifiable Debt Purchase Transactions*); and
- (c) paragraph (k) of clause 42.5 (*Other Exceptions*),

of the Senior Facilities Agreement, as contained in that Second Lien Facility Agreement.

"Majority Second Lien Noteholders" means, at any time, those Second Lien Noteholders whose Second Lien Credit Participations under paragraph (b) of the definition thereof at that time aggregate more than fifty (50) per cent. of the total Second Lien Credit Participations under paragraph (b) of the definition thereof at that time.

"Majority Senior Lenders" has the meaning given to the term "*Majority Lenders*" (or any substantially equivalent term) in the Senior Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or any Permitted Senior Secured Facilities Agreement, as the context requires after the application of:

- (a) clause 42.8 (*Excluded Commitments*);
- (b) clause 31 (*Notifiable Debt Purchase Transactions*); and
- (c) paragraph (k) of clause 42.5 (*Other Exceptions*);

of the Senior Facilities Agreement (or any substantially equivalent provisions in a Permitted Super Senior Secured Facilities Agreement or a Permitted Senior Secured Facilities Agreement, as contained in that Permitted Super Senior Secured Facilities Agreement or a Permitted Senior Secured Facilities Agreement) as the context requires.

"Majority Senior Secured Noteholders" means, at any time, those Senior Secured Noteholders whose Pari Passu Credit Participations under paragraph (b) of the definition thereof at that time aggregate more than fifty (50) per cent. of the total Pari Passu Credit Participations under paragraph (b) of the definition thereof at that time.

"Majority Super Senior Creditors" means, at any time, those Super Senior Creditors whose Super Senior Credit Participations at that time aggregate more than fifty (50) per cent. of the total Super Senior Credit Participations at that time.

"Majority Super Senior Lenders" has the meaning given to the term "*Majority Super Senior Facility Lenders*" (or any substantially equivalent term) in the Senior Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or any Permitted Senior Secured Facilities Agreement, as the context requires after the application of:

- (a) clause 42.8 (*Excluded Commitments*);
- (b) clause 31 (*Notifiable Debt Purchase Transactions*); and
- (c) paragraph (k) of clause 42.5 (*Other Exceptions*);

of the Senior Facilities Agreement (or any substantially equivalent provisions in a Permitted Super Senior Secured Facilities Agreement or a Permitted Senior Secured Facilities Agreement) as the context requires.

"Majority Unsecured Creditors" means, at any time, those Unsecured Creditors whose Unsecured Credit Participations at that time aggregate more than fifty (50) per cent. of the total Unsecured Credit Participations at that time.

"Mandatory Prepayment" means a Senior Mandatory Prepayment, a Super Senior Cash Management Facility Mandatory Prepayment, a Cash Management Facility Mandatory Prepayment, a Senior Secured Notes Mandatory Prepayment, a Second Lien Mandatory Prepayment, a Second Lien Notes Mandatory Prepayment or any similar or other mandatory prepayment of any other Liabilities required pursuant to any of the Debt Documents.

"Material Adverse Effect" has the meaning given in the Senior Facilities Agreement whether or not the Super Senior Lender Discharge Date has occurred.

"Material Company" has the meaning given in the Senior Facilities Agreement (whether or not the Super Senior Lender Discharge Date and/or the Senior Lender Discharge Date has occurred).

"Material Enforcement Action" means:

- (a) the enforcement or disposal of any Transaction Security, the requesting of a Distressed Disposal and/or the release or disposal of claims and/or Transaction Security on a Distressed Disposal under Clause 15) (*Non-Distressed Disposals, Distressed Disposals and Disposal Proceeds*);
- (b) the giving of instructions as to actions with respect to the Transaction Security and/or the Charged Property following an Insolvency Event under Clause 9.7 (*Security Agent Instructions*); or

- (c) the taking of any other actions consequential on (or necessary to effect) any of the actions mentioned in paragraphs (a) or (b) above.

"New Debt Financing" means any existing, additional, supplemental or new financing, guarantee, debt arrangement or the assumption or incurrence of any Liabilities (or any designated loan, commitment, tranche or facility thereof) and related security including by way of refinancing, replacement, exchange, set-off, discharge or increase of any new, existing, additional or supplemental financing, guarantee or debt arrangement under a Debt Document for the benefit of any person (in each case, whether or not in existence at the time of any accessions to this Agreement in respect thereof and including arrangements existing at the time a person becomes a member of the Group (whether by acquisition, merger, consolidation or combination) or is assumed in connection with the acquisition of assets, merger, consolidation or combination or otherwise); including by way of any loan, note (including senior or second lien secured, senior unsecured, senior subordinated or subordinated notes, whether in each case in a public or private offering, Rule 144A or other offering), bond or otherwise (including, in each case, term or revolving, any overdraft, hedging, derivative or other ancillary facility or arrangement); issued or incurred, made available or committed and together with any guarantee, security or other credit support by any member of the Group and including any Permitted Structural Adjustment or Permitted Acquired Indebtedness.

"New Debt Financing Designation Certificate" means a designation certificate substantially in the form set out in Schedule 10 (*Form of New Debt Financing Designation Certificate*).

"Non-Credit Related Close-Out" means a Permitted Hedge Close-Out described in any of paragraphs (a)(i), (a)(iii), (a)(v) or (a)(vi) of Clause 5.9 (*Permitted Enforcement: Hedge Counterparties*).

"Non-Distressed Disposal" has the meaning given to that term in Clause 15.1 (*Non-Distressed Disposals*).

"Noteholders" means any Senior Secured Noteholders and/or the Second Lien Noteholders, as the context requires.

"Notes" means any Senior Secured Notes and/or any Second Lien Notes, as the context requires.

"Notes Finance Documents" means:

- (a) in respect of the Senior Secured Notes, the Senior Secured Notes Finance Documents; and
- (b) in respect of the Second Lien Notes, the Second Lien Notes Finance Documents.

"Notes Indenture" means:

- (a) in respect of any Senior Secured Notes, the applicable Senior Secured Notes Indenture; and
- (b) in respect of any Second Lien Notes, the applicable Second Lien Notes Indenture.

"Notes Issuer" means any issuer of Senior Secured Notes and/or Second Lien Notes, as the context requires.

"Notes Trustee" means:

- (a) in respect of the Senior Secured Notes, each Senior Secured Notes Trustee; and
- (b) in respect of the Second Lien Notes, each Second Lien Notes Trustee.

"Notes Trustee Amounts" means the Senior Secured Notes Trustee Amounts and/or the Second Lien Notes Trustee Amounts, as the context requires.

"Obligor":

- (a) has the meaning given to that term in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement, Second Lien Facility Agreement or Permitted Super Senior Secured Facilities Agreement,

as the context requires.

"Obligors' Agent":

- (a) has the meaning given to that term in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement, Second Lien Facility Agreement or Permitted Super Senior Secured Facilities Agreement,

as the context requires.

"Other Liabilities" means, in relation to a member of the Group or a Third Party Security Provider, any trading and other liabilities (not being Borrowing Liabilities or Guarantee Liabilities) it may have to any Agent or any Arranger under the Debt Documents or to an Intra-Group Lender, Debtor or Third Party Security Provider.

"Parallel Debt" has the meaning given to that term in paragraph (b) of Clause 19.3 (*Parallel Debt Covenant to Pay the Security Agent*)).

"Pari Passu Credit Participation" means:

- (a) in relation to a Senior Creditor, its Senior Credit Participation; and
- (b) in relation to a Senior Secured Noteholder, the principal amount of outstanding Senior Secured Notes held by that Senior Secured Noteholder.

"Pari Passu Creditor" means, at any time, the Senior Creditors and the Senior Secured Notes Creditors.

"Pari Passu Creditor Liabilities" means the Senior Lender Liabilities, the Cash Management Facility Liabilities, the Pari Passu Hedging Liabilities and the Senior Secured Notes Liabilities (in each case, as the context requires, together with the Agent Liabilities and Arranger Liabilities in respect thereof).

"Pari Passu Finance Documents" means the Senior Finance Documents (including any Permitted Senior Secured Facilities Agreement), the Cash Management Facility Documents, the Hedging Agreements and the Senior Secured Notes Finance Documents.

"Pari Passu Hedge Counterparty" means, on or after the Designation Date, each Hedge Counterparty to the extent it is owed Pari Passu Hedging Liabilities.

"Pari Passu Hedging Liabilities" means, on or after the Designation Date, the Hedging Liabilities other than Super Senior Hedging Liabilities and, which are incurred for the purpose of hedging the interest rate liabilities and/or the exchange rate risks of members of the Group in relation to the Facilities in a notional amount hedged not exceeding the greater of the Commitments in respect of the Facilities (x) on the Closing Date and (y) on any other date on which such Liabilities are incurred.

"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.

"Payment" means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, repurchase, defeasance or discharge of those Liabilities (or other liabilities or obligations).

"Payment Netting" means:

- (a) in respect of a Hedging Agreement or a Hedging Ancillary Document based on an ISDA Master Agreement, netting under section 2(c) of the relevant ISDA Master Agreement; and
- (b) in respect of a Hedging Agreement or a Hedging Ancillary Document not based on an ISDA Master Agreement, netting pursuant to any provision of that Hedging Agreement or a Hedging Ancillary Document which has a similar effect to the provision referenced in paragraph (a) above.

"Perfection Requirements":

- (a) has the meaning given to that term in the Senior Facilities Agreement (whether or not the Super Senior Lender Discharge Date and/or Senior Lender Discharge Date has occurred); or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in any other Debt Document,

as the context requires.

"Permitted Acquired Indebtedness" means Acquired Indebtedness not prohibited to be incurred by the terms of the Finance Documents; or any Refinancing Indebtedness in connection therewith.

"Permitted Hedge Close-Out" means, in relation to a hedging transaction under a Hedging Agreement, a termination or close-out of that hedging transaction which is permitted pursuant to Clause 5.9 (*Permitted Enforcement: Hedge Counterparties*).

"Permitted Hedge Payments" means the Payments permitted by Clause 5.3 (*Permitted Payments: Hedging Liabilities*).

"Permitted Intra-Group Payments" means the Payments permitted by Clause 8.2 (*Permitted Payments: Intra-Group Liabilities*).

"Permitted Pari Passu Payment" means the Payments permitted by Clause 4.1 (*Payments of Pari Passu Creditor Liabilities*).

"Permitted Payment" means a Permitted Hedge Payment, a Permitted Intra-Group Payment, a Permitted Second Lien Payment, Permitted Super Senior Payment, a Permitted Pari Passu Payment or a Permitted Subordinated Payment or any other Payments to any person not prohibited to be made by this Agreement, as the context requires.

"Permitted Second Lien Payment" means the Payments permitted by Clause 6.2 (*Permitted Second Lien Payments*).

"Permitted Senior Secured Facilities Agreement" means each facility agreement, subscription agreement or other document or instrument which is designated as such by the Company (in its discretion) by written notice to each Agent who is a Party at such time.

"Permitted Structural Adjustment":

- (a) has the meaning given in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in any other Debt Document,

as the context requires.

"Permitted Subordinated Payments" means the Payments permitted by Clause 7.2 (*Permitted Payments: Subordinated Liabilities*).

"Permitted Super Senior Payment" means the Payments permitted by Clause 4.1 (*Payments of Pari Passu Creditor Liabilities*).

"Permitted Super Senior Secured Facilities Agreement" means each facility agreement, subscription agreement or other document or instrument which is designated as such by the Company (in its discretion) by written notice to each Agent who is a Party at such time.

"Prior Ranking Financing Agreements" means:

- (a) when used in relation to the Second Lien Liabilities, the Senior Facilities Agreement, any Permitted Senior Secured Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement or any Senior Secured Notes Indenture; and
- (b) when used in relation to the Subordinated Liabilities or Intra-Group Liabilities, the Senior Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement, any Permitted Senior Secured Facilities Agreement, any Senior Secured Notes Indenture, any Second Lien Facility Agreement or any Second Lien Notes Indenture.

"Priority Instructing Group" means:

- (a) subject to paragraph (b) below, the Enhanced Majority Pari Passu Creditors; or
- (b) the Enhanced Majority Super Senior Creditors and/or the Majority Super Senior Lenders, in the circumstances where the Enhanced Majority Super Senior Creditors and/or Majority Super Senior Lenders are entitled to take Enforcement Action in accordance with Clause 3.7 (*Permitted Enforcement: Super Senior Creditors*),

after the application of:

- (i) clause 42.8 (*Excluded Commitments*) of the Senior Facilities Agreement;
- (ii) clause 31 (*Notifiable Debt Purchase Transactions*) of the Senior Facilities Agreement;
- (iii) paragraph (k) of clause 42.5 (*Other Exceptions*) of the Senior Facilities Agreement; and
- (iv) Clause 27.7 (*Disenfranchisement of Conflicted Lenders*),

or any substantially equivalent provisions in any other Finance Document, as the context requires.

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property, as the context may require.

"Recoveries" has the meaning given to that term in Clause 16.1 (*Order of Application - Transaction Security*).

"Refinancing Indebtedness" means any indebtedness to the extent incurred to refund, refinance, replace, exchange, renew, repay or extend (including pursuant to any defeasance or discharge mechanism) all or any indebtedness (including any indebtedness that refinances indebtedness of another member of the Group) including indebtedness that refinances Refinancing Indebtedness.

"Relevant Ancillary Lender" means in respect of any SFA Cash Cover, the Ancillary Lender (if any) for which that SFA Cash Cover is provided.

"Relevant Cash Management Facility Creditor" means:

- (a) in respect of any Cash Management Facility Cash Cover, each Cash Management Facility Lender (if any) for which that Cash Management Facility Cash Cover is provided or the relevant Cash Management Facility Agent (if any) on its behalf; or
- (b) in respect of any Super Senior Cash Management Facility Cash Cover, each Super Senior Cash Management Facility Lender (if any) for which that Super Senior Cash Management Facility Cash Cover is provided or the relevant Super Senior Cash Management Facility Agent (if any) on its behalf,

as the context requires.

"Relevant Document" has the meaning given to that term in Clause 18.3 (*Further assurance*).

"Relevant Issuing Bank" means:

- (a) in respect of any SFA Cash Cover, the Issuing Bank (if any) for which that SFA Cash Cover is provided;
- (b) in respect of any Cash Management Facility Cash Cover, the Issuing Bank (if any) for which that Cash Management Facility Cash Cover is provided; or
- (c) in respect of any Super Senior Cash Management Facility Cash Cover, the Issuing Bank (if any) for which that Super Senior Cash Management Facility Cash Cover is provided,

as the context requires.

"Relevant Liabilities" means:

- (a) in the case of a Creditor:
 - (i) the Arranger Liabilities owed to an Arranger ranking (in accordance with the terms of this Agreement) *pari passu* with or in priority to that Creditor;
 - (ii) the Liabilities owed to Creditors ranking (in accordance with the terms of this Agreement) *pari passu* with or in priority to that Creditor together with all Agent Liabilities owed to the Agent of those Creditors; and
 - (iii) all present and future liabilities and obligations, actual and contingent, of the Debtors and Third Party Security Providers to the Security Agent; and

- (b) in the case of a Debtor or Third Party Security Provider, the Liabilities owed to the Creditors together with the Agent Liabilities owed to the Agent of those Creditors, the Arranger Liabilities and all present and future liabilities and obligations, actual and contingent, of the Debtors or, as the case may be, Third Party Security Provider to the Security Agent.

"Required Creditor Consent" means the Required Super Senior Consent, the Required Senior Consent and/or the Required Second Lien Consent, as the context requires.

"Required Second Lien Consent" means, in relation to any proposed matter, step or action taken prior to the Second Lien Discharge Date (the **"Second Lien Proposed Action"**):

- (a) if the Second Lien Proposed Action is prohibited by the terms of a Second Lien Facility Agreement, the prior consent of the Majority Second Lien Lenders under the relevant agreement; or
- (b) if any Second Lien Notes are outstanding and the Second Lien Proposed Action is prohibited by the terms of the relevant Second Lien Notes Indenture, the prior consent of the relevant Second Lien Notes Trustee acting on behalf of the requisite Second Lien Noteholders.

"Required Senior Consent" means, in relation to any proposed matter, step or action taken prior to the Senior Secured Discharge Date (the **"Senior Secured Proposed Action"**):

- (a) if the Senior Secured Proposed Action is prohibited by the terms of the Senior Facilities Agreement or any Permitted Senior Secured Facilities Agreement, the prior consent of the Majority Senior Lenders under the relevant agreement; or
- (b) if any Senior Secured Notes are outstanding and the Senior Secured Proposed Action is prohibited by the terms of the relevant Senior Secured Notes Indenture, the prior consent of the relevant Senior Secured Notes Trustee acting on behalf of the requisite Senior Secured Noteholders.

"Required Super Senior Consent" means, in relation to any proposed matter, step or action taken prior to the Super Senior Discharge Date (the **"Super Senior Proposed Action"**), if the Super Senior Proposed Action is prohibited by the terms of the Senior Facilities Agreement or any Permitted Super Senior Secured Facilities Agreement, the prior consent of the Majority Super Senior Lenders under the relevant agreement.

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

"Responsible Officer" means any officer within the corporate trust and securities services department (however described) of any Notes Trustee, including any director, associate director, vice president, assistant vice president, assistant treasurer, trust officer or any other officer of such Notes Trustee who customarily performs functions similar to those performed by such officers, or to whom any corporate trust matter is referred because of such individual's knowledge of and familiarity with the particular subject, and who shall have direct responsibility for the administration of this Agreement and any Senior Secured Notes Indenture or Second Lien Notes Indenture (as applicable) to which that Notes Trustee is a party.

"Retiring Security Agent" has the meaning given to that term in paragraph (d) of Clause 20.1 (*Resignation of the Security Agent*).

"Sanctioned Obligation" means any obligation of (or owed to) any Debtor or any obligor (howsoever defined in any Debt Document) pursuant to or in connection with any Debt Document (including the making (or receiving) of any direct or indirect payment; the taking any action or step (including any procurement obligation); or otherwise the carrying on of business or dealings with

any Creditor) which is or is reasonably expected to be (each if and to the extent determined by such Debtor or obligor acting in good faith and notified to an Agent at any time and from time to time) restricted, embargoed, conditioned or prevented (directly or indirectly due to a restriction, embargo, condition or prohibition, including with respect to the use of applicable payment transmission or other payment transfer system) in accordance with any law, regulation or sanction of any applicable jurisdiction that is not generally applicable to all Creditors.

"Sanctioned Party" means a Creditor in respect of which any Debtor or any obligor (howsoever defined in any Debt Document) has a Sanctioned Obligation (as determined by such Debtor or obligor acting in good faith and notified to an Agent at any time and from time to time).

"Second Lien Additional Facility Commitments" has the meaning given in any Second Lien Facility Agreement to a term which is the same or substantially equivalent to the term *"Additional Facility Commitments"* under and as defined in the Senior Facilities Agreement.

"Second Lien Agent" means any facility agent or any substantially equivalent term under and as defined in any Second Lien Facility Agreement, which has acceded to this Agreement as the Second Lien Agent pursuant to Clause 21.12 (*Accession of Second Lien Lenders under New Second Lien Facility*).

"Second Lien Agent Liabilities" means the Agent Liabilities owed by the Debtors and Third Party Security Providers to the Second Lien Agent or Second Lien Notes Trustee under or in connection with the Second Lien Finance Documents.

"Second Lien Arranger" means any arranger or any substantially equivalent term under and as defined in any Second Lien Facility Agreement, which has acceded to this Agreement as a Second Lien Arranger pursuant to Clause 21.8 (*Arrangers*).

"Second Lien Arranger Liabilities" means the Arranger Liabilities or any substantially equivalent term owed by the Debtors and Third Party Security Providers to any Second Lien Arranger under or in connection with the Second Lien Finance Documents.

"Second Lien Borrower" has the meaning given in any Second Lien Facility Agreement to a term which is the same or substantially equivalent to the term *"Borrower"* under and as defined in the Senior Facilities Agreement.

"Second Lien Commitment" has the meaning given in any Second Lien Facility Agreement to a term which is the same or substantially equivalent to the term *"Commitment"* under and as defined in the Senior Facilities Agreement.

"Second Lien Credit Participation" means:

- (a) in relation to a Second Lien Lender, its aggregate (drawn and undrawn) Second Lien Commitments; or
- (b) in relation to a Second Lien Noteholder, the principal amount of outstanding Second Lien Notes held by that Second Lien Noteholder.

"Second Lien Creditor Representative" means:

- (a) in relation to the Second Lien Lenders under any Second Lien Facility Agreement, the relevant Second Lien Agent; or
- (b) in relation to the Second Lien Noteholders, the relevant Second Lien Notes Trustee.

"Second Lien Creditors" means the Second Lien Lenders and the Second Lien Noteholders.

"Second Lien Debt Purchase Transaction" has the meaning given in any Second Lien Facility Agreement to a term which is the same or substantially equivalent to the term *"Debt Purchase Transaction"* under and as defined in the Senior Facilities Agreement.

"Second Lien Default" means a Default or any substantially equivalent term under a Second Lien Facility Agreement or a Second Lien Notes Default.

"Second Lien Discharge Date" means the first date on which all Second Lien Liabilities have been fully and finally discharged to the satisfaction of each Second Lien Notes Trustee (in the case of the Second Lien Notes Liabilities) and Second Lien Agent (in the case of the Second Lien Lender Liabilities), whether or not as the result of an enforcement, and the Second Lien Creditors (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under any of the Debt Documents.

"Second Lien Enforcement Notice" has the meaning given to that term in paragraph (a)(ii) of Clause 6.10 (*Permitted Second Lien Enforcement*).

"Second Lien Event of Default" means a Second Lien Lender Event of Default or a Second Lien Notes Event of Default.

"Second Lien Exposure" has the meaning given in Clause 17.1 (*Equalisation Definitions*).

"Second Lien Facility" has the meaning given in any Second Lien Facility Agreement to a term which is the same or substantially equivalent to the term *"Facility"* under and as defined in the Senior Facilities Agreement.

"Second Lien Facility Agreement" means each facility agreement or other document or instrument which is designated as such by the Company (in its discretion) by written notice to each Agent who is a Party at such time.

"Second Lien Facility Finance Party" has the meaning given in any Second Lien Facility Agreement to a term which is the same or substantially equivalent to the term *"Finance Party"* under and as defined in the Senior Facilities Agreement.

"Second Lien Facility Guarantor" has the meaning given in any Second Lien Facility Agreement to a term which is the same or substantially equivalent to the term *"Guarantor"* under and as defined in the Senior Facilities Agreement.

"Second Lien Finance Documents" means the Second Lien Notes Finance Documents and the Second Lien Lender Finance Documents.

"Second Lien Finance Parties" means the Second Lien Facility Finance Parties and Second Lien Notes Finance Parties.

"Second Lien Guarantor" means a Second Lien Facility Guarantor or a Second Lien Notes Guarantor.

"Second Lien Lender" has the meaning given in any Second Lien Facility Agreement to a term which is the same or substantially equivalent to the term *"Lender"* under and as defined in the Senior Facilities Agreement.

"Second Lien Lender Acceleration Event" means the Second Lien Agent exercising any of its rights under any equivalent provision(s) of any Second Lien Facility Agreement which is similar in meaning and effect as the Senior Acceleration Event.

"Second Lien Lender Discharge Date" means the first date on which all Second Lien Lender Liabilities have been fully and finally discharged to the satisfaction of the relevant Second Lien

Agent, whether or not as the result of an enforcement, and the Second Lien Lenders (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents.

"Second Lien Lender Event of Default" means an Event of Default or any substantially equivalent term under a Second Lien Facility Agreement.

"Second Lien Lender Finance Documents" has the meaning given in any Second Lien Facility Agreement to a term which is the same or substantially equivalent to the term *"Finance Document"* under and as defined in the Senior Facilities Agreement.

"Second Lien Lender Liabilities" means the Liabilities owed by the Debtors and the Third Party Security Providers to the Second Lien Lenders under or in connection with the Second Lien Lender Finance Documents, including, for the avoidance of doubt, any such Liabilities in connection with any Second Lien Additional Facility Commitments.

"Second Lien Lender Mandatory Prepayment" means a mandatory prepayment of any of the Second Lien Lender Liabilities which is of the same type as a Senior Mandatory Prepayment or otherwise made pursuant to the Second Lien Finance Documents.

"Second Lien Liabilities" means the Second Lien Lender Liabilities and the Second Lien Notes Liabilities.

"Second Lien Mandatory Prepayment" means a Second Lien Lender Mandatory Prepayment or a Second Lien Notes Mandatory Prepayment, as the context requires.

"Second Lien Material Event of Default" means:

- (a) a Senior Secured Payment Default;
- (b) a Super Senior Acceleration Event or a Senior Acceleration Event is continuing under paragraph (a), (b) or (c) of clause 28.15 (*Acceleration*) of the Senior Facilities Agreement (or an Acceleration Event under a substantially equivalent provision in any Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement) as a result of a breach of clause 26.2 (*Financial Covenants*) of the Senior Facilities Agreement or a breach of a substantially equivalent provision in any Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement, as the context requires;
- (c) an Event of Default under:
 - (i) clause 28.5 (*Cross Default*), clause 28.6 (*Insolvency*) or clause 28.7 (*Insolvency Proceedings*) of the Senior Facilities Agreement; or
 - (ii) provisions substantially equivalent to those stated in paragraph (i) above contained in any other Senior Secured Finance Document;
- (d) any other Event of Default under the Senior Facilities Agreement or any other Senior Secured Finance Document (other than an Event of Default under clause 28.1 (*Non-payment*) of the Senior Facilities Agreement or a substantially equivalent provision in a Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement (as the context requires)) which has or is reasonably likely to have a Material Adverse Effect; or
- (e) the occurrence of a Super Senior Acceleration Event, a Senior Acceleration Event or a Senior Secured Notes Acceleration Event.

"Second Lien Noteholders" means the registered holders, from time to time, of the Second Lien Notes, as determined in accordance with the relevant Second Lien Notes Indenture.

"Second Lien Notes" means any New Debt Financing which is designated as such by the Company (in its discretion) by written notice to each Agent who is a Party at such time.

"Second Lien Notes Acceleration Event" means:

- (a) the Second Lien Notes Trustee (or any of the Second Lien Noteholders) exercising any rights to accelerate amounts outstanding under the Second Lien Notes pursuant to any Second Lien Notes Indenture; or
- (b) any Second Lien Notes Liabilities becoming due and payable by operation of any automatic acceleration provisions in any Second Lien Notes Finance Documents,

in each case, for the avoidance of doubt, not including any declaration that any amount is payable on demand but including the exercise of any right to demand payment of an amount previously placed on demand.

"Second Lien Notes Creditors" means the Second Lien Noteholders and each Second Lien Notes Trustee.

"Second Lien Notes Default" means a Second Lien Notes Event of Default or any event or circumstances which would (with the expiry of a grace period, the giving of notice, the making of any determination provided for in the relevant definition of such Second Lien Notes Event of Default or any combination of the foregoing, **provided that** any such event or circumstance which requires any determination as to materiality before it may become a Second Lien Notes Event of Default shall not be a Second Lien Notes Default until such determination is made) be an Event of Default.

"Second Lien Notes Discharge Date" means the first date on which all Second Lien Notes Liabilities have been fully and finally discharged to the satisfaction of the relevant Second Lien Notes Trustee.

"Second Lien Notes Event of Default" means an Event of Default under the relevant Second Lien Notes Indenture.

"Second Lien Notes Finance Documents" means the Second Lien Notes, each Second Lien Notes Indenture, the Second Lien Notes Guarantees in respect of the Second Lien Notes, this Agreement, the Transaction Security Documents and any other document entered into in connection with the Second Lien Notes (which, for the avoidance of doubt, excludes any document to the extent it sets out rights of the initial purchasers of the Second Lien Notes (in their capacities as initial purchasers) against any member of the Group) and in each case designated a Second Lien Notes Finance Document by the Company (in its discretion) by written notice to each Agent who is a Party at such time.

"Second Lien Notes Finance Parties" means any Second Lien Notes Trustee (on behalf of itself and the Second Lien Noteholders which it represents) and the Security Agent.

"Second Lien Notes Guarantee" means each guarantee granted by a Second Lien Notes Guarantor in favour of any Second Lien Notes Creditor contained in any Second Lien Notes Finance Document.

"Second Lien Notes Guarantor" means each member of the Group which becomes a guarantor of Second Lien Notes in accordance with a Second Lien Notes Indenture.

"Second Lien Notes Indenture" means the indenture or indentures pursuant to which any Second Lien Notes are issued.

"Second Lien Notes Issue Date" means, in respect of each Second Lien Notes Indenture, the later of (a) the first date on which a Second Lien Note is issued pursuant to that Second Lien Notes Indenture; and (b) (to the extent such Notes constitute a New Debt Financing) the Effective Date in relation thereto.

"Second Lien Notes Liabilities" means all present and future moneys, debts and liabilities due, owing or incurred by the Debtors and the Third Party Security Providers to any Second Lien Notes Finance Party or Second Lien Noteholder under or in connection with the Second Lien Notes or the Second Lien Notes Finance Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise), **provided that** the definition of "*Second Lien Notes Liabilities*" shall not include the Second Lien Notes Trustee Amounts.

"Second Lien Notes Mandatory Prepayment" means a mandatory prepayment, repurchase or redemption (including any requirement to make an offer to repurchase) of any of the Second Lien Notes Liabilities which is of the same type as a Second Lien Lender Mandatory Prepayment or otherwise made pursuant to the Second Lien Notes Finance Documents.

"Second Lien Notes Trustee" means any entity acting as trustee or agent under any issue of Second Lien Notes and which accedes to this Agreement pursuant to Clause 21.15 (*Accession of Second Lien Notes Trustee*).

"Second Lien Notes Trustee Amounts" means, in relation to a Second Lien Notes Trustee, amounts payable to that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee under the Second Lien Notes Finance Documents, any provisions (including indemnity provisions) for costs and expenses in favour of that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee contained in the Second Lien Notes Finance Documents, all compensation for services provided by that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee which is payable to that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee pursuant to the terms of the Second Lien Notes Finance Documents and all out-of-pocket costs and expenses properly incurred by that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee in carrying out its duties or performing any service pursuant to the terms of the Second Lien Notes Finance Documents, including:

- (a) compensation for the costs and expenses of the collection by that Second Lien Notes Trustee of any amount payable to that Second Lien Notes Trustee for the benefit of the Second Lien Noteholders; and
- (b) costs and expenses of that Second Lien Notes Trustee's advisers, receivers, delegates, attorneys, agents or appointees,

but excluding:

- (i) any payment in relation to any unpaid costs and expenses incurred in respect of any litigation initiated by that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee on behalf of that Second Lien Notes Trustee against any of the Senior Secured Notes Finance Parties; and
- (ii) any payment made directly or indirectly on or in respect of any amounts owing under any Second Lien Notes (including principal, interest, premium or any other amounts) to any of the Second Lien Noteholders.

"Second Lien Payment Default" means:

- (a) in respect of any Second Lien Facility, any Second Lien Lender Event of Default under any clause or provision substantially equivalent to clause 28.1 (*Non-payment*) of the Senior Facilities Agreement as contained in a Second Lien Facility Agreement in respect of an amount: (i) constituting principal, interest or fees; or (ii) otherwise exceeding £2,500,000 (or its equivalent in other currencies); or
- (b) in respect of any Second Lien Notes, any Second Lien Notes Default arising by reason of any non-payment under a Second Lien Notes Finance Document in respect of an amount: (i) constituting principal or interest (as applicable); or (ii) otherwise exceeding £2,500,000 (or its equivalent in other currencies).

"Second Lien Payment Stop Notice" has the meaning given to that term in paragraph (a) of Clause 6.3 (*Issue of Second Lien Payment Stop Notice*).

"Second Lien Standstill Period" has the meaning given to it in paragraph (a)(ii)(A) of Clause 6.10 (*Permitted Second Lien Enforcement*).

"Secured Creditors" means:

- (a) the Senior Secured Creditors; and
- (b) the Second Lien Creditors.

"Secured Debt Documents" means the Senior Finance Documents, the Super Senior Finance Documents, the Senior Secured Notes Finance Documents, the Second Lien Lender Finance Documents, the Second Lien Notes Finance Documents and the Hedging Agreements and any other document designated as such by the Security Agent and the Company.

"Secured Liabilities" means the Senior Secured Liabilities and the Second Lien Liabilities.

"Secured Obligations" means all Liabilities and all other present and future obligations at any time due, owing or incurred by any member of the Group and by each Debtor and any Third Party Security Provider to any Secured Party under the Secured Debt Documents (including to the Security Agent under the Parallel Debt pursuant to Clause 19.3 (*Parallel Debt (Covenant to Pay the Security Agent)*)), both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

"Secured Parties" means the Security Agent, each of the Agents, any Receiver or Delegate, the Arrangers and the Secured Creditors from time to time but, in the case of each Agent, Arranger or any Secured Creditor, only if, it (or in the case of any Noteholders, the relevant Notes Trustee) is a Party or has acceded to this Agreement, in the appropriate capacity, pursuant to Clause 21.2 (*Change of Secured Creditors*).

"Security" means a mortgage, charge, pledge, lien, security assignment, security transfer of title or other security interest having a similar effect.

"Security Agent's Spot Rate of Exchange" means, in respect of the conversion of one currency (the **"First Currency"**) into another currency (the **"Second Currency"**), the spot rate of exchange for which the Security Agent is able to purchase the Second Currency with the First Currency in the London foreign exchange market at or about 11:00 a.m. (London time) on a particular day, which shall be notified by the Security Agent in accordance with Clause 19.27 (*Security Agent's Spot Rate of Exchange*).

"Security Cost" means necessary costs and expenses of any holder of Security in relation to the protection, preservation or enforcement of such Security.

"Security Documents" means:

- (a) each of the Transaction Security Documents;
- (b) any other document entered into at any time by any of the Debtors, Third Party Security Providers creating any guarantee, indemnity, Security or other assurance against financial loss in favour of any of the Secured Parties as security for any of the Secured Obligations; and
- (c) any Security granted under any covenant for further assurance in any of the documents set out in paragraphs (a) and (b) above.

"Security Property" means:

- (a) the Transaction Security expressed to be granted in favour of the Security Agent as agent or trustee for the Secured Parties (or pursuant to any joint and several creditorship or parallel debt provisions set out in Clause 19 (*The Security Agent*)) or, as the case may be, to the Secured Parties identified in the relevant Transaction Security Document, for the benefit of the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by a Debtor or Third Party Security Provider to pay amounts in respect of the Liabilities to a Secured Party or to the Security Agent as agent or trustee for the Secured Parties (or pursuant to any joint and several creditorship or parallel debt provisions set out in Clause 19 (*The Security Agent*)) and secured by the Transaction Security together with all representations and warranties expressed to be given by a Debtor and Third Party Security Provider in favour of the Security Agent as agent or trustee for (or otherwise for the benefit of) the Secured Parties;
- (c) the Security Agent's interest in any trust fund created pursuant to Clause 10 (*Turnover of Receipts*);
- (d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Debt Documents to hold as trustee on trust for (or otherwise for the benefit of) the Secured Parties.

"Senior Acceleration Event" means:

- (a) the Senior Agent exercising any of its rights under paragraphs (a)(i), (a)(ii), (b)(i) or (b)(ii) of clause 28.15 (*Acceleration*) of the Senior Facilities Agreement or any substantially equivalent provisions to those in each Permitted Senior Secured Facilities Agreement which is similar in meaning and effect; or
- (b) the Senior Lender Liabilities under the Senior Facilities Agreement becoming due and payable by operation of any automatic acceleration provisions in the Senior Facilities Agreement or any Senior Lender Liabilities becoming due and payable by operation of any automatic acceleration provisions in any Permitted Senior Secured Facilities Agreement.

"Senior Agent" means:

- (a) the Original Senior Agent and any other facility agent or any substantially equivalent term under and as defined in the Senior Facilities Agreement;
- (b) any facility agent or any substantially equivalent term under and as defined in any Permitted Senior Secured Facilities Agreement, which has acceded to this Agreement as a Senior Agent pursuant to Clause 21.10 (*Accession of Senior Lenders under New Senior Facilities or Super Senior Lenders under New Super Senior Facilities*); or

- (c) any facility agent or any substantially equivalent term under and as defined in any Cash Management Facility Document which has acceded to this Agreement as a Senior Agent pursuant to Clause 21.11 (*Accession of Cash Management Facility Lenders, Super Senior Cash Management Facility Lenders under New Cash Management Facilities*),

as the context requires.

"Senior Agent Liabilities" means the Agent Liabilities owed by the Debtors and Third Party Security Providers to the Senior Agent or the relevant Senior Secured Notes Trustee under or in connection with the Senior Finance Documents.

"Senior Arranger" means:

- (a) each Original Senior Arranger;
- (b) any arranger or any substantially equivalent term under and as defined in any Permitted Senior Secured Facilities Agreement, which has acceded to this Agreement as a Senior Arranger pursuant to Clause 21.8 (*Arrangers*); or
- (c) any arranger or any substantially equivalent term under and as defined in any Cash Management Facility Document, which has acceded to this Agreement as a Senior Arranger pursuant to Clause 21.8 (*Arrangers*),

as the context requires.

"Senior Arranger Liabilities" means the Arranger Liabilities owed by the Debtors and Third Party Security Providers to any Senior Arranger under or in connection with the Senior Finance Documents.

"Senior Borrower" means:

- (a) each "Borrower" under and as defined in the Senior Facilities Agreement; and
- (b) has the meaning given in any Permitted Senior Secured Facilities Agreement or any Cash Management Facility Document to a term which is the same or substantially equivalent to the term "*Borrower*" as described in paragraph (a) above,

as the context requires.

"Senior Commitment":

- (a) means a "*Commitment*" in respect of a "*Senior Facility*" or any other "*Facility*" (each under and as defined in the Senior Facilities Agreement) ranking *pari passu* with a "*Senior Facility*" with respect to payment obligations and proceeds of enforcement of Transaction Security (including Recoveries); and
- (b) has the meaning given in any Permitted Senior Secured Facilities Agreement to a term which is the same or substantially equivalent to the term "*Commitment*" in respect of a "*Senior Facility*" under and as defined in the Senior Facilities Agreement,

as the context requires.

"Senior Credit Participation" means, in relation to a Senior Creditor, the aggregate of:

- (a) prior to the Designation Date:
 - (i) its aggregate (drawn and undrawn) Senior Commitments, if any;

- (ii) its aggregate (drawn and undrawn) Cash Management Facility Commitments, if any; and
 - (iii) in respect of any hedging transaction of that Senior Creditor under any Hedging Agreement that has, as of the date the calculation is made, been terminated or closed out in accordance with the terms of this Agreement, the amount, if any, payable to it under any Hedging Agreement in respect of that termination or close-out as of the date of termination or close-out (and before taking into account any interest accrued on that amount since the date of termination or close-out) to the extent that amount is unpaid (that amount to be certified by the relevant Senior Creditor and as calculated in accordance with the relevant Hedging Agreement); and
- (b) on and following the Designation Date:
 - (i) its aggregate (drawn and undrawn) Senior Commitments, if any;
 - (ii) its aggregate (drawn and undrawn) Cash Management Facility Commitments, if any; and
 - (iii) in respect of any hedging transaction of that Senior Creditor (in its capacity as Pari Passu Hedge Counterparty) under any Hedging Agreement constituting Pari Passu Hedging Liabilities that has, as of the date the calculation is made, been terminated or closed out in accordance with the terms of this Agreement, the amount, if any, payable to it under any Hedging Agreement constituting Pari Passu Hedging Liabilities in respect of that termination or close-out as of the date of termination or close-out (and before taking into account any interest accrued on that amount since the date of termination or close-out) to the extent that amount is unpaid (that amount to be certified by the relevant Senior Creditor and as calculated in accordance with the relevant Hedging Agreement constituting Pari Passu Hedging Liabilities); and
- (c) (solely to the extent that the later of the Super Senior Discharge Date and the Senior Lender Discharge Date has occurred) in respect of any hedging transaction of that Senior Creditor (in its capacity as Pari Passu Hedge Counterparty) under any Hedging Agreement that has, as of the date the calculation is made, not been terminated or closed out:
 - (i) if the relevant Hedging Agreement is based on an ISDA Master Agreement the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement); or
 - (ii) if the relevant Hedging Agreement is not based on an ISDA Master Agreement, the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction, if the date on which the calculation is made was deemed to be the date on which an event similar in meaning and effect (under that Hedging Agreement) to an Early Termination Date (as defined in any ISDA Master Agreement) occurred under that Hedging Agreement for which the relevant Debtor is in a position similar in meaning and effect (under that Hedging Agreement) to that of a Defaulting Party (under and as defined in the same ISDA Master Agreement),

that amount, in each case in respect of all Hedging Liabilities or (after the Designation Date) Pari Passu Hedging Liabilities, to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

"Senior Creditor Finance Documents" means each of the Senior Facilities Agreement, any Permitted Senior Secured Facilities Agreement, any Cash Management Facility Document, any Permitted Super Senior Secured Facilities Agreement and any Senior Secured Notes Indenture.

"Senior Creditor Representative" means:

- (a) in relation to the Senior Lenders under the Senior Facilities Agreement or any Permitted Senior Secured Facilities Agreement, the relevant Senior Agent;
- (b) in relation to the Super Senior Lenders under any Permitted Super Senior Secured Facilities Agreement, the relevant Super Senior Agent;
- (c) in relation to the Senior Secured Noteholders, the relevant Senior Secured Notes Trustee;
- (d) in relation to the Super Senior Cash Management Facility Lenders, the relevant Super Senior Cash Management Facility Agent or otherwise the relevant Super Senior Cash Management Facility Lenders; and
- (e) in relation to a Cash Management Facility Lender, the relevant Cash Management Facility Agent (if appointed) or otherwise the relevant Cash Management Facility Lender.

"Senior Creditors" means

- (a) prior to the Designation Date, the Senior Lenders, the Cash Management Facility Lenders and the Hedge Counterparties; or
- (b) on or after the Designation Date, the Senior Lenders, the Cash Management Facility Lenders and the Pari Passu Hedge Counterparties.

"Senior Debt Purchase Transaction"

- (a) (unless the Senior Commitments under the Senior Facilities Agreement have been irrevocably cancelled in full and any Senior Lender Liabilities thereunder have been discharged in full) has the meaning given to the term "*Debt Purchase Transaction*" in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement,

as the context requires.

"Senior Default" means:

- (a) (unless the Senior Commitments under the Senior Facilities Agreement have been irrevocably cancelled in full and any Senior Lender Liabilities thereunder have been discharged in full) a Default under the Senior Facilities Agreement; or
- (b) a Default under a Permitted Super Senior Secured Facilities Agreement or Permitted Senior Secured Facilities Agreement,

as the context requires.

"Senior Discharge Date" means the first date on which all Senior Liabilities have been fully and finally discharged to the satisfaction of the Senior Agent (in the case of the Senior Lender Liabilities), each Cash Management Facility Lender (in respect of its Cash Management Facility Liabilities) (or the relevant Cash Management Facility Agent on its behalf, if appointed) and each

Hedge Counterparty (in the case of its Hedging Liabilities), whether or not as the result of an enforcement, and the Senior Creditors (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents.

"Senior Event of Default" means:

- (a) (unless the Senior Commitments under the Senior Facilities Agreement have been irrevocably cancelled in full and any Senior Lender Liabilities thereunder have been discharged in full) an Event of Default under the Senior Facilities Agreement; or
- (b) an Event of Default under a Permitted Super Senior Secured Facilities Agreement or Permitted Senior Secured Facilities Agreement,

as the context requires.

"Senior Facilities Agreement" means the senior facilities agreement dated on or about the date hereof made between, among others, the Company and the Agent (as amended and/or restated from time to time).

"Senior Facilities Guarantor":

- (a) (unless the Senior Commitments under the Senior Facilities Agreement have been irrevocably cancelled in full and any Senior Lender Liabilities thereunder have been discharged in full) has the meaning given to the term "*Guarantor*" in the Senior Facilities Agreement; and
- (b) means each member of the Group which becomes a guarantor of a Senior Facility, Super Senior Facility or Senior Secured Notes in accordance with any Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or Senior Secured Notes Indenture,

as the context requires.

"Senior Facility" has the meaning given in the Senior Facilities Agreement or any substantially equivalent term in any Permitted Senior Secured Facilities Agreement.

"Senior Finance Documents":

- (a) (unless the Senior Commitments under the Senior Facilities Agreement have been irrevocably cancelled in full and any Senior Lender Liabilities thereunder have been discharged in full) has the meaning given to the term "*Finance Document*" in the Senior Facilities Agreement (but excluding any "*Ancillary Document*" and any "*Additional Facility Notice*" and any "*Additional Facility Lender Accession Notice*" (to the extent related to any "*Facility*" comprising Super Senior Liabilities under this Agreement) under and as defined in the Senior Facilities Agreement); or
- (b) has the meaning given in any Permitted Senior Secured Facilities Agreement or Cash Management Facility Document to a term which is the same or substantially equivalent to the term "*Finance Document*" as described in paragraph (a) above,

as the context requires.

"Senior Finance Party":

- (a) (unless the Senior Commitments under the Senior Facilities Agreement have been irrevocably cancelled in full and any Senior Lender Liabilities thereunder have been discharged in full) has the meaning given to the term "*Finance Party*" in the Senior

Facilities Agreement (but excluding any "*Finance Party*" which is a "*Finance Party*" solely by virtue of being a Super Senior Lender, an "*Issuing Bank*", an "*Ancillary Lender*", a "*Fronted Ancillary Lender*" or a "*Fronting Ancillary Lender*" (to the extent related to any "*Facility*" comprising Super Senior Liabilities under this Agreement) under and as defined in the Senior Facilities Agreement); or

- (b) has the meaning given in any Permitted Senior Secured Facilities Agreement or Cash Management Facility Document to a term which is the same or substantially equivalent to the term "*Finance Party*" as described in paragraph (a) above,

as the context requires.

"Senior Lender Discharge Date" means the first date on which all Senior Lender Liabilities have been fully and finally discharged to the satisfaction of the Senior Agent, whether or not as the result of an enforcement, and the Senior Lenders (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under any of the Debt Documents.

"Senior Lender Liabilities" means the Liabilities owed by the Debtors and the Third Party Security Providers to the Senior Lenders under or in connection with the Senior Finance Documents, including, for the avoidance of doubt, any such Liabilities in connection with any Additional Facility incurred under the Senior Facilities Agreement or a Permitted Senior Secured Facilities Agreement (but excluding any Liabilities to the extent related to any "*Facility*" comprising Super Senior Liabilities under this Agreement).

"Senior Lenders" means:

- (a) each Original Senior Lender;
- (b) each "*Lender*", "*Issuing Bank*" and "*Ancillary Lender*" under and as defined in the Senior Facilities Agreement, but excluding a Lender, Issuing Bank or Ancillary Lender under the Senior Facilities Agreement which is a Lender, Issuing Bank or Ancillary Lender solely by reason of being a Lender, Issuing Bank or Ancillary Lender in respect of a "*Facility*" (as defined in the Senior Facilities Agreement) comprising Super Senior Liabilities under this Agreement; or
- (c) has the meaning given in any Permitted Senior Secured Facilities Agreement to a term which is the same or substantially equivalent to the term "*Lender*" as described in paragraph (b) above,

in each case as the context requires.

"Senior Liabilities" means:

- (a) prior to the Designation Date, the Senior Lender Liabilities, the Cash Management Facility Liabilities and the Hedging Liabilities; or
- (b) on or after the Designation Date, the Senior Lender Liabilities, the Cash Management Facility Liabilities and the Pari Passu Hedging Liabilities.

"Senior Mandatory Prepayment" means a mandatory prepayment of any of the Senior Lender Liabilities pursuant to paragraph (a) of clause 11.1 (*Illegality*) or clause 12 (*Mandatory prepayment*) of the Senior Facilities Agreement or otherwise made pursuant to any other provision requiring a mandatory prepayment of the Senior Facilities Agreement or any substantially equivalent or other provision requiring a mandatory prepayment in each Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement, as the context requires.

"Senior Payment Default" means an Event of Default under clause 28.1 (*Non-payment*) of the Senior Facilities Agreement (or any substantially equivalent provision in each Permitted Senior Secured Facilities Agreement or any Permitted Super Senior Secured Facilities Agreement, as the context requires) in respect of an amount: (a) constituting principal, interest or fees; or (b) otherwise exceeding £1,500,000 (or its equivalent in other currencies).

"Senior Secured Creditor" means, at any time, the Senior Creditors, the Super Senior Creditors and the Senior Secured Notes Creditors at such time.

"Senior Secured Creditor Liabilities" means the Senior Lender Liabilities, the Super Senior Lender Liabilities, the Super Senior Cash Management Facility Liabilities, the Cash Management Facility Liabilities, the Hedging Liabilities and the Senior Secured Notes Liabilities (and in each case, as the context requires, together with the Agent Liabilities and Arranger Liabilities in respect thereof).

"Senior Secured Creditor Liabilities Transfer" means a transfer of the Senior Lender Liabilities, the Super Senior Lender Liabilities, the Senior Secured Notes Liabilities, the Super Senior Cash Management Facility Liabilities, and the Cash Management Facility Liabilities to the Second Lien Creditors as described in Clause 6.14 (*Option to Purchase: Second Lien Creditors*).

"Senior Secured Discharge Date" means the first date on which the Senior Discharge Date and the Senior Secured Notes Discharge Date has occurred.

"Senior Secured Event of Default" means a Senior Event of Default, a Super Senior Event of Default, a Super Senior Cash Management Facility Event of Default, a Cash Management Facility Event of Default or a Senior Secured Notes Event of Default.

"Senior Secured Exposure" has the meaning given in Clause 17.1 (*Equalisation Definitions*).

"Senior Secured Finance Documents" means the Senior Finance Documents (including any Permitted Senior Secured Facilities Agreement), the Super Senior Finance Documents, the Super Senior Cash Management Facility Documents, the Cash Management Facility Documents, the Hedging Agreements and the Senior Secured Notes Finance Documents.

"Senior Secured Guarantor" means a Senior Facilities Guarantor, a Super Senior Cash Management Facility Guarantor, a Cash Management Facility Guarantor or a Senior Secured Notes Guarantor.

"Senior Secured Liabilities" means, at any time, the Senior Liabilities, the Super Senior Liabilities and the Senior Secured Notes Liabilities, at such time.

"Senior Secured Noteholders" means the registered holders, from time to time, of the Senior Secured Notes, as determined in accordance with the relevant Senior Secured Notes Indenture.

"Senior Secured Notes" means any New Debt Financing which is designated as such by the Company (in its discretion) by written notice to each Agent who is a Party at such time.

"Senior Secured Notes Acceleration Event" means:

- (a) a Senior Secured Notes Trustee (or any of the Senior Secured Noteholders) exercising any rights to accelerate amounts outstanding under the Senior Secured Notes pursuant to any applicable Senior Secured Notes Indenture; or
- (b) any Senior Secured Notes Liabilities becoming due and payable by operation of any automatic acceleration provisions in any Senior Secured Notes Finance Documents,

in each case, for the avoidance of doubt, not including any declaration that any amount is payable on demand but including the exercise of any right to demand payment of an amount previously placed on demand.

"Senior Secured Notes Creditors" means the Senior Secured Noteholders and each Senior Secured Notes Trustee.

"Senior Secured Notes Default" means a Senior Secured Notes Event of Default or any event or circumstances which would (with the expiry of a grace period, the giving of notice, the making of any determination provided for in the relevant definition of such Senior Secured Notes Event of Default or any combination of the foregoing, **provided that** any such event or circumstance which requires any determination as to materiality before it may become a Senior Secured Notes Event of Default shall not be a Senior Secured Notes Default until such determination is made) be a Senior Secured Notes Event of Default.

"Senior Secured Notes Discharge Date" means the first date on which all Senior Secured Notes Liabilities have been fully and finally discharged to the satisfaction of each applicable Senior Secured Notes Trustee.

"Senior Secured Notes Event of Default" means an event of default under the relevant Senior Secured Notes Indenture.

"Senior Secured Notes Finance Documents" means the Senior Secured Notes, each Senior Secured Notes Indenture, the Senior Secured Notes Guarantees in respect of the Senior Secured Notes, this Agreement, the Transaction Security Documents and any other document entered into in connection with the Senior Secured Notes (which, for the avoidance of doubt, excludes any document to the extent it sets out rights of the initial purchasers of the Senior Secured Notes (in their capacities as initial purchasers) against any member of the Group) and in each case designated a Senior Secured Notes Finance Document by the Company (in its discretion) by written notice to each Agent who is a Party at such time.

"Senior Secured Notes Finance Parties" means any Senior Secured Notes Trustee (acting on behalf of itself and the Senior Secured Noteholders which it represents) and the Security Agent.

"Senior Secured Notes Guarantee" means each guarantee granted by a Senior Secured Notes Guarantor in favour of any Senior Secured Notes Creditor contained in any Senior Secured Notes Finance Document.

"Senior Secured Notes Guarantor" means each member of the Group which becomes a guarantor of Senior Secured Notes in accordance with a Senior Secured Notes Indenture.

"Senior Secured Notes Indenture" means the indenture or indentures pursuant to which any Senior Secured Notes are issued.

"Senior Secured Notes Issue Date" means, in respect of each Senior Secured Notes Indenture, the later of (a) the first date on which a Senior Secured Note is issued pursuant to that Senior Secured Notes Indenture; and (b) (to the extent such Notes constitute a New Debt Financing) the Effective Date in relation thereto.

"Senior Secured Notes Liabilities" means all present and future moneys, debts and liabilities due, owing or incurred by the Debtors and the Third Party Security Providers to any Senior Secured Notes Finance Party or Senior Secured Noteholder under or in connection with the Senior Secured Notes or the Senior Secured Notes Finance Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise), **provided that** the definition of "*Senior Secured Notes Liabilities*" shall not include the Senior Secured Notes Trustee Amounts.

"Senior Secured Notes Mandatory Prepayment" means a mandatory prepayment, repurchase or redemption (including any requirement to make an offer to repurchase) of any of the Senior Secured Notes Liabilities which is of the same type as a Senior Mandatory Prepayment or otherwise made pursuant to the Senior Secured Notes Finance Documents.

"Senior Secured Notes Proceeds Loan" means any loan made by the issuer of any Senior Secured Notes (which is designated for the purposes of this definition by the Company (in its discretion) by written notice to each Agent who is a Party at such time and not including, for the avoidance of doubt, the Company) to a member of the Group for the purposes of on lending the proceeds of any Senior Secured Notes together with any additional or replacement loan made on substantially the same terms.

"Senior Secured Notes Proceeds Loan Agreement" means a loan agreement, instrument or other agreement (if any) documenting a Senior Secured Notes Proceeds Loan.

"Senior Secured Notes Proceeds Loan Lender" means each lender under a Senior Secured Notes Proceeds Loan Agreement that has entered into a Creditor/Agent Accession Undertaking as a Senior Secured Notes Proceeds Loan Lender.

"Senior Secured Notes Proceeds Loan Liabilities" means the Liabilities owed under any Senior Secured Notes Proceeds Loan Agreement.

"Senior Secured Notes Trustee" means any person acting as trustee or agent under any issue of Senior Secured Notes and which accedes to this Agreement pursuant to Clause 21.14 (*Accession of Senior Secured Notes Trustee*).

"Senior Secured Notes Trustee Amounts" means, in relation to a Senior Secured Notes Trustee, amounts payable to that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee under the Senior Secured Notes Finance Documents, any provisions (including indemnity provisions) for fees, costs and expenses in favour of that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee contained in the Senior Secured Notes Finance Documents, all compensation for services provided by that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee which is payable to that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee pursuant to the terms of the Senior Secured Notes Finance Documents and all out-of-pocket costs and expenses properly incurred (including reimbursement for expenses incurred) by that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee in carrying out its duties or performing any service pursuant to the terms of the Senior Secured Notes Finance Documents, including:

- (a) compensation for the costs and expenses of the collection by that Senior Secured Notes Trustee of any amount payable to that Senior Secured Notes Trustee for the benefit of the Senior Secured Noteholders; and
- (b) costs and expenses of that Senior Secured Notes Trustee's advisers, receivers, delegates, attorneys, agents or appointees,

but excluding:

- (i) any payment in relation to any unpaid costs and expenses incurred in respect of any litigation initiated by that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee on behalf of that Senior Secured Notes Trustee against any of the Senior Finance Parties; and
- (ii) any payment made directly or indirectly on or in respect of any amounts owing under any Senior Secured Notes (including principal, interest, premium or any other amounts to any of the Senior Secured Noteholders).

"Senior Secured Payment Default" means:

- (a) any Senior Payment Default;
- (b) any Super Senior Cash Management Facility Payment Default;
- (c) any Cash Management Facility Payment Default; or
- (d) any Senior Secured Notes Default arising by reason of any non-payment under a Senior Secured Notes Finance Document in respect of an amount: (i) constituting principal or interest (as applicable); or (ii) otherwise exceeding £2,500,000 (or its equivalent in other currencies).

"SFA Cash Collateral" means any cash collateral provided by a Senior Lender or Super Senior Lender to an Issuing Bank pursuant to clause 7.4 (*Cash collateral by Non-Acceptable L/C Lender*) of the Senior Facilities Agreement or any substantially equivalent provision in each Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement, as the context requires.

"SFA Cash Cover"

- (a) has the meaning given to the term "*cash cover*" in paragraph (e) of clause 1.2 (*Construction*) of the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent provision to that referred to in paragraph (a) above in a Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or Second Lien Facility Agreement,

as the context requires.

"SFA Cash Cover Document" means, in relation to any SFA Cash Cover, any Senior Finance Document, Permitted Super Senior Secured Facilities Agreement or Permitted Senior Secured Facilities Agreement, as the context requires, which creates or evidences, or is expressed to create or evidence, the Security required to be provided over that SFA Cash Cover.

"Significant Subsidiary" shall mean an entity falling within paragraph (b) of the definition of "Material Company" **provided that**, for this purpose, references to "five (5) per cent." shall be replaced with "fifteen (15) per cent."

"Subordinated Creditors" means any person that enters into a Creditor/Agent Accession Undertaking as a Subordinated Creditor (as defined in that Creditor/Agent Accession Undertaking).

"Subordinated Documents" means any agreement providing for the extension of Indebtedness by a Subordinated Creditor to a member of the Group but excluding any amount due to an Affiliate of a Subordinated Creditor which is not itself a Subordinated Creditor or a member of the Group.

"Subordinated Liabilities" means all money and liabilities in respect of Indebtedness now or in the future due or owing to any Subordinated Creditor under or in connection with any Subordinated Document in any currency, whether actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all accruing interests and all related costs, charges and expenses but excluding any amount due to an Affiliate of a Subordinated Creditor which is not itself a Subordinated Creditor or a member of the Group.

"Subsidiary"

- (a) has the meaning given in the Senior Facilities Agreement; or

- (b) has the meaning given to any substantially equivalent term to that referred to in paragraph (a) above in each Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or Second Lien Facility Agreement,

as the context requires.

"Super Senior Acceleration Event" means:

- (a) the Super Senior Agent exercising any of its rights under paragraph (c) of Clause 28.15 (*Acceleration*) (in respect of the Super Senior Facilities) of the Senior Facilities Agreement or any substantially equivalent provisions to those in each Permitted Super Senior Secured Facilities Agreement which is similar in meaning and effect; or
- (b) any Super Senior Lender Liabilities becoming due and payable by operation of any automatic acceleration provisions in any Permitted Super Senior Secured Facilities Agreement,

as the context requires.

"Super Senior Agent" means:

- (a) the Original Senior Agent and any other facility agent or any substantially equivalent term under and as defined in the Senior Facilities Agreement;
- (b) any facility agent or any substantially equivalent term under and as defined in any Permitted Super Senior Secured Facilities Agreement, which has acceded to this Agreement as a Super Senior Agent pursuant to Clause 21.10 (*Accession of Senior Lenders under New Senior Facilities or Super Senior Lenders under New Super Senior Facilities*); or
- (c) any facility agent or any substantially equivalent term under and as defined in any Super Senior Cash Management Facility Document which has acceded to this Agreement pursuant to Clause 21.11 (*Accession of Cash Management Facility Lenders, Super Senior Cash Management Facility Lenders under New Cash Management Facilities*),

as the context requires.

"Super Senior Agent Liabilities" means the Agent Liabilities owed by the Debtors and Third Party Security Providers to the Super Senior Agent under or in connection with the Super Senior Finance Documents.

"Super Senior Arranger" means:

- (a) any arranger or any substantially equivalent term under and as defined in any Permitted Super Senior Secured Facilities Agreement, which has acceded to this Agreement as a Super Senior Arranger pursuant to Clause 21.8 (*Arrangers*); or
- (b) any arranger or any substantially equivalent term under and as defined in any Super Senior Cash Management Facility Document, which has acceded to this Agreement as a Super Senior Arranger pursuant to Clause 21.8 (*Arrangers*),

as the context requires.

"Super Senior Arranger Liabilities" means, the Arranger Liabilities owed by the Debtors and Third Party Security Providers to any Super Senior Arranger under or in connection with the Super Senior Finance Documents.

"Super Senior Borrower" has the meaning given:

- (a) to the term "Borrower" in the Senior Facilities Agreement in respect of the Super Senior Facilities; and
- (b) in any Permitted Super Senior Secured Facilities Agreement or any Super Senior Cash Management Facility Document to a term which is the same or substantially equivalent to the term "*Borrower*" under and as defined in the Senior Facilities Agreement,

as the context requires.

"Super Senior Cash Cover" has the meaning given:

- (a) to the term "*cash cover*" in the Senior Facilities Agreement; or
- (b) in any Permitted Super Senior Secured Facilities Agreement to a term which is the same or substantially equivalent to the term "*cash cover*" under and as defined in the Senior Facilities Agreement,

as the context requires.

"Super Senior Cash Cover Document" means, in relation to any Super Senior Cash Cover, the Senior Facilities Agreement or any Permitted Super Senior Secured Facilities Agreement, which creates or evidences, or is expressed to create or evidence, the Security required to be provided over that Super Senior Cash Cover.

"Super Senior Cash Management Facility" means any facility made available by one or more Super Senior Cash Management Facility Lenders for working capital and/or general corporate purposes of the Group, including any of the following (or any combination of the following):

- (a) an overdraft, cheque clearing, automatic payment or other current account facility;
- (b) a guarantee, bonding or documentary or stand by letter of credit facility;
- (c) a short term loan facility;
- (d) a derivatives facility;
- (e) a foreign exchange facility; and
- (f) any other facility or accommodation as may be required or desirable in connection with the business of the Group and which is agreed by the Company and each relevant Super Senior Cash Management Facility Lender.

"Super Senior Cash Management Facility Acceleration Event" means:

- (a) a Super Senior Cash Management Facility Lender (or, as applicable, any requisite class thereof specified in the applicable Super Senior Cash Management Facility Documents) exercising any rights to accelerate amounts outstanding under the relevant Super Senior Cash Management Facility pursuant to any Super Senior Cash Management Facility Document; or
- (b) any Super Senior Cash Management Facility Liabilities becoming due and payable by operation of any automatic acceleration provisions in any Super Senior Cash Management Facility Document,

in each case, for the avoidance of doubt, not including any declaration that any amount is payable on demand but including the exercise of any right to demand payment of an amount previously placed on demand.

"Super Senior Cash Management Facility Agent" means a Super Senior Agent in respect of any Super Senior Cash Management Facility.

"Super Senior Cash Management Facility Arranger" means a Super Senior Arranger in respect of any Super Senior Cash Management Facility.

"Super Senior Cash Management Facility Cash Cover" has the meaning given in any Super Senior Cash Management Facility Document to a term which is the same or substantially equivalent to the term "*cash cover*" under and as defined in the Senior Facilities Agreement.

"Super Senior Cash Management Facility Cash Cover Document" means, in relation to any Super Senior Cash Management Facility Cash Cover, any Super Senior Cash Management Facility Finance Document which creates or evidences, or is expressed to create or evidence, the Security required to be provided over that Super Senior Cash Management Facility Cash Cover.

"Super Senior Cash Management Facility Commitment" means, in relation to a Super Senior Cash Management Facility Lender and a Super Senior Cash Management Facility, the maximum Common Currency Amount which that Super Senior Cash Management Facility Lender has agreed (whether or not subject to satisfaction of conditions precedent) to make available from time to time under a Super Senior Cash Management Facility to the extent that amount is not cancelled or reduced under the Super Senior Cash Management Facility Documents relating to that Super Senior Cash Management Facility.

"Super Senior Cash Management Facility Creditors" means the Super Senior Cash Management Facility Arrangers, the Super Senior Cash Management Facility Agents, any Issuing Bank in respect of any Super Senior Cash Management Facility and the Super Senior Cash Management Facility Lenders.

"Super Senior Cash Management Facility Debt Purchase Transaction" has the meaning given in any Super Senior Cash Management Facility Document to a term which is the same or substantially equivalent to the term "*Debt Purchase Transaction*" under and as defined in the Senior Facilities Agreement.

"Super Senior Cash Management Facility Debtor" means each borrower of a Super Senior Cash Management Facility and each Super Senior Cash Management Facility Guarantor.

"Super Senior Cash Management Facility Default" means a Default under one or more Super Senior Cash Management Facility Documents.

"Super Senior Cash Management Facility Discharge Date" means the first date on which all Super Senior Cash Management Facility Liabilities have been fully and finally discharged to the satisfaction of the Super Senior Cash Management Facility Lenders (including by way of defeasance in accordance with the Super Senior Cash Management Facility Documents), whether or not as the result of an enforcement, and the Super Senior Cash Management Facility Lenders (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under any of the Debt Documents.

"Super Senior Cash Management Facility Document" means each facility agreement or other document or instrument which is designated as such by the Company (in its discretion) in each case by written notice to each Agent who is a Party at such time.

"Super Senior Cash Management Facility Event of Default" means an Event of Default under one or more Super Senior Cash Management Facility Documents.

"Super Senior Cash Management Facility Finance Documents" has the meaning given in any Super Senior Cash Management Facility Document to a term which is the same or substantially equivalent to the term "Finance Document" under and as defined in the Senior Facilities Agreement.

"Super Senior Cash Management Facility Guarantor" means, at any time, each Debtor which is a Super Senior Facilities Guarantor at such time.

"Super Senior Cash Management Facility LC" means any letter of credit, guarantee, indemnity or other instrument in a form requested by a borrower of a Super Senior Cash Management Facility and agreed by the relevant Super Senior Cash Management Facility Lenders (or any Issuing Bank on their behalf).

"Super Senior Cash Management Facility Lender" means each person which makes a Super Senior Cash Management Facility available pursuant to the terms of, and each Issuing Bank under, a Super Senior Cash Management Facility Document.

"Super Senior Cash Management Facility Liabilities" means the Liabilities owed by the Debtors and the Third Party Security Providers to the Super Senior Cash Management Facility Creditors under or in connection with the Super Senior Cash Management Facility Finance Documents.

"Super Senior Cash Management Facility Mandatory Prepayment" means a mandatory prepayment of any of the Super Senior Cash Management Facility Liabilities pursuant to the Super Senior Cash Management Facility Documents.

"Super Senior Cash Management Facility Outstanding" means, at any time, in relation to a Super Senior Cash Management Facility Lender and a Super Senior Cash Management Facility then in force the aggregate of the equivalents in the Common Currency of the following outstanding amounts under that Super Senior Cash Management Facility:

- (a) the principal amount under each overdraft facility and on demand short term loan facility (**provided that**, for the purposes of this definition, any amount of any outstanding utilisation under any BACS facility, other intra-day exposure facilities (or similar) made available by a Super Senior Cash Management Facility Lender shall be excluded, unless, in relation to that Super Senior Cash Management Facility, otherwise agreed between the Company and the relevant Super Senior Cash Management Facility Lender);
- (b) the principal amount of each other facility or each guarantee, bond and letter of credit under that Super Senior Cash Management Facility; and
- (c) the amount fairly representing the aggregate exposure or equivalent outstanding (excluding interest and similar charges) of that Super Senior Cash Management Facility Lender under each other type of accommodation provided under that Super Senior Cash Management Facility,

in each case net of any credit balances on any account of any borrower of a Super Senior Cash Management Facility with the Super Senior Cash Management Facility Lender making available that Super Senior Cash Management Facility to the extent that the credit balances are freely available to be set off by that Super Senior Cash Management Facility Lender against liabilities owed to it by that borrower under that Super Senior Cash Management Facility and in each case as determined by such Super Senior Cash Management Facility Lender, acting reasonably and in accordance with the relevant Super Senior Cash Management Facility Document, or (if not provided for in the relevant Super Senior Cash Management Facility Document), after consultation with the relevant borrower, in accordance with its normal banking practice and in accordance with the relevant Super Senior Cash Management Facility Document.

For the purposes of this definition:

- (i) in relation to any utilisation (howsoever described) denominated in the Common Currency, the amount of that utilisation (howsoever described) (determined as described in paragraphs (a) to (c) above) shall be used; and

- (ii) in relation to any utilisation or outstanding (howsoever described) not denominated in the Common Currency, the equivalent (calculated as specified in the relevant Super Senior Cash Management Facility Document or, if not so specified, as the relevant Super Senior Cash Management Facility Lender may specify, in each case in accordance with its usual practice at that time for calculating that equivalent in the Common Currency (acting reasonably)) of the amount of that utilisation (determined as described in paragraphs (a) to (c) above) shall be used.

"Super Senior Cash Management Facility Payment Default" means any Super Senior Cash Management Facility Event of Default arising by reason of any non-payment under a Super Senior Cash Management Facility Document in respect of an amount: (a) constituting principal, interest or fees or (b) otherwise exceeding £1,500,000 (or its equivalent in other currencies).

"Super Senior Commitment":

- (a) means a "Commitment" in respect of a "Super Senior Facility" (each under and as defined in the Senior Facilities Agreement); and
- (b) has the meaning given in any Permitted Super Senior Secured Facilities Agreement to a term which is the same or substantially equivalent to the term "*Commitment*" under and as defined in the Senior Facilities Agreement,

as the context requires.

"Super Senior Credit Participation" means in relation to a Super Senior Creditor, the aggregate of:

- (a) each of:
 - (i) its aggregate (drawn and undrawn) Super Senior Commitments, if any;
 - (ii) its aggregate (drawn and undrawn) Super Senior Cash Management Facility Commitments, if any; and
 - (iii) in respect of any hedging transaction of that Super Senior Creditor (in its capacity as Super Senior Hedge Counterparty) under any Hedging Agreement constituting Super Senior Hedging Liabilities that has, as of the date the calculation is made, been terminated or closed out in accordance with the terms of this Agreement, the amount, if any, payable to it under any Hedging Agreement constituting Super Senior Hedging Liabilities in respect of that termination or close-out as of the date of termination or close-out (and before taking into account any interest accrued on that amount since the date of termination or close-out) to the extent that amount is unpaid (that amount to be certified by the relevant Super Senior Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement constituting Super Senior Hedging Liabilities); and
- (b) (solely to the extent the Super Senior Lender Discharge Date has occurred) in respect of any hedging transaction of that Super Senior Creditor (in its capacity as Super Senior Hedge Counterparty) under any Hedging Agreement constituting Super Senior Hedging Liabilities that has, as of the date the calculation is made, not been terminated or closed out:
 - (i) if the relevant Hedging Agreement is based on an ISDA Master Agreement the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement); or

- (ii) if the relevant Hedging Agreement is not based on an ISDA Master Agreement, the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction, if the date on which the calculation is made was deemed to be the date on which an event similar in meaning and effect (under that Hedging Agreement) to an Early Termination Date (as defined in any ISDA Master Agreement) occurred under that Hedging Agreement for which the relevant Debtor is in a position similar in meaning and effect (under that Hedging Agreement) to that of a Defaulting Party (under and as defined in the same ISDA Master Agreement),

that amount, in each case, in respect of Super Senior Hedging Liabilities to be certified by the relevant Super Senior Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

"Super Senior Creditors" means the Super Senior Lenders, the Super Senior Cash Management Facility Lenders and the Super Senior Hedge Counterparties.

"Super Senior Discharge Date" means the first date on which all Super Senior Liabilities have been fully and finally discharged to the satisfaction of the Super Senior Agent (in the case of the Super Senior Lender Liabilities), each Super Senior Cash Management Facility Lender (in respect of its Super Senior Cash Management Facility Liabilities) (or the relevant Super Senior Cash Management Facility Agent on its behalf, if appointed) and each Super Senior Hedge Counterparty (in the case of its Super Senior Hedging Liabilities), whether or not as the result of an enforcement, and the Super Senior Creditors (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents.

"Super Senior Event of Default" means:

- (a) (unless the Super Senior Commitments under the Senior Facilities Agreement have been irrevocably cancelled in full and any Super Senior Lender Liabilities thereunder have been discharged in full) an Event of Default under the Senior Facilities Agreement; or
- (b) an Event of Default under a Permitted Senior Secured Facilities Agreement,

as the context requires.

"Super Senior Exposure" has the meaning given in Clause 17.1 (*Equalisation Definitions*).

"Super Senior Facilities Guarantor":

- (a) (unless the Super Senior Commitments under the Senior Facilities Agreement have been irrevocably cancelled in full and any Super Senior Lender Liabilities thereunder have been discharged in full) has the meaning given to the term "Guarantor" in the Senior Facilities Agreement; or
- (b) has the meaning given in any Permitted Super Senior Secured Facilities Agreement to a term which is the same or substantially equivalent to the term "*Guarantor*" under and as defined in the Senior Facilities Agreement.

"Super Senior Facility" has the meaning given:

- (a) to the term "Super Senior Facility" in the Senior Facilities Agreement; or
- (b) in any Permitted Super Senior Secured Facilities Agreement to a term which is the same or substantially equivalent to the term "*Super Senior Facility*" under and as defined in the Senior Facilities Agreement.

"Super Senior Finance Documents"

- (a) (unless the Super Senior Commitments under the Senior Facilities Agreement have been irrevocably cancelled in full and any Super Senior Lender Liabilities thereunder have been discharged in full) has the meaning given to the term "*Finance Document*" in the Senior Facilities Agreement (but including only an "*Additional Facility Notice*" or "*Additional Facility Lender Accession Notice*" to the extent that it relates to an Additional Super Senior Facility, and excluding any "*Selection Notice*" in each case under and as defined in the Senior Facilities Agreement); or
- (b) has the meaning given in any Permitted Super Senior Secured Facilities Agreement to a term which is the same or substantially equivalent to the term "*Finance Document*" under and as defined in the Senior Facilities Agreement.

"Super Senior Finance Party":

- (a) (unless the Super Senior Commitments under the Senior Facilities Agreement have been irrevocably cancelled in full and any Super Senior Lender Liabilities thereunder have been discharged in full) has the meaning given to the term "Finance Party" in the Senior Facilities Agreement (but excluding any "Finance Party" which is a "Finance Party" solely by virtue of being a Senior Lender); or
- (b) has the meaning given in any Permitted Super Senior Secured Facilities Agreement or Super Senior Cash Management Facility Document to a term which is the same or substantially equivalent to the term "*Finance Party*" under and as defined in the Senior Facilities Agreement.

"Super Senior Hedge Counterparty" means each Hedge Counterparty to the extent it is owed Super Senior Hedging Liabilities.

"Super Senior Hedge Transfer" means a transfer to the relevant Pari Passu Creditors (or to a nominee or nominees of the relevant Pari Passu Creditors) of each Hedging Agreement together with:

- (a) all the rights and benefits in respect of the Super Senior Hedging Liabilities owed by the Debtors and Third Party Security Providers to each Super Senior Hedge Counterparty; and
- (b) all the Hedge Counterparty Obligations owed by each Super Senior Hedge Counterparty to the Debtors and Third Party Security Providers,

in accordance with Clause 21.3 (*Accession or Change of Hedge Counterparty*) as described in, and subject to Clause 4.9 (*Super Senior Hedge Transfer: Pari Passu Creditors*).

"Super Senior Hedging Designation Certificate" means a designation certificate substantially in the form set out in Schedule 12 (*Form of Super Senior Hedging Designation Certificate*).

"Super Senior Hedging Liabilities" means all Liabilities under a Hedging Agreement which have been designated as such by the Company (in its discretion) and which have not been redesignated as Pari Passu Hedging Liabilities, in each case in accordance with Clause 5.17 (*Designation of Super Senior Hedging Liabilities*).

"Super Senior Lender":

- (a) means each Original Super Senior Lender;
- (b) means each "Super Senior Facility Lender", "Issuing Bank" and "Ancillary Lender" as defined in the Senior Facilities Agreement; and

- (c) on and after the Designation Date, has the meaning given in any Permitted Super Senior Secured Facilities Agreement to any term which is the same or substantially equivalent to the terms "*Super Senior Facility Lender*", "*Issuing Bank*" or "*Ancillary Lender*" under and as defined in the Senior Facilities Agreement.

"Super Senior Lender Discharge Date" means the first date on which all Super Senior Lender Liabilities have been fully and finally discharged to the satisfaction of the Super Senior Agent, whether or not as the result of an enforcement, and the Super Senior Lenders (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents.

"Super Senior Lender Liabilities" means the Liabilities owed by the Debtors and the Third Party Security Providers to the Super Senior Lenders under or in connection with the Super Senior Finance Documents, including, for the avoidance of doubt, any such Liabilities in connection with any Additional Facility incurred under the Senior Facilities Agreement or any Permitted Super Senior Secured Facilities Agreement.

"Super Senior Liabilities" means the Super Senior Lender Liabilities, the Super Senior Cash Management Facility Liabilities and the Super Senior Hedging Liabilities.

"Super Senior Liabilities Transfer" means a transfer of the Super Senior Lender Liabilities as described in Clause 4.8 (*Option to Purchase: Pari Passu Creditors*).

"Super Senior Material Event of Default" means:

- (a) an Event of Default under:
- (i) clause 28.1 (*Non Payment*) of the Senior Facilities Agreement, but only in respect of Super Senior Liabilities and only in respect of an amount (i) constituting principal, interest or fees or (2) otherwise exceeding £1,000,000 (or its equivalent in other currencies);
 - (ii) clause 28.3 (*Other Obligations*) in respect of failure to deliver Quarterly Financial Statements, Annual Financial Statements or a Compliance Certificate (each as defined in the Senior Facilities Agreement) within ten (10) Business Days after the deadline for delivering such financial statement or certificate (including any applicable grace period);
 - (iii) clause 28.3 (*Other Obligations*) in respect of the breach of clause 27.11 (*Negative Pledge*) or Clause 27.18 (*Financial Indebtedness*), to the extent such Event of Default results in incurrence of indebtedness ranking *pari passu* with the Super Senior Facilities and such Event of Default is continuing for ten (10) Business Days;
 - (iv) clause 28.3 (*Other Obligations*) in respect of the breach of clause 27.26 (*Anti-corruption law and Sanctions*) of the Senior Facilities Agreement and such Event of Default is continuing for ten (10) Business Days;
 - (v) clause 28.6 (*Insolvency*), clause 28.7 (*Insolvency Proceedings*), clause 28.8 (*Creditors' Process*) or clause 28.9 (*Similar Events Elsewhere*) of the Senior Facilities Agreement in respect of a Borrower under a Super Senior Facility, an Obligor which is a Significant Subsidiary;
 - (vi) clauses 28.10 (*Unlawfulness and invalidity*), 28.11 (*Intercreditor Agreement*) or clause 28.13 (*Repudiation and Rescission of Agreements*) of the Senior Facilities Agreement, solely to the extent that such Event of Default prejudices the right of Super Senior Lenders to receive proceeds from an enforcement of the Transaction Security in priority to the Senior Lenders;

- (vii) a Significant Disposal for which the required consent of the Majority Super Senior Facility Lenders (as defined in the Senior Facilities Agreement) has not been obtained; and
- (viii) clause 26.3 (*Financial Covenants*) of the Senior Facilities Agreement setting out a financial covenant for the benefit of a Super Senior Facility;
- (b) provisions substantially equivalent to those stated in paragraph (a) above contained in any other Permitted Super Senior Facilities Agreement; or
- (c) otherwise an Event of Default arising as a direct result of the occurrence of any matter that (or breach of any provision the waiver of which) requires the consent of the Majority Super Senior Lenders (or any substantially equivalent term in any Permitted Super Senior Secured Facilities Agreement) or unanimous Lender consent but in respect of which such consent has not been obtained.

"TARGET Day" means any day on which T2 is open for the settlement of payments in euro.

"T2" means the real time gross settlement system operated by the Eurosystem, or any successor system.

"Tax"

- (a) has the meaning given in the Senior Facilities Agreement; or
- (b) has the meaning given to any substantially equivalent provision to that referred to in paragraph (a) above in a Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement or Second Lien Facility Agreement,

as the context requires and **"Taxes"** shall be construed accordingly.

"Third Party Security Provider" means any person that has provided Transaction Security over any or all of its assets but is not a Debtor in respect of any of the direct Borrowing Liabilities or Guarantee Liabilities of the Secured Obligations to which that Transaction Security relates and which is designated as such by the Company (in its discretion) by written notice to each Agent who is a Party at such time, and, in each case, which entity has not ceased to be a Third Party Security Provider in accordance with the terms of this Agreement.

"Transaction Security" means any Security from the Group and any Third Party Security Provider in each case which, to the extent legally possible and subject to any Agreed Security Principles and the provisions of this Agreement:

- (a) is created, or expressed to be created, in favour of the Security Agent as agent or trustee for the other Secured Parties (or a class of Secured Parties) in respect of the applicable Secured Obligations; or
- (b) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as agent or trustee for the Secured Parties (or a class of Secured Parties), is created, or expressed to be created, in favour of:
 - (i) all the Secured Parties (or a class of Secured Parties) in respect of the applicable Secured Obligations; or
 - (ii) the Security Agent under a parallel debt and/or joint and several creditorship structure for the benefit of all the Secured Parties (or a class of Secured Parties) in respect of the applicable Secured Obligations,

and in each case subject to Clause 1.6 (*Waiver and Termination*) and which ranks in the order of priority contemplated in Clause 2.2 (*Transaction Security*).

"Transaction Security Documents" means any document entered into by any Debtor or Third Party Security Provider creating or expressed to create Transaction Security.

"UK Bail-In Legislation" means Part 1 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).

"Unsecured Credit Participation" means, in relation to an Unsecured Creditor, the aggregate amount of:

- (a) its drawn and undrawn commitments under any loan agreement or similar instrument; and
- (b) any notes subscribed for by it under any indenture or similar instrument.

"Unsecured Creditors" means any person which accedes to this Agreement as an Unsecured Creditor by executing a Creditor/Agent Accession Undertaking and has not ceased to be an Unsecured Creditor in accordance with this Agreement.

"Unsecured Default" means a Default under an Unsecured Finance Document.

"Unsecured Finance Documents" means any document designated as an Unsecured Finance Document in accordance with Clause 21.16 (*Accession of Unsecured Facility Creditors*).

"Unsecured Guarantor" means any member of the Group that provides a guarantee in favour of any Unsecured Creditor in connection with any Unsecured Finance Documents.

"Unsecured Liabilities" means all present and future moneys, debts and liabilities due, owing or incurred by the Debtors to any Unsecured Creditor under or in connection with the Unsecured Finance Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise).

"Unsecured Payment Default" means a payment default under the relevant Unsecured Finance Documents.

"VAT" means:

- (a) any tax imposed in any member state of the European Union pursuant to the Council Directive of 28 November 2006 on the common system of value added tax as amended (EC Directive 2006/112); and
- (b) any other sales or turnover tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

"Write-down and Conversion Powers" means:

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

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

1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Agreement to:
 - (i) any Agent, Ancillary Lender, Arranger, Cash Management Facility Agent, Cash Management Facility Arranger, Cash Management Facility Creditor, Cash Management Facility Debtor, Cash Management Facility Guarantor, Cash Management Facility Lender, the Company, Creditor, Debtor, Hedge Counterparty, Third Party Security Provider, Intra-Group Lender, Issuing Bank, Secured Creditor, Secured Party, Security Agent, Second Lien Guarantor, Second Lien Notes Trustee, Second Lien Noteholder, Second Lien Lender, Second Lien Agent, Second Lien Arranger, Senior Agent, Senior Arranger, Senior Borrower, Senior Creditor, Senior Lender, Senior Secured Guarantor, Senior Secured Notes Proceeds Loan Lender, Senior Secured Notes Trustee, Senior Secured Noteholder, Super Senior Agent, Super Senior Arranger, Super Senior Borrower, Super Senior Cash Management Facility Agent, Super Senior Cash Management Facility Arranger, Super Senior Cash Management Facility Creditor, Super Senior Cash Management Facility Debtor, Super Senior Cash Management Facility Guarantor, Super Senior Cash Management Facility Lender, Super Senior Creditor, Super Senior Facilities Guarantor, Super Senior Hedge Counterparty, Super Senior Lender, Subordinated Creditor, Unsecured Creditor, Unsecured Guarantor or (in relation to paragraph (B) below) any other person, shall be construed:
 - (A) to be a reference to it in its capacity as such and not in any other capacity; and
 - (B) so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as the Security Agent in accordance with this Agreement;
 - (ii) "assets" includes present and future properties, revenues and rights of every description;

- (iii) a "**Debt Document**" or any other agreement or instrument is (other than a reference to a Debt Document or any other agreement or instrument in original form) a reference to that Debt Document, or other agreement or instrument, as amended, novated, supplemented, extended or restated (however fundamentally) and includes any increase in, addition to or extension of or other change to any facility made available under any such agreement or instrument (in each case to the extent not prohibited by this Agreement);
- (iv) "**enforcing**" (or any derivation) the Transaction Security shall include the appointment of an administrator of a Debtor or a Third Party Security Provider by the Security Agent;
- (v) "**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;
- (vi) the "**original form**" of a Debt Document or any other agreement or instrument is a reference to that Debt Document, agreement or instrument as originally entered into and, unless specified otherwise, a reference to the original form of the Senior Facilities Agreement is a reference to the Senior Facilities Agreement, entered into on or around the date of this Agreement;
- (vii) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality) or two or more of the foregoing;
- (viii) 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, with which persons customarily comply) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- (ix) "**shares**" or "**share capital**" includes equivalent ownership interests (and "shareholder" and similar expressions shall be construed accordingly);
- (x) the words "**notwithstanding anything to the contrary in this Agreement or any other Debt Document**" shall include any provisions in this Agreement or any other Debt Document which are expressed or purport to override any other provisions of this Agreement or any other Debt Document as a condition or otherwise to the taking of any action or step or any transaction;
- (xi) "**including**" means including without limitation, and "**includes**" and "**included**" shall be construed accordingly;
- (xii) a provision of law is a reference to that provision as amended or re-enacted; and
- (xiii) any corporation into which the Security Agent may be merged or converted, or any corporation with which the Security Agent may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Security Agent shall be a party, or any corporation, including affiliated corporations, to which the Security Agent shall sell or otherwise transfer:
 - (A) all or substantially all of its assets; or
 - (B) all or substantially all of its corporate trust business,

shall, on the date when the merger, conversion, consolidation or transfer becomes effective and to the extent permitted by any applicable laws become the successor Security Agent under this Agreement without the execution or filing of any paper or any further act on the part of the parties to this Agreement, unless otherwise required by the Company, and after the said effective date all references in this Agreement to the Security Agent shall be deemed to be references to such successor corporation. Written notice of any such merger, conversion, consolidation or transfer shall immediately be given to the Company and the Secured Parties by the Security Agent.

- (b) Section, Clause and Schedule headings are for ease of reference only.
- (c) A Default or an Event of Default is "**continuing**" if it has not been remedied or waived.
- (d) "**disposal**" means any sale, lease, licence, transfer (including any transfer of any property interest in any asset) and any grant of Security or quasi Security or conveyance of or with respect to any asset, undertaking or business.
- (e) An Acceleration Event is "**continuing**" if it has not been revoked or otherwise ceases to be continuing in accordance with the terms of the relevant Debt Document.
- (f) For the purpose of Clause 15.2 (*Distressed Disposals*) "**cash**" shall mean cash in cleared funds in the currency or currencies of the consideration for the relevant sale or disposal.
- (g) The right or requirement of any Party to take or not take any action on or following the occurrence of an Insolvency Event shall cease to apply if the relevant Insolvency Event is no longer continuing (unless an Acceleration Event has occurred and is continuing and without prejudice to any action taken or not taken in accordance with the terms of this Agreement while that Insolvency Event is continuing).
- (h) The determination that a Second Lien Payment Stop Notice is "**outstanding**" is to be made by reference to the provisions of Clause 6.3 (*Issue of Second Lien Payment Stop Notice*).
- (i) The determination that a Second Lien Standstill Period is "**outstanding**" is to be made by reference to the provisions of Clause 6.10 (*Permitted Second Lien Enforcement*).
- (j) In determining whether or not any Liabilities have been fully and finally discharged, contingent liabilities (such as the risk of clawback flowing from a preference) shall be disregarded by the relevant Agent, Hedge Counterparty, Security Agent or otherwise except to the extent that there is a reasonable likelihood that those liabilities will become actual liabilities.
- (k) Any reference in this Agreement to a Debtor, member of the Group or Third Party Security Provider being permitted to make any Payment or take any other action shall include a reference to that Debtor, member of the Group or Third Party Security Provider being permitted to make any arrangement in respect of that Payment or action or take any step, make any payment or enter into any transaction to facilitate or fund the making of that Payment or the taking of that action.
- (l) Notwithstanding anything to the contrary, where any provision of this Agreement refers to or otherwise contemplates any consent, approval, release, waiver, agreement, notification or other step or action (each an "**Action**") which may be required from or by any person:
 - (i) which is not a Party at such time;
 - (ii) in respect of any agreement which is not in existence at such time;

- (iii) in respect of any indebtedness which has not been committed or incurred (or an agreement in relation thereto) at such time; or
- (iv) in respect of Liabilities or Creditors (or other persons) for which the relevant Discharge Date has occurred at or prior to such time or concurrently with any Action coming into effect,

unless otherwise agreed or specified by the Company, that Action shall not be required (or be required from any such person that is a party thereto) and no such provision shall, or shall be construed so as to, in any way prohibit or restrict the rights or actions of any member of the Group. Further, for the avoidance of doubt, no references to any agreement which is not in existence (or under which debt obligations have not been actually incurred by a member of the Group) shall, or shall be construed so as to, in any way prohibit or restrict the rights or actions of any member of the Group (and no consent, approval, release, waiver, agreement, notification or other step or action shall be required from any party thereto).

(m) Where any consent is required under this Agreement from:

- (i) a Senior Lender or Senior Finance Party where such consent is required after the Senior Lender Discharge Date or before any person in such capacity has acceded to this Agreement;
- (ii) a Super Senior Creditor where such consent is required after the Super Senior Discharge Date or before any person in such capacity has acceded to this Agreement;
- (iii) a Cash Management Facility Lender where such consent is required after the Cash Management Facility Discharge Date or before any person in such capacity has acceded to this Agreement;
- (iv) a Super Senior Cash Management Facility Lender where such consent is required after the Super Senior Cash Management Facility Discharge Date or before any person in such capacity has acceded to this Agreement;
- (v) a Senior Secured Creditor where such consent is required after the Senior Secured Discharge Date;
- (vi) a Senior Secured Notes Creditor where such consent is required after the Senior Secured Notes Discharge Date or before any person in such capacity has acceded to this Agreement;
- (vii) a Second Lien Lender or Second Lien Agent where such consent is required after the Second Lien Lender Discharge Date or before any person in such capacity has acceded to this Agreement;
- (viii) a Second Lien Notes Creditor where such consent is required after the Second Lien Notes Discharge Date or before any person in such capacity has acceded to this Agreement; or
- (ix) an Unsecured Creditor after the Unsecured Liabilities owing to that Unsecured Creditor have been discharged in full or before any person in such capacity has acceded to this Agreement,

such consent requirement shall not apply.

- (n) References to a Senior Secured Notes Trustee acting on behalf of the Senior Secured Noteholders means such Senior Secured Notes Trustee acting on behalf of the Senior Secured Noteholders which it represents or, if applicable, with the consent of the requisite number of Senior Secured Noteholders required under and in accordance with the applicable Senior Secured Notes Indenture (**provided that**, if the relevant Senior Secured Notes Indenture does not specify a voting threshold for a particular matter, the threshold will be a simple majority of the outstanding principal amount under the Senior Secured Notes Indenture). A Senior Secured Notes Trustee will be entitled to seek instructions from the Senior Secured Noteholders which it represents to the extent required by the applicable Senior Secured Notes Indenture as to any action to be taken by it under this Agreement.
- (o) References to the Second Lien Notes Trustee acting on behalf of the Second Lien Noteholders means such Second Lien Notes Trustee acting on behalf of the Second Lien Noteholders which it represents or, if applicable, with the consent of the requisite number of Second Lien Noteholders required under and in accordance with the applicable Second Lien Notes Indenture (**provided that**, if the relevant Second Lien Notes Indenture does not specify a voting threshold for a particular matter, the threshold will be a simple majority of the outstanding principal amount under the Second Lien Notes Indenture). A Second Lien Notes Trustee will be entitled to seek instructions from the Second Lien Noteholders which it represents to the extent required by the applicable Second Lien Notes Indenture as to any action to be taken by it under this Agreement.
- (p) Notwithstanding anything to the contrary in this Agreement or any other Debt Document, nothing in this Agreement or any Debt Document shall prohibit a non-cash contribution of any asset (including any participation, claim, commitment, rights, benefits and/or obligations in respect of any Liabilities and/or any other indebtedness borrowed or issued by any member of the Group from time to time) by a person that is not a member of the Group to the Company, **provided that**, to the extent such transaction results in any indebtedness or claim being outstanding from the Company to any of its direct or indirect shareholders, such indebtedness or claim constitutes Subordinated Liabilities or is otherwise subordinated in accordance with the Debt Documents.
- (q) If the terms of any Debt Document:
 - (i) require the relevant Creditors to provide approval (or deemed approval to have been provided) for a particular matter, step or action (for the avoidance of doubt, excluding any such terms which expressly entitle the relevant Creditors to withhold their approval for that matter, step or action) and such approval has been given (or is deemed to have been given) pursuant to the terms of that Debt Document; or
 - (ii) do not seek to regulate a particular matter, step or action (which shall be deemed to be the case if the relevant matter, step or action is not the subject of an express requirement or restriction in that Debt Document),

for the purposes of this Agreement that matter, step or action shall not be prohibited by the terms of that Debt Document.
- (r) In determining whether any indebtedness or other amount (including any Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement, Second Lien Finance Documents or Unsecured Finance Documents) is prohibited by the terms of any Debt Document or to the extent any amendment or waiver is sought for or to permit any step or other action, the terms of any Debt Document which:
 - (i) relate to any Liabilities which are to be refinanced or otherwise replaced with such indebtedness or other amount or that will be refinanced or otherwise replaced following such step or action for which such amendment or waiver is sought; or

- (ii) will not exist or will cease to be in effect on the date on which such indebtedness or other amount is incurred by a member of the Group or following the taking effect of such amendment or waiver,

shall not be taken into account (including for the purposes of any vote or consent of any class (including an Instructing Group) for the purposes of any Debt Document in respect of any such amendment or waiver).

- (s) References to any matter being "**permitted**" under one or more of the Debt Documents shall include references to such matters not being prohibited or otherwise approved under those Debt Documents.
- (t) Any requirement that consent be given under this Agreement shall mean such consent is to be given in writing, which, for the purposes of this Agreement, will be deemed to include any resolutions, waivers or consents or provided through any applicable clearance system in accordance with the terms of the relevant Debt Documents.
- (u) Until the relevant proceeds are released from such escrow (or similar or equivalent arrangements), the provisions of this Agreement shall not apply to or create any restriction in respect of any escrow or similar arrangement pursuant to which the proceeds of any Debt Document are subject and this Agreement shall not govern the rights and obligations of the Creditors concerned until such proceeds are released from such escrow or similar arrangement in accordance with its terms.
- (v) Any references to terms in this Agreement that are defined in any Debt Document, (the "**Defined Term**") shall include not only the definition but also terms or mechanics which are equivalent or similar to the manner in which such Defined Term is interpreted under this Agreement.
- (w) For the avoidance of doubt and notwithstanding anything to the contrary in this Agreement or any other Debt Document, nothing in this Agreement shall prohibit any debt exchange, non-cash rollover or other similar or equivalent transaction in relation to any Liabilities.
- (x) To the extent any step or action is permitted under this Agreement (or permitted subject to the consent of specified Parties under this Agreement), the Parties hereto agree that such step or action will be permitted under the other Debt Documents (or permitted thereunder subject to the consent of such specified Parties) and if there is any conflict between the terms of, or the requirement for any conditions in, this Agreement and any other Debt Document, the terms of, or the requirement for any conditions in, this Agreement will prevail (save to the extent that to do so would result in or have the effect of any member of the Group contravening any applicable law or regulation, or present a material risk of liability for any member of the Group and/or its directors or officers, or give rise to a material risk of breach of fiduciary or statutory duties), in each case notwithstanding any restriction or prohibition to the contrary, any provision expressed or purported to override any provision of this Agreement or the requirement to fulfil any additional conditions, in each case, in any other Debt Document.
- (y) To the extent that in this Agreement the consent of any Agent under any Debt Document or the relevant Creditors under any Debt Document is required, then such consent is hereby expressly given to the extent that the matter, step or action requiring approval is not prohibited by the terms of that Debt Document, including for the avoidance of doubt, for the purposes of determining the Instructing Group, the Majority Second Lien Creditors, the Majority Second Lien Lenders, the Majority Super Senior Creditors, the Majority Senior Lenders, the Majority Super Senior Lenders, the Majority Pari Passu Creditors, the Majority Unsecured Creditors or any other class, group or percentage of any Creditors (including, for the avoidance of doubt, unanimity).

- (z) References to any Creditors (or any class, group or percentage of any Creditors (including, for the avoidance of doubt, unanimity)) giving any Consent under this Agreement means (in each case) acting through the applicable Agent, if any, or, as applicable, the Security Agent.
- (aa) To the extent that any member of the Group or Affiliate thereof is a Party in more than one capacity, and a payment is permitted to be made or received or a right is granted in respect of one of those capacities (or with respect to specific Liabilities associated with that capacity), then such payment or right shall not be restricted or limited by the terms of this Agreement relating to any other capacity that such member of the Group or Affiliate has assumed (or as a result of the treatment of specific Liabilities associated with that capacity).
- (bb) Where any defined term in this Agreement refers to the definitions of such term in another document which is to be entered into after the date of this Agreement (any such other document, a "**Future Document**") and such Future Document does not contain such definition, the relevant defined term in this Agreement shall be defined by reference to the equivalent term used in the Future Document and if no such equivalent term is used, shall be ignored for the purposes of this Agreement. For the avoidance of doubt, where such Future Document is a Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or a Second Lien Facility Agreement which, due to legal, regulatory or other reasons, is structured by way of the issuance of notes (howsoever described) rather than by the making available of a facility, such customary alternative definitions shall be considered equivalent for the purposes of this Agreement.
- (cc) Any reference to a "*Debt Document*", "*Borrowing Liabilities*", "*Guarantee Liabilities*", "*Other Liabilities*" or any "*Creditor*" or other "*Party*" in respect of a New Debt Financing shall be construed as a reference to that term assuming such New Debt Financing has been so designated and is subject to this Agreement (to the extent such New Debt Financing has been so designated).
- (dd) Any reference to (i) any Debt Document that is both a Senior Finance Document and a Super Senior Finance Document or (ii) any person that is both a Senior Creditor and a Super Senior Creditor shall, in each case, for the purposes of this Agreement and the terms hereunder be construed in each of their respective and distinct capacities;
- (ee) Any reference to any requirement for any person to accede to this Agreement shall be construed as a reference to such person executing and delivering to the Security Agent a Debtor/Third Party Security Provider Accession Undertaking or as the case may be Creditor/Agent Accession Undertaking, **provided that**:
 - (i) notwithstanding anything to the contrary, a member of the Group shall only be required to accede to this Agreement to the extent that the relevant member of the Group becoming a Debtor would not breach any applicable law or present material risk of liability for any member of the Group and/or its officers or directors, or give rise to a material risk of breach of fiduciary or statutory duties; and
 - (ii) in connection with any accession of any Senior Secured Notes Trustee or Second Lien Notes Trustee (as the case may be), the Security Agent is authorised to and shall make such changes to the terms of this Agreement relating to the rights and duties of any Senior Secured Notes Trustee or Second Lien Notes Trustee (as the case may be) and any other Party as are jointly required by such Senior Secured Notes Trustee or Second Lien Notes Trustee (as the case may be) and the Company without the consent of any other Party, in each case **provided that** such changes would not be materially prejudicial to the interests of the other applicable Parties.
- (ff) To the extent any designated New Debt Financing constitutes an obligation assumed by a member of the Group other than a primary debt claim or borrowing, the restrictions in this

Agreement (as applicable) shall only apply to that member of the Group (except as expressly provided herein and except to the extent relating to its obligations as a Debtor or Third Party Security Provider in respect of, or under, any other Debt Document) and only in respect of that New Debt Financing (and not to any other obligations within any relevant Debt Documents), and the other provisions of this Agreement shall be construed accordingly, **provided that** any permission of any person to make any Payment or take any action, or step in relation to a New Debt Financing under this Agreement shall (to the extent permitted in accordance with the terms of this Agreement) also apply to permit that member of the Group to make directly any such Payment, action or step in relation to the primary debt claim.

- (gg) Any reference to a term, provision, action or step being agreed by the Company shall be construed as any agreement given at any time by the Company in its discretion which refers to the applicable term, provision, action or step and the applicable provision of this Agreement for which such agreement applies.
- (hh) Nothing in this Agreement or any other Debt Document shall restrict the Company, any Party, any member of the Group (or Holding Company or Affiliate thereof), the Creditors (or any of them) including any providers of a New Debt Financing agreeing the ranking of their respective claims and any other intercreditor arrangements among themselves in documentation separate to this Agreement and entered into solely between such parties (or on their behalf by an Agent).
- (ii) It is agreed by the Parties that any requirement for the Company or any other member of the Group to make any designation, determination, request, direction, confirmation, nomination or other certification to any specified person (including any Creditor, any Agent or Security Agent) for the purposes of any definition in Clause 1.1 (*Definitions*) or for the purposes of any other provision of this Agreement may (without restricting the eligibility of any other form and unless expressly provided to the contrary in this Agreement) be given in the form of the Designation Certificate set out in Schedule 11 (*Form of Designation Certificate*).
- (jj) Where a reference in any Secured Debt Document to an Agent or the Security Agent (an "**Applicable Agent**") being "authorised", "instructed", and/or "directed" to take any action by a Secured Party by the terms of such Secured Debt Document shall mean irrevocably and unconditionally authorised, instructed or directed (as applicable) to take such action without any further consent, authorisation, instruction or direction from any Secured Party or any of their Affiliates and shall require the Applicable Agent to take such action promptly, without unreasonable delay and without requesting any further consent, authorisation, instruction or direction from any Secured Party or any of their Affiliates.
- (kk) Unless expressly stated to the contrary, where an Applicable Agent is required to act "reasonably", or in a "reasonable" manner, or is coming to an opinion or determination that is "reasonable" (or any similar or analogous wording is used) under the terms of any Secured Debt Document (other than this paragraph (kk)) and the Applicable Agent has not been instructed or directed by a Secured Party under the terms of such Secured Debt Document to take such action:
 - (i) if the Applicable Agent determines that any instruction is or may be required from any Secured Party or any group of Secured Parties, it shall notify the Obligors' Agent as soon as reasonably practicable after making such determination;
 - (ii) the Applicable Agent shall first (prior to seeking, or notifying any Secured Party that it intends to seek, such instruction) consult with the Obligors' Agent (acting reasonably and in good faith) in order to determine (1) whether any instruction from the requisite Secured Parties is required under the terms of the applicable

Secured Debt Document; and (2) the period of time in which such instructions may be sought;

- (iii) if, after such consultation, the Applicable Agent determines (acting reasonably, in good faith and in accordance with the terms of the applicable Secured Debt Documents) that it is required to seek instructions from the required Secured Parties in accordance with the terms of the applicable Secured Debt Document, it shall notify the Secured Parties from whom it is seeking such instruction of the requested instructions, together with its proposed opinion, determination or other course of action and the period of time within which such instructions must be provided (acting reasonably and in good faith and taking into account such consultation with the Obligors' Agent);
 - (iv) unless such Secured Parties (acting in accordance with the terms of the applicable Secured Debt Documents) otherwise instruct or direct the Applicable Agent within the period of time within which such instructions were requested to be provided, the Applicable Agent shall act in accordance with its proposed opinion, determination or other course of action notified to the applicable Secured Parties in accordance with paragraph (iii) above; and
 - (v) if the Applicable Agent complies with this paragraph (kk), it shall (1) be deemed to have been acting on the instructions of the requisite Secured Parties, (2) be under no obligation to determine the reasonableness of any instructions from any Secured Party, and (3) not be responsible for any liability arising from such instructions or any delay or failure in the giving of such instructions and each other Secured Party acknowledges and agrees to the actions of the Applicable Agent under this paragraph (kk),
- (ll) Notwithstanding anything to the contrary in this Agreement or any other Debt Document, (i) no payments made by or amounts received or recovered from a "controlled foreign corporation" (as defined in Section 957(a) of the US Internal Revenue Code) the stock of which is owned (within the meaning of Section 958(a) of the US Internal Revenue Code) by a "*United States Shareholder*" (as defined in Section 951(b) of the US Internal Revenue Code) shall be applied to any obligations of a "*United States Person*" (as defined in Section 7701(a)(30) of the US Internal Revenue Code and including an entity disregarded as being an entity separate from its owner for US federal income tax purposes if such owner is a "United States Person"); and (ii) in the case of a change, amendment, update or replacement to the legislation described in paragraph (i) above, there shall be no application of payments against the obligations of the Group which have or are reasonably likely to have substantially the same or equivalent effects on the relevant members of the Group as those set out in paragraph (i) above, in each case whether under Clause 16 (*Application of Proceeds*) or otherwise.

1.3 Third Party Rights

- (a) Unless expressly provided to the contrary in this Agreement, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Rights Act**") to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of this Agreement, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.
- (c) Any Receiver, Delegate or any other person described in Clause 19.11 (*No Proceedings*) may, subject to this Clause 1.3 (*Third Party Rights*) and the Third Parties Rights Act, rely on any Clause of this Agreement which expressly confers rights on it.

- (d) The Third Parties Rights Act shall apply to this Agreement in respect of any Noteholder, which, by holding a Note, as the case may be, has effectively agreed to be bound by the provisions of this Agreement and will be deemed to receive the benefits hereof, and be subject to the terms and conditions hereof, as if such person was a Party hereto. For the purposes of the preceding sentence, upon any such person becoming a Noteholder, that person shall be deemed a Party, **provided that** such person is deemed to be a Party under the terms of the relevant Notes Indenture. In relation to any amendment or waiver of this Agreement, no such person that is deemed to be a Party by virtue of this Clause 1.3 (*Third Party Rights*) is required to consent to or execute any amendment or waiver in order for such amendment or waiver to be effective.

1.4 Creditor Rights prior to relevant Debt Issuance

To the extent that this Agreement grants rights for the benefit of any Secured Party, or Unsecured Creditor, no such rights shall accrue or be enforceable against any other Party prior to the incurrence of the relevant indebtedness with respect thereto in such capacity and accession to this Agreement by such Party in such capacity.

1.5 Holding Company Debt

Notwithstanding any term of this Agreement no provision of this Agreement shall (a) regulate, restrict or prohibit a Third Party Security Provider or any Affiliate that is not a member of the Group from incurring any indebtedness, granting any Security over its assets, providing any guarantees or require such Third Party Security Provider or any Affiliate that is not a member of the Group to become a party to (or be bound by) the provisions of this Agreement (other than pursuant to Clause 21.18 (*New Debtor/New Third Party Security Provider*)), or (b) require any creditor in respect of such indebtedness to become a party to (or be bound by) the provisions of this Agreement (other than where such creditor is to be a Secured Party (in such capacity)).

1.6 Waiver and Termination

- (a) Notwithstanding anything to the contrary in this Agreement or any other Debt Document, any Party may, together with exercising any right pursuant to paragraph (f) of Clause 27.1 (*Required Consents*), unilaterally waive, relinquish, or otherwise release or decline the right to receive or benefit from, any right in relation to a Debt Document, including in relation to Transaction Security or any guarantee, indemnity or other assurance against loss in respect of any Liabilities owed to it by a Debtor or Third Party Security Provider with the prior consent of the Company; and by written notice from the Company to each Agent which is a Party and the Security Agent at such time (a "**Unilateral Waiver**").
- (b) Following a Unilateral Waiver by a Party in accordance with paragraph (a) above, the Security Agent shall (i) be deemed to have unilaterally waived, relinquished, or otherwise released or declined the right to receive or benefit from the same or any substantially equivalent right to the rights subject to such Unilateral Waiver, in connection with any Parallel Debt or other parallel debt and/or joint and several creditorship structure relating to the relevant Liabilities; and (ii) at the request and cost of the Company, take any action or execute any document reasonably requested by the Company which is necessary or desirable to give effect to or evidence the releases and other actions described in this Clause 1.6 (*Waiver and Termination*).
- (c) Any Unilateral Waiver by a Party in accordance with paragraph (a) above shall also be deemed to constitute a waiver of the rights of such Party (and the Security Agent, as relevant) under Clause 16 (*Application of Proceeds*), Clause 17 (*Equalisation*) and any other equalisation or loss sharing provisions under any Debt Document in so far as such provisions relate to the rights subject to such Unilateral Waiver, including such that to the extent that the Liabilities of a Creditor would, but for the Unilateral Waiver, have had the benefit of any guarantee, indemnity or other assurance against loss or Transaction Security

under which Recoveries are received by the Security Agent or other Creditors, that Creditor will not benefit from the application of, or receive any payments in respect of, such Recoveries pursuant to Clause 16 (*Application of Proceeds*) in respect of those Liabilities; and if, as a result of this paragraph (c), the amount of a payment to a Creditor pursuant to Clause 16 (*Application of Proceeds*) is lower than the amount which would have been so payable to that Creditor if no Unilateral Waiver was given (the difference for that Creditor being its "**Shortfall**"), for the purposes of Clause 17 (*Equalisation*) its Super Senior Exposure, Senior Secured Exposure or Second Lien Exposure (as applicable) will be deemed to be reduced by an amount equal to the Shortfall.

- (d) To the extent that the consent of any Creditor or other Party (in each case other than the Company and each Party granting such Unilateral Waiver) would be required to give effect to any Unilateral Waiver or any other action or matter set out in this Clause 1.6 (*Waiver and Termination*), such Creditor or other Party shall be deemed to have given such consent.
- (e) Notwithstanding anything to the contrary in this Agreement or any other Debt Document:
 - (i) no breach of any representation, warranty, undertaking, obligation or other term of (or Default or Event of Default under) a Debt Document shall be deemed or construed to have occurred as a direct or indirect result of a Unilateral Waiver or any actions or steps implemented or taken to give effect to that Unilateral Waiver; and
 - (ii) for the purpose of testing or satisfying any requirement (or any qualifier or definition based upon such a requirement) in any Debt Document that any guarantee, indemnity or other assurance against loss or any Transaction Security must, to the extent legally possible or subject to the Agreed Security Principles (or both), be given, or expressed to be given, to all Secured Parties in respect of their Liabilities, any Liabilities the subject of a Unilateral Waiver shall be deemed to have been given or expressed to have been given that guarantee, indemnity or other assurance against loss or any Transaction Security.

1.7 No Investor Recourse

No Secured Creditor will have any recourse to or shall make any claim or demand for payment from any Investor or any other person that is not party to a Debt Document (and to the extent an Investor or any other person is a party to a Debt Document there shall only be recourse to the extent of its liability under the terms of such Debt Document) in respect of any term of any Finance Document, any statements by Investors, or otherwise.

1.8 Personal Liability

Where any natural person gives a certificate or other document or otherwise gives a representation or statement on behalf of any of the parties to the Debt Documents pursuant to any provision thereof and such certificate or other document, representation or statement proves to be incorrect, the individual shall incur no personal liability in consequence of such certificate, other document, representation or statement being incorrect save where such individual acted fraudulently in giving such certificate, other document, representation or statement (in which case any liability of such individual shall be determined in accordance with applicable law) and each such individual may rely on this Clause 1.8 (*Personal Liability*) subject to Clause 1.3 (*Third Party Rights*) and the provisions of the Third Parties Rights Act.

1.9 Sanctioned Obligations

Notwithstanding any provision of any Debt Document to the contrary:

- (a) any failure of a Debtor or any obligor (howsoever defined in any Debt Document) (or of an Agent or Security Agent to facilitate such performance) to perform any of its obligations under any Debt Document to the extent such obligation constitutes a Sanctioned Obligation shall not constitute a breach under any Finance Document, a Default or Event of Default or give rise to any mandatory prepayment event howsoever described (including the failure to make any interest payment or the taking of any action or step under a Debt Document); and
- (b) to the extent such Sanctioned Obligation constitutes a payment obligation directly or indirectly to a Sanctioned Party and the amount of such payment obligation:
 - (i) has been paid, repaid or prepaid by a Debtor or any obligor (howsoever defined in any Debt Document) to any Agent (whether or not such amount has been on paid by such Agent to the applicable Sanctioned Party); or
 - (ii) the Agent or applicable Sanctioned Party has received a notice from such Debtor or obligor confirming that such amount will be held in a segregated account (or an account with similar effect) of any Debtor or Affiliate thereof and will be paid to the applicable Sanctioned Party upon such obligation ceasing in full to be a Sanctioned Obligation,

then, immediately from such time, such payment obligation shall be treated (for the purposes of the Debt Documents) as received by such Sanctioned Party (including for the purposes of any partial payments or sharing of recovery payments by an Agent and for the purposes of calculating any amounts payable between Creditors pursuant to Clauses 11 (*Redistribution*) or 17 (*Equalisation*)) and validly, irrevocably and unconditionally discharged in full, and the Agents are irrevocably authorised and instructed (without any further consent, sanction, authority or further confirmation from any Creditor, Cash Management Facility Lender, Super Senior Cash Management Facility Lender, other Secured Party or Debtor) to treat such payment as so discharged and (at the request and cost of the relevant Debtor or obligor) promptly release (or procure that any relevant person releases) any guarantees or Security or other assurance in relation thereto including under any Transaction Security or Debt Documents.

1.10 Termination

Unless otherwise notified to the Security Agent by the Company in writing on or prior to the Final Discharge Date and subject to and without prejudice to Clause 19.28 (*Provisions Survive Termination*) and Clause 28.9 (*Provisions Survive Termination*), this Agreement shall terminate in full and cease to have any further effect on the Final Discharge Date.

2. RANKING AND PRIORITY

2.1 Creditor Liabilities

Each of the Parties agrees that the Liabilities owed by the Debtors to the Secured Parties shall rank in right and priority of payment *pari passu* and without any preference between them.

2.2 Transaction Security

Each of the Parties agrees that the Transaction Security (irrespective of whether the related Transaction Security Documents are themselves expressed to be first ranking or of any Lower Ranking Security) shall, subject to the terms of this Agreement, rank and secure the applicable Secured Obligations (but only to the extent that such Transaction Security is expressed to secure those Liabilities) in the following order:

- (a) first, the Senior Secured Creditor Liabilities *pari passu* and without any preference between them; and

(b) second, the Second Lien Liabilities *pari passu* and without any preference between them, in each case, as applicable, subject to Clause 16.1 (*Order of Application - Transaction Security*) and without prejudice to Clause 17 (*Equalisation*).

2.3 Unsecured Liabilities

This Agreement does not purport to rank any of the Unsecured Liabilities as between themselves.

2.4 Intra-Group Liabilities

- (a) Each of the Parties agrees that the Intra-Group Liabilities are postponed and subordinated to the Liabilities owed by the Debtors and the Third Party Security Providers to the Secured Parties.
- (b) This Agreement does not purport to rank any of the Intra-Group Liabilities as between themselves.

2.5 Subordinated Liabilities

- (a) Each of the Parties agrees that the Subordinated Liabilities are postponed and subordinated to the Liabilities owed by the Debtors and the Third Party Security Providers to the Secured Parties and the Subordinated Liabilities are postponed and subordinated to the Liabilities owed by the Debtors and the Third Party Security Providers to the Unsecured Creditors and the Intra-Group Lenders.
- (b) This Agreement does not purport to rank any of the Subordinated Liabilities as between themselves.

2.6 Additional and/or Refinancing Debt

The Creditors hereby acknowledge and agree that the Debtors (or any of them) shall be permitted, subject to Clause 18 (*New Debt Financings*), to:

- (a) incur or have incurred incremental Borrowing Liabilities and/or Guarantee Liabilities in respect of New Debt Financings including any incremental Borrowing Liabilities; and/or
- (b) refinance, replace or otherwise restructure (in whole or in part from time to time) Borrowing Liabilities (or any other liabilities and obligations subject to the terms of this Agreement from time to time) with the proceeds of such New Debt Financings and/or incur Guarantee Liabilities in respect of any such refinancing, replacement or restructuring of Borrowing Liabilities, Guarantee Liabilities and/or other liabilities, including by way of New Debt Financings,

which in any such case is intended to rank *pari passu* with or in priority to any existing Liabilities and/or share *pari passu* with or in priority to any existing Security and/or to rank behind any existing Liabilities and/or to share in any existing Security behind such existing Liabilities and each Party irrevocably consents and agrees that any such incurrence of indebtedness and the grant of applicable Security in relation thereto is permitted to be made by any member of the Group or Third Party Security Provider subject only to the conditions set out in Clause 18 (*New Debt Financings*) and notwithstanding anything else to the contrary in this Agreement or any other Debt Document, **provided that**, in all cases, such incurring, refinancing, replacing or restructuring of any indebtedness including any New Debt Financing and the grant of the applicable Security in relation thereto is not prohibited under the Finance Documents.

3. SUPER SENIOR CREDITORS AND SUPER SENIOR LIABILITIES

3.1 Payments of Super Senior Liabilities

The Debtors and the Third Party Security Providers may make Payments in respect of the Super Senior Liabilities at any time **provided that**, following the occurrence of a Super Senior Acceleration Event, a Senior Acceleration Event, a Senior Secured Notes Acceleration Event or an Insolvency Event, no Debtor or Third Party Security Provider may make Payments of the Super Senior Liabilities except from Recoveries distributed in accordance with Clause 16 (*Application of Proceeds*), **provided further that** after the Designation Date:

- (a) no such Payment received by a Super Senior Creditor shall be required to be turned over under Clause 10.2 (*Turnover by the Creditors*) other than to the extent required by paragraph (b) of Clause 10.2 (*Turnover by the Creditors*);
- (b) the Payments prohibited by this Clause 3.1 (*Payments of Super Senior Liabilities*) will remain owing by the relevant Debtor(s); and
- (c) nothing in this Clause 3.1 (*Payments of Super Senior Liabilities*) shall prevent a Super Senior Creditor from receiving a Payment of Super Senior Liabilities from a distribution or dividend out of a Debtor's assets which are not subject to Transaction Security (pro rata to each unsecured creditor's claim) made by a liquidator, receiver, administrative receiver, compulsory manager or other similar officer appointed in respect of any Debtor or any of its assets.

Any failure to make a Payment due under the Super Senior Finance Documents as a result of this Clause 3.1 (*Payments of Super Senior Liabilities*) shall not prevent the occurrence of an Event of Default as a consequence of that failure to make a Payment in relation to the relevant Super Senior Finance Document.

3.2 Amendments and Waivers

Subject to Clause 5.6 (*Amendments and Waivers: Hedging Agreements*), the Debtors and the Third Party Security Providers may amend or waive the terms of the Super Senior Finance Documents in accordance with their terms (and subject only to any consent required under them) at any time; and nothing in this Agreement or any other Debt Document shall restrict any amendments and waivers made or granted in accordance with Clause 18 (*New Debt Financings*).

3.3 Security and Guarantees: Super Senior Creditors

The Super Senior Creditors may take, accept or receive the benefit of:

- (a) any Security from any member of the Group or from a Third Party Security Provider in respect of the Super Senior Liabilities in addition to the Transaction Security if (except for any Security permitted by Clause 3.4 (*Security: Ancillary Lenders, Issuing Banks and Super Senior Cash Management Facility Lenders*) or the terms of the Finance Documents) and to the extent legally possible and subject to any Agreed Security Principles, at the same time it is also offered either:
 - (i) to the Security Agent as agent or trustee for the other Secured Parties (or applicable class thereof) in respect of their Liabilities; or
 - (ii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as agent or trustee for the Secured Parties (or applicable class thereof):

- (A) to the other Secured Parties (or applicable class thereof) in respect of their Liabilities; or
- (B) to the Security Agent under a parallel debt structure, joint and several creditor structure or agency structure for the benefit of the other Secured Parties (or applicable class thereof),

and ranks in the same order of priority as that contemplated in Clause 2.2 (*Transaction Security*), **provided that** all amounts received or recovered by any Super Senior Creditor with respect to such Security are immediately paid to the Security Agent and held and applied in accordance with Clause 16 (*Application of Proceeds*);

- (b) any guarantee, indemnity or other assurance against loss from any member of the Group or from a Third Party Security Provider in respect of the Super Senior Liabilities, in addition to those in:

- (i) the original form of Senior Facilities Agreement, any Permitted Senior Secured Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement, any Senior Secured Notes Indenture, any Super Senior Cash Management Facility Document or any Cash Management Facility Document;
- (ii) this Agreement; or
- (iii) any Common Assurance,

if (except for any guarantee, indemnity or other assurance against loss permitted under Clause 3.4 (*Security: Ancillary Lenders, Issuing Banks and Super Senior Cash Management Facility Lenders*) (or applicable class thereof) or the terms of the Finance Documents) and to the extent legally possible and subject to any Agreed Security Principles, the other Secured Parties (or applicable class thereof) already benefit from such a guarantee, indemnity or other assurance against loss or at the same time it is also offered to the other Secured Parties (or applicable class thereof) in respect of their Liabilities and ranks in the same order of priority as that contemplated in Clause 2 (*Ranking and Priority*); and

- (c) any Security, guarantee, indemnity or other assurance against loss from any member of the Group or any Third Party Security Provider:

- (i) in connection with any escrow or similar or equivalent arrangements entered into in respect of amounts which are being held (or will be held) by a person which is not a member of the Group prior to release of those amounts to a member of the Group;
- (ii) in connection with any actual or proposed defeasance, redemption, prepayment, repayment, purchase or other discharge of any Secured Liabilities (in each case, **provided that** such defeasance, redemption, prepayment, repayment, purchase or other discharge is not prohibited by the terms of this Agreement); or
- (iii) as otherwise permitted by another provision of this Agreement (including Clause 3.4 (*Security: Ancillary Lenders, Issuing Banks and Super Senior Cash Management Facility Lenders*), Clause 5.7 (*Security: Hedge Counterparties*) and Clause 18.4 (*Acquired Person or Asset*)).

3.4 Security: Ancillary Lenders, Issuing Banks and Super Senior Cash Management Facility Lenders

No Ancillary Lender, Issuing Bank (in each case, which is a Super Senior Creditor) or Super Senior Cash Management Facility Lender will, unless the prior consent of the Majority Super Senior Creditors under the applicable agreement is obtained, take, accept or receive from any member of the Group or, from a Third Party Security Provider the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities owed to it other than:

- (a) the Transaction Security;
- (b) each guarantee, indemnity or other assurance against loss contained in:
 - (i) the original form of the Senior Facilities Agreement or any substantially equivalent provision in a Permitted Senior Secured Facilities Agreement, Super Senior Cash Management Facility Document, or Permitted Super Senior Secured Facilities Agreement;
 - (ii) this Agreement; or
 - (iii) any Common Assurance;
- (c) guarantees, indemnities and assurances against loss contained in the Ancillary Documents no greater in extent than any of those referred to in paragraph (b) above;
- (d) guarantees, indemnities and assurances against loss contained in the Super Senior Cash Management Facility Finance Documents no greater in extent than any of those referred to in paragraph (b) above;
- (e) issued to the Issuing Bank or any SFA Cash Cover, in each case, permitted under the Senior Facilities Agreement or any Permitted Super Senior Secured Facilities Agreement or Permitted Senior Secured Facilities Agreement relating to any Ancillary Facility or for any Letter of Credit;
- (f) any Super Senior Cash Management Facility Cash Cover permitted under the Super Senior Cash Management Facility Finance Documents relating to any Super Senior Cash Management Facility or for any Super Senior Cash Management Facility LC issued by the Super Senior Cash Management Facility Lender;
- (g) the indemnities or any netting or set-off arrangement contained in an ISDA Master Agreement (in the case of a Hedging Ancillary Document which is based on an ISDA Master Agreement) or any indemnities or any netting or set-off arrangements which are similar in meaning and effect to those indemnities, netting or set-off arrangements (in the case of a Hedging Ancillary Document which is not based on an ISDA Master Agreement);
- (h) any Security, guarantee, indemnity or other assurance against loss giving effect to, or arising as a result of the effect of, any netting or set-off arrangement relating to the Ancillary Facilities for the purpose of netting debit and credit balances arising under the Ancillary Facilities;
- (i) any Security, guarantee, indemnity or other assurance against loss giving effect to, or arising as a result of the effect of, any netting or set-off arrangement relating to any Super Senior Cash Management Facility for the purpose of netting debit and credit balances arising under the Super Senior Cash Management Facilities; or

- (j) any Security, guarantee, indemnity or other assurance against loss permitted under Clause 3.3 (*Security and Guarantees: Super Senior Creditors*) or Clause 18.4 (*Acquired Person or Asset*).

3.5 Restriction on Enforcement: Super Senior Creditors

Subject to Clause 3.7 (*Permitted Enforcement: Super Senior Creditors*), Clause 3.8 (*Permitted Enforcement: Ancillary Lenders, Issuing Banks and Super Senior Cash Management Facility Lenders*) and Clause 5.9 (*Permitted Enforcement: Hedge Counterparties*), no Super Senior Creditor may take any Enforcement Action in respect of any of the Liabilities owed to it.

3.6 Restriction on Enforcement: Ancillary Lenders, Issuing Banks and Super Senior Cash Management Facility Lenders

Subject to Clause 3.8 (*Permitted Enforcement: Ancillary Lenders, Issuing Banks and Super Senior Cash Management Facility Lenders*) so long as any of the Super Senior Liabilities (other than any Liabilities owed to the Ancillary Lenders, Issuing Banks or the Super Senior Cash Management Facility Lenders) are or may be outstanding, none of the Ancillary Lenders, Issuing Banks or Super Senior Cash Management Facility Lenders shall be entitled to take any Enforcement Action in respect of any of the Liabilities owed to it.

3.7 Permitted Enforcement: Super Senior Creditors

- (a) The Majority Super Senior Creditors and/or Majority Super Senior Lenders may take any Enforcement Action available to them but for Clause 3.5 (*Restriction on Enforcement: Super Senior Creditors*) in respect of any of the Super Senior Liabilities owed to the Super Senior Creditors if at the same time, or prior to, that action:
 - (i) a Senior Acceleration Event or a Senior Secured Notes Acceleration Event has occurred in which case each Super Senior Creditor may take the same Enforcement Action (but in respect of the Super Senior Liabilities) as constitutes that Senior Acceleration Event or Senior Secured Notes Acceleration Event;
 - (ii) subject to paragraphs (b) and (c) below, while a Super Senior Material Event of Default is continuing, a Super Senior Agent has given notice (a "**Super Senior Enforcement Notice**") to the Security Agent specifying that a Super Senior Material Event of Default under the Super Senior Finance Documents in respect of which it is an agent has occurred and is continuing and:
 - (A) a period (a "**Super Senior Standstill Period**") of not less than:
 - (1) ninety (90) days in the case of a Super Senior Material Event of Default specified in sub-paragraph (a)(i) of the definition thereof;
 - (2) one hundred and twenty (120) days in the case of a Super Senior Material Event of Default specified in sub-paragraph (a)(vi) of the definition thereof; and
 - (3) one hundred and fifty (150) days in the case of any other Super Senior Material Event of Default,
- or, in relation to any Super Senior Liabilities, such longer period (if any) as agreed between the Company (in its discretion) and the Super Senior Agent in relation to such Super Senior Liabilities and notified to the Security Agent in each case which has elapsed from the date on which that Super Senior Enforcement Notice becomes effective in accordance with Clause 25.4 (*Delivery*);

- (B) no Enforcement Action has been taken by the Enhanced Pari Passu Creditors (or any person acting on their behalf);
 - (C) no Pari Passu Creditor has given a legally binding commitment to acquire all of the Super Senior Liabilities within ten (10) days of the date of such legally binding commitment in accordance with Clause 4.8 (*Option to Purchase: Pari Passu Creditors*); and
 - (D) that Super Senior Material Event of Default is continuing at the end of the Super Senior Standstill Period; or
- (iii) the Enhanced Majority Pari Passu Creditors have given their prior written consent; or
- (iv) an Insolvency Event has occurred, in which case after the occurrence of that Insolvency Event and subject to Clause 9.5 (*Filing of Claims*), and for so long as it is continuing, each Super Senior Creditor shall be entitled (if it has not already done so) to exercise any right it may have in respect of that Debtor, Material Company or Third Party Security Provider in respect of which the Insolvency Event has occurred to:
 - (A) accelerate any of that entity's Super Senior Liabilities owing to it or declare them prematurely due and payable on demand;
 - (B) make a demand under any guarantee, indemnity or other assurance against loss given by that entity in respect of any Super Senior Liabilities owing to it;
 - (C) exercise any right of set-off or take or receive any Payment in respect of any Super Senior Liabilities owing to it by that entity; or
 - (D) claim and prove in the liquidation of that entity for Super Senior Liabilities owing to it.
- (b) If the Security Agent (or any Receiver or Delegate appointed under any of the Transaction Security Documents) has given notice to the Super Senior Creditors that it has taken any Enforcement Action during a Super Senior Standstill Period, then no Super Senior Creditor may take any Enforcement Action (other than as permitted by sub-paragraphs (a)(i), (a)(iii) or (a)(iv) above) or instruct the Security Agent to enforce the Transaction Security unless:
 - (i) the Security Agent (or any such Receiver or Delegate) notifies the Super Senior Creditors (which it shall do promptly) that it has ceased to pursue such Enforcement Action and the requirements of paragraph (a)(ii) above (other than subparagraph (a)(ii)(B)) have been met; or
 - (ii) on the date on which the applicable Enforcement Realisation Period elapses;
 - (A) any Super Senior Material Event of Default is continuing at such time;
 - (B) no Pari Passu Creditor has given a legally binding commitment to acquire all of the Super Senior Liabilities within ten (10) days of the date of such legally binding commitment in accordance with Clause 4.8 (*Option to Purchase: Pari Passu Creditors (Following the Designation Date)*); and
 - (C) the Super Senior Discharge Date has not occurred by that date,

in which event the Security Agent shall take Enforcement Action and/or enforce the Transaction Security in such manner (including as to the selection of an administrator of any Debtor) as the Enhanced Majority Super Senior Creditors and/or Majority Super Senior Lenders shall instruct, **provided that**, to the extent any Enforcement Action taken by the Security Agent on the instructions of Enhanced Majority Pari Passu Creditors is ongoing at the time when the Enhanced Majority Super Senior Creditors and/or Majority Super Senior Lenders become entitled to take Enforcement Action in accordance with this sub-paragraph (ii), the Enhanced Majority Super Senior Creditors and/or Majority Super Senior Lenders shall not be entitled to instruct the Security Agent to cease that Enforcement Action (without the prior consent of the Enhanced Majority Pari Passu Creditors), save that the Enhanced Majority Super Senior Creditors and/or Majority Super Senior Lenders may take control of any enforcement process where their rights to instruct the Security Agent under this Clause (b) have been triggered.

- (c) The Enhanced Majority Super Senior Creditors and/or the Majority Super Senior Lenders prior to taking any proposed action to enforce the Transaction Security shall:
 - (i) consult with the other Senior Creditors in good faith for a period of not less than ten (10) Business Days (the "**Consultation Period**") in relation to the timing and manner of that Enforcement Action and it is agreed that the Consultation Period may commence during the Super Senior Standstill Period; and
 - (ii) provide such information as to the steps they propose to take in connection with that Enforcement Action as the other Senior Creditors (or any of them) may reasonably request during the Consultation Period,

provided that the obligation to so consult and provide information shall not apply or shall cease to apply if:

- (A) the Enhanced Majority Super Senior Creditors and/or Majority Super Senior Lenders determine in good faith that delaying the proposed Enforcement Action would have a material adverse effect on the amount of proceeds likely to be realised upon such Enforcement Action; or
 - (B) any Insolvency Event occurs.
- (d) If the Enhanced Majority Super Senior Creditors and/or Majority Super Senior Lenders are permitted to enforce following the expiry of the Super Senior Standstill Period under this Clause, but the Enhanced Majority Super Senior Creditors and/or Majority Super Senior Lenders have not given any instructions to the Security Agent to enforce the Transaction Security within thirty (30) days of the end of the Consultation Period (the "**Enforcement Expiry Date**"), the Security Agent may accept Enforcement Instructions from the Enhanced Majority Pari Passu Creditors and the Security Agent shall act in accordance with such instructions.

3.8 Permitted Enforcement: Ancillary Lenders, Issuing Banks and Super Senior Cash Management Facility Lenders

- (a) The Ancillary Lenders, the Issuing Banks and Super Senior Cash Management Facility Lenders may take Enforcement Action if:
 - (i) at the same time as, or prior to, that action, Enforcement Action has been taken in respect of the Super Senior Lender Liabilities (excluding the Liabilities owing to the Ancillary Lenders, the Issuing Banks and the Super Senior Cash Management Facility Lenders), in which case the Ancillary Lenders, the Issuing Banks and

Super Senior Cash Management Facility Lenders may take the same Enforcement Action as has been taken in respect of those Super Senior Lender Liabilities;

- (ii) that action is expressly contemplated by, and can be taken by the Ancillary Lenders, Issuing Banks and Super Senior Cash Management Facility Lenders under, the Senior Facilities Agreement or any Permitted Senior Secured Facilities Agreement or any Permitted Super Senior Secured Facilities Agreement (including under clause 9.4 (*Repayment of Ancillary Facility or Fronted Ancillary Facility*) of the Senior Facilities Agreement or any substantially equivalent provision in any Permitted Senior Secured Facilities Agreement or any Permitted Super Senior Secured Facilities Agreement (as the context requires)) or Clause 4.4 (*Security: Ancillary Lenders, Issuing Banks and Cash Management Facility Lenders*);
 - (iii) that Enforcement Action is taken in respect of SFA Cash Cover which has been provided in accordance with the Senior Facilities Agreement or any Permitted Senior Secured Facilities Agreement or any Permitted Super Senior Secured Facilities Agreement (as the context requires);
 - (iv) the Enforcement Action is taken in respect of Super Senior Cash Management Facility Cash Cover which has been provided in accordance with the relevant Super Senior Cash Management Facility Document;
 - (v) at the same time as or prior to that action, the consent of the applicable Majority Senior Lenders for that Enforcement Action is obtained; or
 - (vi) to the extent permitted under applicable law, an Insolvency Event has occurred, in which case after the occurrence of that Insolvency Event, each Ancillary Lender, each Issuing Bank and each Super Senior Cash Management Facility Creditor shall be entitled (if it has not already done so) to exercise any right it may otherwise have in respect of the relevant Obligor, Material Company or Third Party Security Provider to:
 - (A) accelerate any of that Obligor's, Material Company's or Third Party Security Provider's Super Senior Lender Liabilities and/or Super Senior Cash Management Facility Liabilities (as the context requires) or declare them prematurely due and payable on demand;
 - (B) make a demand under any guarantee, indemnity or other assurance against loss given by that Obligor, Material Company or Third Party Security Provider in respect of any Super Senior Lender Liabilities and/or Super Senior Cash Management Facility Liabilities (as the context requires);
 - (C) exercise any right of set-off or take or receive any Payment in respect of any Super Senior Lender Liabilities and/or Super Senior Cash Management Facility Liabilities (as the context requires) of that Obligor, Material Company or Third Party Security Provider; or
 - (D) claim and prove in the liquidation, administration or other insolvency proceedings of that Obligor, Material Company or Third Party Security Provider for the Super Senior Lender Liabilities and/or Super Senior Cash Management Facility Liabilities (as the context requires) owing to it.
- (b) Clause 3.6 (*Restriction on Enforcement: Ancillary Lenders, Issuing Banks and Super Senior Cash Management Facility Lenders*) shall not restrict any right of an Ancillary Lender or Super Senior Cash Management Facility Creditor (as the context requires) to net or set-off in relation to an Ancillary Facility or Super Senior Cash Management Facility which is a multi-account overdraft facility, to the extent permitted by and in accordance

with the terms of the Senior Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement, any Permitted Senior Secured Facilities Agreement or any Super Senior Cash Management Facility Document.

3.9 Super Senior Cash Management Guarantee

Each Super Senior Cash Management Facility Guarantor agrees it will be bound by the obligations set out in Schedule 9 (*Super Senior Cash Management Facility Creditors' Guarantee and Indemnity*) unless (i) a substantially similar guarantee is contained in the relevant Super Senior Cash Management Facility Documents or (ii) otherwise elected by the Company by notice in writing to the Security Agent and the Super Senior Cash Management Facility Lenders under that Super Senior Cash Management Facility (or the relevant Super Senior Cash Management Facility Agent on their behalf, if appointed).

3.10 Ancillary Lenders and Issuing Banks as Super Senior Creditors

For the avoidance of doubt, the provisions of this Clause 3 (*Super Senior Creditors and Super Senior Liabilities*) insofar as they relate to Ancillary Lenders and Issuing Banks shall only apply to restrict or, as the case may be, permit the actions of any Issuing Bank or Ancillary Lender where the underlying Liabilities owed to that Issuing Bank or Ancillary Lender are Super Senior Liabilities.

4. PARI PASSU CREDITOR AND PARI PASSU CREDITOR LIABILITIES

4.1 Payments of Pari Passu Creditor Liabilities

The Debtors and the Third Party Security Providers may make Payments in respect of the Pari Passu Creditor Liabilities at any time **provided that**, following the occurrence of a Super Senior Acceleration Event, a Senior Acceleration Event, a Senior Secured Notes Acceleration Event or an Insolvency Event, no Debtor or Third Party Security Provider may make Payments of the Pari Passu Creditor Liabilities except from Recoveries distributed in accordance with Clause 16 (*Application of Proceeds*), **provided further that**:

- (a) no such Payment received by a Pari Passu Creditor shall be required to be turned over under Clause 10.2 (*Turnover by the Creditors*) other than to the extent required by paragraph (b) of Clause 10.2 (*Turnover by the Creditors*);
- (b) the Payments prohibited by this Clause 4.1 (*Payments of Pari Passu Creditor Liabilities*) will remain owing by the relevant Debtor(s); and
- (c) nothing in this Clause 4.1 (*Payments of Pari Passu Creditor Liabilities*) shall prevent a Pari Passu Creditor from receiving a Payment of Pari Passu Creditor Liabilities from a distribution or dividend out of a Debtor's assets which are not subject to Transaction Security (pro rata to each unsecured creditor's claim) made by a liquidator, receiver, administrative receiver, compulsory manager or other similar officer appointed in respect of any Debtor or any of its assets.

Any failure to make a Payment due under the Pari Passu Finance Documents as a result of this Clause 4.1 (*Payments of Pari Passu Creditor Liabilities*) shall not prevent the occurrence of an Event of Default as a consequence of that failure to make a Payment in relation to the relevant Pari Passu Finance Document.

4.2 Amendments and Waivers

Subject to Clause 5.6 (*Amendments and Waivers: Hedging Agreements*), the Debtors and the Third Party Security Providers may amend or waive the terms of the Senior Secured Finance Documents in accordance with their terms (and subject only to any consent required under them) at any time;

and nothing in this Agreement or any other Debt Document shall restrict any amendments and waivers made or granted in accordance with Clause 18 (*New Debt Financings*).

4.3 Security and Guarantees: Pari Passu Creditors

The Pari Passu Creditors may only take, accept or receive the benefit of:

- (a) any Security from any member of the Group or from a Third Party Security Provider in respect of the Pari Passu Creditor Liabilities in addition to the Transaction Security if (except for any Security permitted by Clause 4.4 (*Security: Ancillary Lenders, Issuing Banks and Cash Management Facility Lenders*) or the terms of the Finance Documents) and to the extent legally possible and subject to any Agreed Security Principles, at the same time it is also offered either:
 - (i) to the Security Agent as agent or trustee for the other Secured Parties (or applicable class thereof) in respect of their Liabilities; or
 - (ii) in the case of any jurisdiction in which effective Security cannot be (or is not) granted in favour of the Security Agent as agent or trustee for the Secured Parties (or applicable class thereof):
 - (A) to the other Secured Parties (or applicable class thereof) in respect of their Liabilities; or
 - (B) to the Security Agent under a parallel debt structure, joint and several creditor structure or agency structure for the benefit of the other Secured Parties (or applicable class thereof),

and ranks in the same order of priority as that contemplated in Clause 2.2 (*Transaction Security*), **provided that** all amounts received or recovered by any Pari Passu Creditor with respect to such Security are immediately paid to the Security Agent and held and applied in accordance with Clause 16 (*Application of Proceeds*);
- (b) any guarantee, indemnity or other assurance against loss from any member of the Group or from a Third Party Security Provider in respect of the Pari Passu Creditor Liabilities, in addition to those in:
 - (i) the original form of Senior Facilities Agreement, any Permitted Senior Secured Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement, any Senior Secured Notes Indenture or any Cash Management Facility Document;
 - (ii) this Agreement; or
 - (iii) any Common Assurance,

if (except for any guarantee, indemnity or other assurance against loss permitted under Clause 4.4 (*Security: Ancillary Lenders, Issuing Banks and Cash Management Facility Lenders*) (or applicable class thereof) or the terms of the Finance Documents) and to the extent legally possible and subject to any Agreed Security Principles, the other Secured Parties (or applicable class thereof) already benefit from such a guarantee, indemnity or other assurance against loss or at the same time it is also offered to the other Secured Parties (or applicable class thereof) in respect of their Liabilities and ranks in the same order of priority as that contemplated in Clause 2 (*Ranking and Priority*); and
- (c) any Security, guarantee, indemnity or other assurance against loss from any member of the Group or a Third Party Security Provider:

- (i) in connection with any escrow or similar or equivalent arrangements entered into in respect of amounts which are being held (or will be held) by a person which is not a member of the Group prior to release of those amounts to a member of the Group;
- (ii) in connection with any actual or proposed defeasance, redemption, prepayment, repayment, purchase or other discharge of any Secured Liabilities (in each case, **provided that** such defeasance, redemption, prepayment, repayment, purchase or other discharge is not prohibited by the terms of this Agreement); or
- (iii) as otherwise permitted by another provision of this Agreement (including Clause 4.4 (*Security: Ancillary Lenders, Issuing Banks and Cash Management Facility Lenders*), Clause 5.7 (*Security: Hedge Counterparties*) and Clause 18.4 (*Acquired Person or Asset*)).

4.4 Security: Ancillary Lenders, Issuing Banks and Cash Management Facility Lenders

No Ancillary Lender, Issuing Bank or Cash Management Facility Lender will, unless the prior consent of the Majority Senior Lenders under the applicable agreement is obtained, take, accept or receive from any member of the Group or, from a Third Party Security Provider the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities owed to it other than:

- (a) the Transaction Security;
- (b) each guarantee, indemnity or other assurance against loss contained in:
 - (i) the original form of Senior Facilities Agreement or any substantially equivalent provision in a Permitted Senior Secured Facilities Agreement or Cash Management Facility Document;
 - (ii) this Agreement; or
 - (iii) any Common Assurance;
- (c) guarantees, indemnities and assurances against loss contained in the Ancillary Documents no greater in extent than any of those referred to in paragraph (b) above;
- (d) guarantees, indemnities and assurances against loss contained in the Cash Management Facility Finance Documents no greater in extent than any of those referred to in paragraph (b) above;
- (e) issued to the Issuing Bank or any SFA Cash Cover, in each case, permitted under the Senior Facilities Agreement or any Permitted Senior Secured Facilities Agreement relating to any Ancillary Facility or for any Letter of Credit;
- (f) any Cash Management Facility Cash Cover permitted under the Cash Management Facility Finance Documents relating to any Cash Management Facility or for any Cash Management Facility LC issued by the Cash Management Facility Lender;
- (g) the indemnities or any netting or set-off arrangement contained in an ISDA Master Agreement (in the case of a Hedging Ancillary Document which is based on an ISDA Master Agreement) or any indemnities or any netting or set-off arrangements which are similar in meaning and effect to those indemnities, netting or set-off arrangements (in the case of a Hedging Ancillary Document which is not based on an ISDA Master Agreement);

- (h) any Security, guarantee, indemnity or other assurance against loss giving effect to, or arising as a result of the effect of, any netting or set-off arrangement relating to the Ancillary Facilities for the purpose of netting debit and credit balances arising under the Ancillary Facilities;
- (i) any Security, guarantee, indemnity or other assurance against loss giving effect to, or arising as a result of the effect of, any netting or set-off arrangement relating to any Cash Management Facility for the purpose of netting debit and credit balances arising under the Cash Management Facilities; or
- (j) any Security, guarantee, indemnity or other assurance against loss permitted under Clause 4.3 (*Security and Guarantees: Pari Passu Creditors*) or Clause 18.4 (*Acquired Person or Asset*).

4.5 Restriction on Enforcement: Senior Lenders and Senior Secured Notes Creditors

No Pari Passu Creditor may take any Enforcement Action under paragraphs (c), (d) or (e) of that definition without the prior written consent of an Instructing Group.

4.6 Restriction on Enforcement: Ancillary Lenders, Issuing Banks and Cash Management Facility Lenders

Subject to Clause 3.8 (*Permitted Enforcement: Ancillary Lenders, Issuing Banks and Super Senior Cash Management Facility Lenders*), so long as any of the Senior Liabilities (other than any Liabilities owed to the Ancillary Lenders, Issuing Banks or the Cash Management Facility Lenders) are or may be outstanding, neither the Ancillary Lenders, the Issuing Banks, nor the Cash Management Facility Creditors shall be entitled to take any Enforcement Action in respect of any of the Liabilities owed to it.

4.7 Permitted Enforcement: Ancillary Lenders, Issuing Banks and Cash Management Facility Lenders

- (a) The Ancillary Lenders, Issuing Banks and Cash Management Facility Lenders may take Enforcement Action if:
 - (i) at the same time as, or prior to, that action, Enforcement Action has been taken in respect of the Senior Lender Liabilities (excluding the Liabilities owing to Ancillary Lenders, the Issuing Banks and Cash Management Facility Lenders), in which case the Ancillary Lenders, the Issuing Banks and the Cash Management Facility Creditors may take the same Enforcement Action as has been taken in respect of those Senior Lender Liabilities;
 - (ii) that action is expressly contemplated by, and can be taken by the Ancillary Lenders and Issuing Banks under, the Senior Facilities Agreement or any Permitted Senior Secured Facilities Agreement (including under clause 9.4 (*Repayment of Ancillary Facility or Fronted Ancillary Facility*) of the Senior Facilities Agreement or any substantially equivalent provision in any Permitted Senior Secured Facilities Agreement or any Permitted Super Senior Secured Facilities Agreement (as the context requires)) or Clause 4.4 (*Security: Ancillary Lenders, Issuing Banks and Cash Management Facility Lenders*);
 - (iii) the action is expressly contemplated by, and can be taken by the Cash Management Facility Creditors under Clause 4.4 (*Security: Ancillary Lenders, Issuing Banks and Cash Management Facility Lenders*);

- (iv) that Enforcement Action is taken in respect of SFA Cash Cover which has been provided in accordance with the Senior Facilities Agreement or any Permitted Senior Secured Facilities Agreement (as the context requires);
- (v) that Enforcement Action is taken in respect of Cash Management Facility Cash Cover which has been provided in accordance with the relevant Cash Management Facility Document;
- (vi) at the same time as or prior to that action, the consent of the applicable Majority Senior Lenders for that Enforcement Action is obtained; or
- (vii) to the extent permitted under applicable law, an Insolvency Event has occurred, in which case after the occurrence of that Insolvency Event, each Ancillary Lender, each Issuing Bank and each Cash Management Facility Creditor shall be entitled (if it has not already done so) to exercise any right it may otherwise have in respect of the relevant Debtor, Material Company or Third Party Security Provider to:
 - (A) accelerate any of that Obligor's, Material Company's or Third Party Security Provider's Senior Lender Liabilities and/or Cash Management Facility Liabilities (as the context requires) or declare them prematurely due and payable on demand;
 - (B) make a demand under any guarantee, indemnity or other assurance against loss given by that Obligor, Material Company or Third Party Security Provider in respect of any Senior Lender Liabilities and/or Cash Management Facility Liabilities (as the context requires);
 - (C) exercise any right of set-off or take or receive any Payment in respect of any Senior Lender Liabilities and/or Cash Management Facility Liabilities (as the context requires) of that Obligor, Material Company or Third Party Security Provider; or
 - (D) claim and prove in the liquidation, administration or other insolvency proceedings of that Obligor, Material Company or Third Party Security Provider for the Senior Lender Liabilities and/or Cash Management Facility Liabilities (as the context requires) owing to it.
- (b) Clause 4.6 (*Restriction on Enforcement: Ancillary Lenders, Issuing Banks and Cash Management Facility Lenders*) shall not restrict any right of an Ancillary Lender or Cash Management Facility Creditor (as the context requires) to net or set-off in relation to an Ancillary Facility or Cash Management Facility which is a multi-account overdraft facility, to the extent permitted by and in accordance with the terms of the Senior Facilities Agreement, any Permitted Senior Secured Facilities Agreement or Cash Management Facility Document (as the context requires).

4.8 Option to Purchase: Pari Passu Creditors

- (a) On or after the Designation Date and subject to paragraphs (b) and (c) below, a Senior Agent and/or a Senior Secured Notes Trustee (on behalf of one or more of the Pari Passu Creditors) (the "**Purchasing Pari Passu Creditors**") may after the occurrence of an Event of Default that is continuing, by giving not less than ten (10) days' prior written notice to the Security Agent, require the transfer to the Purchasing Pari Passu Creditors (or to a nominee or nominees), in accordance with Clause 21.2 (*Change of Secured Creditors*), of all, but not part, of the rights, benefits and obligations in respect of the Super Senior Lender Liabilities and the Super Senior Cash Management Facility Liabilities if:

- (i) that transfer is lawful and subject to paragraph (ii) below, otherwise permitted by the terms of each Permitted Super Senior Secured Facilities Agreement and the facility agreement or indenture within the definition of Super Senior Cash Management Facility Documents (in the case of the Super Senior Cash Management Facility Liabilities), as applicable;
- (ii) any conditions relating to such a transfer contained in each Permitted Super Senior Secured Facilities Agreement, as applicable and the facility agreement or indenture within the definition of Super Senior Cash Management Facility Documents (in the case of the Super Senior Cash Management Facility Liabilities), are complied with, other than:
 - (A) any requirement to obtain the consent of, or consult with, any Debtor, Third Party Security Provider or other member of the Group relating to such transfer, which consent or consultation shall not be required; and
 - (B) to the extent the Purchasing Pari Passu Creditors (acting as a whole) provide cash cover for any Letter of Credit or Super Senior Cash Management Facility LC, the consent of the Relevant Issuing Bank relating to such transfer;
- (iii) the Super Senior Agent, on behalf of the Super Senior Lenders, is paid an amount equal to the aggregate of:
 - (A) any amounts provided as cash cover by the Purchasing Pari Passu Creditors for any Letter of Credit (as envisaged in paragraph (ii)(B) above as applicable);
 - (B) all of the Super Senior Lender Liabilities at that time (whether or not due), including all amounts that would have been payable under each Permitted Super Senior Secured Facilities Agreement if the Super Senior Facilities were being prepaid by the relevant Debtors on the date of that payment; and
 - (C) all costs and expenses (including legal fees) incurred by the Super Senior Agent and/or the Super Senior Lenders as a consequence of giving effect to that transfer;
- (iv) each Super Senior Cash Management Facility Lender is paid an amount equal to the aggregate of:
 - (A) any amounts provided as cash cover by the Purchasing Pari Passu Creditors for any Super Senior Cash Management Facility LC (as envisaged in paragraph (ii)(B) above, as applicable);
 - (B) all of the Super Senior Cash Management Facility Liabilities at that time (whether or not due), including all amounts that would have been payable under the Super Senior Cash Management Facility Documents if the relevant Super Senior Cash Management Facilities were being prepaid by the relevant Debtors on the date of that payment; and
 - (C) all costs and expenses (including legal fees) incurred by the Super Senior Cash Management Facility Lenders as a consequence of giving effect to that transfer;

- (v) as a result of that transfer the Super Senior Lenders and the Super Senior Cash Management Facility Lenders have no further actual or contingent liability to any Debtor under the Super Senior Finance Documents;
 - (vi) an indemnity is provided from (or on behalf of) the Purchasing Pari Passu Creditors (but, for the avoidance of doubt, this does not include a Senior Secured Notes Trustee) (or from another third party acceptable to all the Super Senior Lenders and Super Senior Cash Management Facility Lenders) in a form reasonably satisfactory to each Super Senior Lender and Super Senior Cash Management Facility Lender in respect of all losses which may be sustained or incurred by each Super Senior Lender and Super Senior Cash Management Facility Lender in consequence of any sum received or recovered by any Super Senior Lender and Super Senior Cash Management Facility Lender from any person being required (or it being alleged that it is required) to be paid back by or clawed back from any Super Senior Lender and Super Senior Cash Management Facility Lender for any reason; and
 - (vii) the transfer is made without recourse to, or representation or warranty from, the Super Senior Lenders or the Super Senior Cash Management Facility Lender.
- (b) If more than one Purchasing Pari Passu Creditor wishes to exercise the option to purchase the Super Senior Lender Liabilities and the Super Senior Cash Management Facility Liabilities in accordance with paragraph (a) above, each such Purchasing Pari Passu Creditor shall acquire the Super Senior Lender Liabilities and the Super Senior Cash Management Facility Liabilities pro rata, in the proportion that its Credit Participation bears to the aggregate Credit Participations of all the Purchasing Pari Passu Creditors. Any Purchasing Pari Passu Creditors wishing to exercise the option to purchase the Super Senior Lender Liabilities and the Super Senior Cash Management Facility Liabilities shall inform the Senior Creditor Representatives in accordance with the terms of the Pari Passu Finance Documents, who will determine (consulting with each other as required) the appropriate share of the Super Senior Lender Liabilities and the Super Senior Cash Management Facility Liabilities to be acquired by each such Purchasing Pari Passu Creditor and who shall inform each such Purchasing Pari Passu Creditor accordingly. Furthermore, the Senior Creditor Representative(s) (as applicable) shall promptly inform the Super Senior Agent and the relevant Hedge Counterparties of the Purchasing Pari Passu Creditors' intention to exercise the option to purchase the Super Senior Lender Liabilities and the Super Senior Cash Management Facility Liabilities.
- (c) At the request of the Senior Creditor Representative(s) (on behalf of all the Purchasing Pari Passu Creditors) the Super Senior Agent shall notify the Purchasing Pari Passu Creditors of:
- (i) the sum of the amounts described in paragraphs (a)(iii)(B) and (a)(iii)(C) above; and
 - (ii) the amount of each Letter of Credit for which cash cover is to be provided by all the Purchasing Pari Passu Creditors (acting as a whole).
- (d) Each Super Senior Cash Management Facility Lender shall notify the Purchasing Pari Passu Creditors of:
- (i) the sum of the amounts described in paragraphs (a)(iv)(B) and (a)(iv)(C) and above; and
 - (ii) the amount of each Super Senior Cash Management Facility LC for which cash cover is to be provided by all the Purchasing Second Lien Creditors (acting as a whole).

4.9 Super Senior Hedge Transfer: Pari Passu Creditors

- (a) On or after the Designation Date, the Senior Creditor Representative (on behalf of the Purchasing Pari Passu Creditors, acting as a whole) may, by giving not less than ten (10) days' prior written notice to the Security Agent, require a Super Senior Hedge Transfer:
- (i) if either:
 - (A) the Purchasing Pari Passu Creditors require, at the same time, a Super Senior Liabilities Transfer under Clause 4.8 (*Option to Purchase: Pari Passu Creditors*); or
 - (B) all the Purchasing Pari Passu Creditors require that Super Senior Hedge Transfer at any time on or after the later of the Senior Lender Discharge Date, the Super Senior Discharge Date and the Cash Management Facility Discharge Date; and
 - (ii) if:
 - (A) that transfer is lawful and otherwise permitted by the terms of the Hedging Agreements in which case no Debtor, Third Party Security Provider or other member of the Group shall be entitled to withhold its consent to that transfer;
 - (B) any conditions (other than the consent of, or any consultation with, any Debtor, Third Party Security Provider or other member of the Group) relating to that transfer contained in the Hedging Agreements are complied with;
 - (C) each Super Senior Hedge Counterparty is paid (in the case of a positive number) or pays (in the case of a negative number) an amount equal to the aggregate of (1) the Hedging Purchase Amount in respect of the hedging transactions under the relevant Hedging Agreement at that time and (2) all costs and expenses (including legal fees) incurred as a consequence of giving effect to that transfer;
 - (D) as a result of that transfer, the Super Senior Hedge Counterparties have no further actual or contingent liability to any Debtor under the Hedging Agreements;
 - (E) an indemnity is provided from (or on behalf of) the Purchasing Pari Passu Creditors (but for the avoidance of doubt this does not include a Senior Secured Notes Trustee) which is receiving (or for which a nominee is receiving) that transfer (or from another third party acceptable to the relevant Super Senior Hedge Counterparty) in a form reasonably satisfactory to the relevant Super Senior Hedge Counterparty in respect of all losses which may be sustained or incurred by that Super Senior Hedge Counterparty in consequence of any sum received or recovered by that Super Senior Hedge Counterparty being required (or it being alleged that it is required) to be paid back by or clawed back from the Super Senior Hedge Counterparty for any reason; and
 - (F) that transfer is made without recourse to, or representation or warranty from, the relevant Super Senior Hedge Counterparty, except that the relevant Super Senior Hedge Counterparty shall be deemed to have represented and warranted on the date of that transfer that it has the

corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer.

- (b) A Senior Creditor Representative (acting on behalf of the Purchasing Pari Passu Creditors) and any Super Senior Hedge Counterparty may agree (in respect of the Hedging Agreements (or one or more of them) to which that Super Senior Hedge Counterparty is a party) that a Super Senior Hedge Transfer required by the Purchasing Pari Passu Creditors pursuant to paragraph (a) above shall not apply to that Hedging Agreement(s) or to the Super Senior Hedging Liabilities and Hedge Counterparty Obligations under that Hedging Agreement(s).
- (c) If a Senior Creditor Representative is entitled to require a Super Senior Hedge Transfer under this Clause 4.9 (*Super Senior Hedge Transfer: Pari Passu Creditors*), the Super Senior Hedge Counterparties shall, at the request of the relevant Senior Creditor Representative, provide details of the amounts referred to in paragraph (a)(ii)(C) above.

4.10 Cash Management Guarantee

Each Cash Management Facility Guarantor agrees it will be bound by the obligations set out in Schedule 8 (*Cash Management Facility Creditors' Guarantee and Indemnity*) unless (i) a substantially similar guarantee is contained in the relevant Cash Management Facility Documents or (ii) otherwise elected by the Company by notice in writing to the Security Agent and the Cash Management Facility Lenders under that Cash Management Facility (or the relevant Cash Management Facility Agent on their behalf, if appointed).

4.11 Issuing Banks and Ancillary Lenders as Pari Passu Creditors

For the avoidance of doubt, the provisions of this Clause 4 (*Pari Passu Creditor and Pari Passu Creditor Liabilities*) insofar as they relate to Issuing Banks and Ancillary Lenders shall only apply to restrict or, as the case may be, permit the actions of any Issuing Bank or Ancillary Lender where the underlying Liabilities owed to that Issuing Bank or Ancillary Lender are Pari Passu Liabilities.

5. HEDGE COUNTERPARTIES AND HEDGING LIABILITIES

5.1 Identity of Hedge Counterparties

- (a) Subject to paragraph (b) below, no person providing hedging arrangements to any Debtor shall be entitled to share in any of the Transaction Security or in the benefit of any guarantee or indemnity from any member of the Group or Third Party Security Provider in respect of any of the liabilities arising in relation to those hedging arrangements, nor shall those liabilities be treated as Hedging Liabilities unless that person is or becomes a Party as a Hedge Counterparty.
- (b) Paragraph (a) above shall not apply to a Hedging Ancillary Lender.

5.2 Restriction on Payment: Hedging Liabilities

Prior to the later of (a) the Senior Lender Discharge Date and (b) the Senior Secured Notes Discharge Date, neither the Debtors nor the Third Party Security Providers shall, and each shall procure that no other member of the Group will, make any Payment of the Hedging Liabilities at any time unless:

- (a) that Payment is permitted under Clause 5.3 (*Permitted Payments: Hedging Liabilities*); or
- (b) the taking or receipt of that Payment is permitted under paragraph (c) of Clause 5.9 (*Permitted Enforcement: Hedge Counterparties*).

5.3 Permitted Payments: Hedging Liabilities

- (a) Subject to paragraph (b) below, the Debtors, the members of the Group and the Third Party Security Providers shall have the right to make Payments to any Hedge Counterparty in respect of the Hedging Liabilities then due to that Hedge Counterparty under any Hedging Agreement in accordance with the terms of that Hedging Agreement:
 - (i) if the Payment is a scheduled Payment arising under the relevant Hedging Agreement (or another ordinary course payment under a Hedging Agreement, including any payment in relation to fees, costs and expenses);
 - (ii) to the extent that the relevant Debtor's obligation to make the Payment arises as a result of the operation of:
 - (A) any of sections 2(d) (*Deduction or Withholding for Tax*), 2(e) (*Default Interest; Other Amounts*), 8(a) (*Payment in the Contractual Currency*), 8(b) (*Judgments*) and 11 (*Expenses*) of the 1992 ISDA Master Agreement (if the Hedging Agreement is based on a 1992 ISDA Master Agreement);
 - (B) any of sections 2(d) (*Deduction or Withholding for Tax*), 8(a) (*Payment in the Contractual Currency*), 8(b) (*Judgments*), 9(h)(i) (*Prior to Early Termination*) and 11 (*Expenses*) of the 2002 ISDA Master Agreement (if the relevant Hedging Agreement is based on a 2002 ISDA Master Agreement); or
 - (C) any provision of a Hedging Agreement which is similar in meaning and effect to any provision listed in paragraphs (A) or (B) above (if that Hedging Agreement is not based on an ISDA Master Agreement);
 - (iii) to the extent that the relevant Debtor's obligation to make the Payment arises from a Non-Credit Related Close-Out, or that Payment is made at any time prior to a Senior Acceleration Event or a Senior Secured Notes Acceleration Event;
 - (iv) to the extent that:
 - (A) the relevant Debtor's obligation to make the Payment arises from a Credit Related Close-Out in relation to that Hedging Agreement; and
 - (B) no Senior Event of Default, Super Senior Event of Default or Senior Secured Notes Event of Default is continuing at the time of that Payment;
 - (v) if the Payment is a Payment pursuant to Clause 16.1 (*Order of Application - Transaction Security*);
 - (vi) subject to Clause 5.13 (*On or After Senior Lender Discharge Date/Senior Secured Notes Discharge Date*), if the Majority Pari Passu Creditors and Majority Super Senior Creditors give prior consent to the Payment being made; or
 - (vii) if, at any time prior to a Distress Event, the Payment arises directly or indirectly as a result of any close-out, termination or other similar or equivalent action by a member of the Group **provided that**, if applicable, the Company has certified to the relevant Hedge Counterparty that the termination or close-out would not result in a breach of any minimum hedging requirements under any Finance Documents.

- (b) No Payment may be made to a Hedge Counterparty under paragraph (a) above if:
 - (i) any scheduled Payment due from that Hedge Counterparty to a Debtor under a Hedging Agreement to which they are both party is due and unpaid; or
 - (ii) a Super Senior Acceleration Event, a Senior Acceleration Event, a Senior Secured Notes Acceleration Event, a Super Senior Cash Management Facility Acceleration Event, Cash Management Facility Acceleration Event or an Insolvency Event has occurred except from Recoveries distributed in accordance with Clause 16 (*Application of Proceeds*),

unless the consent of the Majority Pari Passu Creditors and Majority Super Senior Creditors is obtained.
- (c) Failure by a Debtor or Third Party Security Provider to make a Payment to a Hedge Counterparty which results solely from the operation of paragraph (b) above shall, without prejudice to Clause 5.4 (*Payment Obligations Continue*), not result in a default (however described) in respect of that Debtor or Third Party Security Provider under that Hedging Agreement or any other Senior Secured Finance Document, Second Lien Finance Document or Unsecured Finance Document (as applicable).
- (d) Nothing in this Agreement obliges a Hedge Counterparty to make a payment to a Debtor under a Hedging Agreement to which they are both party if any scheduled Payment due from that Debtor to the Hedge Counterparty under that Hedging Agreement is due and unpaid. For the avoidance of doubt, this provision shall not affect any Payment which is due from a Hedge Counterparty to a Debtor as a result of a Hedging Agreement to which they are both a party being terminated or closed-out.

5.4 Payment Obligations Continue

No Debtor or Third Party Security Provider shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Clause 5.2 (*Restriction on Payment: Hedging Liabilities*) and Clause 5.3 (*Permitted Payments: Hedging Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of either of those Clauses.

5.5 No Acquisition of Hedging Liabilities

Without prejudice to Clause 5.6 (*Amendments and Waivers: Hedging Agreements*), neither the Third Party Security Provider nor the Debtors shall, and each shall procure that no other member of the Group will:

- (a) enter into any Liabilities Acquisition; or
- (b) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in each case pursuant to which payment is made by a member of the Group to a person which is not a member of the Group in respect of Hedging Liabilities, unless:

- (i) subject to Clause 5.13 (*On or After Senior Lender Discharge Date/Senior Secured Notes Discharge Date*), the prior consent of the Majority Pari Passu Creditors and the Majority Super Senior Creditors is obtained; or
- (ii) the relevant Liabilities Acquisition relates to Hedging Liabilities (or rights, benefits and/or obligations in relation thereto) in respect of which a Payment could be made under Clause 5.3 (*Permitted Payments: Hedging Liabilities*).

5.6 Amendments and Waivers: Hedging Agreements

- (a) Subject to paragraph (b) below, the Hedge Counterparties may not, at any time, amend or waive any term of the Hedging Agreements.
- (b) A Hedge Counterparty may amend or waive any term of a Hedging Agreement in accordance with the terms of that Hedging Agreement if that amendment or waiver gives rise to an obligation which if satisfied would not result in a breach of another term of this Agreement.

5.7 Security: Hedge Counterparties

The Hedge Counterparties may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss from any member of the Group or Third Party Security Provider in respect of the Hedging Liabilities other than:

- (a) the Transaction Security;
- (b) any guarantee, indemnity or other assurance against loss contained in:
 - (i) the original form of Schedule 7 (*Hedge Counterparties' Guarantee and Indemnity*) or any substantially equivalent provision in a Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement (as the context requires);
 - (ii) this Agreement (other than Schedule 7 (*Hedge Counterparties' Guarantee and Indemnity*));
 - (iii) any Common Assurance; or
 - (iv) the relevant Hedging Agreement (**provided that** any such guarantee, indemnity or other assurance against loss is no greater in extent than any of those referred to in paragraphs (i) to (iii) above, ignoring for this purpose any limitations applicable to any guarantee, indemnity or other assurance referred to in paragraphs (i) to (iii) above);
- (c) to the extent such Security, guarantee, indemnity or other assurance against loss has (or could have) been granted in compliance with or is as otherwise contemplated by Clause 3.3 (*Security and Guarantees: Super Senior Creditors*) or Clause 18.4 (*Acquired Person or Asset*); and
- (d) the indemnities contained in the ISDA Master Agreements (in the case of a Hedging Agreement which is based on an ISDA Master Agreement) or any indemnities which, in terms of the rights to which they give rise, are similar to those indemnities (in the case of a Hedging Agreement which is not based on an ISDA Master Agreement).

No Security, guarantee, indemnity or other assurance against loss shall be granted by any member of the Group or Third Party Security Provider in respect of Excluded Swap Obligations.

5.8 Restriction on Enforcement: Hedge Counterparties

Subject to Clause 5.9 (*Permitted Enforcement: Hedge Counterparties*) and Clause 5.10 (*Required Enforcement: Hedge Counterparties*) and without prejudice to each Hedge Counterparty's rights under Clause 14.3 (*Enforcement Instructions - Transaction Security*) and Clause 14.4 (*Manner of Enforcement - Transaction Security*), the Hedge Counterparties shall not take any Enforcement Action in respect of any of the Hedging Liabilities or any of the hedging transactions under any of the Hedging Agreements at any time.

5.9 Permitted Enforcement: Hedge Counterparties

- (a) To the extent it is able to do so under the relevant Hedging Agreement and is not otherwise prohibited by this Agreement, a Hedge Counterparty may terminate or close-out in whole or in part any hedging transaction under and in accordance with the terms of that Hedging Agreement prior to its stated maturity:
 - (i) at any time prior to a Distress Event, **provided that**, if applicable, the Company has certified to that Hedge Counterparty that that termination or close out would not result in a breach of any minimum hedging requirements under any Finance Documents;
 - (ii) if a Distress Event has occurred;
 - (iii) if:
 - (A) in relation to a Hedging Agreement which is based on the 1992 ISDA Master Agreement:
 - (1) an Illegality or Tax Event or Tax Event Upon Merger (each as defined in the 1992 ISDA Master Agreement); or
 - (2) an event similar in meaning and effect to a Force Majeure Event (as defined in paragraph (B) below),

has occurred in respect of that Hedging Agreement;
 - (B) in relation to a Hedging Agreement which is based on the 2002 ISDA Master Agreement, an Illegality or Tax Event, Tax Event Upon Merger or a Force Majeure Event (each as defined in the 2002 ISDA Master Agreement) has occurred in respect of that Hedging Agreement; or
 - (C) in relation to a Hedging Agreement which is not based on an ISDA Master Agreement, any event similar in meaning and effect to an event described in paragraphs (A) or (B) above has occurred under and in respect of that Hedging Agreement; and
 - (iv) if an Insolvency Event has occurred in relation to a Debtor which is party to that Hedging Agreement;
 - (v) subject to Clause 5.13 (*On or After Senior Lender Discharge Date/Senior Secured Notes Discharge Date*), if the Enhanced Majority Pari Passu Creditors, Enhanced Majority Super Senior Creditors and Majority Super Senior Lenders give prior consent to that termination or close-out being made; or
 - (vi) for the purpose of ensuring the aggregate outstanding notional amount of all hedging entered into by the Group with one or more Hedge Counterparties in respect of any specific indebtedness or exposure does not exceed the maximum aggregate amount of that indebtedness or other exposure from time to time (in each case to the extent agreed by the member of the Group party to that Hedging Agreement either in that Hedging Agreement or otherwise).
- (b) If a Debtor has defaulted on any Payment due under a Hedging Agreement (after allowing any applicable notice or grace periods) and the default has continued unwaived for more than five (5) Business Days after notice of that default has been given to the Security Agent pursuant to paragraph (m) of Clause 24.3 (*Notification of Prescribed Events*), the relevant Hedge Counterparty:

- (i) may, to the extent it is able to do so under the relevant Hedging Agreement, terminate or close-out in whole or in part any hedging transaction under that Hedging Agreement; and
 - (ii) until such time as the Security Agent has given notice to that Hedge Counterparty that the Transaction Security is being enforced (or that any formal steps are being taken to enforce the Transaction Security), shall be entitled to exercise any right it might otherwise have to sue for, commence or join legal or arbitration proceedings against any Debtor to recover any Hedging Liabilities due under that Hedging Agreement.
- (c) To the extent permitted under applicable law, after the occurrence of an Insolvency Event, each Hedge Counterparty shall be entitled to exercise any right it may otherwise have in respect of that Obligor, Material Company or Third Party Security Provider to:
- (i) prematurely close-out or terminate any Hedging Liabilities of a member of the Group;
 - (ii) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group or Third Party Security Provider in respect of any Hedging Liabilities;
 - (iii) exercise any right of set-off or take or receive any Payment in respect of any Hedging Liabilities of that member of the Group or Third Party Security Provider; or
 - (iv) claim and prove in the liquidation of that member of the Group or Third Party Security Provider for the Hedging Liabilities owing to it.

5.10 Required Enforcement: Hedge Counterparties

- (a) Subject to paragraph (b) below, a Hedge Counterparty shall promptly terminate or close-out in full any hedging transaction under all or any of the Hedging Agreements to which it is party prior to their stated maturity, following:
 - (i) the occurrence of a Super Senior Acceleration Event, a Senior Acceleration Event or a Senior Secured Notes Acceleration Event and delivery to it of a notice from the Security Agent that a Super Senior Acceleration Event, a Senior Acceleration Event or Senior Secured Notes Acceleration Event (as applicable) has occurred; and
 - (ii) delivery to it of a subsequent notice from the Security Agent (acting on the instructions of an Instructing Group) instructing it to do so.
- (b) Paragraph (a) above shall not apply to the extent that that Senior Acceleration Event, Super Senior Acceleration Event or Senior Secured Notes Acceleration Event (as applicable) occurred as a result of an arrangement made between any Debtor or, as the case may be, Third Party Security Provider and any Secured Creditor or, as the case may be, Unsecured Creditor, with the purpose of bringing about that Super Senior Acceleration Event, Senior Acceleration Event or Senior Secured Notes Acceleration Event (as applicable).
- (c) If a Hedge Counterparty is entitled to terminate or close-out any hedging transaction under paragraph (b) of Clause 5.9 (*Permitted Enforcement: Hedge Counterparties*) (or would have been able to if that Hedge Counterparty had given the notice referred to in that paragraph) but has not terminated or closed out each such hedging transaction, that Hedge Counterparty shall promptly terminate or close-out in full each such hedging transaction

following a request to do so by the Security Agent (acting on the instructions of an Instructing Group).

5.11 Treatment of Payments due to Debtors on Termination of Hedging Transactions

- (a) If, on termination of any hedging transaction under any Hedging Agreement occurring after a Distress Event, a settlement amount or other amount (following the application of any Close-Out Netting, Payment Netting or Inter-Hedging Agreement Netting in respect of that Hedging Agreement) falls due from a Hedge Counterparty to the relevant Debtor, then that amount shall be paid by that Hedge Counterparty to the Security Agent, treated as the proceeds of enforcement of the Transaction Security and applied in accordance with the terms of this Agreement.
- (b) The payment of that amount by the Hedge Counterparty to the Security Agent in accordance with paragraph (a) above shall discharge the Hedge Counterparty's obligation to pay that amount to that Debtor.

5.12 Terms of Hedging Agreements

- (a) The Hedge Counterparties (to the extent party to the Hedging Agreement in question) and the Debtors party to the Hedging Agreements shall ensure that, at all times:
 - (i) each Hedging Agreement is based either:
 - (A) on an ISDA Master Agreement; or
 - (B) on another framework agreement which is similar in effect to an ISDA Master Agreement;
 - (ii) in the event of a termination of the hedging transaction entered into under a Hedging Agreement, whether as a result of the occurrence of:
 - (A) a Termination Event or an Event of Default, each as defined in the relevant Hedging Agreement (where that Hedging Agreement is based on an ISDA Master Agreement); or
 - (B) an event similar in meaning and effect to those described in paragraph (A) above (where that Hedging Agreement is not based on an ISDA Master Agreement),

that Hedging Agreement will:

- (1) if it is based on a 1992 ISDA Master Agreement, provide for payments under the "*Second Method*" and will make no material amendment to section 6(e) (*Payments on Early Termination*) of the ISDA Master Agreement;
- (2) if it is based on a 2002 ISDA Master Agreement, make no material amendment to the provisions of section 6(e) (*Payments on Early Termination*) of the ISDA Master Agreement; or
- (3) if it is not based on an ISDA Master Agreement, provide for any other method of determining the amount, if any, payable in respect of that termination, the effect of which is that the party to which that event is referable will be entitled to receive payment under the relevant termination provisions if the net replacement

value of all terminated transactions entered into under that Hedging Agreement is in its favour; and

- (iii) each Hedging Agreement shall provide that the relevant Hedge Counterparty will be entitled to designate an Early Termination Date (as defined in the relevant Hedging Agreement) or otherwise be able to terminate each transaction under such Hedging Agreement if so required pursuant to Clause 5.10 (*Required Enforcement: Hedge Counterparties*).

(b) Unless otherwise agreed by the Company from time to time:

- (i) each Hedging Agreement shall include only standard ISDA representations and undertakings (and not, for the avoidance of doubt, any additional representations and undertakings contained in the Senior Financing Agreements), in each case amended as necessary so as to be no more onerous on any member of the Group than the provisions of the Senior Financing Agreements;
- (ii) no Hedging Agreement shall contain any events of default (however described) other than the following:
 - (A) failure by the member of the Group party to that Hedging Agreement to pay on the due date any amount payable by it under that Hedging Agreement (subject to any applicable grace period);
 - (B) the occurrence of a Super Senior Acceleration Event, a Senior Secured Notes Acceleration Event or Senior Acceleration Event which is continuing; and
 - (C) the occurrence of an Insolvency Event in relation to the member of the Group which is party to that Hedging Agreement,

provided that, for the avoidance of doubt, a Hedging Agreement may contain standard ISDA termination events relating to illegality, tax events and force majeure;

- (iii) in the event of any refinancing, replacement, increase or other restructuring of all or any part of the Senior Secured Creditor Liabilities, (other than the Hedging Liabilities) (a "**Creditor Refinancing**") each Hedge Counterparty shall promptly provide its consent to any amendment to, request under and/or replacement of any Hedging Agreement or other Debt Document required by the Company in order to facilitate that Creditor Refinancing (a "**Refinancing Request**"), in each case unless such Creditor Refinancing is materially prejudicial to the interests of that Hedge Counterparty (**provided that** such Creditor Refinancing shall not be considered materially prejudicial if any amended or replacement intercreditor arrangements place that Hedge Counterparty in substantially the same, or a better, position relative to the other Senior Secured Creditors (other than the Hedge Counterparties) as it was in under the intercreditor arrangements existing immediately prior to such amendment or replacement); and
- (iv) in the event that a Hedge Counterparty (1) does not consent to any Refinancing Request (without prejudice to its obligations under paragraph (iii) above) or (2) does not consent to any other amendment or waiver requested by a member of the Group pursuant to Clause 27 (*Consents, Amendments and Override*) (in each case within the time period specified by the relevant member of the Group for consent to be provided, which shall not be shorter than five (5) Business Days from the date the relevant request is made by a member of the Group), each member of the Group shall be entitled to:

- (A) terminate any hedging arrangements with that Hedge Counterparty (the "**Non-Consenting Counterparty**") (and the amount payable to or by the Non-Consenting Counterparty on such early termination shall be calculated on the basis that an Additional Termination Event has occurred and that the relevant member of the Group is the Affected Party or on such other basis as may be agreed by the Non-Consenting Counterparty and the relevant member of the Group); and/or
- (B) require that any of those arrangements (the "**Transferred Arrangements**") be transferred (and the Non-Consenting Counterparty will so transfer) to another person selected by the Company (the "**Acquiring Counterparty**") willing to assume the same (with the transfer price payable by the Acquiring Counterparty or, as the case may be, the Non-Consenting Counterparty being equal to the amount that would have been payable to or by the Non-Consenting Counterparty upon the early termination of the Transferred Arrangements under the relevant Hedging Agreements by reason of an Additional Termination Event on the proposed transfer date, and on the basis that the relevant Debtor is the Affected Party or as otherwise agreed by the Non-Consenting Counterparty and the relevant member of the Group),

where the terms "*Additional Termination Event*" and "*Affected Parties*" as used above shall have the meaning given to them in the relevant Hedging Agreements (or if a Hedging Agreement is not based on an ISDA Master Agreement, such terms shall have the meaning given to the equivalent provisions used in that Hedging Agreement).

Each Hedge Counterparty will, on the request of the Company, as soon as reasonably practical execute any document and/or take such other action as is reasonably required to effect any amendment, replacement, waiver or release of a Hedging Agreement or other Debt Document requested by the Company in accordance with paragraph (iii) above.

- (c) Unless otherwise agreed by the Company from time to time, notwithstanding anything to the contrary in any Debt Document, no default (however described) under the terms of a Hedging Agreement (or the termination of a Hedging Agreement) shall constitute an Event of Default (other than any payment default constituting a Senior Payment Default and/or a cross default).
- (d) Unless otherwise agreed by the Company from time to time, notwithstanding anything to the contrary in any Hedging Agreement, no Hedging Agreement shall prohibit or restrict any action by any member of the Group not prohibited or restricted under the Senior Creditor Finance Documents.
- (e) Unless otherwise agreed by the Company from time to time, any hedging agreement executed by any member of the Group prior to the date on which it became a member of the Group which the Company intends should become a Hedging Agreement (an "**Existing Hedging Agreement**") shall be deemed amended by this Agreement to the extent necessary so as to ensure that the terms of such Existing Hedging Agreement comply with the terms of this Agreement in all respects (and the relevant Debtor and the Hedge Counterparty party to such Existing Hedging Agreement each consent and agree to all such amendments by their execution of, or accession to, this Agreement and acknowledge and confirm that the Existing Hedging Agreement will be construed accordingly).
- (f) To the extent that the terms of a Hedging Agreement are inconsistent with the terms of this Agreement, the terms of this Agreement shall prevail.

5.13 On or After Senior Lender Discharge Date/Senior Secured Notes Discharge Date

At any time on or after the later of the Super Senior Discharge Date and the Senior Secured Discharge Date, any action which is permitted under any of Clause 5.3 (*Permitted Payments: Hedging Liabilities*), Clause 5.5 (*No Acquisition of Hedging Liabilities*) or Clause 5.9 (*Permitted Enforcement: Hedge Counterparties*) by reason of the consent of the Majority Pari Passu Creditors (or Enhanced Majority Pari Passu Creditors (as applicable)) will only be permitted to the extent that that action would not result in the Group ceasing to be in compliance with any minimum hedging requirements under any Second Lien Finance Document (unless the consent of the Majority Second Lien Creditors is obtained).

5.14 Notice and Acknowledgement of Transaction Security

Each Hedge Counterparty, by its entry into this Agreement (or, as the case may be, by its entry into a Creditor/Agent Accession Undertaking as a Hedge Counterparty), acknowledges receipt of notice of assignment pursuant to the applicable Security Documents of the proceeds owing by that Hedge Counterparty to any Debtor pursuant to the Hedging Agreement(s) to which that Hedge Counterparty is a party.

5.15 Novation, Termination and Amendments: Hedging Agreements

Notwithstanding any other Clause in this Agreement, the Debtors and the Hedge Counterparties may terminate, close-out (in whole or in part), amend, assign, novate or otherwise modify any Hedging Agreement (in each case, subject to the terms set out in the relevant Hedging Agreement) in connection with any novation of any hedging arrangements, **provided that** such termination, close-out, amendment, assignment, novation or other modification is not prohibited by the terms of the Debt Documents.

5.16 Hedge Counterparties' Guarantee and Indemnity

Each Hedging Guarantor agrees that it will be bound by the obligations set out in Schedule 7 (*Hedge Counterparties' Guarantee and Indemnity*).

5.17 Designation of Super Senior Hedging Liabilities

- (a) The Company may, from time to time, (to the extent it has confirmed to the Security Agent that such designation is not prohibited by the Finance Documents or this Agreement (but subject always to paragraph (e) of Clause 18.1 (*New Debt Financings*))) designate (or redesignate or effect the release of any previous designation of) the Hedging Liabilities in whole or in part as Super Senior Hedging Liabilities subject to this Clause 5.17 (*Designation of Super Senior Hedging Liabilities*).
- (b) Any designation or redesignation or release of any previous designation of any Hedging Liabilities (whether in whole or in part) as Super Senior Hedging Liabilities by the Company shall only take effect on receipt by the Security Agent (which receipt shall be acknowledged promptly) of a Super Senior Hedging Designation Certificate.
- (c) The Security Agent shall only be required to recognise and give effect to any designation, redesignation or release of any previous designation of Hedging Liabilities requested by the Company following the delivery of a Super Senior Hedging Designation Certificate, to the extent that such Super Senior Hedging Designation Certificate has been duly executed by: (i) the Company; (ii) any Hedge Counterparty in respect of which any Hedging Liabilities have been designated (or redesignated) as Super Senior Hedging Liabilities; and (iii) if applicable, any Hedge Counterparty in respect of which the designation of any Hedging Liabilities as Super Senior Hedging Liabilities is being released.

6. SECOND LIEN CREDITORS AND SECOND LIEN LIABILITIES

6.1 Restriction on Payment and Dealings: Second Lien Liabilities

Until the later of the Super Senior Discharge Date and the Senior Secured Discharge Date, neither the Company nor a Third Party Security Provider shall (and the Company shall ensure that no member of the Group will):

- (a) make any Payment of any Second Lien Liabilities;
- (b) exercise any set-off against any Second Lien Liabilities; or
- (c) (except to the extent not prohibited by the Debt Documents) create or permit to subsist any Security over any assets of any member of the Group or give any guarantee, indemnity or other assurance against loss (and no Second Lien Creditor Representative or Second Lien Creditor may accept the benefit of any such Security or guarantee, indemnity or other assurance against loss) from any member of the Group or Third Party Security Provider for, or in respect of, any Second Lien Liabilities,

in each case except as permitted by Clause 2.6 (*Additional and/or Refinancing Debt*), Clause 6.2 (*Permitted Second Lien Payments*), Clause 6.8 (*Security and Guarantees: Second Lien Creditors*), Clause 6.9 (*Restrictions on Enforcement by Second Lien Creditors*), Clause 9.5 (*Filing of Claims*) or Clause 18 (*New Debt Financings*) (which shall include, for the avoidance of doubt, any permissions under this Clause 6 (*Second Lien Creditors and Second Lien Liabilities*)).

6.2 Permitted Second Lien Payments

- (a) Prior to the later of the Super Senior Discharge Date and the Senior Secured Discharge Date, the Company, the members of the Group and the Third Party Security Providers shall have the right to make Payments to the Second Lien Creditors in respect of the Second Lien Liabilities then due in accordance with the Second Lien Finance Documents:
 - (i) if:
 - (A) no Second Lien Payment Stop Notice is outstanding;
 - (B) no Senior Secured Payment Default has occurred and is continuing; and
 - (C) the Payment is of:
 - (1) any amount of principal or capitalised interest in respect of the Second Lien Liabilities which is (x) not prohibited by the Prior Ranking Financing Agreements or, to the extent so prohibited, the Required Senior Consent has been obtained for any Payment; or (y) permitted under Clauses 15.1 (*Non-Distressed Disposals*) or 15.3 (*Claims and other Proceeds (before Distress Event)*);
 - (2) of any other amount which is not an amount of principal or capitalised interest (such other amounts including all scheduled interest payments including, if applicable, special interest or liquidated damages), the accrual of cash interest otherwise payable during a period when a Second Lien Payment Stop Notice is outstanding and default interest on the Second Lien Liabilities accrued and payable in accordance with the terms of the relevant Second Lien Finance Document (as at the date of issue of the same or as amended in accordance with the terms of this Agreement and the other Debt Documents), additional

amounts payable as a result of the tax-gross up provisions relating to the Second Lien Liabilities and amounts in respect of currency indemnities in any Second Lien Finance Document;

- (3) made in pursuance of a debt buy-back programme in relation to Second Lien Liabilities that was established with the approval of the Majority Pari Passu Creditors and the Majority Super Senior Creditors; or
 - (4) of any amount due under any syndication strategy letter relating to any Second Lien Facility Agreement or any Second Lien Notes Indenture (as applicable);
- (ii) if, notwithstanding that a Second Lien Payment Stop Notice is outstanding and/or (other than in respect of paragraph (L) below) a Senior Secured Payment Default has occurred and is continuing and irrespective of whether a Super Senior Acceleration Event, Senior Acceleration Event or a Senior Secured Notes Acceleration Event has occurred, the Payment is (without double counting any equivalent applicable basket in any Debt Document but whether or not permitted by the Debt Documents):
 - (A) of any amount due under the original form of any fee letter(s) relating to any Second Lien Finance Documents but in any case only with respect to ongoing fees;
 - (B) in respect of commercially reasonable advisory fees and professional fees, costs or expenses for restructuring advice and valuations (including legal advice and the advice of other appropriate financial and/or restructuring advisors) and any fees, costs or expenses of the relevant Second Lien Creditor Representative not covered by paragraph (A) above in amount not exceeding £1,500,000 (or its equivalent in other currencies) in aggregate, but excluding any fees, costs or expenses incurred in connection with any current, threatened or pending litigation against any Senior Secured Creditor or any Affiliate of any Senior Secured Creditor;
 - (C) of any Second Lien Agent Liabilities;
 - (D) of any Security Costs;
 - (E) of any costs, commissions, taxes, premiums, amendment, fees (including any original issue discount and other consent and/or waiver fees) and any expenses incurred in respect of (or reasonably incidental to) the Second Lien Finance Documents (including in relation to any reporting or listing requirements under the Second Lien Finance Documents);
 - (F) of any other amount not exceeding £2,500,000 (or its equivalent in other currencies) in aggregate in any financial year of the Company, provided that any such amount not so applied may be carried forward and utilised in the subsequent financial year (where it shall be deemed to have been used first);
 - (G) of the Second Lien Liabilities outstanding which would have been payable but for the issue of a Second Lien Payment Stop Notice (which has since expired and where no new Second Lien Payment Stop Notice is outstanding) which has been capitalised and added to the principal amount of the Second Lien Liabilities or where that amount is outstanding as a result of the accrual of cash interest payable in respect of the Second Lien

Liabilities during a period when a Second Lien Payment Stop Notice was outstanding or any other amount referred to in paragraph (a)(i)(C) above, **provided that** no such Payment may be made if any Second Lien Material Event of Default is continuing or would occur as a result of making such Payment;

- (H) for so long as either a Senior Secured Event of Default or a Second Lien Event of Default is continuing, all or part of the Second Lien Liabilities being released or otherwise discharged solely in consideration for the issues of shares in any Holding Company of the Company (each a "**Debt for Equity Swap**"), **provided that** (x) no cash or cash equivalent payment is made in respect of the Second Lien Liabilities, (y) it does not result in a Change of Control under and as defined in the Senior Facilities Agreement, any Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement, Senior Secured Notes Indenture or a Second Lien Notes Indenture and (z) any Liabilities owed by a member of the Group to another member of the Group, the Subordinated Creditors or any other Holding Company of the Company that arise as a result of any such Debt for Equity Swap are subordinated to the Senior Secured Liabilities pursuant to this Agreement and the Senior Secured Creditors are granted Transaction Security in respect of any of those Liabilities owed by a member of the Group to the extent such Transaction Security is required to be granted pursuant to the terms of the Secured Debt Documents;
- (I) of non-cash interest made by way of the capitalisation of interest or by the issuance of a non-cash pay financial instrument evidencing the same which is subordinated to the Senior Secured Liabilities on the same terms as the Second Lien Liabilities;
- (J) funded directly or indirectly with the proceeds of Second Lien Liabilities incurred under or pursuant to any Second Lien Finance Document;
- (K) of any principal amount of the Second Lien Liabilities in accordance with a provision (if any) in a Second Lien Finance Document which is substantially equivalent in meaning to clause 11.1 (*Illegality*) of the Senior Facilities Agreement or any other provision that permits the repayment in full of the participation of any Second Lien Creditor (without a related requirement to repay all other Second Lien Creditors) including a provision (if any) in a Second Lien Finance Document which is substantially equivalent in meaning to clause 11.6 (*Right of cancellation and repayment in relation to a single Lender or Issuing Bank*) of the Senior Facilities Agreement; or
- (L) if no Senior Secured Payment Default has occurred and is continuing and the Payment is a payment of principal, interest or any other amounts made on or after the final maturity of the relevant Second Lien Liabilities (**provided that** such maturity date is no earlier than that contained in the original form of the relevant Second Lien Finance Document as of the first date of borrowing or issuance (as the case may be) of the applicable Second Lien Liabilities); or
- (iii) if the Majority Pari Passu Creditors and Majority Super Senior Creditors give prior consent to that Payment being made.
- (b) On and after the later of the Super Senior Discharge Date and the Senior Secured Discharge Date, the Debtors and the Third Party Security Providers may make Payments to the Second

Lien Creditors in respect of the Second Lien Liabilities in accordance with the Second Lien Finance Documents.

A reference in this Clause 6.2 (*Permitted Second Lien Payments*) to a Payment shall be construed to include any other direct or indirect step, matter, action or dealing in relation to any Second Lien Liabilities which are otherwise prohibited under Clause 6.1 (*Restriction on Payment and Dealings: Second Lien Liabilities*).

6.3 Issue of Second Lien Payment Stop Notice

- (a) A Second Lien Payment Stop Notice is "**outstanding**" during the period from the date falling one (1) Business Day after the date on which, following the occurrence of a Second Lien Material Event of Default, the Security Agent (acting on the instructions of the Majority Super Senior Creditors or the Enhanced Majority Pari Passu Creditors) issues a notice (a "**Second Lien Payment Stop Notice**") to the Second Lien Creditor Representative(s) (with a copy to the Company) advising it that the relevant Second Lien Material Event of Default has occurred and is continuing and suspending Payments of the Second Lien Liabilities until the first to occur of:
 - (i) the date falling one hundred and twenty (120) days after delivery of that Second Lien Payment Stop Notice;
 - (ii) the date on which a Second Lien Default occurs for failure to pay principal at the original scheduled maturity of the relevant Second Lien Liabilities;
 - (iii) if a Second Lien Standstill Period commences after the issue of a Second Lien Payment Stop Notice, the date on which that Second Lien Standstill Period expires;
 - (iv) the date on which the relevant Second Lien Material Event of Default has been remedied or waived in accordance with the terms of the Senior Secured Finance Documents;
 - (v) the date on which the Security Agent (acting on the instructions of whichever of the Enhanced Majority Pari Passu Creditor, the Enhanced Majority Super Senior Creditors or Majority Super Senior Lenders gave the instructions to deliver the relevant Second Lien Payment Stop Notice) delivers a notice to the Company and the Second Lien Creditor Representative(s) cancelling the Second Lien Payment Stop Notice;
 - (vi) the later of the Super Senior Discharge Date and the Senior Secured Discharge Date; and
 - (vii) the date on which the Second Lien Creditors take any Enforcement Action that they are permitted to take under Clause 6.10 (*Permitted Second Lien Enforcement*).
- (b) No Second Lien Payment Stop Notice may be served by the Security Agent in reliance on a particular Second Lien Material Event of Default more than forty-five (45) days after the occurrence of the Event of Default constituting that Second Lien Material Event of Default.
- (c) No more than one (1) Second Lien Payment Stop Notice may be served with respect to the same event or set of circumstances.
- (d) No more than one (1) Second Lien Payment Stop Notice may be served in any period of three hundred and sixty (360) days.

- (e) For the avoidance of doubt, this Clause 6.3 (*Issue of Second Lien Payment Stop Notice*):
 - (i) acts as a suspension of payment and not as a waiver of the right to receive payment on the date such payments are due;
 - (ii) will not prevent the accrual or capitalisation of interest (including default interest) in accordance with the Second Lien Finance Documents;
 - (iii) will not prevent the payment of any Second Lien Agent Liabilities; and
 - (iv) is subject to Clause 6.16 (*Second Lien Liabilities*).

6.4 Effect of Second Lien Material Event of Default or Senior Secured Payment Default

Any failure to make a Payment due under the Second Lien Finance Documents as a result of the issue of a Second Lien Payment Stop Notice or the occurrence of a Senior Secured Payment Default shall not prevent:

- (a) the occurrence of an Event of Default as a consequence of that failure to make a Payment in relation to the relevant Second Lien Finance Document; or
- (b) the issue of a Second Lien Enforcement Notice on behalf of the Second Lien Creditors.

6.5 Payment Obligations and Capitalisation of Interest Continue

- (a) No Debtor or Third Party Security Provider shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Second Lien Finance Document by the operation of Clause 6.1 (*Restriction on Payment and Dealings: Second Lien Liabilities*) to Clause 6.4 (*Effect of Second Lien Material Event of Default or Senior Secured Payment Default*) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.
- (b) The accrual and capitalisation of interest (if any) in accordance with the Second Lien Finance Documents shall continue notwithstanding the issue of a Second Lien Payment Stop Notice.

6.6 Cure of Payment Stop: Second Lien Creditors

If:

- (a) at any time following the issue of a Second Lien Payment Stop Notice or the occurrence of a Senior Secured Payment Default, that Second Lien Payment Stop Notice ceases to be outstanding and/or (as the case may be) the Senior Secured Payment Default ceases to be continuing; and
- (b) the relevant Debtor then promptly pays to the Second Lien Creditors an amount equal to any Payments which had accrued under the Second Lien Finance Documents and which would have been Permitted Second Lien Payments but for that Second Lien Payment Stop Notice or Senior Secured Payment Default,

then any Event of Default which may have occurred as a result of that suspension of Payments shall be waived and any Second Lien Enforcement Notice which may have been issued as a result of that Event of Default shall be waived, in each case without any further action being required on the part of the Second Lien Creditors.

6.7 Amendments and Waivers: Second Lien Creditors

The Second Lien Creditors, the Third Party Security Providers and the Debtors may amend or waive the terms of the Second Lien Finance Documents in accordance with their terms (and subject to any consent required under them) at any time and nothing in this Agreement or any other Debt Document shall restrict any amendments and waivers made or granted in accordance with Clause 18 (*New Debt Financings*).

6.8 Security and Guarantees: Second Lien Creditors

The Second Lien Lenders and the Second Lien Notes Creditors may take, accept or receive the benefit of:

- (a) any Security from any member of the Group or from a Third Party Security Provider in respect of the Second Lien Lender Liabilities or the Second Lien Notes Liabilities in addition to the Transaction Security or as permitted by the Finance Documents if and to the extent legally possible and subject to any Agreed Security Principles, at the same time it is also offered either:
 - (i) to the Security Agent as agent or trustee for the other Secured Parties (or applicable class thereof) in respect of their Liabilities; or
 - (ii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as agent or trustee for the Secured Parties (or applicable class thereof):
 - (A) to the other Secured Parties (or applicable class thereof) in respect of their Liabilities; or
 - (B) to the Security Agent under a parallel debt structure, joint and several creditor structure or agency structure for the benefit of the other Secured Parties (or applicable class thereof),

and ranks in the same order of priority as that contemplated in Clause 2.2 (*Transaction Security*), **provided that** all amounts received or recovered by any Second Lien Creditor with respect to such Security are immediately paid to the Security Agent and held and applied in accordance with Clause 16 (*Application of Proceeds*);
- (b) any guarantee, indemnity or other assurance against loss from any member of the Group or from a Third Party Security Provider in respect of the Second Lien Lender Liabilities or the Second Lien Notes Liabilities in addition to those in:
 - (i) the original form of any Second Lien Facility Agreement or any Second Lien Notes Indenture;
 - (ii) this Agreement; or
 - (iii) any Common Assurance,

if and to the extent legally possible and subject to any Agreed Security Principles, the other Secured Parties (or applicable class thereof) already benefit from such a guarantee, indemnity or other assurance against loss or at the same time it is also offered to the other Secured Parties (or applicable class thereof) in respect of their Liabilities and ranks in the same order of priority as that contemplated in Clause 2 (*Ranking and Priority*) and all amounts received or recovered by any Second Lien Creditor with respect to such guarantee,

indemnity or other assurance against loss are immediately paid to the Security Agent and held and applied in accordance with Clause 16 (*Application of Proceeds*); and

- (c) any Security, guarantee, indemnity or other assurance against loss from any member of the Group:
 - (i) in connection with any escrow or similar or equivalent arrangements entered into in respect of amounts which are being held (or will be held) by a person which is not a member of the Group prior to release of those amounts to a member of the Group;
 - (ii) in connection with any actual or proposed defeasance, redemption, prepayment, repayment, purchase or other discharge of any Secured Liabilities (in each case, **provided that** such defeasance, redemption, prepayment, repayment, purchase or other discharge is not prohibited by the terms of this Agreement); or
 - (iii) as otherwise permitted by another provision of this Agreement, including Clause 18.4 (*Acquired Person or Asset*).

6.9 Restrictions on Enforcement by Second Lien Creditors

Until the later of the Super Senior Discharge Date and the Senior Secured Discharge Date, except with the prior consent of or as required by an Instructing Group, no Second Lien Creditor shall take or require the taking of any Enforcement Action against a member of the Group or Third Party Security Provider in relation to the Second Lien Liabilities, except as permitted under Clause 6.10 (*Permitted Second Lien Enforcement*), **provided that** no such action required by an Instructing Group need be taken except to the extent that such Instructing Group otherwise is entitled under this Agreement to direct such action.

6.10 Permitted Second Lien Enforcement

- (a) Subject to Clause 6.16 (*Second Lien Liabilities*), each Second Lien Creditor may take any Enforcement Action available to it but for Clause 6.9 (*Restrictions on Enforcement by Second Lien Creditors*) in respect of any of the Second Lien Liabilities owed to it if at the same time as, or prior to, that action:
 - (i) a Super Senior Acceleration Event or a Senior Acceleration Event or a Senior Secured Notes Acceleration Event has occurred in which case each Second Lien Creditor may take the same Enforcement Action (but in respect of the Second Lien Liabilities) as constitutes that Super Senior Acceleration Event or Senior Acceleration Event or Senior Secured Notes Acceleration Event;
 - (ii) a Second Lien Creditor Representative has given notice (a "**Second Lien Enforcement Notice**") to the Security Agent specifying that a Second Lien Event of Default (save and except arising pursuant to a breach of any provisions in the relevant Second Lien Facility Agreement relating to cross default (including to the Senior Facilities Agreement or any Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement)) under the Second Lien Finance Documents in respect of which it is an agent has occurred and is continuing and:
 - (A) a period (a "**Second Lien Standstill Period**") of not less than:
 - (1) ninety (90) days in the case of a failure to make a payment of an amount of principal, interest or fees representing the Second Lien Liabilities; or

- (2) one hundred and twenty (120) days in the case of an Event of Default under any financial maintenance covenant in any Second Lien Facility Agreement substantially equivalent to clause 26.2 (*Financial Covenant*) of the Senior Facilities Agreement; and
- (3) one hundred and fifty (150) days in the case of any other Second Lien Event of Default,

or, in relation to any Second Lien Liabilities, such longer period (if any) as agreed between the Company (in its discretion) and the Second Lien Creditor Representative in relation to such Second Lien Liabilities and notified to the Security Agent in each case which has elapsed from the date on which that Second Lien Enforcement Notice becomes effective in accordance with Clause 25.4 (*Delivery*); and

- (B) that Second Lien Event of Default is continuing at the end of the Second Lien Standstill Period; or
 - (iii) at the same time as or prior to that action the consent of the Enhanced Majority Pari Passu Creditors and the Enhanced Majority Super Senior Creditors and/or Majority Super Senior Lenders for that Enforcement Action is obtained.
- (b) Subject to Clause 6.16 (*Second Lien Liabilities*), to the extent permitted under applicable law, after the occurrence of an Insolvency Event, each Second Lien Creditor may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Second Lien Creditor in accordance with Clause 9.5 (*Filing of Claims*)) exercise any right they may otherwise have against that Obligor, Material Company or Third Party Security Provider to:
- (i) accelerate any of that Obligor's or, as the case may be, Third Party Security Provider's or Material Company's Second Lien Liabilities or declare them prematurely due and payable or payable on demand;
 - (ii) make a demand under any guarantee, indemnity or other assurance against loss given by that Obligor or, as the case may be, Third Party Security Provider or Material Company in respect of any Second Lien Liabilities;
 - (iii) exercise any right of set-off or take or receive any Payment or claim in respect of any Second Lien Liabilities of that Obligor or, as the case may be, Third Party Security Provider or Material Company; or
 - (iv) claim and prove in the liquidation, administration or other insolvency proceedings of that Obligor or, as the case may be, Third Party Security Provider or Material Company for the Second Lien Liabilities owing to it.

6.11 Subsequent Second Lien Defaults

Subject to Clause 6.16 (*Second Lien Liabilities*), the Second Lien Finance Parties may take Enforcement Action under Clause 6.10 (*Permitted Second Lien Enforcement*) in relation to a Second Lien Event of Default even if, at the end of any relevant Second Lien Standstill Period or at any later time, a further Second Lien Standstill Period has begun as a result of any other Second Lien Event of Default.

6.12 Enforcement on behalf of Second Lien Creditors

- (a) If the Security Agent has notified the Second Lien Creditor Representative that it is enforcing Security created pursuant to any Transaction Security Document over shares of

a Debtor, no Second Lien Finance Party may take any action referred to in Clause 6.10 (*Permitted Second Lien Enforcement*) against that Debtor or any Subsidiary of that Debtor while the Security Agent is taking steps to enforce that Security in accordance with the instructions of the Instructing Group where such action might be reasonably likely to adversely affect such enforcement or the amount of proceeds to be derived therefrom.

- (b) If the Second Lien Creditors are permitted to give instructions to the Security Agent to require enforcement of the Security constituted pursuant to any Transaction Security Document in accordance with the provisions of this Clause 6.12 (*Enforcement on behalf of Second Lien Creditors*), such Enforcement Action must require the realisation of the relevant Security by way of a sale or disposal conducted in compliance with the provisions of Clause 15.2 (*Distressed Disposals*).

6.13 Second Lien Equity Cure

To the extent that the Company does not elect to exercise its rights under clause 26.4 (*Cure Rights*) of the Senior Facilities Agreement (or any substantially equivalent provision in a Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement (as the context requires)), any of the Second Lien Creditors may, with the prior agreement of the Company, exercise the rights of the Company under such clause as if they were the Company by providing to the Company (or any Holding Company) cash (and, if required under the relevant Senior Secured Finance Documents, which may be on-lent to the Original Borrowers (as such term is defined in the Senior Facilities Agreement (or any substantially equivalent provision in a Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement (as the context requires)))) in the form of New Shareholder Injections (as such term is defined in the Senior Facilities Agreement (or any substantially equivalent provision in a Permitted Senior Secured Facilities Agreement or a Permitted Super Senior Secured Facilities Agreement (as the context requires))), **provided that** it does not result in:

- (a) a Change of Control under and as defined in a Senior Facilities Agreement, any Permitted Senior Secured Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement or a Senior Secured Notes Indenture; or
- (b) a Change of Control under and as defined in a Second Lien Facility Agreement or a Second Lien Notes Indenture,

and such Second Lien Creditors have acceded to this Agreement each as an additional Subordinated Creditor whereby such New Shareholder Injections constitute (as applicable) Subordinated Liabilities.

6.14 Option to Purchase: Second Lien Creditors

- (a) Subject to paragraphs (b) and (c) below a Second Lien Agent and Second Lien Notes Trustee (on behalf of one or more of the Second Lien Creditors) (the "**Purchasing Second Lien Creditors**") may after the occurrence of a Distress Event or for so long as either (i) a Second Lien Payment Stop Notice; or (ii) a Second Lien Standstill Period is outstanding, by giving not less than ten (10) days' prior written notice to the Security Agent, require the transfer to the Purchasing Second Lien Creditors (or to a nominee or nominees), in accordance with Clause 21.2 (*Change of Secured Creditors*), of all, but not part, of the rights, benefits and obligations in respect of the Senior Lender Liabilities, the Super Senior Lender Liabilities, the Senior Secured Notes Liabilities, the Super Senior Cash Management Facility Liabilities and the Cash Management Facility Liabilities if:
 - (i) that transfer is lawful and subject to paragraph (ii) below, otherwise permitted by the terms of the Senior Facilities Agreement (or any substantially equivalent provision in a Permitted Senior Secured Facilities Agreement or, as applicable, a Permitted Super Senior Secured Facilities Agreement) (in the case of the Senior

Lender Liabilities or, as applicable, the Super Senior Lender Liabilities), the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding (in the case of the Senior Secured Notes Liabilities), the facility agreement or indenture within the definition of Super Senior Cash Management Facility Documents (in the case of the Super Senior Cash Management Facility Liabilities) and the facility agreement or indenture within the definition of Cash Management Facility Documents (in the case of the Cash Management Facility Liabilities), as applicable;

- (ii) any conditions relating to such a transfer contained in the Senior Facilities Agreement or any substantially equivalent provision in a Permitted Senior Secured Facilities Agreement, or as applicable, a Permitted Super Senior Secured Facilities Agreement (in the case of the Senior Lender Liabilities, or, as applicable, the Super Senior Lender Liabilities) the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding (in the case of the Senior Secured Notes Liabilities), the facility agreement or indenture within the definition of Super Senior Cash Management Facility Documents (in the case of the Super Senior Cash Management Facility Liabilities) and the facility agreement or indenture within the definition of Cash Management Facility Documents (in the case of the Cash Management Facility Liabilities), as applicable, are complied with, other than:
 - (A) any requirement to obtain the consent of, or consult with, any Debtor, Third Party Security Provider or other member of the Group relating to such transfer, which consent or consultation shall not be required; and
 - (B) to the extent the Purchasing Second Lien Creditors (acting as a whole) provide cash cover for any Letter of Credit, Super Senior Cash Management Facility LC or Cash Management Facility LC, the consent of the Relevant Issuing Bank relating to such transfer;
- (iii) the Senior Agent, on behalf of the Senior Lenders, is paid an amount equal to the aggregate of:
 - (A) any amounts provided as cash cover by the Purchasing Second Lien Creditors for any Letter of Credit (as envisaged in paragraph (ii)(B) above, as applicable);
 - (B) all of the Senior Liabilities (other than the Cash Management Facility Liabilities and the Hedging Liabilities) at that time (whether or not due), including all amounts that would have been payable under the Senior Facilities Agreement and any Permitted Senior Secured Facilities Agreement if the Senior Facilities were being prepaid by the relevant Debtors on the date of that payment; and
 - (C) all costs and expenses (including legal fees) incurred by the Senior Agent and/or the Senior Lenders as a consequence of giving effect to that transfer;
- (iv) the Super Senior Agent, on behalf of the Super Senior Lenders, is paid an amount equal to the aggregate of:
 - (A) any amounts provided as cash cover by the Purchasing Second Lien Creditors for any Letter of Credit (as envisaged in paragraph (ii)(B) above, as applicable);

- (B) all of the Super Senior Lender Liabilities at that time (whether or not due), including all amounts that would have been payable under any Permitted Super Senior Secured Facilities Agreement, if the Super Senior Facilities were being prepaid by the relevant Debtors on the date of that payment; and
 - (C) all costs and expenses (including legal fees) incurred by the Super Senior Agent and/or the Super Senior Lenders as a consequence of giving effect to that transfer;
- (v) each Cash Management Facility Lender is paid an amount equal to the aggregate of:
 - (A) any amounts provided as cash cover by the Purchasing Second Lien Creditors for any Cash Management Facility LC (as envisaged in paragraph (ii)(B) above, as applicable);
 - (B) all of the Cash Management Facility Liabilities at that time (whether or not due), including all amounts that would have been payable under the Cash Management Facility Documents if the relevant Cash Management Facilities were being prepaid by the relevant Debtors on the date of that payment; and
 - (C) all costs and expenses (including legal fees) incurred by the Cash Management Facility Lenders as a consequence of giving effect to that transfer;
- (vi) each Super Senior Cash Management Facility Lender is paid an amount equal to the aggregate of:
 - (A) any amounts provided as cash cover by the Purchasing Second Lien Creditors for any Super Senior Cash Management Facility LC (as envisaged in paragraph (ii)(B) above, as applicable);
 - (B) all of the Super Senior Cash Management Facility Liabilities at that time (whether or not due), including all amounts that would have been payable under the Super Senior Cash Management Facility Documents if the relevant Super Senior Cash Management Facilities were being prepaid by the relevant Debtors on the date of that payment; and
 - (C) all costs and expenses (including legal fees) incurred by the Super Senior Cash Management Facility Lenders as a consequence of giving effect to that transfer;
- (vii) the Senior Secured Notes Trustee(s), on behalf of the relevant Senior Secured Notes Creditors, is paid an amount equal to the aggregate of:
 - (A) all of the Senior Secured Notes Liabilities at that time (whether due or not due), including all amounts that would have been payable under a Senior Secured Notes Indenture if the Senior Secured Notes were being redeemed (as applicable) by the relevant Debtors on the date of that payment; and
 - (B) all costs and expenses (including legal fees) incurred by the Senior Secured Notes Trustee(s) and/or the relevant Senior Secured Notes Creditors as a consequence of giving effect to that transfer;

- (viii) as a result of that transfer the Senior Lenders, the Super Senior Lenders, Senior Secured Notes Creditors, Super Senior Cash Management Facility Lenders and Cash Management Facility Lenders have no further actual or contingent liability to any Debtor under the Senior Secured Finance Documents;
 - (ix) an indemnity is provided from (or on behalf of) the Purchasing Second Lien Creditors (but, for the avoidance of doubt, this does not include a Second Lien Agent or a Second Lien Notes Trustee) (or from another third party acceptable to all the Senior Lenders, Super Senior Lenders, Senior Secured Notes Creditors, Super Senior Cash Management Facility Lenders and Cash Management Facility Lenders) in a form reasonably satisfactory to each Senior Lender, each Super Senior Lender, each Senior Secured Notes Creditor, each Super Senior Cash Management Facility Lender and each Cash Management Facility Lender in respect of all losses which may be sustained or incurred by any Senior Lender, any Super Senior Lender, Senior Secured Notes Creditor, Super Senior Cash Management Facility Lender or Cash Management Facility Lender in consequence of any sum received or recovered by any Senior Lender, Super Senior Lender, Senior Secured Notes Creditor, Super Senior Cash Management Facility Lender or Cash Management Facility Lender from any person being required (or it being alleged that it is required) to be paid back by or clawed back from any Senior Lender, Super Senior Lender, Senior Secured Notes Creditor, Super Senior Cash Management Facility Lender or Cash Management Facility Lender for any reason; and
 - (x) the transfer is made without recourse to, or representation or warranty from, the Senior Lenders, the Super Senior Lenders, Senior Secured Notes Creditors, Super Senior Cash Management Facility Lenders or Cash Management Facility Lenders, except that each Senior Lender, Super Senior Lenders, Senior Secured Notes Creditor, Super Senior Cash Management Facility Lender and Cash Management Facility Lender shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer.
- (b) If more than one Purchasing Second Lien Creditor wishes to exercise the option to purchase the Senior Lender Liabilities, the Super Senior Lender Liabilities, the Super Senior Cash Management Facility Liabilities, the Cash Management Facility Liabilities and the Senior Secured Notes Liabilities in accordance with paragraph (a) above, each such Purchasing Second Lien Creditor shall acquire the Senior Lender Liabilities, Super Senior Lender Liabilities, the Super Senior Cash Management Facility Liabilities, the Cash Management Facility Liabilities and the Senior Secured Notes pro rata, in the proportion that its Credit Participation bears to the aggregate Credit Participations of all the Purchasing Second Lien Creditors. Any Purchasing Second Lien Creditors wishing to exercise the option to purchase the Senior Lender Liabilities, the Super Senior Lender Liabilities, the Super Senior Cash Management Facility Liabilities, the Cash Management Facility Liabilities and the Senior Secured Notes Liabilities shall inform the Senior Creditor Representatives in accordance with the terms of the Senior Secured Finance Documents, who will determine (consulting with each other as required) the appropriate share of the Senior Lender Liabilities, the Super Senior Lender Liabilities, the Super Senior Cash Management Facility Liabilities, the Cash Management Facility Liabilities and the Senior Secured Notes to be acquired by each such Purchasing Second Lien Creditor and who shall inform each such Purchasing Second Lien Creditor accordingly. Furthermore, the Second Lien Creditor Representative(s) (as applicable) shall promptly inform the Senior Creditor Representatives and the relevant Hedge Counterparties of the Purchasing Second Lien Creditors intention to exercise the option to purchase the Senior Lender Liabilities, the Super Senior Lender Liabilities, the Super Senior Cash Management Facility Liabilities, the Cash Management Facility Liabilities and the Senior Secured Notes Liabilities.

- (c) At the request of the Second Lien Agent or Second Lien Notes Trustee (on behalf of all the Purchasing Second Lien Creditors):
 - (i) the Senior Agent shall notify the Purchasing Second Lien Creditors of:
 - (A) the sum of the amounts described in paragraphs (a)(iii)(B) and (a)(iii)(C) above; and
 - (B) the amount of each Letter of Credit for which cash cover is to be provided by all the Purchasing Second Lien Creditors (acting as a whole);
 - (ii) the Super Senior Agent shall notify the Purchasing Second Lien Creditors of:
 - (A) the sum of the amounts described in paragraphs (a)(iv)(B) and (a)(iv)(C) above; and
 - (B) the amount of each Letter of Credit for which cash cover is to be provided by all the Purchasing Second Lien Creditors (acting as a whole);
 - (iii) the Senior Secured Notes Trustee(s) shall notify the Purchasing Second Lien Creditors of the sum of amounts described in paragraphs (a)(vi)(A) and (a)(vi)(B) above; and
 - (iv) each Cash Management Facility Lender shall notify the Purchasing Second Lien Creditors of:
 - (A) the sum of the amounts described in paragraphs (a)(v)(B) and (a)(v)(C) and above; and
 - (B) the amount of each Cash Management Facility LC for which cash cover is to be provided by all the Purchasing Second Lien Creditors (acting as a whole); and
 - (v) each Super Senior Cash Management Facility Lender shall notify the Purchasing Second Lien Creditors of:
 - (A) the sum of the amounts described in paragraphs (a)(vi)(B) and (a)(iv)(C) and above; and
 - (B) the amount of each Super Senior Cash Management Facility LC for which cash cover is to be provided by all the Purchasing Second Lien Creditors (acting as a whole).

6.15 Hedge Transfer: Second Lien Creditors

- (a) A Second Lien Agent or Second Lien Notes Trustee (on behalf of the Purchasing Second Lien Creditors, acting as a whole) may, by giving not less than ten (10) days' prior written notice to the Security Agent, require a Hedge Transfer:
 - (i) if either:
 - (A) the Purchasing Second Lien Creditors require, at the same time, a Senior Secured Creditor Liabilities Transfer under Clause 6.14 (*Option to Purchase: Second Lien Creditors*); or
 - (B) all the Purchasing Second Lien Creditors require that Hedge Transfer at any time on or after the later of the Senior Lender Discharge Date, the

Super Senior Discharge Date, the Super Senior Cash Management Facility Discharge Date, the Cash Management Facility Discharge Date and the Senior Secured Notes Discharge Date; and

- (ii) if:
 - (A) that transfer is lawful and otherwise permitted by the terms of the Hedging Agreements in which case no Debtor, Third Party Security Provider or other member of the Group shall be entitled to withhold its consent to that transfer;
 - (B) any conditions (other than the consent of, or any consultation with, any Debtor, Third Party Security Provider or other member of the Group) relating to that transfer contained in the Hedging Agreements are complied with;
 - (C) each Hedge Counterparty is paid (in the case of a positive number) or pays (in the case of a negative number) an amount equal to the aggregate of (1) the Hedging Purchase Amount in respect of the hedging transactions under the relevant Hedging Agreement at that time and (2) all costs and expenses (including legal fees) incurred as a consequence of giving effect to that transfer;
 - (D) as a result of that transfer, the Hedge Counterparties have no further actual or contingent liability to any Debtor under the Hedging Agreements;
 - (E) an indemnity is provided from (or on behalf of) the Purchasing Second Lien Creditor (but for the avoidance of doubt this does not include a Second Lien Agent or a Second Lien Notes Trustee) which is receiving (or for which a nominee is receiving) that transfer (or from another third party acceptable to the relevant Hedge Counterparty) in a form reasonably satisfactory to the relevant Hedge Counterparty in respect of all losses which may be sustained or incurred by that Hedge Counterparty in consequence of any sum received or recovered by that Hedge Counterparty being required (or it being alleged that it is required) to be paid back by or clawed back from the Hedge Counterparty for any reason; and
 - (F) that transfer is made without recourse to, or representation or warranty from, the relevant Hedge Counterparty, except that the relevant Hedge Counterparty shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer.
- (b) A Second Lien Agent or Second Lien Notes Trustee (acting on behalf of the Purchasing Second Lien Creditors) and any Hedge Counterparty may agree (in respect of the Hedging Agreements (or one or more of them) to which that Hedge Counterparty is a party) that a Hedge Transfer required by the Purchasing Second Lien Creditors pursuant to paragraph (a) above shall not apply to that Hedging Agreement(s) or to the Hedging Liabilities and Hedge Counterparty Obligations under that Hedging Agreement(s).
- (c) If a Second Lien Agent or Second Lien Notes Trustee is entitled to require a Hedge Transfer under this Clause 6.15 (*Hedge Transfer: Second Lien Creditors*), the Hedge Counterparties shall, at the request of the Second Lien Agent or Second Lien Notes Trustee, provide details of the amounts referred to in paragraph (a)(ii)(C) above.

6.16 Second Lien Liabilities

The Parties agree that in respect of any Second Lien Liabilities entered into after the date of this Agreement, the borrower or issuer thereof may agree with the relevant Second Lien Creditor (or applicable Second Lien Creditor Representative) that such Second Lien Liabilities will, **provided that** such provisions are set out and notified in the relevant New Debt Financing Designation Certificate, be subject to:

- (a) a stop notice regime which is, in any case, subject to additional or more onerous conditions for payment or otherwise which includes a longer 'stop period' than that set out in Clause 6.3 (*Issue of Second Lien Payment Stop Notice*); and/or
- (b) an enforcement regime which is, in any case, more restrictive for the relevant Creditor than that set out in Clauses 6.10 (*Permitted Second Lien Enforcement*) to 6.11 (*Subsequent Second Lien Defaults*),

and such alternative provisions shall apply thereto in place of Clause 6.3 (*Issue of Second Lien Payment Stop Notice*) or Clauses 6.10 (*Permitted Second Lien Enforcement*) to 6.11 (*Subsequent Second Lien Defaults*) respectively.

7. SUBORDINATED LIABILITIES

7.1 Restriction on Payment: Subordinated Liabilities

Prior to the Final Discharge Date, neither the Company nor any other Debtor will, and the Company shall procure that no other member of the Group will, make any Payment of the Subordinated Liabilities at any time unless:

- (a) that Payment is permitted under Clause 7.2 (*Permitted Payments: Subordinated Liabilities*); or
- (b) the taking or receipt of that Payment is permitted under Clause 7.8 (*Permitted Enforcement: Subordinated Creditors*); or
- (c) Required Creditor Consent for such Payment has been obtained.

7.2 Permitted Payments: Subordinated Liabilities

- (a) A member of the Group may make any Payments in respect of the Subordinated Liabilities (whether of principal, interest or otherwise) if such Payment is not prohibited by the Prior Ranking Financing Agreements or, to the extent prohibited, unless the Required Creditor Consent has been obtained.
- (b) Payments in respect of the Subordinated Liabilities may not be made pursuant to paragraph (a) above if, at the time of the Payment, an Acceleration Event has occurred, unless the Required Creditor Consent has been obtained.
- (c) Nothing in this Agreement or any of the Debt Documents shall prohibit or restrict any roll-up or capitalisation of any amount under any Subordinated Document or the issue of any payment in kind instruments in satisfaction of any amount under any Subordinated Document or any forgiveness, write-off or capitalisation of any Subordinated Liabilities or the release or other discharge of any such Subordinated Liabilities.

7.3 Payment obligations continue

Neither the Company nor any other Debtor or member of the Group shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under

any Subordinated Document by the operation of Clause 7.1 (*Restriction on Payment: Subordinated Liabilities*) and Clause 7.2 (*Permitted Payments: Subordinated Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

7.4 No acquisition of Subordinated Liabilities

Prior to the Final Discharge Date, the Debtors shall not, and shall procure that no other member of the Group will:

- (a) enter into any Liabilities Acquisition; or
- (b) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in each case pursuant to which any payment is made by a member of the Group to a person which is not a member of the Group in respect of Subordinated Liabilities, unless:

- (i) that action is not prohibited by the Finance Documents;
- (ii) the relevant Liabilities Acquisition relates to Subordinated Liabilities (or rights, benefits and/or obligations in relation thereto) in respect of which a Payment could be made under Clause 7.2 (*Permitted Payments: Subordinated Liabilities*); or
- (iii) in relation to each Finance Document that prohibits that action, the requisite Senior Secured Creditors or Second Lien Creditors under that Finance Document consent to that action.

7.5 Amendments and Waivers: Subordinated Creditors

- (a) Prior to the Final Discharge Date, subject to paragraph (b) below, the Subordinated Creditors and the Debtors shall not (and the Company shall ensure that no other member of the Group shall) amend, waive or vary the terms of any of the documents or instruments pursuant to which the Subordinated Liabilities are constituted which would result in:
 - (i) the interests of any Secured Party being adversely affected in any material respect or the ranking and/or subordination contemplated by this Agreement being impaired;
 - (ii) any change to the principal amount, any scheduled repayment date or any mandatory prepayment provision under any Subordinated Document which would, in each case, make such amount payable before the Final Discharge Date;
 - (iii) any member of the Group being subject to more onerous obligations (ignoring for this purpose any obligation to pay any additional amount) as a whole than those contained in the original form of the Subordinated Documents or obligations which would conflict with any provision of this Agreement; or
 - (iv) any change to provisions relating to acceleration, default, security (including enforcement), transferability, payments (including repayments and prepayments) and ranking of Subordinated Liabilities under a Subordinated Document.
- (b) Paragraph (a) above does not apply to any amendment, waiver or consent:
 - (i) which (or to the extent such term following such amendment, waiver or consent) is not prohibited to be a term of such documents or instruments by the Prior Ranking Financing Agreements or, to the extent prohibited, in respect of which the Required Creditor Consent has been obtained;

- (ii) which has been made with the prior Required Creditor Consent; or
- (iii) which is minor, administrative or corrects a manifest error or (subject to paragraph (a)(i) above) is technical.

7.6 Security: Subordinated Creditors

The Subordinated Creditors may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss from any member of the Group in respect of any of the Subordinated Liabilities prior to the Final Discharge Date, unless the requisite Senior Secured Creditors, or as the case may be, Second Lien Creditors under the applicable Finance Document consent to that Security, guarantee, indemnity or other assurance against loss.

7.7 Restriction on Enforcement: Subordinated Creditors

Subject to Clause 7.8 (*Permitted Enforcement: Subordinated Creditors*), no Subordinated Creditor shall be entitled to take any Enforcement Action in respect of any of the Subordinated Liabilities at any time prior to the Final Discharge Date, unless:

- (a) such Enforcement Action is solely a demand for payment, set-off, account combination or payment netting which is permitted by Clause 7.2 (*Permitted Payments: Subordinated Liabilities*);
- (b) otherwise consented to by the Security Agent or an Instructing Group; or
- (c) Required Creditor Consent for such Enforcement Action has been obtained.

7.8 Permitted Enforcement: Subordinated Creditors

After the occurrence of an Insolvency Event in relation to a member of the Group, each Subordinated Creditor may only (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Subordinated Creditor in accordance with Clause 9.5 (*Filing of Claims*)) exercise any right it may otherwise have in respect of that member of the Group to:

- (a) accelerate any of that member of the Group's Subordinated Liabilities or declare them prematurely due and payable or payable on demand;
- (b) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Subordinated Liabilities;
- (c) exercise any right of set off or take or receive any Payment in respect of any Subordinated Liabilities of that member of the Group; or
- (d) claim and prove in the liquidation, administration or other insolvency proceedings of that member of the Group for the Subordinated Liabilities owing to it,

but shall not take any other Enforcement Action.

7.9 Representations: Subordinated Creditor

Each Subordinated Creditor represents and warrants to each Secured Party on the date of this Agreement (or, if it becomes a Party after such date, the date of the Creditor/Agent Accession Undertaking) that:

- (a) it is duly incorporated (or, as the case may be, organised) and validly established under the laws of its jurisdiction of incorporation (or, as the case may be, organisation);

- (b) subject to the Legal Reservations and Perfection Requirements, the obligations expressed to be assumed by it in this Agreement are valid, legally binding and enforceable obligations; and
- (c) subject to the Legal Reservations and Perfection Requirements, the entry into and performance by it of, and the transactions contemplated by, this Agreement do not contravene:
 - (i) any law or regulation applicable to it;
 - (ii) its constitutional documents; or
 - (iii) any agreement or instrument binding upon it or any of its assets,

in each case, to an extent which would have a Material Adverse Effect.

7.10 Subordinated Liabilities: Exceptions

Notwithstanding anything to the contrary, nothing in this Agreement or any of the Debt Documents shall prohibit or restrict:

- (a) any Payment made to a Subordinated Creditor under and in accordance with the terms of any Debt Document other than with respect to Subordinated Liabilities (**provided that**, for the avoidance of doubt, this paragraph (a) shall not apply to a Payment which is expressly prohibited by Clause 5 (*Hedge Counterparties and Hedging Liabilities*) and/or Clause 6 (*Second Lien Creditors and Second Lien Liabilities*));
- (b) any Payment or other return made by way of a roll-up or capitalisation of any amount, an issue of shares, an incurrence of indebtedness constituting Subordinated Liabilities (including the issue of payment-in-kind instruments) or any other similar or equivalent step, action or arrangement;
- (c) any payment made (whether cash or in kind) or other step or action taken to facilitate any Payment (or other matter) in respect of any Subordinated Liabilities (in each case to the extent that such Payment or other matter is not prohibited by this Clause 7 (*Subordinated Liabilities*)); and
- (d) any Subordinated Creditor from granting any Security over or in relation to the Subordinated Liabilities or any related rights in respect thereof, **provided that** the rights of the holder of such Security upon any enforcement are subject to this Agreement.

8. INTRA-GROUP LENDERS AND INTRA-GROUP LIABILITIES

8.1 Restriction on Payment: Intra-Group Liabilities

Prior to the Final Discharge Date, the Debtors shall not, and shall procure that no other member of the Group will, make any Payments of the Intra-Group Liabilities at any time unless:

- (a) that Payment is permitted under Clause 8.2 (*Permitted Payments: Intra-Group Liabilities*);
- (b) the taking or receipt of that Payment is permitted under Clause 8.7 (*Permitted Enforcement: Intra-Group Lenders*); or
- (c) Required Creditor Consent for such Payment has been obtained.

8.2 Permitted Payments: Intra-Group Liabilities

- (a) Subject to paragraph (b) below, the Debtors may make Payments (including by way of set-off or conversion to equity, **provided that** in the event that the equity of such Debtor is subject to Transaction Security prior to such issue, then the percentage of equity in such Debtor subject to Transaction Security is not diluted) in respect of the Intra-Group Liabilities (whether of principal, interest or otherwise) from time to time.
- (b) Payments in respect of the Intra-Group Liabilities may not be made pursuant to paragraph (a) above if, at the time of the Payment, an Acceleration Event has occurred, unless:
 - (i) an Instructing Group consents to that Payment being made; or
 - (ii) that Payment is made to facilitate the Payment of any:
 - (A) Senior Secured Creditor Liabilities, Agent Liabilities or Arranger Liabilities;
 - (B) Second Lien Creditor Liabilities, following the later of the Super Senior Discharge Date and the Senior Secured Discharge Date; or
 - (C) Liabilities owed to the Security Agent.

8.3 Payment Obligations Continue

No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Intra Group Liabilities by the operation of Clause 8.1 (*Restriction on Payment: Intra-Group Liabilities*) and Clause 8.2 (*Permitted Payments: Intra-Group Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of either of those Clauses.

8.4 Acquisition of Intra-Group Liabilities

Each Debtor may, and may permit any other member of the Group to:

- (a) enter into any Liabilities Acquisition; or
- (b) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in respect of any Intra-Group Liabilities at any time unless an Acceleration Event has occurred at the time of the relevant Liabilities Acquisition and the Instructing Group has not consented to such Liabilities Acquisition or where Required Creditor Consent has been obtained.

8.5 Security: Intra-Group Lenders

Prior to the Final Discharge Date, the Intra-Group Lenders may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of the Intra-Group Liabilities unless that Security, guarantee, indemnity or other assurance against loss is not prohibited by the Prior Ranking Financing Agreements or, to the extent prohibited, the Required Creditor Consent has been obtained.

8.6 Restriction on Enforcement: Intra-Group Lenders

Subject to Clause 8.7 (*Permitted Enforcement: Intra-Group Lenders*) (other than the demand for any payment, set-off, account combination or payment netting in relation to any payment permitted by Clause 8.2 (*Permitted Payments: Intra-Group Liabilities*)) none of the Intra-Group Lenders shall

be entitled to take any Enforcement Action in respect of any of the Intra-Group Liabilities at any time prior to the Final Discharge Date unless otherwise consented to by the Security Agent or by an Instructing Group or where Required Creditor Consent to such Enforcement Action has been obtained.

8.7 Permitted Enforcement: Intra-Group Lenders

After the occurrence of an Insolvency Event, each Intra-Group Lender may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Intra-Group Lender in accordance with Clause 9.5 (*Filing of Claims*)), exercise any right it may otherwise have against that member of the Group to:

- (a) accelerate any of that member of the Group's Intra-Group Liabilities or declare them prematurely due and payable or payable on demand;
- (b) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Intra-Group Liabilities;
- (c) exercise any right of set-off or take or receive any Payment in respect of any Intra-Group Liabilities of that member of the Group; or
- (d) claim and prove in the liquidation, administration or other insolvency proceedings of that member of the Group for the Intra-Group Liabilities owing to it.

8.8 Intra-Group Liabilities: Exceptions

Notwithstanding anything to the contrary in this Agreement or any other Debt Document and without imposing any additional obligation or restriction on any member of the Group, nothing in this Agreement (including this Clause 8 (*Intra-Group Lenders and Intra-Group Liabilities*) or Clause 21 (*Changes to the Parties*)) or any other Debt Document shall prohibit or restrict any capitalisation, forgiveness, write-off, waiver, release, transfer or other discharge of any Intra-Group Liabilities (or any amounts due, payable or owing in connection therewith) or any other amount due, payable or owing by one member of the Group to another member of the Group, in the case of Intra-Group Liabilities unless an Acceleration Event has occurred and is continuing.

9. EFFECT OF INSOLVENCY EVENT

9.1 Cash Cover

This Clause 9 (*Effect of Insolvency Event*) is subject to Clause 16.3 (*Treatment of SFA Cash Cover, Cash Management Facility Cash Cover, Super Senior Cash Management Facility Cash Cover and SFA Cash Collateral*) and, in the case of each Notes Trustee, to paragraphs (a) and (c) of Clause 28.1 (*Liability*).

9.2 Payment of Distributions

- (a) After the occurrence of an Insolvency Event, any Party entitled to receive a distribution out of the assets of that Obligor, Material Company or Third Party Security Provider (in the case of a Senior Secured Creditor on or after the Designation Date, only to the extent that such amounts constitute Enforcement Proceeds) in respect of Liabilities owed to that Party shall, to the extent it is able to do so, direct the person responsible for the distribution of the assets of that Obligor, Material Company or member of the Group or Third Party Security Provider to pay that distribution to the Security Agent until the Liabilities owing to the Secured Parties have been paid in full.
- (b) The Security Agent shall apply distributions paid to it under paragraph (a) above in accordance with Clause 16 (*Application of Proceeds*).

9.3 Set-Off

- (a) Subject to paragraph (b) below, to the extent that any member of the Group's or Third Party Security Provider's Liabilities are discharged by way of set-off (mandatory or otherwise) after the occurrence of an Insolvency Event, any Creditor which benefited from that set-off shall (in the case of a Senior Secured Creditor on or after the Designation Date, only to the extent that such amounts constitute Enforcement Proceeds) pay an amount equal to the amount of the Liabilities owed to it which are discharged by that set-off to the Security Agent for application in accordance with Clause 16 (*Application of Proceeds*).
- (b) Paragraph (a) above shall not apply to:
 - (i) any such discharge of the Liabilities under an Ancillary Facility, Super Senior Cash Management Facility or Cash Management Facility which is a multi-account overdraft facility to the extent permitted under the relevant Senior Facilities Agreement, Permitted Super Senior Secured Facilities Agreement, Permitted Senior Secured Facilities Agreement, Super Senior Cash Management Facility Document or Cash Management Facility Document (as the context requires);
 - (ii) any Close-Out Netting by a Hedge Counterparty or a Hedging Ancillary Lender;
 - (iii) any Payment Netting by a Hedge Counterparty or a Hedging Ancillary Lender;
 - (iv) any Inter-Hedging Agreement Netting by a Hedge Counterparty;
 - (v) any Inter-Hedging Ancillary Document Netting by a Hedging Ancillary Lender; and
 - (vi) any set-off which gives effect to a Permitted Payment (or another payment or distribution not prohibited by the terms of this Agreement) which is otherwise permitted to be made under this Agreement notwithstanding the occurrence of the relevant Insolvency Event.

9.4 Non-Cash Distributions

Subject to Clause 16.1 (*Order of Application - Transaction Security*), if the Security Agent or any other Secured Party receives a distribution in a form other than in cash in respect of any of the Liabilities, the Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Liabilities.

9.5 Filing of Claims

Without prejudice to any Ancillary Lender's, Super Senior Cash Management Facility Lenders' and Cash Management Facility Lenders' right of netting or set-off relating to an Ancillary Facility, Super Senior Cash Management Facility or Cash Management Facility which is a multi-account overdraft facility (to the extent that such netting or set-off is permitted under the relevant Senior Facilities Agreement, Permitted Super Senior Secured Facilities Agreement, Permitted Senior Secured Facilities Agreement, Super Senior Cash Management Facility Document or Cash Management Facility Document (as the context requires)), after the occurrence of an Insolvency Event, each Creditor irrevocably authorises the Security Agent (acting in accordance with Clause 9.7 (*Security Agent Instructions*)) and with express faculty of self-contracting, sub-empowering or multiple representation), on its behalf, to:

- (a) take any Enforcement Action (in accordance with the terms of this Agreement) against that Obligor or member of the Group or Third Party Security Provider;

- (b) demand, sue, prove and give receipt for any or all of that member of the Group's, that Obligor's or Third Party Security Provider's Liabilities;
- (c) collect and receive all distributions on, or on account of, any or all of that member of the Group's, that Obligor's or Third Party Security Provider's Liabilities; and
- (d) file claims, take proceedings and do all other things the Security Agent considers reasonably necessary to recover that member of the Group's, that Obligor's or Third Party Security Provider's Liabilities.

9.6 Creditors' Actions

Each Creditor will:

- (a) do all things that the Security Agent (acting in accordance with Clause 9.7 (*Security Agent Instructions*)) reasonably requests in order to give effect to this Clause 9 (*Effect of Insolvency Event*); and
- (b) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 9 (*Effect of Insolvency Event*) or if the Security Agent (acting in accordance with Clause 9.7 (*Security Agent Instructions*)) requests that a Creditor take that action, undertake that action itself in accordance with the instructions of the Security Agent (acting in accordance with Clause 9.7 (*Security Agent Instructions*)) or grant a power of attorney to the Security Agent (on such terms as the Security Agent (acting in accordance with Clause 9.7 (*Security Agent Instructions*)) may reasonably require, although no Notes Trustee shall be under any obligation to grant such powers of attorney) to enable the Security Agent to take such action.

9.7 Security Agent Instructions

For the purposes of Clause 9.5 (*Filing of Claims*) and Clause 9.6 (*Creditors' Actions*), the Security Agent shall act:

- (a) on the instructions of the applicable group of Secured Creditors entitled, at that time, to give instructions under:
 - (i) prior to the Designation Date, Clause 13.3 (*Enforcement Instructions – Transaction Security*) or Clause 13.4 (*Manner of Enforcement - Transaction Security*);
 - (ii) on and from the Designation Date, Clause 14.3 (*Enforcement Instructions - Transaction Security*) or Clause 14.4 (*Manner of Enforcement - Transaction Security*); or
 - (iii) otherwise provided by this Agreement;
- (b) in the absence of any such instructions, as the Security Agent sees fit (which may include taking no action).

9.8 Limitation by Applicable Laws

Each of the provisions of this Clause 9 (*Effect of Insolvency Event*) shall apply only to the extent permitted by applicable laws.

10. TURNOVER OF RECEIPTS

10.1 Cash Cover

This Clause 10 (*Turnover of Receipts*) is subject to Clause 16.3 (*Treatment of SFA Cash Cover, Cash Management Facility Cash Cover, Super Senior Cash Management Facility Cash Cover and SFA Cash Collateral*) and, in the case of each Notes Trustee, to paragraphs (a) and (c) of Clause 28.1 (*Liability*).

10.2 Turnover by the Creditors

Subject to Clause 3.1 (*Payments of Super Senior Liabilities*), Clause 4.1 (*Payments of Pari Passu Creditor Liabilities*), Clause 10.3 (*Exclusions*) and Clause 10.4 (*Permitted Assurance and Receipts*), Clause 18 (*New Debt Financings*) and, in the case of the Notes Trustee, to paragraphs (a) and (c) of Clause 28.1 (*Liability*):

- (a) if at any time prior to the Final Discharge Date any Creditor (other than a Senior Secured Creditor on or after the Designation Date) receives or recovers from any Debtor, any member of the Group or any Third Party Security Provider:
 - (i) any Payment or distribution of, or on account of or in relation to, any of the Liabilities other than any Payment or distribution which is either:
 - (A) not prohibited by the terms of this Agreement; or
 - (B) made in accordance with Clause 16 (*Application of Proceeds*);
 - (ii) other than where Clause 9.3 (*Set-Off*) applies, any amount by way of set-off in respect of any of the Liabilities owed to it which does not give effect to a Permitted Payment;
 - (iii) notwithstanding paragraphs (i) and (ii) above, and other than where Clause 9.3 (*Set-Off*) applies, any amount:
 - (A) on account of, or in relation to, any of the Liabilities:
 - (1) after the occurrence of a Distress Event; or
 - (2) as a result of any other litigation or proceedings against an Obligor, a member of the Group or any Third Party Security Provider (other than after the occurrence of an Insolvency Event); or
 - (B) by way of set-off in respect of any of the Liabilities owed to it after the occurrence of a Distress Event,

other than, in each case, any amount received or recovered in accordance with Clause 16 (*Application of Proceeds*); and in the case of Intra-Group Liabilities, any amount received or recovered in accordance with Clause 8 (*Intra-Group Lenders and Intra-Group Liabilities*) (to the extent permitted to be received or recovered notwithstanding that an Acceleration Event is continuing);
 - (iv) the proceeds of any Enforcement of any Transaction Security except in accordance with Clause 16 (*Application of Proceeds*); or
 - (v) other than where Clause 9.3 (*Set-Off*) or Clause 18 (*New Debt Financings*) applies, any distribution in cash or in kind or Payment of, or on account of or in relation to,

any of the Liabilities owed by any Debtor, any member of the Group or any Third Party Security Provider which is not in accordance with Clause 16 (*Application of Proceeds*) and which is made as a result of, or after, the occurrence of an Insolvency Event in respect of that Obligor, member of the Group or Third Party Security Provider; or

- (b) if at any time on or after the Designation Date but prior to the Final Discharge Date, any Senior Secured Creditor receives or recovers any Enforcement Proceeds or any other amounts which should otherwise be received or recovered by the Security Agent for application under Clause 16 (*Application of Proceeds*) (whether before or after an Insolvency Event) except in accordance with Clause 16 (*Application of Proceeds*) from any Obligor, any member of the Group or any Third Party Security Provider, that Creditor will:
 - (i) in relation to receipts and recoveries not received or recovered by way of set-off:
 - (A) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for (or otherwise on behalf and for the account of) the Security Agent and promptly pay or distribute that amount to the Security Agent for application in accordance with the terms of this Agreement; and
 - (B) promptly pay or distribute an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement; and
 - (ii) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that recovery to the Security Agent for application in accordance with the terms of this Agreement.

10.3 Exclusions

Clause 10.2 (*Turnover by the Creditors*) shall not apply to any receipt or recovery:

- (a) by way of:
 - (i) Close-Out Netting by a Hedge Counterparty or a Hedging Ancillary Lender;
 - (ii) Payment Netting by a Hedge Counterparty or a Hedging Ancillary Lender;
 - (iii) Inter-Hedging Agreement Netting by a Hedge Counterparty; or
 - (iv) Inter-Hedging Ancillary Document Netting by a Hedging Ancillary Lender;
- (b) by an Ancillary Lender by way of that Ancillary Lender's right of netting or set-off relating to an Ancillary Facility which is a multi-account overdraft facility (to the extent that such netting or set-off is permitted under the relevant Senior Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or Permitted Senior Secured Facilities Agreement (as the context requires));
- (c) by a Super Senior Cash Management Facility Lender by way of that Super Senior Cash Management Facility Lender's right of netting or set-off relating to a Super Senior Cash Management Facility which is a multi-account overdraft facility (to the extent that such netting or set-off is permitted under the relevant Super Senior Cash Management Facility Document);

- (d) by a Cash Management Facility Lender by way of that Cash Management Facility Lender's right of netting or set-off relating to a Cash Management Facility which is a multi-account overdraft facility (to the extent that such netting or set-off is permitted under the relevant Cash Management Facility Document);
- (e) made in accordance with Clause 17 (*Equalisation*);
- (f) made in accordance with Clause 2.6 (*Additional and/or Refinancing Debt*) and/or Clause 18 (*New Debt Financings*) (including any receipt or recovery from any Security, guarantee, indemnity or other assurance against loss relating to any New Debt Financing or Permitted Acquired Indebtedness which is permitted under Clause 18.4 (*Acquired Person or Asset*));
- (g) to the extent that such receipt or recovery was funded directly or indirectly from the proceeds of any indebtedness incurred under or pursuant to any New Debt Financing;
- (h) in respect of funds received by the Security Agent for its own account; or
- (i) that has been distributed by a Notes Trustee to any Noteholders in accordance with the applicable Notes Finance Documents unless that Notes Trustee, as applicable, had received at least two (2) Business Days' prior notice that an Acceleration Event or an Insolvency Event has occurred in relation to an Obligor or Third Party Security Provider or that the receipt or recovery falls within Clause 10.2 (*Turnover by the Creditors*) in each case prior to distribution of the relevant amount.

10.4 Permitted Assurance and Receipts

Nothing in this Agreement shall restrict the ability of any Secured Creditor or other Party that is not a member of the Group or an Investor Affiliate to:

- (a) arrange with any person which is not a member of the Group, a Third Party Security Provider or a Holding Company of any member of the Group any assurance against loss in respect of, or reduction of its credit exposure to, a Debtor (including assurance by way of credit-based derivative or sub-participation) or restrict the terms or application of proceeds or recoveries of such assurance; or
- (b) make any assignment or transfer permitted by Clause 21 (*Changes to the Parties*), which:
 - (i) is permitted by the Secured Debt Documents under which the relevant Liabilities were incurred; and
 - (ii) is not in breach of Clause 5.5 (*No Acquisition of Hedging Liabilities*) or any provision of (if prior to the Senior Discharge Date) the Senior Facilities Agreement or any Permitted Senior Secured Facilities Agreement, (if prior to the Super Senior Discharge Date) any Permitted Super Senior Secured Facilities Agreement, (if prior to the Senior Secured Notes Discharge Date) the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding, (if prior to the Second Lien Notes Discharge Date) the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding, (if prior to the Second Lien Lender Discharge Date) a Second Lien Facility Agreement (as applicable),

and that Secured Creditor shall not be obliged to account to any other Party for any sum received by it as a result of that action.

10.5 Sums received by Debtors and Third Party Security Providers

If any of the Debtors or any Third Party Security Provider receives or recovers any sum which, under the terms of any of the Debt Documents, should have been paid to the Security Agent, that Debtor, or, as the case may be, Third Party Security Provider will:

- (a) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or, if less, the amount received or recovered) on trust for (or, if a trust is not recognised, otherwise on behalf and for the benefit of and account of) the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement; and
- (b) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement.

10.6 Saving Provision

If, for any reason, any of the trusts expressed to be created in this Clause 10 (*Turnover of Receipts*) should fail or be unenforceable, the affected Creditor, Debtor or Third Party Security Provider will promptly pay an amount equal to that receipt or recovery to the Security Agent to be held on trust by the Security Agent for application in accordance with the terms of this Agreement.

11. REDISTRIBUTION

11.1 Recovering Creditor's Rights

- (a) Any amount paid by a Creditor (a "**Recovering Creditor**") to the Security Agent under Clause 9 (*Effect of Insolvency Event*) or Clause 10 (*Turnover of Receipts*) shall be treated as having been paid by the relevant Debtor or, as the case may be, Third Party Security Provider and distributed to the Security Agent, Agents, Arrangers and Secured Creditors (each, a "**Sharing Creditor**") in accordance with the terms of this Agreement.
- (b) On a distribution by the Security Agent under paragraph (a) above of a Payment received by a Recovering Creditor from a Debtor or Third Party Security Provider, as between the relevant Debtor or, as the case may be, Third Party Security Provider and the Recovering Creditor, an amount equal to the amount received or recovered by the Recovering Creditor and paid to the Security Agent (the "**Shared Amount**") will be treated as not having been paid by that Debtor, or as the case may be, Third Party Security Provider.

11.2 Reversal of Redistribution

- (a) If any part of the Shared Amount received or recovered by a Recovering Creditor becomes repayable to a Debtor or, as the case may be, Third Party Security Provider and is repaid by that Recovering Creditor to that Debtor, or as the case may be, Third Party Security Provider, then:
 - (i) each Sharing Creditor shall (subject in the case of the Notes Trustee to paragraphs (a) and (c) of Clause 28.1 (*Liability*)), upon request of the Security Agent, pay to the Security Agent for the account of that Recovering Creditor an amount equal to the appropriate part of its share of the Shared Amount (together with an amount as is necessary to reimburse that Recovering Creditor for its proportion of any interest on the Shared Amount which that Recovering Creditor is required to pay) (the "**Redistributed Amount**"); and

- (ii) as between the relevant Debtor or Third Party Security Provider and each relevant Sharing Creditor, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Debtor or Third Party Security Provider.
- (b) The Security Agent shall not be obliged to pay any Redistributed Amount to a Recovering Creditor under paragraph (a) above until it has been able to establish to its satisfaction that it has actually received that Redistributed Amount from the relevant Sharing Creditor.

11.3 Deferral of Subrogation

No Creditor, Debtor or Third Party Security Provider will exercise any rights which it may have by reason of the performance by it of its obligations under the Debt Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights under the Debt Documents of any Creditor which ranks ahead of it in accordance with the priorities set out in Clause 2 (*Ranking and Priority*) until such time as all of the Liabilities owing to each prior ranking Creditor (or, in the case of any Debtor or Third Party Security Provider, owing to each Creditor) have been irrevocably paid in full.

12. [RESERVED]

13. ENFORCEMENT OF TRANSACTION SECURITY PRIOR TO THE DESIGNATION DATE

13.1 Designation Date

The provisions of this Clause 13 shall only apply to any instruction given or action taken prior to the Designation Date. On or after the Designation Date, the provisions of Clause 14 (*Enforcement of Transaction Security on or after the Designation Date*) shall apply in substitution for the provisions of this Clause 13 for any instructions or action thereafter and this Clause 13 shall cease to apply.

13.2 Cash Cover

This Clause 13 is subject to Clause 16.3 (*Treatment of SFA Cash Cover, Cash Management Facility Cash Cover, Super Senior Cash Management Facility Cash Cover and SFA Cash Collateral*).

13.3 Enforcement Instructions – Transaction Security

- (a) The Security Agent may refrain from enforcing the Transaction Security unless instructed otherwise by:
 - (i) the Instructing Group; or
 - (ii) if required under paragraph (c) below, the Second Lien Agent or Second Lien Notes Trustee (acting on the instructions of the Majority Second Lien Creditors as applicable); or
- (b) Subject to the Transaction Security having become enforceable in accordance with its terms:
 - (i) the Instructing Group; or
 - (ii) to the extent permitted to enforce or to require the enforcement of the Transaction Security prior to the Senior Discharge Date under Clause 6.10 (*Permitted Second Lien Enforcement*), the Second Lien Agent or Second Lien Notes Trustee (acting on the instructions of the Majority Second Lien Creditors),

may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security as they see fit.

- (c) Prior to the Senior Secured Discharge Date:
 - (i) if the Instructing Group has instructed the Security Agent not to enforce or to cease enforcing the Transaction Security; or
 - (ii) in the absence of instructions from the Instructing Group,and, in each case, the Instructing Group has not required any Debtor or Third Party Security Provider to make a Distressed Disposal, the Security Agent shall give effect to any instructions to enforce the Transaction Security which the Majority Second Lien Creditors are then entitled to give to the Security Agent under Clause 6.10 (*Permitted Second Lien Enforcement*).
- (d) Notwithstanding paragraph (c) above, if at any time any Second Lien Agent or Second Lien Notes Trustee is then entitled to give the Security Agent instructions to enforce the Transaction Security pursuant to the preceding paragraph (c) and the Second Lien Agent and/or the Second Lien Notes Trustee (as applicable) do not give such instruction and do not indicate any intention to give such instruction, then the Instructing Group may give instructions to the Security Agent to enforce the Transaction Security as the Instructing Group sees fit in lieu of any instructions to enforce given by the Second Lien Agent, the Second Lien Notes Trustee under this Agreement and Security Agent shall act on such instructions received from the Instructing Group.
- (e) The Security Agent is entitled to rely on and comply with instructions given, or deemed to be given, in accordance with this Clause 13.3.

13.4 Manner of Enforcement - Transaction Security

If the Transaction Security is being enforced pursuant to Clause 13.3 (*Enforcement Instructions – Transaction Security*), the Security Agent shall enforce the applicable Transaction Security in such manner (including the selection of any administrator of any Debtor or Third Party Security Provider to be appointed by the Security Agent):

- (a) as the Instructing Group shall instruct;
- (b) prior to the Senior Secured Discharge Date, if:
 - (i) the Security Agent has, pursuant to paragraph (c) of Clause 13.3 (*Enforcement Instructions – Transaction Security*), received instructions given by the Majority Second Lien Creditors to enforce the Transaction Security; and
 - (ii) the Instructing Group has not given instructions as to the manner of enforcement of the Transaction Security,as the Majority Second Lien Creditors shall instruct; or
- (c) in the absence of any such instructions, as the Security Agent sees fit (which may include taking no action).

13.5 Exercise of Voting Rights

- (a) Each Creditor and the Company, each Intra-Group Lender, each Third Party Security Provider and each Subordinated Creditor agrees (to the fullest extent permitted by law at the relevant time) with the Security Agent that it will cast its vote in any proposal put to the

vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any Debtor, member of the Group or, as the case may be, Third Party Security Provider, as instructed by the Security Agent.

- (b) Subject to paragraph (c) below, the Security Agent shall give instructions for the purposes of paragraph (a) of this Clause 13.5 as directed by an Instructing Group provided such instructions have been given in accordance with Clause 13.3 (*Enforcement Instructions – Transaction Security*).
- (c) Nothing in this Clause 13.5 entitles any Party to exercise or require any other Secured Party to exercise such power of voting or representation to waive, reduce, discharge or extend the due date for (or change the basis for accrual of any) payment of or reschedule any of the Liabilities owed to that Secured Party

13.6 Waiver of Rights

To the extent permitted under applicable law and subject to Clause 13.3 (*Enforcement Instructions – Transaction Security*), Clause 13.4 (*Manner of Enforcement - Transaction Security*), Clause 16 (*Application of Proceeds*) and paragraph (c) of Clause 15.2 (*Distressed Disposals*), each Secured Party, Third Party Security Provider and Debtor waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any sum received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

13.7 Duties Owed

- (a) Each of the Secured Parties, the Third Party Security Providers and the Debtors acknowledges that, in the event that the Security Agent enforces or is instructed to enforce any Transaction Security prior to the Senior Secured Discharge Date, the duties of the Security Agent and of any Receiver or Delegate owed to the Second Lien Creditors in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall, subject to paragraphs (c) and (i) of Clause 15.2 (*Distressed Disposals*), be no different to or greater than the duty that is owed by the Security Agent (or, as the case may be, that Receiver or that Delegate) to the Debtors or Third Party Security Providers under general law. The duty of care owed (whether under this Agreement or under general law) by the Security Agent to the Second Lien Creditors shall be the same whether or not the Second Lien Creditors are creditors at the relevant entity at which enforcement is being conducted or are beneficiaries of the Security that is being enforced. The Security Agent shall promptly upon receiving notice provide the Second Lien Creditors (through their respective Second Lien Creditor Representatives) notification of the scheduling of any court or administrative hearings relating to any Enforcement Action with respect to the Transaction Security.
- (b) Each of the Secured Parties, Third Party Security Providers and the Debtors acknowledges that, in the event that the Security Agent enforces or is instructed to enforce the Transaction Security after the Senior Secured Discharge Date but prior to the Priority Discharge Date, the duties of the Security Agent and of any Receiver or Delegate owed to any Secured Party in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall, subject to paragraph (c) of Clause 15.2 (*Distressed Disposals*), be no different to or greater than the duty that is owed by the Security Agent, Receiver or Delegate to the Debtors or Third Party Security Providers under general law.

13.8 Security held by other Creditors

If any Transaction Security is held by a Creditor other than the Security Agent, then creditors may only enforce that Transaction Security in accordance with instructions given by an Instructing Group in accordance with this Clause 13 (and for this purpose references to the Security Agent shall be construed as references to that Creditor).

13.9 Enforcement through Security Agent Only

The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under the Security Documents except through the Security Agent.

14. ENFORCEMENT OF TRANSACTION SECURITY ON OR AFTER THE DESIGNATION DATE

14.1 Designation Date

The provisions of this Clause 14 shall only apply on and from the Designation Date (without prejudice to the continuing validity of any instruction given or action taken prior to such date).

14.2 Cash Cover

This Clause 14 is subject to Clause 16.3 (*Treatment of SFA Cash Cover, Cash Management Facility Cash Cover, Super Senior Cash Management Facility Cash Cover and SFA Cash Collateral*).

14.3 Enforcement Instructions - Transaction Security

- (a) The Security Agent may refrain from enforcing the Transaction Security unless instructed otherwise:
 - (i) in accordance with paragraph (c) below; or
 - (ii) by, if required under paragraph (d) below, the Second Lien Agent or Second Lien Notes Trustee (acting on the instructions of the Majority Second Lien Creditors as applicable).
- (b) Subject to the Transaction Security having become enforceable in accordance with its terms, if a Priority Instructing Group wishes to issue Enforcement Instructions, the Agents (and, if applicable, Hedge Counterparties) representing the Secured Creditors comprising that Priority Instructing Group shall deliver a copy of those proposed Enforcement Instructions (an "**Initial Enforcement Notice**") to the Security Agent, each Senior Agent, each Super Senior Agent, each Senior Secured Notes Trustee and each Hedge Counterparty which did not deliver such Initial Enforcement Notice, and those Enforcement Instructions shall be consistent with the Enforcement Principles.
- (c) The Security Agent will act in accordance with Enforcement Instructions received from a Priority Instructing Group, **provided that** such instructions are consistent with the Enforcement Principles (and the Security Agent shall be entitled to assume that such instructions are consistent with the Enforcement Principles) and failure to give Enforcement Instructions will be deemed to be an instruction not to take any Enforcement Action.
- (d) Prior to the later of the Senior Secured Discharge Date and the Super Senior Discharge Date:

- (i) if both the Enhanced Majority Pari Passu Creditors and the Enhanced Majority Super Senior Creditors and/or Majority Super Senior Lenders have instructed the Security Agent not to enforce or to cease enforcing the Transaction Security; or
- (ii) in the absence of instructions from the Priority Instructing Group,

and, in each case, neither Priority Instructing Group has required any Debtor or Third Party Security Provider to make a Distressed Disposal, the Security Agent shall give effect to any instructions to enforce the Transaction Security which the Majority Second Lien Creditors are then entitled to give to the Security Agent under Clause 6.10 (*Permitted Second Lien Enforcement*).

- (e) Notwithstanding paragraph (d) above if at any time any Second Lien Agent or Second Lien Notes Trustee is then entitled to give the Security Agent instructions to enforce the Transaction Security pursuant to the preceding paragraph (d) and the Second Lien Agent and/or the Second Lien Notes Trustee (as applicable) do not give such instruction and do not indicate any intention to give such instruction, then a Priority Instructing Group may give instructions to the Security Agent to enforce the Transaction Security and such Priority Instructing Group sees fit in lieu of any instructions to enforce given by the Second Lien Agent or the Second Lien Notes Trustee under this Agreement and Security Agent shall act on such instructions received from such Priority Instructing Group.
- (f) The Security Agent is entitled to rely on and comply with instructions given, or deemed to be given, in accordance with this Clause 14.3 (*Enforcement Instructions - Transaction Security*).
- (g) No Secured Party shall have any independent power to enforce, or to have recourse to, any Transaction Security or to exercise any rights or powers arising under the Transaction Security Documents except through the Security Agent.

14.4 Manner of Enforcement - Transaction Security

If the Transaction Security is being enforced pursuant to Clause 14.3 (*Enforcement Instructions - Transaction Security*), the Security Agent shall enforce the applicable Transaction Security in such manner (including the selection of any administrator of any Debtor or Third Party Security Provider to be appointed by the Security Agent):

- (a) as the Instructing Group shall instruct;
- (b) prior to the later of the Super Senior Discharge Date and the Senior Secured Discharge Date, if:
 - (i) the Security Agent has, pursuant to paragraph (d) of Clause 14.3 (*Enforcement Instructions - Transaction Security*), received instructions given by the Enhanced Majority Second Lien Creditors to enforce the Transaction Security; and
 - (ii) neither Priority Instructing Group has given instructions as to the manner of enforcement of the Transaction Security,
 as the Enhanced Majority Second Lien Creditors shall instruct; or
- (c) in the absence of any such instructions, as the Security Agent sees fit (which may include taking no action).

14.5 Exercise of Voting Rights

- (a) Each Creditor and the Company, each Intra-Group Lender, each Third Party Security Provider and each Subordinated Creditor agrees (to the fullest extent permitted by law at the relevant time) with the Security Agent that it will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any Debtor, member of the Group or, as the case may be, Third Party Security Provider, as instructed by the Security Agent.
- (b) Subject to paragraph (c) below, the Security Agent shall give instructions for the purposes of paragraph (a) of this Clause 14.5 (*Exercise of Voting Rights*) as directed by an Instructing Group, **provided that** such instructions have been given in accordance with Clause 14.3 (*Enforcement Instructions - Transaction Security*).
- (c) Nothing in this Clause 14.5 (*Exercise of Voting Rights*) entitles any Party to exercise or require any other Secured Party to exercise such power of voting or representation to waive, reduce, discharge or extend the due date for (or change the basis for accrual of any) payment of or reschedule any of the Liabilities owed to that Secured Party.

14.6 Waiver of Rights

To the extent permitted under applicable law and subject to Clause 14.3 (*Enforcement Instructions - Transaction Security*), Clause 14.4 (*Manner of Enforcement - Transaction Security*), Clause 16 (*Application of Proceeds*) and paragraph (c) of Clause 15.2 (*Distressed Disposals*), each Secured Party, Third Party Security Provider and Debtor waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any sum received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

14.7 Duties Owed

- (a) Each of the Secured Parties, the Third Party Security Providers and the Debtors acknowledges that, in the event that the Security Agent enforces or is instructed to enforce any Transaction Security prior to the later of the Super Senior Discharge Date and the Senior Secured Discharge Date, the duties of the Security Agent and of any Receiver or Delegate owed to the Second Lien Creditors in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall, subject to paragraphs (c) and (i) of Clause 15.2 (*Distressed Disposals*), be no different to or greater than the duty that is owed by the Security Agent (or, as the case may be, that Receiver or that Delegate) to the Debtors or Third Party Security Providers under general law. The duty of care owed (whether under this Agreement or under general law) by the Security Agent to the Second Lien Creditors shall be the same whether or not the Second Lien Creditors are creditors at the relevant entity at which enforcement is being conducted or are beneficiaries of the Security that is being enforced. The Security Agent shall promptly upon receiving notice provide the Second Lien Creditors (through their respective Second Lien Creditor Representatives) notification of the scheduling of any court or administrative hearings relating to any Enforcement Action with respect to the Transaction Security.
- (b) Each of the Secured Parties, Third Party Security Providers and the Debtors acknowledges that, in the event that the Security Agent enforces or is instructed to enforce the Transaction Security after the later of the Super Senior Discharge Date and the Senior Secured Discharge Date, the duties of the Security Agent and of any Receiver or Delegate owed to any Secured Party in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall, subject

to paragraph (c) of Clause 15.2 (*Distressed Disposals*), be no different to or greater than the duty that is owed by the Security Agent, Receiver or Delegate to the Debtors or Third Party Security Providers under general law.

14.8 Security held by other Creditors

If any Transaction Security is held by a Creditor other than the Security Agent, then creditors may only enforce that Transaction Security in accordance with instructions given by an Instructing Group in accordance with this Clause 14 (and for this purpose references to the Security Agent shall be construed as references to that Creditor).

14.9 Enforcement through Security Agent Only

The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under the Security Documents except through the Security Agent.

15. NON-DISTRESSED DISPOSALS, DISTRESSED DISPOSALS AND DISPOSAL PROCEEDS

15.1 Non-Distressed Disposals

(a) Notwithstanding anything to the contrary in this Agreement or any other Debt Document, the Security Agent (on behalf of itself and the Secured Parties) and each other party to any Security Document hereby agrees (and is irrevocably authorised, instructed and obliged to do so by, and without any further consent, agreement, instruction, direction, confirmation, payment, certification or other document, request or information from, any Creditor, other Secured Party or Debtor) that it shall promptly following receipt of a written request from the Company to the Security Agent:

(i) release (or procure that any other relevant person releases) from the Transaction Security and the Secured Debt Documents any Security (and/or any other claim relating to a Debt Document) over (and return any physical collateral or issue or deliver any other similar equivalent document that may be required or desirable in relation thereto):

(A) any asset which the Company has confirmed pursuant to paragraph (c) below is the subject of:

(1) (subject to paragraph (h) of this Clause 15.1 (*Non-Distressed Disposals*) below) a disposal not prohibited by the terms of any Finance Document (or, to the extent any applicable Finance Document prohibits such disposal, the applicable Agent authorises the release in accordance with the terms of the applicable Finance Document or the Required Creditor Consent for such disposal has been obtained) (including a disposal to a member of the Group, but without prejudice to any obligation of any member of the Group in a Finance Document to provide replacement security); or

(2) any other transaction not prohibited by the terms of any Finance Document pursuant to which that asset will cease to be held or owned by a member of the Group or, to the extent any applicable Finance Document prohibits such transaction, the applicable Agent authorises the release in accordance with the terms of the applicable Finance Document or the Required Creditor Consent for such transaction has been obtained;

and in each case where such disposal is not a Distressed Disposal (in each case, a "**Non-Distressed Disposal**");

- (B) any document or other agreement requested in order for any member of the Group to effect any amendment or waiver in respect of that document or agreement or otherwise exercise any rights, comply with any obligations or take any action in relation to that document or agreement (in each case to the extent the Company has confirmed pursuant to paragraph (c) below it is not prohibited by the terms of any Finance Document);
 - (C) any asset of any member of the Group which has ceased to be a Debtor or Guarantor (or will cease to be a Debtor or Guarantor simultaneously with such release) to the extent that the Company has confirmed pursuant to paragraph (c) below that such cessation is otherwise in accordance with the terms of each Finance Document or the Agreed Security Principles; and
 - (D) any other asset to the extent that the Company has confirmed pursuant to paragraph (c) below that such Security is not required to be given, or such release is otherwise, in accordance with or pursuant to a transaction not prohibited by the terms of each Finance Document or the Agreed Security Principles; and
 - (ii) in the case of a disposal of shares or other ownership interests in a Debtor or other member of the Group (or any Holding Company of any Debtor), or any other transaction pursuant to which a Debtor or other member of the Group (or any Holding Company of any Debtor) will cease to be a member of the Group or a Debtor (including pursuant to Clause 21.20 (*Resignation of a Debtor*)), release (or procure that any other relevant person releases) that Debtor or such other member of the Group and its Subsidiaries from all present and future liabilities (both actual and contingent) under the Secured Debt Documents and the respective assets of such Debtor and its Subsidiaries (and the shares in any such Debtor and/or Subsidiary) from the Transaction Security and the Secured Debt Documents (including any claim relating to a Debt Document); and
 - (iii) to effect a Debt Transfer **provided that** all of the conditions to such Debt Transfer in paragraph (j) of Clause 15.1 (*Non-Distressed Disposals*) are or will be satisfied.
- (b) Any release or other step contemplated by this clause shall not be conditional upon the performance of any obligation of any counterparty to any disposal, Permitted Transaction or other agreement or arrangement, or upon the receipt of any consideration or asset by any member of the Group, **provided that** if any Non-Distressed Disposal is not made, (i) each release of Transaction Security or any claim described in paragraph (a) above shall have no effect and the Transaction Security or claim subject to that release shall continue in such force and effect as if that release had not been effected (to the extent possible under applicable law); and (ii) the Parties agree that, to the extent required under applicable law, any Transaction Security released or purported to be released shall promptly be retaken on substantially the same terms.
- (c) When making any request for a release pursuant to paragraphs (a)(i)(A), (a)(i)(B), (a)(i)(C) (a)(i)(D) or (a)(ii) above, the Company shall confirm in writing to the Security Agent that:
- (i) in the case of any release requested pursuant to paragraphs (a)(i)(A), (a)(i)(B) or (a)(ii) above, (subject to paragraph (h) of this Clause 15.1 (*Non-Distressed Disposals*) below) the relevant disposal or other action is not prohibited by the

terms of any Finance Document, in each case, as the case may be, as at the Applicable Test Date; or

- (ii) in the case of any release requested pursuant to paragraphs (a)(i)(C) or (a)(i)(D) above, such Security is not required to be given, or the relevant release or cessation is otherwise, in accordance with terms of the Finance Documents or the Agreed Security Principles,

and the Security Agent shall be entitled to rely on that confirmation for all purposes under the Secured Debt Documents.

- (d) The Security Agent (on behalf of itself and the Secured Parties) and each other party to any Security Document shall and hereby agrees to (and is irrevocably authorised, instructed and obliged to do so by, and without any further consent, agreement, sanction, authority, instruction, direction, confirmation, payment, certification or other document, request or information from any Creditor, other Secured Party or Debtor) promptly enter into (or procure that any relevant person enters into) and deliver such documentation and/or take such other action as the Company shall require to give effect to, or to evidence, any release (including in any official register) or other matter contemplated by or in connection with this Clause 15.1 (*Non-Distressed Disposals*) (including the issuance of any certificates of non-crystallisation of floating charges, any consent to dealing or any other similar or equivalent document that may be required or desirable).
- (e) Without prejudice to the foregoing and for the avoidance of doubt, if requested by the Company in accordance with the terms of any of the Finance Documents (and **provided that** the requested action is not expressly prohibited by any of the other Finance Documents), the Security Agent, the Creditors and the other Secured Parties shall promptly execute any guarantee, security or other release and/or any amendment, supplement or other documentation relating to any Transaction Security or Security Documents as contemplated by the terms of any of the Finance Documents and the Security Agent (on behalf of itself and the Secured Parties) hereby agrees to execute, and will promptly execute if requested by the Company, (and is irrevocably authorised, instructed and obliged to do so by, and without any further consent, agreement, sanction, authority, instruction, direction, confirmation, payment, certification or other document, request or information from, any Creditor, other Secured Party or Debtor) any such release or document on behalf of the Creditors and the other Secured Parties. When making any request pursuant to this paragraph (e) the Company shall confirm in writing to the Security Agent that such request is in accordance with the terms of a Finance Document (and the requested action is not expressly prohibited by any of the other Finance Documents) and the Security Agent shall be entitled to rely on that confirmation for all purposes under the Secured Debt Documents.
- (f) Notwithstanding anything to the contrary in any Debt Document, nothing in any Security Document shall operate or be construed so as to prevent any transaction, matter or other step not prohibited by the terms of this Agreement or the Finance Documents (a "**Permitted Transaction**"). The Security Agent (on behalf of itself and the Secured Parties) hereby agrees (and is irrevocably authorised, instructed and obliged to do so by, and without any further consent, agreement, sanction, authority, instruction, direction, confirmation, payment, certification or other document, request or information from, any Creditor, other Secured Party or Debtor) that it shall promptly execute any release or other document and/or take such other action or step under or in relation to any Debt Document (or any asset subject or expressed to be subject to any Transaction Security or any Security Document) as is requested by the Company in order to complete, implement or facilitate a Permitted Transaction. In the event that the Company makes any request pursuant to and in reliance on the preceding sentence, the Security Agent shall be permitted to request a confirmation from the Company that the relevant transaction, matter or other step is a Permitted Transaction and the Security Agent shall be entitled to rely on that confirmation for all purposes under the Secured Debt Documents.

- (g) For the avoidance of doubt and notwithstanding anything to the contrary in the Second Lien Finance Documents, if any member of the Group is required or permitted under the Senior Secured Finance Documents to apply the proceeds of any disposal or other transaction in prepayment, redemption or any other discharge or reduction of any Senior Secured Liabilities:
- (i) no such application of those proceeds shall require the consent of any Party or Second Lien Creditor or will result in a direct or indirect breach of any Second Lien Finance Document; and
 - (ii) any such application shall discharge in full any obligation to apply those proceeds in prepayment, redemption or any other discharge or reduction of any Second Lien Liabilities.

This paragraph (g) is without prejudice to any right of any member of the Group to apply any proceeds of any disposal or other transaction in prepayment, redemption or any other discharge or reduction of any Second Lien Liabilities to the extent permitted or contemplated by this Agreement or any other Senior Secured Finance Document.

- (h) Any condition, basket or ratio relating to the making of a disposal or similar transaction in any Finance Document may be satisfied, at the option of the Company either (i) as at the date of completion thereof, or (ii) on the date that the definitive agreement for such disposal or similar transaction is entered into; or (iii) any other Applicable Test Date (including by reference to any circumstance, basket or ratio calculated on that date and on a pro forma basis after giving effect to such disposal or similar transaction, including the receipt of proceeds). **Provided that** such condition, basket or ratio is satisfied (irrespective of any date specified in the relevant Finance Document for its satisfaction), each Party irrevocably consents to and agrees that: (A) any disposal or similar transaction that is not a Distressed Disposal is permitted to be made by any member of the Group or Third Party Security Provider notwithstanding any other provision to the contrary in this Agreement or any other Debt Document; (B) (in the event of paragraph (c)(ii) above) any condition, test or determination in any Finance Document may be satisfied as at the date of entry into such definitive agreement or as at the Applicable Test Date and shall not be required to be satisfied at any time subsequent to such determination date and at or prior to the consummation of the relevant transaction; and as such any Default occurring, any fluctuation in any basket or ratio, or any change in any condition, test or determination (including in relation to fair market value) shall be ignored and shall not be tested at the time of the consummation of the relevant transaction; (C) in the case of such disposal or similar transaction of shares of any member of the Group which is a Guarantor and/or Debtor (and/or any Subsidiary thereof which is a Guarantor and/or Debtor) which is permitted to be made pursuant to paragraphs (A) and (B) above, notwithstanding any other provision to the contrary in this Agreement or any other Debt Document such member of the Group shall be permitted to resign as a Guarantor subject only to the delivery of the applicable resignation or similar letters to the applicable Agent and/or the Security Agent which shall be required to accept, counter-sign or effect the same.
- (i) Notwithstanding anything to the contrary in this Agreement or any other Debt Document, in the case of a disposal of shares or other ownership interests in a Debtor or other member of the Group (or Holding Company of any Debtor), or any other transactions pursuant to which a Debtor or other member of the Group (or Holding Company of any Debtor) will cease to be a member of the Group or a Debtor (including pursuant to Clause 21.20 (*Resignation of a Debtor*)) in each case to the extent the Company has confirmed to the Security Agent that such disposal or other transaction or designation is not prohibited by the Finance Documents and to the extent not occurring after an Acceleration Event or constituting a Distressed Disposal, if such member of the Group or a Debtor is a borrower, issuer or other primary debtor under or in respect of any Debt Document, such person shall have the right to voluntarily prepay any or all Liabilities outstanding under any Debt

Document to the applicable Creditors concurrently with ceasing to be a member of the Group or Debtor; and any right to decline, delay or prevent any prepayment in any Debt Document shall be disappplied to the extent that if exercised such right would prevent the repayment of all such Liabilities in full by such person (but without prejudice to any prepayment fees, make-whole payment, break costs or other payment required by the relevant Finance Documents).

- (j) Notwithstanding anything to the contrary in any Debt Document (but subject to the last sentence of this paragraph (j)), the Company may at any time require that all of the rights and obligations of any Super Senior Borrower, Senior Borrower or Second Lien Borrower (a "**Borrower**") in respect of its Liabilities (including Borrowing Liabilities) under the applicable Secured Debt Documents be novated or otherwise transferred by that Borrower (a "**Debt Transfer**") **provided that** (i) either: (A) such Debt Transfer is to another member of the Group; (B) such Debt Transfer is by a Borrower where (I) that Borrower or any Holding Company of that Borrower is being disposed of in accordance with the Finance Documents, and (II) the proceeds of such disposal are not otherwise required to be applied unconditionally in prepayment of that Borrower's Borrowing Liabilities under the applicable Finance Documents; or (C) such Debt Transfer is undertaken in connection with an IPO Event; and (ii) the transferee in respect of such Debt Transfer is (in the case of a Super Senior Borrower) another Super Senior Borrower, or (in the case of a Senior Borrower) another Senior Borrower incorporated in the same jurisdictions as the transferee, or (in the case of a Second Lien Borrower) another Second Lien Borrower. Any Debt Transfer may (and shall upon the request of the Company) be effected on a cashless basis, by way of book entries and not as physical cash movement to repay and reborrow any applicable Liabilities. Notwithstanding anything to the contrary in this Agreement or any other Debt Document, the obligations of a Borrower under the Senior Facilities Agreement may not be novated or otherwise transferred by that Borrower unless the requisite consent of the Lenders (under and as defined in the Senior Facilities Agreement) to such novation or transfer has been obtained.

15.2 Distressed Disposals

- (a) Subject to paragraphs (d) and (e) below, if a Distressed Disposal of any asset is being effected (subject to acting in accordance with paragraph (c) below), the Security Agent is irrevocably authorised (at the cost of the relevant Debtor, Third Party Security Provider, and the Company and without any consent, sanction, authority or further confirmation from any Creditor, Third Party Security Provider or Debtor):
 - (i) release of Security/non-crystallisation certificates: to release the Transaction Security or any other claim over that asset and execute and deliver or enter into any release of that Transaction Security or claim and issue any letters of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable;
 - (ii) release of liabilities and Security on a share sale (Debtor): if the asset which is disposed of consists of shares in the capital of a Debtor, to release:
 - (A) that Debtor and any Subsidiary of that Debtor from all or any part of:
 - (1) its Borrowing Liabilities;
 - (2) its Guarantee Liabilities; and
 - (3) its Other Liabilities;
 - (B) any Transaction Security granted by that Debtor or any Subsidiary of that Debtor over any of its assets; and

- (C) any other claim of an Intra-Group Lender, a Subordinated Creditor, or another Debtor (and any claim of a Debtor arising as part of a Cash Management Services) over that Debtor's assets or over the assets of any Subsidiary of that Debtor, on behalf of the relevant Creditors, Third Party Security Providers and Debtors;
- (iii) release of liabilities and Security on a share sale (Holding Company): if the asset which is disposed of consists of shares in the capital of any Holding Company of a Debtor, to release:
 - (A) that Holding Company and any Subsidiary of that Holding Company from all or any part of:
 - (1) its Borrowing Liabilities;
 - (2) its Guarantee Liabilities; and
 - (3) its Other Liabilities;
 - (B) any Transaction Security granted by that Holding Company or any Subsidiary of that Holding Company over any of its assets; and
 - (C) any other claim of an Intra-Group Lender, a Subordinated Creditor or another Debtor (and any claim of a Debtor arising as part of a Cash Management Services) over the assets of that Holding Company and any Subsidiary of that Holding Company,

on behalf of the relevant Creditors and Debtors;
- (iv) disposal of liabilities on a share sale: if the asset which is disposed of consists of shares in the capital of a Debtor or the Holding Company of a Debtor and the Security Agent (acting in accordance with paragraph (c) below) decides to dispose of all or any part of:
 - (A) the Liabilities; or
 - (B) the Debtor Liabilities,

owed by that Debtor or Holding Company or any Subsidiary of that Debtor or Holding Company:

 - (1) (if the Security Agent (acting in accordance with paragraph (c) below) does not intend that any transferee of those Liabilities or Debtor Liabilities (the "**Transferee**") will be treated as a Secured Creditor or a Secured Party for the purposes of this Agreement), to execute and deliver or enter into any agreement to dispose of all or part of those Liabilities or Debtor Liabilities, **provided that** notwithstanding any other provision of any Debt Document the Transferee shall not be treated as a Secured Creditor or a Secured Party for the purposes of this Agreement; and
 - (2) (if the Security Agent (acting in accordance with paragraph (c) below) does intend that any Transferee will be treated as a Secured Creditor or a Secured Party for the purposes of this Agreement), to execute and deliver or enter into any agreement to dispose of:

(I) all (and not part only) of the Liabilities owed to the Secured Creditors; and

(II) all or part of any other Liabilities and the Debtor Liabilities,

on behalf of, in each case, the relevant Creditors, Third Party Security Providers and Debtors;

(v) transfer of obligations in respect of liabilities on a share sale: if the asset which is disposed of consists of shares in the capital of a Debtor or the Holding Company of a Debtor (the "**Disposed Entity**") and the Security Agent (acting in accordance with paragraph (c) below) decides to transfer to another Debtor (the "**Receiving Entity**") all or any part of the Disposed Entity's obligations or any obligations of any Subsidiary of that Disposed Entity in respect of:

(A) the Intra-Group Liabilities (and liabilities owed to a Debtor as part of any Cash Management Services); or

(B) the Debtor Liabilities,

to execute and deliver or enter into any agreement to:

(1) agree to the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Debtor Liabilities on behalf of the relevant Intra-Group Lenders and Debtors to which those obligations are owed and on behalf of the Debtors which owe those obligations; and

(2) (**provided that** the Receiving Entity is a Holding Company of the Disposed Entity which is also a Guarantor of Senior Secured Liabilities) to accept the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Debtor Liabilities on behalf of the Receiving Entity or Receiving Entities to which the obligations in respect of those Intra-Group Liabilities or Debtor Liabilities are to be transferred.

(b) The net proceeds of each Distressed Disposal (and the net proceeds of any disposal of Liabilities or Debtor Liabilities pursuant to paragraph (a)(iv) above) shall be paid to the Security Agent for application in accordance with Clause 16 (*Application of Proceeds*) as if those proceeds were the proceeds of an enforcement of the Transaction Security and, (to the extent that any disposal of Liabilities or Debtor Liabilities has occurred pursuant to paragraph (a)(iv) above), as if that disposal of Liabilities or Debtor Liabilities had not occurred.

(c) In the case of a Distressed Disposal (or a disposal of Liabilities pursuant to paragraph (a)(iv) and (a)(v) above) effected by or at the request of the Security Agent, the Security Agent shall take reasonable care to obtain a fair market price in the prevailing market conditions (although the Security Agent shall not have any obligation to postpone any such Distressed Disposal or disposal of Liabilities in order to achieve a higher price), and shall in all cases comply with the requirements set out in paragraphs (f) and (g) below (as applicable) and act in accordance with paragraph (i) below.

(d) If a Distressed Disposal is being effected at a time when the Enhanced Majority Second Lien Creditors are entitled to give, and have given, instructions under paragraph (d) of Clause 14.3 (*Enforcement Instructions - Transaction Security*) or Clause 14.4 (*Manner of Enforcement - Transaction Security*) the Security Agent is not authorised to release any

Debtor, Subsidiary or Holding Company from any Borrowing Liabilities or Guarantee Liabilities or Other Liabilities owed to any Senior Secured Creditor unless those Borrowing Liabilities or Guarantee Liabilities or Other Liabilities and any other Senior Secured Liabilities will be paid (or repaid) in full (or, in the case of any contingent Liability relating to a Letter of Credit, Super Senior Cash Management Facility LC, Cash Management Facility LC, a Super Senior Cash Management Facility, a Cash Management Facility or an Ancillary Facility made the subject of cash collateral arrangements acceptable to the relevant Senior Creditor), immediately following that release.

- (e) Where Borrowing Liabilities, Guarantee Liabilities and/or Other Liabilities would otherwise be released pursuant to paragraph (a) above, the Creditor concerned may elect to have those Borrowing Liabilities, Guarantee Liabilities and/or Other Liabilities transferred to a Holding Company of the Company specified by such Creditor, in which case the Security Agent is irrevocably authorised (at the cost of the relevant Debtor or the Company and without any consent, sanction, authority or further confirmation from any Creditor or Debtor) to execute such documents as are required to so transfer those Borrowing Liabilities, Guarantee Liabilities and/or Other Liabilities.
- (f) Subject to paragraphs (h) and (i) below, if a Distressed Disposal (or a disposal of Liabilities pursuant to paragraphs (a)(iv) and (a)(v) above) is being effected by or at the request of the Security Agent, unless the consent of each Senior Agent and each Senior Secured Notes Trustee (as applicable) has been obtained, it is a further condition to any release, transfer or disposal under paragraph (a) above that:
 - (i) the consideration for such sale or disposal is in cash (or substantially all in cash); and
 - (ii) such sale or disposal (including any sale or disposal of any claim) is made:
 - (A) pursuant to a Competitive Sales Process; or
 - (B) where a Financial Adviser selected by the Security Agent has delivered an opinion (including an enterprise valuation of the Group which can be relied upon by the Security Agent and disclosed to the Senior Secured Creditors and the Second Lien Creditors on a non-reliance basis) that the proceeds received or recovered in connection with such sale or disposal are fair from a financial point of view taking into account all relevant circumstances including the method of enforcement (it being acknowledged that the Security Agent shall have no obligation to select or engage any Financial Adviser unless it shall have been indemnified and/or secured and/or prefunded to its satisfaction).
- (g) If, before the Second Lien Discharge Date, a Distressed Disposal (or a disposal of Liabilities pursuant to paragraphs (a)(iv) and (a)(v) above) is being effected such that any Second Lien Liabilities and/or Transaction Security securing Second Lien Liabilities will be released, transferred or disposed under paragraph (a) above, it is a further condition to any release, transfer or disposal under paragraph (a) above that either:
 - (i) each Second Lien Agent and each Second Lien Notes Trustee (as applicable) has approved the release, transfer or disposal; or
 - (ii) where shares or assets of a Second Lien Borrower or issuer of Second Lien Notes or Second Lien Guarantor are sold:
 - (A) the consideration for such sale or disposal is in cash (or substantially all in cash);

(B) at the time of completion of the sale or disposal the Borrowing Liabilities, Guarantee Liabilities and (to the extent permitted by this Agreement) Other Liabilities owing to each of the Secured Creditors and Unsecured Creditors by the Debtors being sold or disposed of and owing by all Subsidiaries thereof (a "**Relevant Claim**") are (to the same extent) unconditionally released and discharged or sold or disposed of concurrently with such sale (and not assumed by the purchaser or one of its Affiliates), and in each case all Security under the Security Documents in respect of the assets of such members of the Group is simultaneously and unconditionally released and discharged concurrently with such sale, **provided that if:**

- (1) each Senior Agent and Senior Secured Notes Trustee (acting reasonably and in good faith) determines that the Senior Secured Creditors will recover a greater amount if such Relevant Claim is sold or otherwise transferred to the purchaser or one of its Affiliates and not released or discharged and provided such amount is nevertheless less than the aggregate amount of outstanding Senior Secured Liabilities (which shall be deemed to be the case if there are no bidders or if each Senior Agent and Senior Secured Notes Trustee (acting reasonably and in good faith) determines that there are no bona fide and fully committed bids in cash or substantially all in cash in excess of the outstanding amount of the Senior Secured Liabilities); and
- (2) serves a written notice on the Security Agent confirming the same,

then the Security Agent shall be entitled immediately to sell and transfer such Relevant Claim to the purchaser or one of its Affiliates; and

(C) such sale or disposal (including any sale or disposal of any claim) is made:

- (1) pursuant to a Competitive Sales Process; or
- (2) where a Financial Adviser selected by the Security Agent has delivered an opinion (including an enterprise valuation of the Group which can be relied upon by the Security Agent and disclosed to the Senior Secured Creditors and the Second Lien Creditors on a non-reliance basis) that the proceeds received or recovered in connection with such sale or disposal are fair from a financial point of view taking into account all relevant circumstances including the method of enforcement (it being acknowledged that the Security Agent shall have no obligation to select or engage any Financial Adviser unless it shall have been indemnified and/or secured and/or prefunded to its satisfaction).

(h) If any Transaction Security proposed to be released under this Clause 15.2 includes SFA Cash Cover, the Security created or evidenced, or expressed to be created or evidenced, under or pursuant to the relevant document in relation to such cash cover shall not be released without the consent of the Security Agent or the Issuing Bank or Ancillary Lender with which that SFA Cash Cover is held.

(i) For the purposes of paragraphs (a), (c), (g), (h) and (i) above, the Security Agent shall always act:

- (i) if the relevant Distressed Disposal is being effected by way of enforcement of the Transaction Security, in accordance with, prior to the Designation Date Clause 13.4 (*Manner of Enforcement - Transaction Security*) or, on and from the Designation Date, Clause 14.4 (*Manner of Enforcement - Transaction Security*); and
- (ii) in any other case:
 - (A) on the instructions of the Instructing Group; or
 - (B) in the absence of any such instructions, as the Security Agent sees fit (which may include taking no action).
- (j) Notwithstanding anything to the contrary in this Clause 15.2, if a Distressed Disposal is being effected at a time when the Priority Instructing Group is the Enhanced Majority Pari Passu Creditors, the Security Agent is not authorised to release any Debtor, Subsidiary or Holding Company from any Borrowing Liabilities or Guarantee Liabilities or Other Liabilities owed to any Super Senior Creditor unless those Borrowing Liabilities or Guarantee Liabilities or Other Liabilities and any other Super Senior Liabilities will be paid (or repaid) in full (or, in the case of any contingent Liability relating to a Letter of Credit, Super Senior Cash Management Facility LC, Cash Management Facility LC, a Super Senior Cash Management Facility, a Cash Management Facility or an Ancillary Facility made the subject of cash collateral arrangements acceptable to the relevant Super Senior Creditor), immediately following that release.

15.3 Claims and other Proceeds (before Distress Event)

- (a) So long as the requirements of paragraph (b) below are met (or the Company has confirmed that if and when applicable they will be met), if any contractual, insurance or other claim is to be made, or is made, by a member of the Group prior to a Distress Event and that claim (or the proceeds of any such claim) is or are expressed to be subject to the Transaction Security, the Security Agent is irrevocably authorised (without any consent, agreement, sanction, authority, instruction, direction, confirmation, payment, certification or other document, request or information from any Creditor, other Secured Party or Debtor) to:
 - (i) give a consent under or release the Transaction Security, or any other claim, over any relevant document, policy or other asset to the extent necessary to allow that member of the Group to make that claim (and to allow each member of the Group to comply with any obligations in respect of that claim and those proceeds under the Secured Debt Documents); and
 - (ii) execute and deliver or enter into any such consent under or release of that Transaction Security, or claim, that may, in the discretion of the Company, be necessary or desirable.
- (b) If any claim proceeds the subject of any action taken under paragraph (a)(i) or (a)(ii) above or any other amounts or proceeds are required to be applied in mandatory prepayment of any Secured Liabilities and/or the Unsecured Liabilities or any other Mandatory Prepayment or other application of amounts or proceeds is required to be made pursuant to the terms of the Debt Documents, those proceeds or amounts ("**Relevant Proceeds**") shall be applied as required by the terms of the Secured Debt Documents, **provided that** notwithstanding anything to the contrary if those Relevant Proceeds are required to be applied in mandatory prepayment or other payment of more than one class of Creditors under the Secured Debt Documents and the amount of such Relevant Proceeds is not sufficient to satisfy all such mandatory prepayment or other payment requirements; or in the event of any conflict between the terms of the Secured Debt Documents and/or the Unsecured Finance Documents; or if compliance with the provisions governing mandatory

prepayment or any other application of Relevant Proceeds in any Secured Debt Document or Unsecured Finance Document would result in a Default or Event of Default arising under any other Debt Document:

- (i) those Relevant Proceeds shall be paid (as applicable) to the relevant Creditors in the order set out at Clause 16.1 (*Order of Application - Transaction Security*) below as though such Proceeds were Recoveries (subject to any right of any Creditor in a Secured Debt Document to decline to receive such Relevant Proceeds) or otherwise in accordance with the terms of the Secured Debt Documents and such payment or application shall be deemed to satisfy all obligations of the Group in respect of such proceeds and no other consent of any other Party or Creditor shall be required for that application; and
 - (ii) no Default or Event of Default shall arise under any Debt Document to the extent that such Relevant Proceeds are applied in accordance with paragraph (i) above.
- (c) If the making of any Mandatory Prepayment (an "**Original Mandatory Prepayment**") would directly or indirectly result in the notional amount of any outstanding Hedging Liabilities exceeding the outstanding principal amount (following such Original Mandatory Prepayment) under any Debt Document to which the Company determines such Hedging Liabilities relate (the "**Relevant Debt**"), the Company (or the relevant borrower (as applicable)) may (upon written notice to each relevant Agent and Hedge Counterparty) reduce the amount of such Mandatory Prepayment so that the aggregate of:
- (i) the reduced Mandatory Prepayment; and
 - (ii) the amount required to be applied in close-out of the relevant Hedging Liabilities to reduce the notional amount thereof to the outstanding principal amount of the Relevant Debt,

is equal to the amount of the Original Mandatory Prepayment and no Default or Event of Default shall arise under any Debt Document to the extent that any mandatory prepayment is adjusted in accordance with this paragraph 15.3 (*Claims and other Proceeds (before Distress Event)*).

15.4 Creditors' and Third Party Security Providers' and Debtors' Actions

- (a) Each Creditor, Third Party Security Provider, and in relation to Clause 15.2 (*Distressed Disposals*), Debtor will:
- (i) do all things that the Security Agent reasonably requests in order to give effect to this Clause 15 (*Non-Distressed Disposals, Distressed Disposals and Disposal Proceeds*) (which shall include the execution of any assignments, transfers, releases, delegation of faculties, powers of attorney or other documents that the Security Agent may reasonably consider to be necessary to give effect to the releases or disposals contemplated by this Clause 15) (*Non-Distressed Disposals, Distressed Disposals and Disposal Proceeds*); and
 - (ii) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 15 (*Non-Distressed Disposals, Distressed Disposals and Disposal Proceeds*) or if the Security Agent requests that any Creditor, Third Party Security Provider or Debtor take any such action, take that action itself in accordance with the reasonable instructions of the Security Agent,

provided that the proceeds of those disposals are applied in accordance with Clause 15.1 (*Non-Distressed Disposals*) or Clause 15.2 (*Distressed Disposals*) (as the case may be).

- (b) Each Secured Party irrevocably authorises and instructs the Security Agent (at the cost of the relevant Secured Party to the extent such Secured Party is required to do such action and has failed to do so and without any further consent, agreement, sanction, authority, instruction, direction, confirmation, payment, certification or other document, request or information from any Secured Party) to be its agent to do anything which that Secured Party has authorised the Security Agent or any other Party to do under this Agreement or is itself required to do under this Agreement, but has failed to do (which shall include the execution of any assignments, transfers, releases or other documents that may be necessary) to give effect to the release and disposals contemplated by this Clause 15 (*Non-Distressed Disposals, Distressed Disposals and Disposal Proceeds*) or Clause 18 (*New Debt Financings*).

16. APPLICATION OF PROCEEDS

16.1 Order of Application - Transaction Security

Subject to Clause 1.6 (*Waiver and Termination*), Clause 16.2 (*Prospective Liabilities*) and Clause 16.3 (*Treatment of SFA Cash Cover, Cash Management Facility Cash Cover, Super Senior Cash Management Facility Cash Cover and SFA Cash Collateral*), all amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Debt Document or, in connection with the realisation or enforcement of all or any part of the Transaction Security (the "**Recoveries**") shall be applied at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 16 (*Application of Proceeds*)), in the following order of priority:

- (a) in discharging any sums owing to a Senior Creditor Representative (in respect of the Senior Agent Liabilities or Super Senior Agent Liabilities), the Security Agent, any Receiver or any Delegate, any Second Lien Creditor Representative (in respect of the Second Lien Agent Liabilities) on a *pari passu* basis;
- (b) in payment of all costs and expenses incurred by any Agent or Secured Creditor in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of this Agreement or any action taken at the request of the Security Agent under Clause 9.6 (*Creditors' Actions*);
- (c) if the Designation Date has occurred, in payment to:
 - (i) each Super Senior Agent on its own behalf and on behalf of the relevant Super Senior Arrangers and the relevant Super Senior Lenders and the relevant Super Senior Cash Management Facility Lenders;
 - (ii) each Super Senior Cash Management Facility Lender (to the extent no Super Senior Cash Management Facility Agent is appointed in respect of the relevant Super Senior Cash Management Facility Commitments); and
 - (iii) the Super Senior Hedge Counterparties,

for application towards the discharge of:

- (A) the Super Senior Arranger Liabilities and the Super Senior Lender Liabilities (in accordance with the terms of the Super Senior Finance Documents);
- (B) the Super Senior Cash Management Facility Liabilities (in accordance with the terms of the Super Senior Cash Management Facility Documents); and

- (C) the Super Senior Hedging Liabilities (on a *pro rata* basis between the Super Senior Hedging Liabilities of each Super Senior Hedge Counterparty),

on a *pro rata* basis and ranking *pari passu* between paragraphs (A), (B) and (C) above; and/or

if or after the Super Senior Discharge Date has occurred, then in payment to:

- (i) each Senior Agent on its own behalf and on behalf of the relevant Senior Arrangers and the relevant Senior Lenders and the relevant Cash Management Facility Lenders;
- (ii) each Senior Secured Notes Trustee on its own behalf and on behalf of the relevant Senior Secured Notes Creditors;
- (iii) each Cash Management Facility Lender (to the extent no Cash Management Facility Agent is appointed in respect of the relevant Cash Management Facility Commitments); and
- (iv) the Pari Passu Hedge Counterparties,

for application towards the discharge of:

- (A) the Senior Arranger Liabilities and the Senior Lender Liabilities (in accordance with the terms of the Senior Finance Documents);
- (B) the Senior Secured Notes Liabilities (in accordance with the terms of the Senior Secured Notes Finance Documents);
- (C) the Cash Management Facility Liabilities (in accordance with the terms of the Cash Management Facility Documents); and
- (D) the Pari Passu Hedging Liabilities (on a *pro rata* basis between the Pari Passu Hedging Liabilities of each Pari Passu Hedge Counterparty),

on a *pro rata* basis and ranking *pari passu* between paragraphs (A), (B), (C) and (D) above;

- (d) if the Designation Date has not occurred, in payment to:

- (i) each Senior Agent on its own behalf and on behalf of the relevant Senior Arrangers and the relevant Senior Lenders and Cash Management Facility Lenders;
- (ii) each Senior Secured Notes Trustee on its own behalf and on behalf of the Senior Secured Notes Creditors;
- (iii) each Cash Management Facility Lender (to the extent no Cash Management Facility Agent is appointed in respect of the relevant Cash Management Facility Commitments); and
- (iv) the Hedge Counterparties,

for application towards the discharge of:

- (A) the Senior Arranger Liabilities and the Senior Lender Liabilities (in accordance with the terms of the Senior Finance Documents);

- (B) the Senior Secured Notes Liabilities (in accordance with the terms of the Senior Secured Notes Finance Documents);
 - (C) the Cash Management Facility Liabilities (in accordance with the terms of the Cash Management Facility Documents); and
 - (D) the Hedging Liabilities (on a *pro rata* basis between the Hedging Liabilities of each Hedge Counterparty),
- on a *pro rata* basis and ranking *pari passu* between paragraphs (A), (B), (C) and (D) above;
- (e) in payment to:
- (i) each Second Lien Agent on its own behalf and on behalf of the Second Lien Arrangers and the Second Lien Lenders; and
 - (ii) each Second Lien Notes Trustee on its own behalf and on behalf of the Second Lien Notes Creditors,
- for application towards the discharge of:
- (A) the Second Lien Arranger Liabilities and the Second Lien Lender Liabilities (in accordance with the terms of the Second Lien Finance Documents); and
 - (B) the Second Lien Notes Liabilities (in accordance with the terms of the Second Lien Notes Finance Documents),
- (f) on a *pro rata* basis and ranking *pari passu* between paragraphs (A) and (B) above;
- (g) if none of the Debtors, or as the case may be, Third Party Security Providers are under any further actual or contingent liability under any Secured Debt Document, in payment to any other person to whom the Security Agent is obliged to pay in priority to any Debtor or Third Party Security Provider; and
- (h) the balance, if any, in payment to the relevant Debtor.

16.2 Prospective Liabilities

Following a Distress Event the Security Agent may, in its discretion, hold any amount of the Recoveries not in excess of the Expected Amount (as defined below) in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit until otherwise directed by an Instructing Group (the interest being credited to the relevant account) for later application under Clause 16.1 (*Order of Application - Transaction Security*) in respect of:

- (a) any sum to the Security Agent, any Receiver or any Delegate; and
- (b) any part of the Liabilities, the Agent Liabilities or the Arranger Liabilities (in each case only to the extent entitled to share in such Recoveries),

that the Security Agent reasonably considers, in each case, might become due or owing at any time in the future (the "**Expected Amount**").

16.3 Treatment of SFA Cash Cover, Cash Management Facility Cash Cover, Super Senior Cash Management Facility Cash Cover and SFA Cash Collateral

- (a) Nothing in this Agreement shall prevent:
 - (i) any Issuing Bank or Ancillary Lender taking any Enforcement Action in respect of any SFA Cash Cover which has been provided for it in accordance with the Senior Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement or any Permitted Senior Secured Facilities Agreement (as the context requires); or
 - (ii) any Cash Management Facility Lender (or any Cash Management Facility Agent on its behalf) taking any Enforcement Action in respect of any Cash Management Facility Cash Cover which has been provided for it in accordance with the relevant Cash Management Facility Document; or
 - (iii) any Super Senior Cash Management Facility Lender (or any Super Senior Cash Management Facility Agent on its behalf) taking any Enforcement Action in respect of any Super Senior Cash Management Facility Cash Cover which has been provided for it in accordance with the relevant Super Senior Cash Management Facility Document.
- (b) To the extent that any SFA Cash Cover is not held with the Relevant Issuing Bank or Relevant Ancillary Lender, all amounts from time to time received or recovered in connection with the realisation or enforcement of that SFA Cash Cover shall be paid to the Security Agent and shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law, in the following order of priority:
 - (i) to the Relevant Issuing Bank or Relevant Ancillary Lender towards the discharge of the Senior Liabilities or Super Senior Liabilities for which that SFA Cash Cover was provided; and
 - (ii) the balance, if any, in accordance with Clause 16.1 (*Order of Application - Transaction Security*).
- (c) To the extent that any SFA Cash Cover is held with the Relevant Issuing Bank or Relevant Ancillary Lender, nothing in this Agreement shall prevent that Relevant Issuing Bank or Relevant Ancillary Lender receiving and retaining any amount in respect of that SFA Cash Cover.
- (d) To the extent that any Cash Management Facility Cash Cover is not held with the Relevant Issuing Bank or Relevant Cash Management Facility Creditor, all amounts from time to time received or recovered in connection with the realisation or enforcement of that Cash Management Facility 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 Relevant Issuing Bank or Relevant Cash Management Facility Creditor towards the discharge of the Cash Management Facility Liabilities for which that Cash Management Facility Cash Cover was provided; and
 - (ii) the balance, if any, in accordance with Clause 16.1 (*Order of Application - Transaction Security*).
- (e) To the extent that any Cash Management Facility Cash Cover is held with the Relevant Issuing Bank or Relevant Cash Management Facility Creditor, nothing in this Agreement

shall prevent that Relevant Issuing Bank or Relevant Cash Management Facility Creditor receiving and retaining any amount in respect of that Cash Management Facility Cash Cover.

- (f) To the extent that any Super Senior Cash Management Facility Cash Cover is not held with the Relevant Issuing Bank or Relevant Cash Management Facility Creditor, all amounts from time to time received or recovered in connection with the realisation or enforcement of that Super Senior Cash Management Facility 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 Relevant Issuing Bank or Relevant Cash Management Facility Creditor towards the discharge of the Super Senior Cash Management Facility Liabilities for which that Super Senior Cash Management Facility Cash Cover was provided; and
 - (ii) the balance, if any, in accordance with Clause 16.1 (*Order of Application - Transaction Security*).
- (g) To the extent that any Super Senior Cash Management Facility Cash Cover is held with the Relevant Issuing Bank or Relevant Cash Management Facility Creditor, nothing in this Agreement shall prevent that Relevant Issuing Bank or Relevant Cash Management Facility Creditor receiving and retaining any amount in respect of that Super Senior Cash Management Facility Cash Cover.
- (h) Nothing in this Agreement shall prevent any Issuing Bank receiving and retaining any amount in respect of any SFA Cash Collateral provided for it in accordance with the terms of the Senior Facilities Agreement, any Permitted Super Senior Secured Facilities Agreement or any Permitted Senior Secured Facilities Agreement (as the context requires).

16.4 Investment of Proceeds

Prior to the application of the proceeds of the Security Property in accordance with Clause 16.1 (*Order of Application - Transaction Security*) the Security Agent may, in its discretion, hold all or part of those proceeds (but not in excess of the amounts due or to become due and while so held the excess of the interest charged on the Liabilities shall not exceed the interest earned on such suspect or impersonal account(s)) in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit until otherwise directed by an Instructing Group (the interest being credited to the relevant account) pending the application from time to time of those moneys in the Security Agent's discretion in accordance with the provisions of this Clause 16 (*Application of Proceeds*).

16.5 Currency Conversion

- (a) For the purpose of, or pending the discharge of, any of the Secured Obligations, the Security Agent may convert any moneys received or recovered by it from one currency to another, at the Security Agent's Spot Rate of Exchange.
- (b) The obligations of any Debtor or Third Party Security Provider 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.

16.6 Permitted Deductions

The Security Agent shall be entitled, in its discretion, (a) to set aside by way of reserve amounts required to meet and (b) to make and pay, any deductions and withholdings (on account of Taxes or

otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement, and to pay all Taxes, fees and expenses which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties, or by virtue of its capacity as the Security Agent under any of the Debt Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

16.7 Good Discharge

- (a) Any payment to be made in respect of the Secured Obligations by the Security Agent:
 - (i) may be made to the relevant Agent on behalf of its Creditors;
 - (ii) may be made to the Relevant Issuing Bank, Relevant Ancillary Lender or Relevant Cash Management Facility Creditor in accordance with paragraphs (b) or (d) of Clause 16.3 (*Treatment of SFA Cash Cover, Cash Management Facility Cash Cover, Super Senior Cash Management Facility Cash Cover and SFA Cash Collateral*) (as applicable);
 - (iii) shall be made to each Super Senior Cash Management Facility Agent or, in respect of any Super Senior Cash Management Facility for which no Super Senior Cash Management Facility Agent is appointed, directly to the Super Senior Cash Management Facility Lenders;
 - (iv) shall be made to each Cash Management Facility Agent or, in respect of any Cash Management Facility for which no Cash Management Facility Agent is appointed, directly to the Cash Management Facility Lenders; or
 - (v) shall be made directly to the Hedge Counterparties,and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Agent.
- (b) The Security Agent is not under any obligation to make the payments to the Agents, the Super Senior Cash Management Facility Lenders, the Cash Management Facility Lenders, the Relevant Issuing Banks, the Relevant Ancillary Lenders or the Hedge Counterparties under paragraph (a) above in the same currency as that in which the Liabilities owing to the relevant Creditor are denominated.

16.8 Calculation of Amounts

For the purpose of calculating any person's share of any sum payable to or by it, the Security Agent shall be entitled to:

- (a) notionally convert the Liabilities owed to any person into a common base currency (decided in its discretion by the Security Agent), that notional conversion to be made at the spot rate at which the Security Agent is able to purchase the notional base currency with the actual currency of the Liabilities owed to that person at the time at which that calculation is to be made; and
- (b) assume that all moneys received or recovered as a result of the enforcement or realisation of the Security Property are applied in discharge of the Liabilities in accordance with the terms of the relevant Debt Documents under which those Liabilities have arisen.

17. EQUALISATION

17.1 Equalisation Definitions

For the purposes of this Clause 17 (*Equalisation*):

"Enforcement Date" means the first date (if any) on which a Secured Creditor takes enforcement action of the type described in paragraphs (a)(i), (a)(iii), (a)(iv) or (c) of the definition of *"Enforcement Action"*, to the extent not prohibited by this Agreement.

"Second Lien Exposure" means:

- (a) in relation to a Second Lien Lender, the Second Lien Lender Liabilities owed by the Debtors and the Third Party Security Providers to that Second Lien Lender; and
- (b) in relation to a Second Lien Notes Creditor, the Second Lien Notes Liabilities owed by the Debtors and the Third Party Security Providers to that Second Lien Notes Creditor.

"Senior Secured Exposure" means:

- (a) in relation to a Senior Lender or Super Senior Lender, the aggregate amount of its participation (if any, and without double counting) in all Utilisations outstanding under the Senior Facilities Agreement or any Permitted Super Senior Secured Facilities Agreement or any Permitted Senior Secured Facilities Agreement (as the context requires) at the Enforcement Date (assuming all contingent liabilities which have become actual liabilities since the Enforcement Date to have been actual liabilities at the Enforcement Date (but not including, for these purposes only, any interest that would have accrued from the Enforcement Date to the date of actual maturity in respect of those liabilities) and assuming any transfer of claims between Senior Lenders or Super Senior Lenders pursuant to any loss-sharing arrangement in the Senior Facilities Agreement (or any substantially equivalent provision in a Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement (as the context requires)) which has taken place since the Enforcement Date to have taken place at the Enforcement Date)) together with the aggregate amount of all accrued interest, fees and commission owed to it under the Senior Facilities Agreement or any Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement (as the context requires) and amounts owed to it by a Debtor in respect of any Ancillary Facility but excluding:
 - (i) any amount owed to it by a Debtor in respect of any Ancillary Facility to the extent that that amount would not be outstanding but for a breach by that Senior Lender or Super Senior Lender of any provision of clause 9 (*Ancillary Facilities*) of the Senior Facilities Agreement (or any substantially equivalent provision in a Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement (as the context requires));
 - (ii) any amount owed to it by a Debtor in respect of any Ancillary Facility to the extent (and in the amount) that SFA Cash Cover has been provided by a Debtor in respect of that amount and is available to that Senior Lender or Super Senior Lender pursuant to the relevant SFA Cash Cover Document; and
 - (iii) any amount outstanding in respect of a Letter of Credit to the extent (and in the amount) that SFA Cash Cover has been provided by a Debtor in respect of that amount and is available to the relevant Senior Finance Party pursuant to the relevant SFA Cash Cover Document,

plus, in each case, all other Senior Lender Liabilities owed by the Debtors to that Senior Lender to the extent not already taken into account in the foregoing provisions of this paragraph (a);

- (b) in relation to a Cash Management Facility Lender, the aggregate amount of its participation (if any, and without double counting) in all utilisations (howsoever described) outstanding under the Cash Management Facility Documents at the Enforcement Date (assuming all contingent liabilities which have become actual liabilities since the Enforcement Date to have been actual liabilities at the Enforcement Date (but not including, for these purposes only, any interest that would have accrued from the Enforcement Date to the date of actual maturity in respect of those liabilities)) together with the aggregate amount of all accrued interest, fees and commission owed to it under the Cash Management Facility Documents and amounts owed to it by a Debtor in respect of any Cash Management Facility but excluding:
 - (i) any amount owed to it by a Debtor in respect of any Cash Management Facility to the extent (and in the amount) that Cash Management Facility Cash Cover has been provided by a Debtor in respect of that amount and is available to that Cash Management Facility Lender pursuant to the relevant Cash Management Facility Cash Cover Document; and
 - (ii) any amount outstanding in respect of a Cash Management Facility LC to the extent (and in the amount) that Cash Management Facility Cash Cover has been provided by a Debtor in respect of that amount and is available to the relevant Cash Management Facility Lender pursuant to the relevant Cash Management Facility Cash Cover Document;
- (c) in relation to a Super Senior Cash Management Facility Lender, the aggregate amount of its participation (if any, and without double counting) in all utilisations (howsoever described) outstanding under the Super Senior Cash Management Facility Documents at the Enforcement Date (assuming all contingent liabilities which have become actual liabilities since the Enforcement Date to have been actual liabilities at the Enforcement Date (but not including, for these purposes only, any interest that would have accrued from the Enforcement Date to the date of actual maturity in respect of those liabilities)) together with the aggregate amount of all accrued interest, fees and commission owed to it under the Super Senior Cash Management Facility Documents and amounts owed to it by a Debtor in respect of any Super Senior Cash Management Facility but excluding:
 - (i) any amount owed to it by a Debtor in respect of any Super Senior Cash Management Facility to the extent (and in the amount) that Super Senior Cash Management Facility Cash Cover has been provided by a Debtor in respect of that amount and is available to that Super Senior Cash Management Facility Lender pursuant to the relevant Super Senior Cash Management Facility Cash Cover Document; and
 - (ii) any amount outstanding in respect of a Super Senior Cash Management Facility LC to the extent (and in the amount) that Super Senior Cash Management Facility Cash Cover has been provided by a Debtor in respect of that amount and is available to the relevant Super Senior Cash Management Facility Lender pursuant to the relevant Super Senior Cash Management Facility Cash Cover Document;
- (d) in relation to a Senior Secured Notes Creditor, the Senior Secured Notes Liabilities owed by the Debtors or, as the case may be, Third Party Security Provider to that Senior Secured Notes Creditor; and
- (e) in relation to a Hedge Counterparty:

- (i) if that Hedge Counterparty has terminated or closed out any hedging transaction under any Hedging Agreement in accordance with the terms of this Agreement on or prior to the Enforcement Date, the amount, if any, payable to it under that Hedging Agreement in respect of that termination or close-out as of the date of termination or close-out (taking into account any interest accrued on that amount) to the extent that amount is unpaid at the Enforcement Date (that amount to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement); and
- (ii) if that Hedge Counterparty has not terminated or closed out any hedging transaction under any Hedging Agreement on or prior to the Enforcement Date, the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction if the Enforcement Date was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement), that amount, in each case, to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

"Super Senior Exposure" means:

- (a) in relation to a Super Senior Lender, the aggregate amount of its participation (if any, and without double counting) in all Utilisations outstanding under any Permitted Super Senior Secured Facilities Agreement at the Enforcement Date (assuming all contingent liabilities which have become actual liabilities since the Enforcement Date to have been actual liabilities at the Enforcement Date (but not including, for these purposes only, any interest that would have accrued from the Enforcement Date to the date of actual maturity in respect of those liabilities) and assuming any transfer of claims between Super Senior Lenders pursuant to any loss-sharing arrangement in any Permitted Super Senior Secured Facilities Agreements which has taken place since the Enforcement Date to have taken place at the Enforcement Date) together with the aggregate amount of all accrued interest, fees and commission owed to it under any Permitted Super Senior Secured Facilities Agreement and amounts owed to it by a Debtor in respect of any Ancillary Facility but excluding:
 - (i) any amount owed to it by a Debtor in respect of any Ancillary Facility to the extent that that amount would not be outstanding but for a breach by the Super Senior Lender of any provision relating to such Ancillary Facility in any Permitted Super Senior Secured Facilities Agreement;
 - (ii) any amount owed to it by a Debtor in respect of any Ancillary Facility to the extent (and in the amount) that Super Senior Cash Cover has been provided by a Debtor in respect of that amount and is available to that Super Senior Lender pursuant to the relevant Super Senior Cash Cover Document; and
 - (iii) any amount outstanding in respect of a Letter of Credit to the extent (and in the amount) that Super Senior Cash Cover has been provided by a Debtor in respect of that amount and is available to the party it has been provided for pursuant to the relevant Super Senior Cash Cover Document; and
- (b) in relation to a Super Senior Cash Management Facility Lender, the aggregate amount of its participation (if any, and without double counting) in all utilisations (howsoever described) outstanding under the Super Senior Cash Management Facility Documents at the Enforcement Date (assuming all contingent liabilities which have become actual liabilities since the Enforcement Date to have been actual liabilities at the Enforcement Date (but not including, for these purposes only, any interest that would have accrued from the Enforcement Date to the date of actual maturity in respect of those liabilities)) together with the aggregate amount of all accrued interest, fees and commission owed to it under

the Super Senior Cash Management Facility Documents and amounts owed to it by a Debtor in respect of any Super Senior Cash Management Facility but excluding:

- (i) any amount owed to it by a Debtor in respect of any Super Senior Cash Management Facility to the extent (and in the amount) that Super Senior Cash Management Facility Cash Cover has been provided by a Debtor in respect of that amount and is available to that Super Senior Cash Management Facility Lender pursuant to the relevant Super Senior Cash Management Facility Cash Cover Document; and
 - (ii) any amount outstanding in respect of a Super Senior Cash Management Facility LC to the extent (and in the amount) that Super Senior Cash Management Facility Cash Cover has been provided by a Debtor in respect of that amount and is available to the relevant Super Senior Cash Management Facility Lender pursuant to the relevant Super Senior Cash Management Facility Cash Cover Document; and
- (c) in relation to a Hedge Counterparty in respect of Super Senior Hedging Liabilities:
- (i) if that Hedge Counterparty has terminated or closed out any hedging transaction under any Hedging Agreement in accordance with the terms of this Agreement on or prior to the Enforcement Date, the amount, if any, payable to it under that Hedging Agreement in respect of that termination or close-out as of the date of termination or close-out (taking into account any interest accrued on that amount) to the extent that amount is unpaid at the Enforcement Date (that amount to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement); and
 - (ii) if that Hedge Counterparty has not terminated or closed out any hedging transaction under any Hedging Agreement on or prior to the Enforcement Date, the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction if the Enforcement Date was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement), that amount, in each case, to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

"Utilisation" has the meaning given to the term "*Utilisation*" in the Senior Facilities Agreement or any substantially equivalent term in each Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement (as the context requires).

17.2 Implementation of Equalisation

The provisions of this Clause 17 (*Equalisation*) shall be applied at such time or times after the Enforcement Date as the Security Agent shall consider appropriate. Without prejudice to the generality of the preceding sentence, if the provisions of this Clause 17 (*Equalisation*) have been applied before all the Liabilities have matured and/or been finally quantified, the Security Agent may elect to re-apply those provisions on the basis of (to the extent applicable):

- (a) revised Senior Secured Exposures and revised Super Senior Exposures and the Pari Passu Creditors or Super Senior Creditors (as applicable) shall make appropriate adjustment payments amongst themselves; or
- (b) revised Second Lien Exposures and the Second Lien Creditors shall make appropriate adjustment payments amongst themselves.

17.3 Equalisation

- (a) If the Enforcement Date occurs prior to the Designation Date and if, for any reason, any Senior Secured Liabilities remain unpaid after the Enforcement Date and the resulting losses are not borne by the Pari Passu Creditors in the proportions which their respective Senior Secured Exposures at the Enforcement Date bore to the aggregate Senior Secured Exposures of all the Senior Secured Creditors at the Enforcement Date, subject to Clause 1.6 (*Waiver and Termination*) the Pari Passu Creditors will make such payments amongst themselves as the Security Agent shall require to put the Pari Passu+ Creditors in such a position that (after taking into account such payments) those losses are borne in those proportions.
- (b) If the Enforcement Date occurs on or after the Designation Date and:
 - (i) any Senior Secured Liabilities remain unpaid after the Enforcement Date and the resulting losses are not borne by the Pari Passu Creditors in the proportions which their respective Senior Secured Exposures at the Enforcement Date bore to the aggregate Senior Secured Exposures of all the Pari Passu Creditors at the Enforcement Date, subject to Clause 1.6 (*Waiver and Termination*) the Pari Passu Creditors will make such payments amongst themselves as the Security Agent shall require to put the Pari Passu Creditors in such a position that (after taking into account such payments) those losses are borne in those proportions; and
 - (ii) any Super Senior Liabilities remain unpaid after the Enforcement Date and the resulting losses are not borne by the Super Senior Creditors (as applicable) in the proportions which their respective Super Senior Exposures at the Enforcement Date bore to the aggregate Super Senior Exposures of all the Super Senior Creditors (as applicable) at the Enforcement Date, subject to Clause 1.6 (*Waiver and Termination*) the Super Senior Creditors will make such payments amongst themselves as the Security Agent shall require to put the Super Senior Creditors (as applicable) in such a position that (after taking into account such payments) those losses are borne in those proportions.
- (c) If, for any reason, any Second Lien Liabilities remain unpaid after the Enforcement Date and the resulting losses are not borne by the Second Lien Creditors in the proportions which their respective Second Lien Exposures at the Enforcement Date bore to the aggregate Second Lien Exposures of all the Second Lien Creditors at the Enforcement Date, the Second Lien Creditors will make such payments amongst themselves as the Security Agent shall require to put the Second Lien Creditors in such a position that (after taking into account such payments) those losses are borne in those proportions.

17.4 Turnover of Enforcement Proceeds

If:

- (a) the Security Agent or any Agent is not entitled, for reasons of applicable law, to pay amounts received pursuant to the making of a demand under any guarantee, indemnity or other assurance against loss or the enforcement of the Transaction Security to the Senior Secured Creditors or the Second Lien Creditors (as applicable) but is entitled to distribute those amounts to Creditors (such Creditors, the "**Receiving Creditors**") who, in accordance with the terms of this Agreement, are subordinated in right and priority of payment to the Senior Secured Creditors or the Second Lien Creditors (as the case may be); and
- (b) the Senior Secured Discharge Date, the Super Senior Discharge Date or the Second Lien Discharge Date has not yet occurred (nor would occur after taking into account such payments),

then, subject to Clause 1.6 (*Waiver and Termination*), the Receiving Creditors shall make such payments to the Senior Secured Creditors or the Second Lien Creditors (as applicable) as the Security Agent shall require to place the Senior Secured Creditors or the Second Lien Creditors (as applicable) in the position they would have been in had such amounts been available for application against the Senior Secured Liabilities or the Second Lien Liabilities (as applicable), **provided that** this Clause 17.4 (*Turnover of Enforcement Proceeds*) shall not apply to any receipt or recovery that has been distributed by a Senior Secured Notes Trustee to the applicable Senior Secured Noteholders in accordance with the relevant Senior Secured Finance Documents unless that Senior Secured Notes Trustee had received at least two (2) Business Days' prior written notice (in accordance with this Agreement) that an Acceleration Event or Insolvency Event in relation to a Debtor or Third Party Security Provider had occurred or that the receipt or recovery falls within Clause 10.2 (*Turnover by the Creditors*).

17.5 Notification of Exposure

Before each occasion on which it intends to implement the provisions of this Clause 17 (*Equalisation*), the Security Agent shall send notice to each Cash Management Facility Creditor (or to the respective Cash Management Facility Agent (if appointed) on their behalf) each Super Senior Cash Management Facility Creditor (or to the respective Super Senior Cash Management Facility Agent (if appointed) on their behalf), each Hedge Counterparty, the Senior Agent (on behalf of the Senior Lenders), the Super Senior Agent (on behalf of the Super Senior Lenders), each Senior Secured Notes Trustee (on behalf of the relevant Senior Secured Notes Creditors), each Second Lien Agent (on behalf of the relevant Second Lien Lenders and Second Lien Arrangers) and each Second Lien Notes Trustee (on behalf of the relevant Second Lien Notes Creditors) requesting that it notify the Security Agent of, respectively, its Senior Secured Exposure, the Senior Secured Exposure of each Senior Secured Notes Creditor (if any), the Senior Secured Exposure of each Senior Lender (if any), the Super Senior Exposure of each Super Senior Lender (if any) and the Second Lien Exposure of each Second Lien Creditor (if any).

17.6 Default in Payment

If a Creditor fails to make a payment due from it under this Clause 17 (*Equalisation*), the Security Agent shall be entitled (but not obliged) to take action on behalf of the Pari Passu Creditor(s) and/or Super Senior Creditor(s) to whom such payment was to be redistributed (subject to being indemnified to its satisfaction by such Pari Passu Creditor(s), Second Lien Creditor(s) and/or Super Senior Creditor(s) in respect of costs) but shall have no liability or obligation towards such Pari Passu Creditor(s), Second Lien Creditor(s) and/or Super Senior Creditor(s), any other Pari Passu Creditor, Second Lien Creditor or Super Senior Creditor or Creditor as regards such default in payment and any loss suffered as a result of such default shall lie where it falls.

18. NEW DEBT FINANCINGS

18.1 New Debt Financings

- (a) Each Party irrevocably consents and agrees that any New Debt Financing (including any New Debt Financing entered into before the date hereof or already subject to this Agreement) of any member of the Group or Holding Company of the Company and documentation in relation thereto may (I) be treated and designated as a Super Senior Facility and a Permitted Super Senior Secured Facilities Agreement; a Senior Facility and a Permitted Senior Secured Facilities Agreement; a Cash Management Facility and a Cash Management Facility Document; a Super Senior Cash Management Facility and a Super Senior Cash Management Facility Document, a Hedging Agreement (including as applicable whether constituting Super Senior Hedging Liabilities or Pari Passu Hedging Liabilities); a Second Lien Facility and a Second Lien Facility Agreement; Senior Secured Notes; Second Lien Notes; or a Unsecured Finance Document and become subject to this Agreement; (II) be secured by any Transaction Security; and (III) be treated and rank as such for the purposes of this Agreement, **provided that:**

- (i) the Company delivers to each Agent and the Security Agent a New Debt Financing Designation Certificate executed by the Company (which shall also be deemed to satisfy any designation requirement in relation thereto in this Agreement, including any definition in this Agreement and any provision of Clause 21 (*Changes to the Parties*)) which shall contain confirmation from the Company that the designation of any such New Debt Financing relating to that New Debt Financing Designation Certificate is not prohibited by the Finance Documents;
 - (ii) the Company supplies to the Security Agent no later than ten (10) Business Days after the Specified Date set out in the New Debt Financing Designation Certificate delivered pursuant to paragraph (i) above copies of the applicable Finance Document governing the terms of that New Debt Financing to which it is a party (excluding or redacting, unless otherwise agreed by the Company and the other parties to the relevant Finance Document, details of any fees, pricing, economic terms, financial ratios or permissions based on financial ratios or fixed baskets relating to the New Debt Financing); and
 - (iii) each applicable Creditor under that Finance Document accedes to this Agreement as required by Clauses 21.10 (*Accession of Senior Lenders under New Senior Facilities or Super Senior Lenders under New Super Senior Facilities*) to 21.16 (*Accession of Unsecured Facility Creditors*) (as the case may be).
- (b) On the later of the Specified Date (as defined and designated in the applicable New Debt Financing Designation Certificate) and the date of compliance with all the requirements of paragraph (a) above (the "**Effective Date**"), the New Debt Financing and all Liabilities thereunder shall be treated as subject to the terms of this Agreement as so designated in the New Debt Financing Designation Certificate, and as such:
- (i) new Super Senior Finance Documents, new Super Senior Cash Management Documents and new Hedging Agreements constituting Super Senior Hedging Liabilities, or existing Debt Documents that the Company designates as Super Senior Liabilities in accordance with this Agreement, shall be deemed to be Super Senior Liabilities and rank pari passu in all respects with all existing Super Senior Liabilities (if any); and
 - (ii) new Senior Finance Documents, new Cash Management Facility Documents, new Senior Secured Notes Finance Documents and new Hedging Agreements (after the Designation Date to the extent comprising Pari Passu Hedging Liabilities) shall be deemed to be Senior Lender Liabilities, Cash Management Facility Liabilities, Senior Secured Notes Liabilities and Hedging Liabilities (or Pari Passu Hedging Liabilities as the case may be) (as applicable) and rank pari passu in all respects with all existing Senior Lender Liabilities, Cash Management Facility Liabilities, Senior Secured Notes Liabilities and Hedging Liabilities (or Pari Passu Hedging Liabilities as the case may be); and/or
 - (iii) the new Second Lien Finance Documents shall be deemed to be Second Lien Liabilities and rank pari passu in all respects with all existing Second Lien Liabilities (if any),

for the purposes of this Agreement and the other Debt Documents.

- (c) Liabilities may only be permitted to be designated by the Company as Super Senior Liabilities if such ranking for such Liabilities is not prohibited under any Finance Document. For the avoidance of doubt, upon the occurrence of the Designation Date:
 - (i) any Senior Secured Liabilities incurred under Senior Secured Finance Documents entered into prior to the occurrence of the Designation Date, and not designated at

any time by the Company as Super Senior Liabilities in accordance with this Agreement, shall continue to be treated as Senior Secured Liabilities; and

- (ii) any Hedging Liabilities incurred under Hedging Agreements entered into prior to the occurrence of the Designation Date, and not designated at any time by the Company as Super Senior Hedging Liabilities in accordance with this Agreement, shall continue and be treated as Pari Passu Hedging Liabilities.
- (d) Each Debtor and each Third Party Security Provider (and the Company shall ensure that each other relevant security provider) shall grant or re-grant any Transaction Security (including, if applicable, Lower Ranking Security) and/or agree to any amendment of a Security Document required under the terms of that New Debt Financing or as may be required under any applicable law in order to give effect to the ranking set out in Clause 2.2 (*Transaction Security*), in each case, subject to, the provisions of the Agreed Security Principles and the requirements of Clause 18.2 (*Transaction Security: New Debt Financings*).
- (e) If any Hedging Agreement (a "**Relevant Hedging Agreement**") provides that the Hedging Liabilities in relation thereto (the "**Relevant Hedging Liabilities**") shall rank as Super Senior Hedging Liabilities upon the occurrence of the Designation Date, then subject to:
 - (i) the occurrence of the Designation Date (irrespective of any provision of any Finance Document to the contrary);
 - (ii) the designation of any Super Senior Liabilities (other than the Relevant Hedging Liabilities) for the purpose of and in accordance with the terms of this Agreement; and
 - (iii) the delivery of a Super Senior Hedging Designation Certificate in accordance with paragraph 5.17(b) of Clause 5.17 (*Designation of Super Senior Hedging Liabilities*),

such Relevant Hedging Liabilities shall be designated and be treated as Super Senior Hedging Liabilities. The Company shall deliver the Super Senior Hedging Designation Certificate referred to in paragraph (ii) above with respect to each Relevant Hedging Agreement contemporaneously with the first designation of any Super Senior Liabilities and the designation of the Relevant Hedging Liabilities under any Relevant Hedging Agreement as Super Senior Liabilities may not be subsequently reversed pursuant to Clause 5.17 (*Designation of Super Senior Hedging Liabilities*) without the prior written consent of the Hedge Counterparty which is party to the Relevant Hedging Agreement or otherwise pursuant to the terms of the Relevant Hedging Agreement.

18.2 Transaction Security: New Debt Financings

Notwithstanding any other term, condition or restriction in any other Debt Document, the Parties agree that, in connection with and in order to facilitate a New Debt Financing, each Agent and the Security Agent (and any other Creditor party to a Transaction Security Document) are authorised and instructed by all Creditors (and in each case are obliged at the request and cost of the Company) to enter into promptly any new Security Document, promptly amend or waive any terms of an existing Security Document and/or promptly release any asset from Transaction Security (as the case may be) and/or to effect the ranking, priority guarantees and Security of the New Debt Financing, **provided that:**

- (a) any new Transaction Security in relation to such New Debt Financing shall be (unless in each case otherwise required by the Company):

- (i) subject to the Agreed Security Principles, Guarantee Limitations, applicable law and the other terms of this Agreement, granted in favour of the then existing Secured Parties (or class thereof) or to the Security Agent on their behalf (in addition to new Secured Parties in connection with the New Debt Financing); and
 - (ii) if applicable, on terms substantially the same (except that it shall also secure any New Debt Financing) as the terms of the existing Transaction Security over equivalent asset(s);
- (b) any release and re-grant of Transaction Security shall only be undertaken (i) if required by the terms or conditions of the New Debt Financing; (ii) to the extent necessary under applicable law to give effect to the ranking set out in Clause 2.2 (*Transaction Security*); or (iii) where the Company has confirmed in writing to the Security Agent that it has determined in good faith (taking into account any applicable legal limitations and other relevant considerations in relation to the New Debt Financing) that it is either not possible or not desirable to implement the New Debt Financing on terms satisfactory to the Company by instead granting additional Transaction Security and/or amending the terms of the existing Transaction Security; and
- (c) if any asset is to be released from Transaction Security, promptly upon giving effect to that release, replacement Transaction Security is, subject to applicable law, the Debt Documents, the Agreed Security Principles, Guarantee Limitations and other terms of this Agreement, granted in favour of the Security Agent for and on behalf of the providers and/or agents and/or trustees of the New Debt Financing and (in relation to Transaction Security) the existing Secured Parties (or relevant class thereof) benefitting from the Security on substantially the same terms as the Transaction Security released (except that it shall also secure any New Debt Financing).

Each of the Secured Parties agrees:

- (i) not to take any action to challenge the validity or enforceability of the additional Transaction Security by reason of it being expressed to be second ranking (or any other lower ranking); and
- (ii) that additional Transaction Security may be granted by any Debtor in order to secure all or any part of any Hedging Liabilities and/or any New Debt Financing.

18.3 Further assurance

- (a) A "**Relevant Document**" means any document or Debt Document to be entered into in connection with this Clause 18 (*New Debt Financings*) or Clause 15.1 (*Non-Distressed Disposals*) above or which is otherwise reasonably required by the Company (upon notice to the applicable Agent, Security Agent or Creditor) to be executed in relation to and in order to facilitate a New Debt Financing, any other Debt Document or Clause 15.1 (*Non-Distressed Disposals*) including any Debt Transfer, Clause 27.2 (*Amendments and Waivers: Transaction Security Documents*), any amendment, waiver, novation, transfer or release agreement in respect of any Debt Document or Security Document, any grant of Security pursuant to a new Security Document or the entry into any additional or replacement intercreditor agreement (on substantially the same terms as this Agreement except for the incorporation of such New Debt Financing).
- (b) Each Creditor, Agent and other Secured Party agrees that it shall (at the cost and expense of the Debtors):
 - (i) promptly co-operate with the Debtors with a view to satisfying the conditions in this Clause 18 (*New Debt Financings*) in respect of any New Debt Financing or Clause 15.1 (*Non-Distressed Disposals*); and

- (ii) promptly execute (including at the reasonable request of the Company or the Security Agent) all such Relevant Documents, take such other actions and give such instructions to the Security Agent as may reasonably be required, in each case, in connection with any guarantee or Security and with any incurrence or borrowing, in accordance with this Clause 18 (*New Debt Financings*) in relation to a New Debt Financing or Clause 15.1 (*Non-Distressed Disposals*).
- (c) Each Agent and Security Agent which is a Party is irrevocably authorised, instructed or obliged by the Creditors and other Secured Parties for which it acts as agent or trustee to execute promptly on their behalf any such Relevant Document or take any other action set out in or in connection with the provisions of this Clause 18 (*New Debt Financings*) or Clause 15.1 (*Non-Distressed Disposals*) without the requirement for any further authorisation or consent from such Creditors.
- (d) Upon becoming a Party, each Agent is irrevocably authorised, instructed and obliged pursuant to the terms of the relevant Debt Documents to promptly execute any Relevant Documents or take any other action set out in or in connection with the provisions of this Clause 18 (*New Debt Financings*) or Clause 15.1 (*Non-Distressed Disposals*) on behalf of the relevant Creditors or other Secured Party without the requirement for any further authorisation or consent from such Creditors or other Secured Party.
- (e) Notwithstanding the foregoing, nothing in this Clause 18.3 (*Further assurance*) shall oblige the Security Agent or any Agent to execute any document if it would impose personal liabilities or obligations on, or adversely affect the right, duties or immunities of, the Security Agent or that Agent (**provided that** (i) the incurrence of such New Debt Financing and any steps taken to effect the same or in connection therewith; and (ii) the assumption of liabilities or obligations of a similar type already assumed by the Security Agent under an existing or previously released or discharged Debt Document shall not adversely affect the rights of any Security Agent or Agent) and nothing in this Clause 18.3 (*Further assurance*) shall be construed as a commitment to advance or arrange any New Debt Financing.
- (f) Each Creditor and each other Secured Party hereby irrevocably authorises and instructs each of their respective Agents and Security Agent (as applicable) to execute any Relevant Document as contemplated by this Clause 18 (*New Debt Financings*) or Clause 15.1 (*Non-Distressed Disposals*).
- (g) Each Debtor and Third Party Security Provider confirms:
 - (i) the authority of the Company to give effect to the terms of or facilitate the implementation, assumption or establishment of a New Debt Financing entered into or assumed in compliance with this Agreement; and
 - (ii) that its guarantee and indemnity set out in this Agreement (or any applicable accession deed or other Debt Document), any equivalent provision of any New Debt Financing, and all Transaction Security granted by it will entitle the applicable creditors under any New Debt Financing and the persons providing to benefit from such guarantee and indemnity and such Transaction Security (subject only to any applicable limitations on such guarantee and indemnity set out in Schedule 7 (*Hedge Counterparties' Guarantee and Indemnity*) or any accession deed (including any limitation in relation to unlawful financial assistance) or other document pursuant to which it became a Debtor or Third Party Security Provider) and extend to include all obligations arising under or in respect of any New Debt Financing.

18.4 Acquired Person or Asset

Notwithstanding anything to the contrary in this Agreement or any other Debt Document (other than with the consent of the Company) (but **provided that** this Clause 18.4 shall only apply after the Discharge Date has occurred in respect of the Senior Lender Liabilities under the Senior Facilities Agreement):

- (a) any Security, guarantee, indemnity or other assurance against loss in respect of New Debt Financing which is subsisting on the Effective Date (or is to be granted thereafter, including subject to any condition or periodic testing) in relation thereto or in respect of any Permitted Acquired Indebtedness shall be permitted to continue to subsist (or to be granted in accordance with the applicable terms) and there shall be no requirement for that Security, guarantee, indemnity or other assurance against loss to be offered in respect of any other Liabilities under any Debt Document; and
- (b) no Security, guarantee, indemnity or other assurance against loss is required to be given by any member of the Group in respect of any Liabilities (including under any Debt Document):
 - (i) over any Acquired Person or Asset if the grant thereof breaches any contractual undertaking applicable to the Group or otherwise is excluded or exempt from being given by the Agreed Security Principles;
 - (ii) over any asset required (including subject to any condition) to provide credit support in relation to any Permitted Acquired Indebtedness (other than as a result of any obligation to extend any Transaction Security rateably for the benefit of any such Permitted Acquired Indebtedness); or
 - (iii) where the grant of any such Security, guarantee, indemnity or other assurance against loss is prevented by the documentation in relation to or constituting that Permitted Acquired Indebtedness or where any such grant would give rise to an obligation (including any payment obligation but not including an obligation to extend any Transaction Security rateably for the benefit of such Permitted Acquired Indebtedness) under or in relation thereto.

18.5 Additional Transaction Security

Each Creditor and each other Secured Party hereby irrevocably authorises and instructs each of their respective Agents and Security Agent (as applicable) to execute any additional guarantee in respect of the Secured Obligations or any Transaction Security Document which any Debtor or Third Party Security Provider enters into, including where such guarantee or Security is required to be given in order to comply with any undertaking or Agreed Security Principles in any Debt Document.

19. THE SECURITY AGENT

19.1 Appointment by Secured Parties

- (a) Each Secured Party (other than the Security Agent) irrevocably appoints the Security Agent in accordance with the following provisions of this Clause 19 (*The Security Agent*) to act as its agent, trustee, joint and several creditor and/or beneficiary of a parallel debt (as the case may be) under this Agreement and with respect to the applicable Secured Debt Documents, and irrevocably authorises the Security Agent (whether acting as security trustee or security agent) on its behalf and grants power of attorney to the Security Agent (with express faculty of self-contracting, granting sub-power of attorney, sub-empowering or multiple representation):

- (i) to execute each applicable Secured Debt Document or Relevant Document expressed to be executed by the Security Agent in its name and on its behalf and execute any releases and any other documents, instruments or notices to be executed by the Security Agent as contemplated by the terms of this Agreement or any applicable Secured Debt Document, receive any notices in respect of this Agreement or any applicable Secured Debt Document, specify to third parties the names of the Secured Parties at any given date and take any other action in relation to the creation, perfection, confirmation, amendment, extension, maintenance, enforcement and/or release of any security created under any Security Document in the name and on behalf of the Secured Parties;
 - (ii) to perform such duties and exercise such rights and powers under this Agreement and the applicable Secured Debt Documents as are specifically delegated to the Security Agent by the terms of this Agreement and the other Debt Documents, together with such rights, powers and discretions as are reasonably incidental thereto;
 - (iii) confirms that in the event that any security created under the Security Documents remains registered in the name of a Secured Party after such person has ceased to be a Secured Party then the Security Agent shall remain empowered to execute a release of such Security in its name and on its behalf; and
 - (iv) undertakes to ratify and approve any such action taken in the name and on behalf of the Secured Parties by the Security Agent acting in its appointed capacity.
- (b) Each Secured Party (other than the Security Agent) confirms that:
- (i) the Security Agent has authority to accept on its behalf the terms of any reliance letter or engagement letter relating to any reports or letters provided in connection with the Secured Debt Documents or the transactions contemplated by the Secured Debt Documents, to bind it in respect of those reports or letters and to sign that reliance letter or engagement letter on its behalf and, to the extent that reliance letter or engagement letter has already been entered into, ratifies those actions; and
 - (ii) it accepts the terms and qualifications set out in that reliance letter or engagement letter.
- (c) The Security Agent's duties under this Agreement and/or the applicable Secured Debt Documents to which the Security Agent is a party are solely of a mechanical and administrative nature.
- (d) The Security Agent shall be entitled to grant sub-power of attorney, including the release of any sub-attorney from the restrictions referred to in paragraph (c) above.

19.2 Trust

- (a) Subject to paragraph (b) below, the Security Agent declares that it shall (to the extent possible under applicable law) hold the Transaction Security on trust for the relevant Secured Parties on the terms contained in this Agreement.
- (b) Each other Secured Party authorises the Security Agent (whether or not by or through employees or agents):
 - (i) to perform the duties, obligations and responsibilities and to exercise such rights, remedies, powers and discretions as are specifically delegated to or conferred upon the Security Agent under this Agreement and/or the applicable Secured Debt

Documents together with such powers and discretions as are reasonably incidental to the exercise of such rights, remedies and powers; and

- (ii) to take such action on its behalf as may from time to time be authorised under or in accordance with the applicable Secured Debt Documents.
- (c) Each of the other Parties agrees that the Security Agent (whether acting as security trustee or security agent) shall have only those duties, obligations and responsibilities expressly specified in this Agreement or in the applicable Secured Debt Documents to which the Security Agent is expressed to be a party (and no others shall be implied).

19.3 Parallel Debt (Covenant to Pay the Security Agent)

- (a) Subject to any applicable Guarantee Limitations, each Debtor irrevocably and unconditionally undertakes to pay to the Security Agent, acting in its own name and for itself and not as agent, trustee or representative of the other Secured Parties, amounts equal to, and in the currency of, any amounts owing from time to time by that Debtor to any Secured Party under any Secured Debt Document, as and when those amounts are due.
- (b) Each Debtor and the Security Agent acknowledge that the obligations of each Debtor under paragraph (a) above are several and are separate and independent from, and shall not in any way limit or affect, the corresponding obligations of that Debtor to any other Secured Party under any Secured Debt Document (its "**Corresponding Debt**") nor shall the amounts for which each Debtor is liable under paragraph (a) above (for the purposes of this paragraph (b), its "**Parallel Debt**") be limited or affected in any way by its Corresponding Debt, **provided that** notwithstanding any other provision of this Agreement or the Secured Debt Documents:
 - (i) the Parallel Debt of each Debtor and shall be automatically decreased and discharged to the extent that its Corresponding Debt has been irrevocably paid or (in the case of guarantee obligations) discharged;
 - (ii) an amount paid by a Debtor to the Security Agent in respect of its Parallel Debt will discharge the liability of the Debtors under the Corresponding Debt in an equal amounts;
 - (iii) the amount of the Parallel Debt of a Debtor shall at all times be equal to and shall not exceed at any time the amount of its Corresponding Debt;
 - (iv) the aggregate amount outstanding owed by the Debtors under the Secured Debt Documents (including under this Clause 19.3 (*Parallel Debt (Covenant to Pay the Security Agent)*)) at any time shall not exceed the amount of the Corresponding Debt at that time; and
 - (v) the Parallel Debt of each Debtor shall remain effective notwithstanding any transfer or assumption of any of the relevant Corresponding Debt in whole or in part to or by, respectively, any third party, irrespective of whether any such transfer or assumption is effected by way of assignment, assignment and transfer, assumption of contract, novation or otherwise.
- (c) For the purpose of this Clause 19.3 (*Parallel Debt (Covenant to Pay the Security Agent)*), the Security Agent acts in its own name and not as a trustee or agent of any Secured Party (but always for the benefit of the Secured Parties in accordance with the provisions of the Debt Documents), and its claims in respect of the Parallel Debt shall not be held on trust. The Security Agent shall have its own independent right to demand payment of the amounts payable by each Debtor under this Clause 19.3 (*Parallel Debt (Covenant to Pay the Security Agent)*). The Transaction Security granted under the Security Documents to the Security

Agent to secure the Parallel Debt is granted to the Security Agent in its capacity as creditor of the Parallel Debt and shall not be held on trust.

- (d) All moneys received or recovered by the Security Agent pursuant to this Clause 19.3 (*Parallel Debt (Covenant to Pay the Security Agent)*), and all amounts received or recovered by the Security Agent from or by the enforcement of any Transaction Security granted to secure the Parallel Debt, shall be applied in accordance with Clause 16.1 (*Order of Application - Transaction Security*).
- (e) Without limiting or affecting the Security Agent's rights against the Debtors (whether under this Clause 19.3 (*Parallel Debt (Covenant to Pay the Security Agent)*) or under any other provision of any Secured Debt Document), each Debtor acknowledges that:
 - (i) nothing in this Clause 19.3 (*Parallel Debt (Covenant to Pay the Security Agent)*) shall impose any obligation on the Security Agent to advance any sum to any Debtor or otherwise under any Secured Debt Document, except, if applicable, in its capacity as a Secured Creditor; and
 - (ii) for the purpose of any vote taken under any Secured Debt Document, the Security Agent shall not be regarded as having any participation or commitment other than, if applicable, those which it has in its capacity as a Secured Creditor.

19.4 No Independent Power

Subject to Clause 16.3 (*Treatment of SFA Cash Cover, Cash Management Facility Cash Cover, Super Senior Cash Management Facility Cash Cover and SFA Cash Collateral*), the Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any rights or powers arising under the Security Documents (for the avoidance of doubt, other than any Senior Secured Finance Documents, Second Lien Finance Documents, Unsecured Finance Documents) except through the Security Agent.

19.5 Instructions to the Security Agent and Exercise of Discretion

- (a) Subject to paragraphs (e) and (f) below, the Security Agent shall act in accordance with any instructions given to it by an Instructing Group or, if so instructed by an Instructing Group, refrain from exercising any right, power, authority or discretion vested in it as Security Agent and shall be entitled to assume that: any instructions received by it from an Agent, the Creditors or a group of Creditors are duly given in accordance with the terms of the Debt Documents and unless it has received actual notice of revocation, those instructions or directions have not been revoked.
- (b) Subject to paragraphs (e) and (f) below, the Security Agent shall be entitled to request instructions, or clarification of any direction, from an Instructing Group (or from the Majority Second Lien Creditors (to the extent they are entitled to give instructions to the Security Agent pursuant to, prior to the Designation Date, Clause 13 (*Enforcement of Transaction Security prior to the Designation Date*) or, on and from the Designation Date, Clause 14 (*Enforcement of Transaction Security on or after the Designation Date*))) in each case as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions and the Security Agent may refrain from acting unless and until those instructions or clarification are received by it.
- (c) Save as provided in, prior to the Designation Date, Clause 13 (*Enforcement of Transaction Security prior to the Designation Date*) and, on and from the Designation Date, Clause 14 (*Enforcement of Transaction Security on or after the Designation Date*) any instructions given to the Security Agent by an Instructing Group shall override any conflicting instructions given by any other Parties.

- (d) The Security Agent shall not be liable for any act (or omission) if it acts or refrains from acting in accordance with paragraphs (a), (b), and (c) above.
- (e) Paragraphs (a), (b) and (c) above and paragraphs (f) to (g) below shall not apply:
 - (i) where a contrary indication appears in this Agreement (including under Clause 27 (*Consents, Amendments and Override*));
 - (ii) where this Agreement or applicable law or regulation requires a 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 the provisions set out in Clause 19.7 (*Security Agent's Discretions*) to Clause 19.25 (*Disapplication*); and
 - (iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:
 - (A) Clause 15.1 (*Non-Distressed Disposals*);
 - (B) Clause 16.1 (*Order of Application - Transaction Security*);
 - (C) Clause 16.2 (*Prospective Liabilities*);
 - (D) Clause 16.3 (*Treatment of SFA Cash Cover, Cash Management Facility Cash Cover, Super Senior Cash Management Facility Cash Cover and SFA Cash Collateral*);
 - (E) Clause 16.6 (*Permitted Deductions*); and
 - (F) Clause 18 (*New Debt Financings*),
 which instruction and authority shall have been given under the terms of such Clauses and not the instructions of the Instructing Group pursuant to paragraphs (a) and (b) above.
- (f) Unless paragraph (e) above applies, if giving effect to instructions given by an Instructing Group would have an effect equivalent to an Intercreditor Amendment, the Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the Security Agent), whose consent would have been required in respect of that Intercreditor Amendment.
- (g) Unless paragraph (e) above applies, in exercising any discretion to exercise a right, power or authority under this Agreement where it has not received any instructions from an Instructing Group, as to the exercise of that discretion, the Security Agent shall:
 - (i) other than where paragraph (ii) below applies, do so having regard to the interests of all the Secured Parties; or
 - (ii) if a Creditor Conflict has occurred and the Security Agent is expressly notified by a Senior Creditor Representative that there is such a Creditor Conflict in relation to the matter in respect of which the discretion is to be exercised, do so having regard only to the interests of all the Super Senior Creditors, or after the Super Senior Discharge Date, the Pari Passu Creditors or, after the later of the Super Senior Discharge Date and the Senior Secured Discharge Date, the Second Lien Creditors.

19.6 Security Agent's Actions

Without prejudice to the provisions Clause 13 (*Enforcement of Transaction Security prior to the Designation Date*), Clause 14 (*Enforcement of Transaction Security on or after the Designation Date*) and Clause 19.5 (*Instructions to the Security Agent and Exercise of Discretion*), the Security Agent may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action (or refrain from taking such action) in the exercise of any of its powers and duties under the Debt Documents as it considers in its "good faith" discretion to be appropriate. In determining whether to act or refrain from acting the Security Agent shall be entitled to request instructions from any Creditor or any Group of Creditors.

19.7 Security Agent's Discretions

The Security Agent may:

- (a) assume (unless it has received actual notice to the contrary from a Hedge Counterparty or from one of the Agents) that: no Default has occurred and no Debtor or Third Party Security Provider is in breach of or default under its obligations under any of the Debt Documents and any right, power, authority or discretion vested by any Debt Document in any person has not been exercised;
- (b) if it receives any instructions or directions under Clause 13 (*Enforcement of Transaction Security prior to the Designation Date*) or Clause 14 (*Enforcement of Transaction Security on or after the Designation Date*) to take any action in relation to the Transaction Security, assume that all applicable conditions under the Debt Documents for taking that action have been satisfied;
- (c) engage, pay for and rely on the advice or services of any legal advisers, accountants, tax advisers, surveyors or other experts (whether obtained by the Security Agent or by any other Secured Party) whose advice or services may (in its reasonable opinion) at any time seem necessary, expedient or desirable, and the Security Agent 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 such reliance;
- (d) act under the Debt Documents through its personnel and agents;
- (e) rely upon any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised and, as to any matters of fact which might reasonably be expected to be within the knowledge of a Secured Party, any Creditor, Third Party Security Provider or a Debtor, upon a certificate signed by or on behalf of that person; and
- (f) refrain from acting in accordance with any instructions of any Creditor or group of Creditors 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 Debt Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.

19.8 Security Agent's Obligations

The Security Agent shall promptly:

- (a) copy to: (i) each Agent; and (ii) each Hedge Counterparty the contents of any notice or document received by it from any Debtor or Third Party Security Provider under any Debt Document (subject to the provisions of paragraph (b) of Clause 24.2 (*Disclosure*));

- (b) forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party, **provided that**, except where a Debt Document expressly provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party; and
- (c) inform: (i) each Agent; and (ii) each Hedge Counterparty of the occurrence of any Default or any default by a Debtor or Third Party Security Provider in the due performance of or compliance with its obligations under any Debt Document of which the Security Agent has received notice from any other Party.

19.9 Excluded Obligations

Notwithstanding anything to the contrary expressed or implied in the Debt Documents, the Security Agent shall not:

- (a) be bound to enquire as to: whether or not any Default has occurred or the performance, default or any breach by a Debtor or a Third Party Security Provider of its obligations under any of the Debt Documents;
- (b) be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account;
- (c) be bound to disclose to any other person (including to any Secured Party): (i) any confidential information or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty;
- (d) have or be deemed to have any relationship of trust or agency with any Debtor or Third Party Security Provider; or
- (e) have any fiduciary duties to the Debtors and the Third Party Security Providers and nothing in this Agreement constitutes the Security Agent as an agent, trustee or fiduciary of the Debtors and the Third Party Security Providers.

19.10 Exclusion of Liability

- (a) None of the Security Agent, any Receiver nor any Delegate shall be responsible or be liable for:
 - (i) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Agent or any other person in or in connection with any Debt Document or the transactions contemplated in the Debt Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document;
 - (ii) the legality, validity, effectiveness, adequacy or enforceability of any Debt Document, the Security Property, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;
 - (iii) any losses, damages or costs to any person or diminution in value or any liability arising as a result of taking or refraining from taking any action in relation to any of the Debt Documents, the Security Property, or otherwise, whether in accordance with an instruction from an Instructing Group or otherwise unless directly caused by its gross negligence or wilful misconduct;
 - (iv) the exercise of, or the failure to exercise, any judgment, discretion or power given to it by or in connection with any of the Debt Documents, the Security Property,

or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, the Debt Documents or the Security Property;

- (v) any shortfall which arises on the enforcement or realisation of the Security Property;
- (vi) 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 trading or otherwise;
- (vii) without prejudice to the generality of paragraphs (ii) and (iii) above, any damages, costs, losses, 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) 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 Debt Document or any Security Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause 19.10 (*Exclusion of Liability*) subject to Clause 1.3 (*Third Party Rights*) and the provisions of the Third Parties Rights Act.
- (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 Secured Creditor,

on behalf of any Secured Creditor and each Secured Creditor 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 Debt 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 Debt 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.

19.11 No Proceedings

No Party (other than the Security Agent, that Receiver or that Delegate) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Debt Document or any Security Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause 19.11 (*No Proceedings*), subject to Clause 1.3 (*Third Party Rights*) and the provisions of the Third Parties Rights Act.

19.12 Rights

- (a) The Security Agent may assume that:
 - (i) any instructions received by it from the Instructing Group are duly given in accordance with the terms of the Debt Documents; and
 - (ii) unless it has received notice of revocation, that those instructions have not been revoked and no revocation of any such instructions shall affect any actions taken by the Security Agent in reliance on such instructions prior to actual receipt of a written notice of revocation.
- (b) The Security Agent may assume (unless it has received notice to the contrary in its capacity as security trustee or security agent for the Secured Parties) that:
 - (i) any right, power, authority or discretion vested in any Party or any group of Creditors has not been exercised; and
 - (ii) any notice made by the Company is made on behalf of and with the consent and knowledge of all the Debtors and the Third Party Security Providers.
- (c) The Security Agent, any Receiver and any Delegate may act in relation to the Debt Documents and the Security Property through its officers, employees and agents and shall not:
 - (i) be liable for any error of judgment made by any such person; or
 - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,unless such error or such loss was directly caused by the Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct.
- (d) 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 or security agent under this Agreement.
- (e) Notwithstanding any provision of any Debt 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 by a member of the Group.

19.13 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, a Debtor, a Third Party Security Provider or any other person in or in connection with any Debt Document or the transactions contemplated in the Debt Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Debt Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property; 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.

19.14 No Duty to Monitor

The Security Agent shall not be bound to enquire:

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

19.15 Own Responsibility

Without affecting the responsibility of any Debtor or Third Party Security Provider for information supplied by it or on its behalf in connection with any Debt Document, each other 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 Debt Document, including:

- (a) the financial condition, status and nature of each member of the Group and each Third Party Security Provider;
- (b) the legality, validity, effectiveness, adequacy and enforceability of any Debt Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;
- (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 Debt Document, the Security Property, the transactions contemplated by the Debt Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;
- (d) the adequacy, accuracy and/or completeness of any information provided by the Security Agent or by any other person under or in connection with any Debt Document, the

transactions contemplated by any Debt Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document; and

- (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,

and each other Secured Party warrants to the Security Agent that it has not relied on and will not at any time rely on that the Security Agent in respect of any of these matters.

19.16 No Responsibility to Perfect Transaction Security

The Security Agent shall have no responsibility for perfecting the Transaction Security and shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Debtor or Third Party Security Provider to any of the Charged Property;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Debt Documents or the Transaction Security;
- (c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any applicable laws in any jurisdiction or to give notice to any person of the execution of any of the Debt Documents or of the Transaction Security;
- (d) take, or to require any of the Debtors or Third Party Security Providers to take, any steps to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under the laws of any jurisdiction; or
- (e) require any further assurances in relation to any of the Security Documents.

19.17 Insurance by Security Agent

- (a) The Security Agent shall be under no obligation to insure any of the Charged Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in the Debt Documents. The Security Agent shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.
- (b) Where the Security Agent is named on any insurance policy as an insured party and/or loss payee, the Security Agent shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless an Instructing Group has requested it to do so in writing and the Security Agent shall have failed to do so within fourteen (14) days after receipt of that request.

19.18 Custodians and Nominees

The Security Agent may (to the extent legally permitted) appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets held by the Security Agent as trustee or agent of the Secured Parties (as applicable) or any assets over which Security is created pursuant to the Security Documents as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to any such assets 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.

19.19 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 of the Debtors and the Third Party Security Providers may have to any of the Charged Property and shall not be liable for or bound to require any Debtor or Third Party Security Provider to remedy any defect in its right or title.

19.20 Refrain from Illegality

Notwithstanding anything to the contrary expressed or implied in the Debt Documents, the Security Agent may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction and the Security Agent may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

19.21 Business with the Debtors and Third Party Security Providers.

The Security Agent may accept deposits from, lend money to, and generally engage in any kind of banking or other business with any of the Debtors and the Third Party Security Providers.

19.22 Winding Up of Trust and release of Transaction Security

If the Security Agent, with the approval of each of the Agents and each Hedge Counterparty, determines that (x) all of the Secured Obligations and all other obligations secured by the Transaction Security Documents have been fully and finally discharged and (y) none of the Secured Parties is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Debtor or Third Party Security Provider pursuant to the Debt Documents:

- (a) the trusts set out in this Agreement shall in relation to the Transaction Security be wound up and the Security Agent shall release, without recourse, representation or warranty of any kind (either express or implied), all of the Transaction Security and the rights of the Security Agent under each of the Transaction Security Documents and shall promptly perform all necessary actions to deregister security from any public registries; and
- (b) any Retiring Security Agent shall release, without recourse, representation or warranty of any kind (either express or implied), all of its rights under each of the Transaction Security Documents.

19.23 Powers Supplemental

The rights, powers, authorities and discretions conferred upon the Security Agent by this Agreement and the Debt 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 general law or otherwise.

19.24 Trustee Division Separate

- (a) In acting as trustee or agent for the Secured Parties (as applicable), the Security Agent shall be regarded as acting through its trustee division which shall be treated as a separate entity from any of its other divisions or departments.
- (b) If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.

19.25 Disapplication

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, 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.

19.26 Intra-Group Lenders, Subordinated Creditors, Third Party Security Providers and Debtors: Power of Attorney

- (a) Each Intra-Group Lender, Subordinated Creditor, Third Party Security Provider and Debtor by way of security for its obligations under this Agreement irrevocably appoints the Security Agent to be its attorney following an Acceleration Event to do anything which that Intra-Group Lender, Subordinated Creditor, Third Party Security Provider or Debtor has authorised the Security Agent or any other Party to do under this Agreement or is itself required to do under this Agreement (with express faculty of self-contracting, sub-empowering or multiple representation) but has failed to do (and the Security Agent may delegate that power on such terms as it sees fit).
- (b) For the purposes of this Clause 19.26, each Intra-Group Lender and Debtor hereby to the extent legally possible releases the Security Agent from any restrictions on representing several persons and self-dealing under any applicable law.

19.27 Security Agent's Spot Rate of Exchange

The Security Agent shall promptly to the extent that another Party is required to calculate a Common Currency Amount, and upon a reasonable request by that Party, notify that Party of the relevant Security Agent's Spot Rate of Exchange.

19.28 Provisions Survive Termination

The provisions of this Clause 19 (*The Security Agent*) shall survive any termination or discharge of this Agreement and the resignation or termination of the appointment of the Security Agent.

20. CHANGE OF SECURITY AGENT

20.1 Resignation of the Security Agent

- (a) The Security Agent may resign and appoint one (1) of its Affiliates as successor by giving notice to the Company and the Secured Parties.
- (b) Alternatively, the Security Agent may resign by giving thirty (30) days' notice to the other Parties in which case the Majority Pari Passu Creditors and the Senior Secured Notes Trustee(s) (or, after the Senior Secured Discharge Date, the Majority Second Lien Lenders and the Second Lien Notes Trustee(s)) may appoint a successor Security Agent.
- (c) If the Majority Pari Passu Creditors and the Senior Secured Notes Trustee(s) (or, after the Senior Secured Discharge Date, the Majority Second Lien Lenders and the Second Lien Notes Trustee(s)) have not appointed a successor Security Agent in accordance with paragraph (b) above within thirty (30) days after the notice of resignation was given, the Security Agent (after consultation with the Company and Agents) may appoint a successor Security Agent.
- (d) A retiring Security Agent (the "**Retiring Security Agent**") shall:

- (i) 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 Debt Documents; and
 - (ii) enter into and deliver to the successor Security Agent those documents and effect any registrations as may be required for the transfer or assignment of all of its rights and benefits under the Debt Documents to the successor Security Agent.
- (e) A Debtor and Third Party Security Provider must, at its own reasonable cost, take any action and enter into and deliver any document which is reasonably required by the Retiring Security Agent to ensure that a Security Document provides for effective and perfected Security in favour of any successor Security Agent.
- (f) The Security Agent's resignation notice shall only take effect upon: (i) the appointment of a successor; and (ii) the transfer of all of the Security Property to that successor.
- (g) Upon the appointment of a successor, the Retiring Security Agent shall be discharged from any further obligation in respect of the Debt Documents (other than its obligations under paragraph (d) above) but shall, in respect of any act or omission by it whilst it was the Security Agent, remain entitled to the benefit of Clause 19 (*The Security Agent*), Clause 23.1 (*Debtors' Indemnity*) and Clause 23.3 (*Secured Creditors' Indemnity*). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (h) The Majority Pari Passu Creditors and the Senior Secured Notes Trustee(s) (or, after the Senior Secured Discharge Date, the Majority Second Lien Lenders and the Second Lien Notes Trustee(s)) may, in consultation with the Company, by written notice to the Security Agent (or, at any time the Security Agent is an Impaired Security Agent, by giving any shorter notice determined by the Majority Pari Passu Creditors), require it to resign in accordance with paragraph (b) above. In this event, the Security Agent shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (e) above shall (except if such Security Agent is an Impaired Security Agent where such cost shall be for the account of the Impaired Security Agent) be for the account of the Company, any other Debtor or Third Party Security Provider.

20.2 Delegation

- (a) Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Debt Documents.
- (b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties and it shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any such delegate or sub-delegate.

20.3 Additional Security Agents

- (a) The Security Agent may at any time appoint (and subsequently remove), to the extent legally permitted, any person to act as a separate trustee or agent or as a co-trustee or co-agent jointly with it if (i) it in good faith considers that appointment to be in the interests of the Secured Parties or (ii) for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Agent deems to be relevant (acting reasonably)

or (iii) for obtaining or enforcing any judgment in any jurisdiction, and the Security Agent shall give prior notice to the Company and each of the Agents of that appointment.

- (b) Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Security Agent by this Agreement) and the duties and obligations that are conferred or imposed by the instrument of appointment.
- (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 reasonably incurred by the Security Agent.
- (d) Each Creditor hereby expressly gives its prior consent to any assignment and/or transfer to a successor Security Agent appointed in accordance with the provisions of this Agreement.

21. CHANGES TO THE PARTIES

21.1 Assignments and Transfers

No Party may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities except as permitted by this Clause 21 (*Changes to the Parties*) **provided that** any member of the Group may assign any of its rights and benefits or transfer any of its rights, benefits and obligations (a) pursuant to any re-organisation, merger or other similar transaction not prohibited by the terms of the Finance Documents (and, for the avoidance of doubt and ignoring any prohibition set out in this Clause 21 (*Changes to the Parties*), **provided that** such assignment or, as the case may be, transfer is not expressly prohibited by the terms of the relevant Finance Document); and/or (b) as otherwise contemplated or permitted by any Debt Document.

21.2 Change of Secured Creditors

- (a) A Senior Lender or Super Senior Lender, as the case may be, may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities if:
 - (i) that assignment or transfer is in accordance with the terms of the Senior Facilities Agreement (or any Permitted Senior Secured Facilities Agreement or any Permitted Super Senior Secured Facilities Agreement (as the context requires)) to which it is a party; and
 - (ii) subject to paragraph (b) below, any assignee or transferee has (if not already Party as a Senior Lender or Super Senior Lender, as the case may be) acceded to this Agreement, as a Senior Lender or Super Senior Lender, as the case may be, pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*).
- (b) Paragraph (a)(ii) above shall not apply in respect of any Senior Debt Purchase Transaction permitted by clause 31 (*Notifiable Debt Purchase Transactions*) of the Senior Facilities Agreement (or any substantially equivalent provision in a Permitted Super Senior Secured Facilities Agreement or Permitted Senior Secured Facilities Agreement) entered into by a Senior Borrower, or as the case may be, Super Senior Borrower and effected in accordance with the terms of the Debt Documents.
- (c) A Cash Management Facility Lender may assign any of its rights and benefits or transfer by novation any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities if:

- (i) that assignment or transfer is in accordance with the terms of the Cash Management Facility Documents to which it is a party; and
 - (ii) subject to paragraph (d) below, any assignee or transferee has (if not already Party as a Cash Management Facility Lender) acceded to this Agreement, as a Cash Management Facility Lender, pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*).
- (d) Paragraph (c)(ii) above shall not apply in respect of any Cash Management Facility Debt Purchase Transaction permitted by the relevant Cash Management Facility Documents entered into by a borrower of the relevant Cash Management Facility and effected in accordance with the terms of the Debt Documents.
- (e) A Super Senior Cash Management Facility Lender may assign any of its rights and benefits or transfer by novation any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities if:
 - (i) that assignment or transfer is in accordance with the terms of the Super Senior Cash Management Facility Documents to which it is a party; and
 - (ii) subject to paragraph (h) below, any assignee or transferee has (if not already Party as a Super Senior Cash Management Facility Lender) acceded to this Agreement, as a Super Senior Cash Management Facility Lender, pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*).
- (f) Paragraph (e)(ii) above shall not apply in respect of any Super Senior Cash Management Facility Debt Purchase Transaction permitted by the relevant Super Senior Cash Management Facility Documents entered into by a borrower of the relevant Super Senior Cash Management Facility and effected in accordance with the terms of the Debt Documents.
- (g) A Second Lien Lender may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities if:
 - (i) that assignment or transfer is in accordance with the terms of a Second Lien Facility Agreement to which it is a party; and
 - (ii) subject to paragraph (h) below, any assignee or transferee has (if not already Party as a Second Lien Lender) acceded to this Agreement, as a Second Lien Lender, pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*).
- (h) Paragraph (g)(ii) above shall not apply in respect of any Second Lien Debt Purchase Transaction permitted by the relevant Second Lien Facility Agreement entered into by a Second Lien Borrower and effected in accordance with the terms of the Debt Documents.
- (i) Any Senior Secured Noteholder or Second Lien Noteholder may assign, transfer or novate any of its rights and obligations to any person without the need for such person to execute and deliver to the Security Agent a duly completed Creditor/Agent Accession Undertaking, **provided that** that assignment or transfer is in accordance with the terms of the relevant Notes Finance Documents to which it is a party.

21.3 Accession or Change of Hedge Counterparty

A Hedge Counterparty may (i) accede to this Agreement as a Hedge Counterparty pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*); and (ii) (in accordance with the terms of the relevant Hedging Agreement and subject to any consent required under that Hedging Agreement) transfer any of its rights and benefits or obligations in respect of the Hedging Agreements to which

it is a party if any transferee has (if not already Party as a Hedge Counterparty acceded to this Agreement as a Hedge Counterparty pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*)).

21.4 Change of Agent

No person shall become a Senior Agent, a Super Senior Agent or Second Lien Agent unless at the same time, it accedes to this Agreement in such capacity pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*). In connection with the foregoing, the Security Agent is authorised and instructed by each other Party to make such changes to the terms relating to the rights and duties of such Senior Agent, Super Senior Agent or Second Lien Agent and any other Party as are required by such Senior Agent, Super Senior Agent or Second Lien Agent without the consent of any other Party, **provided that** such changes would not have a material adverse effect on the other Parties.

21.5 Change of Intra-Group Lender

Subject to Clause 8.4 (*Acquisition of Intra-Group Liabilities*) and to the terms of the other Debt Documents, any Intra-Group Lender may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of the Intra-Group Liabilities to another member of the Group if that member of the Group has (if not already Party as an Intra-Group Lender) acceded to this Agreement as an Intra-Group Lender, pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*) (**provided that** such member of the Group will not be required to accede to this Agreement as an Intra-Group Lender under this Clause 21.5 (*Change of Intra-Group Lender*) if it would otherwise not have been required to do so under the terms of Clause 21.6 (*New Intra-Group Lender*) if it had been the original creditor of such Intra-Group Liability).

21.6 New Intra-Group Lender

If any Intra-Group Lender or any member of the Group makes any loan to or grants any credit to or makes any other financial arrangement having similar effect (other than trade credit made in the ordinary course of trading and any intercompany loans made under any Cash Management Services) and is required to do so by the Debt Documents, it shall accede to this Agreement as an Intra-Group Lender pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*).

21.7 New Ancillary Lender

If any Affiliate of a Senior Lender or Super Senior Lender becomes an Ancillary Lender in accordance with clause 9.8 (*Affiliates of Lenders as Ancillary Lenders, Fronted Ancillary Lenders or Fronting Ancillary Lenders*) of the Senior Facilities Agreement (or any substantially equivalent provision in a Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement (as the context requires)), it shall not be entitled to share in any of the Transaction Security or in the benefit of any guarantee or indemnity in respect of any of the liabilities arising in relation to its Ancillary Facilities unless it has (if not already Party as a Senior Lender or Super Senior Lender, as the case may be) acceded to this Agreement as a Senior Lender or Super Senior Lender, as the case may be and (to the extent required by the provisions thereof) to the Senior Facilities Agreement (or any substantially equivalent provision in a Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement (as the context requires)) as an Ancillary Lender pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*).

21.8 Arrangers

An arranger with respect to a New Debt Financing shall have the right to accede as a Super Senior Arranger, Senior Arranger or Second Lien Arranger (as applicable) pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*).

21.9 Creditor/Agent Accession Undertaking

With effect from the date of acceptance by the Security Agent (and, in the case of an Affiliate of a Senior Lender, the Senior Agent; and in the case of an Affiliate of a Super Senior Lender, the Super Senior Agent) of a Creditor/Agent Accession Undertaking duly executed and delivered to the Security Agent by the relevant acceding party or, if later, the date specified in that Creditor/Agent Accession Undertaking:

- (a) any Party ceasing entirely to be a Creditor or Agent (as applicable) shall be discharged from further obligations towards the Security Agent and other Parties under this Agreement and their respective rights against one another shall be cancelled (except in each case for those rights which arose prior to that date);
- (b) the replacement or new Creditor or Agent shall assume the same obligations and become entitled to the same rights, as if it had been an original Party in that capacity; and
- (c) any new Ancillary Lender (which is an Affiliate of a Senior Lender or Super Senior Lender) shall also become party to the Senior Facilities Agreement (or any Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement (as the context requires)) as an Ancillary Lender to the extent required under the Senior Facilities Agreement (or any Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement (as the context requires)) and shall assume the same obligations and become entitled to the same rights as if it had been an original party to the Senior Facilities Agreement (or any Permitted Senior Secured Facilities Agreement or Permitted Super Senior Secured Facilities Agreement (as the context requires)) as an Ancillary Lender,

and each other Party irrevocably authorises and instructs the Security Agent (and as the case may be the Senior Agent and Super Senior Agent, as applicable) to execute on its behalf any Creditor/Agent Accession Undertaking which on its face appears to have been duly completed and signed on behalf of that person.

21.10 Accession of Senior Lenders under New Senior Facilities or Super Senior Lenders under New Super Senior Facilities

- (a) In order for any New Debt Financing to be a "*Senior Facility*" for the purposes of this Agreement:
 - (i) the Company shall designate that New Debt Financing as a Senior Facility pursuant to Clause 18 (*New Debt Financings*);
 - (ii) each applicable creditor in respect of that New Debt Financing shall accede to this Agreement as a Senior Lender in relation to that New Debt Financing by executing a Creditor/Agent Accession Undertaking, to the extent not already a party hereto in such capacity; and
 - (iii) the facility agent (to the extent applicable and to the extent it acts as agent for the creditors in paragraph (ii) above) in respect of that New Debt Financing shall accede to this Agreement as the Senior Agent in relation to that New Debt Financing executing a Creditor/Agent Accession Undertaking.
- (b) Each Party irrevocably authorises and instructs the Security Agent to execute on its behalf any Creditor/Agent Accession Undertaking which on its face appears to have been duly completed and signed on behalf of that person.
- (c) In order for any New Debt Financing to be a "*Super Senior Facility*" for the purposes of this Agreement:

- (i) the Company shall designate that New Debt Financing as a Super Senior Facility pursuant to Clause 18 (*New Debt Financings*);
 - (ii) each applicable creditor in respect of that New Debt Financing shall accede to this Agreement as a Super Senior Lender in relation to that New Debt Financing by executing a Creditor/Agent Accession Undertaking, to the extent not already a party hereto in such capacity; and
 - (iii) the facility agent (to the extent applicable and to the extent it acts as agent for the creditors in paragraph (ii) above) in respect of that New Debt Financing shall accede to this Agreement as the Super Senior Agent in relation to that New Debt Financing by executing a Creditor/Agent Accession Undertaking.
- (d) Each other Party irrevocably authorises and instructs the Security Agent to execute on its behalf any Creditor/Agent Accession Undertaking which on its face appears to have been duly completed and signed on behalf of that person.

21.11 Accession of Cash Management Facility Lenders, Super Senior Cash Management Facility Lenders under New Cash Management Facilities

- (a) In order for any New Debt Financing to be a "*Cash Management Facility*" for the purposes of this Agreement:
 - (i) the Company shall designate that New Debt Financing as a Cash Management Facility pursuant to Clause 18 (*New Debt Financings*);
 - (ii) each applicable creditor in respect of that New Debt Financing shall accede to this Agreement as a Cash Management Facility Lender in relation to that New Debt Financing by executing a Creditor/Agent Accession Undertaking, to the extent not already a party hereto in such capacity; and
 - (iii) the facility agent (to the extent applicable and to the extent it acts as agent for the creditors in paragraph (ii) above) in respect of that New Debt Financing shall accede to this Agreement as a Cash Management Facility Agent in relation to that New Debt Financing by executing a Creditor/Agent Accession Undertaking.
- (b) In order for any New Debt Financing to be a "**Super Senior Cash Management Facility**" for the purposes of this Agreement:
 - (i) the Company shall designate that New Debt Financing as a Super Senior Cash Management Facility pursuant to Clause 18 (*New Debt Financings*);
 - (ii) each applicable creditor in respect of that New Debt Financing shall accede to this Agreement as a Super Senior Cash Management Facility Lender in relation to that New Debt Financing by executing a Creditor/Agent Accession Undertaking, to the extent not already a party hereto in such capacity; and
 - (iii) the facility agent (to the extent applicable and to the extent it acts as agent for the creditors in paragraph (ii) above) in respect of that New Debt Financing shall accede to this Agreement as a Super Senior Cash Management Facility Agent in relation to that New Debt Financing by executing a Creditor/Agent Accession Undertaking.
- (c) Each other Party irrevocably authorises and instructs the Security Agent to execute on its behalf any Creditor/Agent Accession Undertaking which on its face appears to have been duly completed and signed on behalf of that person.

21.12 Accession of Second Lien Lenders under New Second Lien Facility

- (a) In order for any New Debt Financing to be a "*Second Lien Facility*" for the purposes of this Agreement:
 - (i) the Company shall designate that New Debt Financing as a Second Lien Facility pursuant to Clause 18 (*New Debt Financings*);
 - (ii) each applicable creditor in respect of that New Debt Financing shall accede to this Agreement as a Second Lien Lender in relation to that New Debt Financing by executing a Creditor/Agent Accession Undertaking, to the extent not already a party hereto in such capacity; and
 - (iii) the facility agent (to the extent applicable and to the extent it acts as agent for the creditors in paragraph (ii) above) in respect of that New Debt Financing shall accede to this Agreement as the Second Lien Agent in relation to that New Debt Financing by executing a Creditor/Agent Accession Undertaking.
- (b) Each other Party irrevocably authorises and instructs the Security Agent to execute on its behalf any Creditor/Agent Accession Undertaking which on its face appears to have been duly completed and signed on behalf of that person.

21.13 Senior Secured Notes Proceeds Loan Lender

Any person which provides a Senior Secured Notes Proceeds Loan may accede to this Agreement as a Senior Secured Notes Proceeds Loan Lender pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*) and a Senior Secured Notes Proceeds Loan Lender may only transfer its rights, benefits and obligations under any Senior Secured Notes Proceeds Loan Agreement if the prospective transferee has acceded to:

- (a) this Agreement as a Senior Secured Notes Proceeds Loan Lender pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*); and
- (b) the relevant Senior Secured Notes Proceeds Loan Agreement as lender.

21.14 Accession of Senior Secured Notes Trustee

- (a) The Company shall procure that, on or prior to any Senior Secured Notes Issue Date after the Closing Date, the relevant Senior Secured Notes Trustee (and, if such entity ceases to act as trustee in relation to the Senior Secured Notes for any reason, any successor or other person which is appointed or acts as trustee under the relevant Senior Secured Notes Indenture) shall promptly complete, sign and deliver to the Security Agent a Creditor/Agent Accession Undertaking under which such Senior Secured Notes Trustee agrees to be bound by this Agreement as a Senior Secured Notes Trustee as if it had originally been a Party in such capacity. In connection with the foregoing, the Security Agent is authorised and instructed by each other Party to make such changes to the terms relating to the rights and duties of such Senior Secured Notes Trustee and any other Party as are required by such Senior Secured Notes Trustee without the consent of any other Party, **provided that** such changes would not have a material adverse effect on the other Parties.
- (b) Each other Party (other than the relevant proposed trustee under paragraph (a) above) irrevocably authorises and instructs the Security Agent to execute on its behalf any Creditor/Agent Accession Undertaking which on its face appears to have been duly completed and signed on behalf of that person.

21.15 Accession of Second Lien Notes Trustee

- (a) The Company shall procure that, on or prior to any Second Lien Notes Issue Date, the relevant Second Lien Notes Trustee (and, if such entity ceases to act as trustee in relation to the Second Lien Notes for any reason, any successor or other person which is appointed or acts as trustee under the relevant Second Lien Notes Indenture) shall promptly complete, sign and deliver to the Security Agent a Creditor/Agent Accession Undertaking under which such Second Lien Notes Trustee agrees to be bound by this Agreement as a Second Lien Notes Trustee as if it had originally been a Party in such capacity. In connection with the foregoing, the Security Agent is authorised and instructed by each other Party to make such changes to the terms relating to the rights and duties of such Second Lien Notes Trustee and any other Party as are required by such Second Lien Notes Trustee without the consent of any other Party, **provided that** such changes would not have a material adverse effect on the other Parties.
- (b) Each other Party (other than the relevant proposed trustee under paragraph (a) above) irrevocably authorises and instructs the Security Agent to execute on its behalf any Creditor/Agent Accession Undertaking which on its face appears to have been duly completed and signed on behalf of that person.

21.16 Accession of Unsecured Facility Creditors

- (a) In order for any document or instrument to be an "*Unsecured Finance Document*" for the purposes of this Agreement in respect of a New Debt Financing:
 - (i) the Company shall designate that document or instrument as an Unsecured Finance Document in accordance with Clause 18 (*New Debt Financings*); and
 - (ii) in respect of any document or instrument by way of a credit facility, each lender; or in respect of any document or instrument by way of any unsecured notes, exchange notes, securities or other debt instruments, the applicable entity acting as trustee under any issue of such instruments, shall accede to this Agreement as an Unsecured Creditor pursuant to Clause 21.9 (*Creditor/Agent Accession Undertaking*).
- (b) Each other Party irrevocably authorises and instructs the Security Agent to execute on its behalf any Creditor/Agent Accession Undertaking which on its face appears to have been duly completed and signed on behalf of that person.

21.17 Subordinated Creditors/Accession of New Subordinated Creditors

Any person in its discretion may accede to this Agreement in the capacity of a Subordinated Creditor and any Subordinated Creditor may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of the Subordinated Liabilities owed to it if such person, assignee or transferee has executed and delivered to the Security Agent a Creditor/Agent Accession Undertaking agreeing to be bound by all the terms of this deed as if it had originally been Party as an Subordinated Creditor.

21.18 New Debtor/New Third Party Security Provider

- (a) If any member of the Group or a Third Party Security Provider:
 - (i) incurs any Liabilities under the Secured Debt Documents; or
 - (ii) gives any security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities under the Secured Debt Documents,

the Debtors will procure that the person incurring those Liabilities or giving that assurance accedes to this Agreement as a Debtor or, as the case may be, Third Party Security Provider, no later than (I) contemporaneously with the incurrence of those Liabilities or the giving of that assurance, to the extent required by the relevant Debt Documents or (II) if after such date any such Liabilities or assurance become subject to this Agreement in accordance with Clause 18 (*New Debt Financings*) no later than the Effective Date in relation thereto; **provided that** this paragraph (a) shall not apply to any member of the Group which is a borrower or guarantor of an Ancillary Facility, a Cash Management Facility or Super Senior Cash Management Facility but is not otherwise an Obligor.

- (b) If any Affiliate of a Senior Borrower or a Super Senior Borrower becomes a borrower of an Ancillary Facility in accordance with clause 9.10 (*Affiliates of Borrowers*) of the Senior Facilities Agreement (or any substantially equivalent provision of a Permitted Super Senior Secured Facilities Agreement or Permitted Senior Secured Facilities Agreement (as the context requires)), the relevant Senior Borrower or Super Senior Borrower shall procure that its Affiliate accedes to this Agreement as a Debtor no later than contemporaneously with the date on which it becomes a borrower.
- (c) If any Affiliate of a Senior Borrower or a Super Senior Borrower becomes a borrower of a Cash Management Facility in accordance with the terms of any relevant Cash Management Facility Document or a Super Senior Cash Management Facility in accordance with the terms of any relevant Super Senior Cash Management Facility Document, the relevant Senior Borrower or Super Senior Borrower shall procure that its Affiliate accedes to this Agreement as a Debtor no later than contemporaneously with the date on which it becomes a borrower.
- (d) Notwithstanding anything to the contrary, a member of the Group shall only be required to accede to this Agreement to the extent that the relevant member of the Group becoming a Debtor would not breach any applicable law or present a material risk of liability for any member of the Group and/or its officers or directors, or give rise to a material risk of breach of fiduciary or statutory duties.
- (e) With effect from the date of acceptance by the Security Agent of a Debtor/Third Party Security Provider Accession Undertaking duly executed and delivered to the Security Agent by the new Debtor or Third Party Security Provider or, if later, the date specified in the Debtor/Third Party Security Provider Accession Undertaking, the new Debtor or, as applicable, Third Party Security Provider shall assume the same obligations and become entitled to the same rights as if it had been an original Party as a Debtor or, as applicable, as a Third Party Security Provider.

21.19 Additional Parties

- (a) Each of the other Parties instructs and appoints the Security Agent to receive on its behalf each Debtor/Third Party Security Provider Accession Undertaking and Creditor/Agent Accession Undertaking and Debtor Resignation Request delivered to the Security Agent and the Security Agent shall, as soon as reasonably practicable after receipt by it, sign and accept the same if it appears on its face to have been completed, executed and, where applicable, delivered in the form contemplated by this Agreement or, where applicable, by the Senior Facilities Agreement, Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or Second Lien Facility Agreement.
- (b) In the case of a Creditor/Agent Accession Undertaking delivered to the Security Agent by any new Ancillary Lender (which is an Affiliate of a Senior Lender or Super Senior Lender):
 - (i) the Security Agent shall as soon as reasonably practicable after signing and accepting that Creditor/Agent Accession Undertaking in accordance with

paragraph (a) above, deliver that Creditor/Agent Accession Undertaking to the Senior Agent or Super Senior Agent (as applicable); and

- (ii) the Senior Agent or Super Senior Agent (as applicable) shall as soon as reasonably practicable after receipt by it, sign and accept that Creditor/Agent Accession Undertaking if it appears on its face to have been completed, executed and delivered in the form contemplated by this Agreement.

21.20 Resignation of a Debtor

- (a) A Debtor shall cease to be a Debtor for the purpose of this Agreement immediately and automatically:
 - (i) if, subject to and in accordance with paragraph (a) of Clause 15.1 (*Non-Distressed Disposals*) it has ceased to be a member of the Group; or
 - (ii) if the Company certifies for the benefit of the Security Agent that:
 - (A) to the extent that the Senior Lender Discharge Date has not occurred, that Debtor is not, or has ceased to be, or will cease to be concurrently with such resignation, a Senior Borrower or a Senior Facilities Guarantor;
 - (B) to the extent that the Super Senior Lender Discharge Date has not occurred, that Debtor is not, or has ceased to be, or will cease to be concurrently with such resignation, a Super Senior Borrower or a Super Senior Facilities Guarantor;
 - (C) to the extent that the Super Senior Cash Management Facility Discharge Date has not occurred, that Debtor is not, or has ceased to be or will cease to be concurrently with such resignation, a borrower or a guarantor under the Super Senior Cash Management Facility made available by that Super Senior Cash Management Facility Lender and no amounts are owing from that Debtor under the guarantee contained in Schedule 9 (*Super Senior Cash Management Facility Creditors' Guarantee and Indemnity*);
 - (D) to the extent that the Cash Management Facility Discharge Date has not occurred, that Debtor is not, or has ceased to be or will cease to be concurrently with such resignation, a borrower or a guarantor under the Cash Management Facility made available by that Cash Management Facility Lender and no amounts are owing from that Debtor under the guarantee contained in Schedule 8 (*Cash Management Facility Creditors' Guarantee and Indemnity*);
 - (E) that Debtor is not, or will cease to be concurrently with such resignation, under any actual or contingent obligations to that Hedge Counterparty in respect of the Hedging Liabilities under a Hedging Agreement and no amounts are owing from that Debtor under the guarantee contained in Schedule 7 (*Hedge Counterparties' Guarantee and Indemnity*);
 - (F) to the extent the Senior Secured Notes Discharge Date has not occurred, that Debtor is not, or has ceased to be, or will cease to be concurrently with such resignation, a borrower or an issuer of Senior Secured Notes or a Senior Secured Notes Guarantor;
 - (G) to the extent that the Second Lien Lender Discharge Date has not occurred, that Debtor is not, or has ceased to be, or will cease to be

concurrently with such resignation, a Second Lien Borrower or a Second Lien Guarantor; and

- (H) to the extent that the Second Lien Notes Discharge Date has not occurred, that Debtor is not, or has ceased to be, or will cease to be concurrently with such resignation, a borrower or an issuer of Second Lien Notes or a Second Lien Notes Guarantor.

- (b) Upon a person ceasing to be a Debtor for the purposes of this Agreement pursuant to paragraph (a) above, such person shall have no further rights or obligations under this Agreement as a Debtor.

21.21 Cessation of a Third Party Security Provider

Following the release of all Transaction Security granted by a Third Party Security Provider (in accordance with the terms of the Debt Documents and this Agreement), such Third Party Security Provider shall cease to be a Third Party Security Provider and shall have no further rights or obligations under this Agreement as a Third Party Security Provider.

21.22 Financial Assistance Restrictions

Any guarantee or indemnity or hold harmless obligation provided by a Debtor or Intra-Group Lender under this Agreement shall be provided on the same terms and subject to the same limitations as are set out in clause 23 (*Guarantee and Indemnity*) of the Senior Facilities Agreement (in its original form) and, if more comprehensive, in the relevant accession letter pursuant to which the relevant Debtor has acceded to the Senior Facilities Agreement or any Permitted Senior Secured Facilities Agreement or any Permitted Super Senior Secured Facilities Agreement (or, after the Senior Lender Discharge Date, a Second Lien Facility Agreement) or set out in this Agreement, **provided that** no guarantee or indemnity or hold harmless obligation shall be required to be provided to the extent that it would result in any Debtor or Intra-Group Lender entering into or assuming an obligation which is unlawful under any law or regulation applicable to such Debtor or Intra-Group Lender and shall be deemed to be limited accordingly.

21.23 Group Pushdown

Notwithstanding anything to the contrary in any Debt Document (but, until the Discharge Date has occurred in relation to the Liabilities under the Senior Facilities Agreement, only to the extent that the Company certifies in the relevant Pushdown Notice that such action is permitted by the Senior Facilities Agreement):

- (a) On or following an IPO Event, the Company shall be entitled to require (by written notice to each Agent and each Hedge Counterparty (a "**Pushdown Notice**")) that the terms of the Debt Documents shall automatically operate (with effect from the date specified in the relevant Pushdown Notice (the "**Pushdown Date**")) on the basis of the following principles as the context so determines:
 - (i) (subject to paragraph (f) below) the Group (and all related provisions) shall comprise only the Pushdown Entity and its Subsidiaries from time to time;
 - (ii) all financial ratio calculations shall be made excluding any Holding Company of the Pushdown Entity and all reporting obligations shall be assumed at the level of the Pushdown Entity;
 - (iii) each reference in this Agreement or any other Debt Document to the Company or any Holding Company of the Pushdown Entity (including as a Borrower, Guarantor, Debtor or counterparty to a Hedging Agreement) shall be deemed to be a reference to the Pushdown Entity (to the extent applicable and unless the context

requires otherwise) and **provided that** nothing in this paragraph (a), including the deeming construct contemplated by this paragraph (iii) and any action taken by the Pushdown Entity prior to it being deemed to be the Company, shall, or shall be deemed to, directly or indirectly constitute or result in a breach of any representation, warranty, undertaking or other term in the Debt Documents or a Default or an Event of Default;

- (iv) none of the representations, warranties, undertakings or Events of Default in the Debt Documents shall apply to any Holding Company of the Pushdown Entity (whether in its capacity as a Debtor or otherwise);
- (v) no event, matter or circumstance relating to any Holding Company of the Pushdown Entity (whether in its capacity as an Debtor or otherwise) shall, or shall be deemed to, directly or indirectly constitute or result in a breach of any representation, warranty, undertaking or other term in the Debt Documents or a Default or an Event of Default;
- (vi) each Holding Company of the Pushdown Entity shall be irrevocably and unconditionally released from all obligations and restrictions under the Debt Documents, (including any Transaction Security granted by any such Holding Company or as a Borrower, Guarantor or Debtor);
- (vii) unless otherwise notified by the Company:
 - (A) each Subordinated Creditor or Third Party Security Provider, Investor (or in any capacity referred to in either of the aforementioned definitions) (each in such capacity, a "**Released Person**") shall be irrevocably and unconditionally released from this Agreement and all obligations and restrictions under this Agreement (and from the date specified by the Company that person shall cease to be Party in the applicable capacity as a Released Person and shall have no further rights or obligations under this Agreement in that capacity); and
 - (B) there shall be no obligation or requirement for any person to become Party as a Released Person;
- (viii) subject to the Agreed Security Principles, Transaction Security shall be granted over the entire issued share capital of a direct Subsidiary of the Pushdown Entity (the "**New Company**"); and
- (ix) the Pushdown Entity will be subject to a holding company covenant on substantially equivalent terms to clause 27.8 (*Holding Companies*) of the Senior Facilities Agreement (with such exceptions and permission as provided for therein), provided that the Pushdown Entity shall not be permitted to hold shares in any Subsidiary other than the New Company.

In the event that any person is released from or ceases to be or become a Party as a Released Person as a consequence of this paragraph (a), any term of any Debt Document which requires or assumes that any person be a Released Person or that any liabilities or obligations to such person be subject to this Agreement or otherwise subordinated shall cease to apply.

- (b) Each Party (other than a member of the Group) shall be required to enter into any amendment to, release of, or replacement of any Debt Document required by the Company and/or take such other action as is required by the Company in order to facilitate or reflect any of the matters contemplated by this Clause 21.23 (*Group Pushdown*), **provided that** such amendment, replacement or other document or instrument does not impose personal

obligations on the Security Agent or, affect the rights, duties, liabilities, indemnification or immunity of the Security Agent under such amendment, release, replacement or other document or instrument. The Agent and the Security Agents are each irrevocably authorised and instructed by each applicable Party to execute any such amended, released or replacement Debt Document and/or take other such action on behalf of such Parties (and shall do so on the request of the Company).

- (c) Following an IPO Event, with the consent as applicable each of the Majority Senior Lenders, the Majority Super Senior Lenders, the Majority Senior Secured Noteholders, the Majority Second Lien Lenders and the Majority Second Lien Noteholders (in such percentages pro forma to their participations in the applicable Debt Documents after the IPO Event to the extent continuing and as applicable for the purposes of those definitions at such time), the Company and each Subsidiary of the Company shall, immediately upon the Company giving written notice to the Security Agent, be irrevocably and unconditionally released from all obligations and restrictions as Debtor and Guarantor under the Debt Documents and any Transaction Security granted thereby (other than, in each case, Borrowing Liabilities).
- (d) Each Hedge Counterparty agrees that (unless otherwise agreed by the Company) the occurrence of an IPO Event (or the operation of any of the steps in paragraphs (a), (b) and (c) above) shall not give rise to a right by such Hedge Counterparty to terminate or close-out in whole or in part any hedging transaction under a Hedging Agreement irrespective of the terms of the Hedging Agreement.
- (e) If the Company delivers a Pushdown Notice pursuant to paragraph (a) above in relation to a contemplated IPO Event, it shall be entitled to revoke that Pushdown Notice at any time prior to the occurrence of the relevant IPO Event by written notice to each Agent, the Security Agent and each Hedge Counterparty. In the event that any Pushdown Notice is revoked in accordance with this paragraph (e):
 - (i) the provisions of paragraphs (a)(i) to (a)(vii) above shall cease to apply in relation to that Pushdown Notice;
 - (ii) if any Transaction Security has been released pursuant to paragraphs (a) to (c) above in reliance on that Pushdown Notice, if required by an Instructing Group (acting reasonably) by prior written notice to the Company and subject to the Agreed Security Principles, the relevant member of the Group shall as soon as reasonably practicable execute a replacement Transaction Security Document in respect of that Transaction Security; and
 - (iii) if any Party in the capacity of a Released Person has been released from this Agreement pursuant to paragraphs (a)(vi), (a)(vii) or (c) above in reliance on that Pushdown Notice, if required by an Instructing Group (acting reasonably) by prior written notice to the Company and that person, that person shall as soon as reasonably practicable accede to this Agreement as the applicable Released Person by executing a Creditor/Agent Accession Undertaking.

For the avoidance of doubt:

- (A) nothing in this paragraph (e) shall prohibit or otherwise restrict the Company from delivering a further Pushdown Notice in relation to any actual or contemplated IPO Event; and
- (B) revocation of a Pushdown Notice shall not, and shall not be deemed to, directly or indirectly constitute or result in a breach of any representation, warranty, undertaking or other term in a Debt Document or a Default or an Event of Default (whether by reason of any action or step taken by any

person, or any matter or circumstance arising or committed, while that Pushdown Notice was effective or otherwise).

- (f) For the purpose of this Clause 21.23 (*Group Pushdown*), the "**Pushdown Entity**" shall be any member of the Group or a Holding Company of the Company notified to each Agent, the Security Agent and each Hedge Counterparty by the Company in writing as the person to be treated as the Pushdown Entity in relation to the relevant IPO Event, **provided that** the Pushdown Entity shall be the member of the Group or a Holding Company of the Company who will issue shares, or whose shares are to be sold, pursuant to that IPO Event and **provided further that** if the Senior Secured Notes have not been refinanced in full on or before the Pushdown Date, the Company shall be the Pushdown Entity and the Group (and all related provisions) shall continue to comprise the Company and its Subsidiaries from time to time.

21.24 Resignation of Hedge Counterparties, Cash Management Facility Lenders, Super Senior Cash Management Facility Lenders and Subordinated Creditors

- (a) In the event that a person which is a Party as a Hedge Counterparty is no longer providing any hedging to any of the Debtors under a Hedging Agreement, that person may resign (and will resign if required by the Company) as a Hedge Counterparty by giving notice to the Security Agent and the Company. From the date of receipt by the Security Agent and the Company of any such notice of resignation that person shall cease to be a Party as a Hedge Counterparty and shall have no further rights or obligations under this Agreement as a Hedge Counterparty.
- (b) In the event that a person which is a Party as a Cash Management Facility Lender is no longer providing any facility or financial accommodation to any of the Debtors under a Cash Management Facility Document, that person may resign (and will resign if required by the Company) as a Cash Management Facility Lender by giving notice to the Security Agent and the Company. From the date of receipt by the Security Agent and the Company of any such notice of resignation that person shall cease to be a Party as a Cash Management Facility Lender and shall have no further rights or obligations under this Agreement as a Cash Management Facility Lender.
- (c) In the event that a person which is a Party as a Super Senior Cash Management Facility Lender is no longer providing any facility or financial accommodation to any of the Debtors under a Super Senior Cash Management Facility Document, that person may resign (and will resign if required by the Company) as a Super Senior Cash Management Facility Lender by giving notice to the Security Agent and the Company. From the date of receipt by the Security Agent and the Company of any such notice of resignation that person shall cease to be a Party as a Super Senior Cash Management Facility Lender and shall have no further rights or obligations under this Agreement as a Super Senior Cash Management Facility Lender.
- (d) In the event that a person which is a Party as a Subordinated Creditor is no longer a creditor in respect of any Subordinated Liabilities, that person may resign (and will resign if required by the Company) as a Subordinated Creditor by giving notice to the Security Agent and the Company. From the date of receipt by the Security Agent and the Company of any such notice of resignation that person shall cease to be a Party as Subordinated Creditor and shall have no further rights or obligations under this Agreement as an Investor.

22. COSTS AND EXPENSES

22.1 Security Agent's Ongoing Costs

In the event of:

- (a) an Event of Default (other than in relation to a Debt Document evidencing Intra-Group Liabilities or Subordinated Liabilities); or
- (b) the Security Agent being requested by a Debtor, Third Party Security Provider or an Instructing Group or the Majority Second Lien Creditors (as applicable) to undertake duties which the Security Agent and the Company agree to be of an exceptional nature and/or outside the scope of the normal duties of the Security Agent, any Receiver or Delegate under the Debt Documents,

the Company shall (or another Debtor so elected shall) pay to the Security Agent any additional remuneration (together with any applicable VAT) that may be agreed between them.

If the Security Agent and the Company fail to agree upon the nature of those duties or upon any additional remuneration referred to in this Clause 22.1 (*Security Agent's Ongoing Costs*), that dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Company (acting reasonably) or, failing approval, nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Company) and the determination of any investment bank shall be final and binding upon the Parties.

22.2 Transaction Expenses

The Company shall (or another Debtor so elected shall), promptly within five (5) Business Days of demand, pay to the Security Agent the amount of all reasonable costs and expenses (including legal fees, subject to agreed caps, if any) (together with any applicable VAT) properly incurred by the Security Agent and any Receiver or Delegate (evidence of which shall be provided to the Company) in connection with the negotiation, preparation, printing, execution, syndication and perfection of this Agreement and any other documents referred to in this Agreement and the Transaction Security, in each case up to the maximum amount agreed by the Company (if any).

22.3 Amendment Costs

If the Company or any Debtor requests an amendment, waiver or consent under this Agreement, the Company shall within ten (10) Business Days of demand, reimburse (or procure the reimbursement of the Security Agent for the amount of all reasonable third party costs and expenses (including legal fees, subject to agreed caps (if any)) (together with any applicable VAT) reasonably incurred by the Security Agent, by any Receiver or Delegate in responding to, evaluating, negotiating or complying with that request or requirement.

22.4 Interest on Demand

Without duplication of any default interest payable under any Debt Document, if any Creditor, Third Party Security Provider or Debtor fails to pay any amount payable by it under this Agreement on its due date, interest shall (to the extent such accrual does not result in any double counting under the provisions of this Agreement and the provisions of the other Secured Debt Documents) accrue on the overdue amount (and be compounded with it) from the due date up to the date of actual payment (both before and after judgment and to the extent interest at a default rate is not otherwise being paid on that sum) at the rate which is 1 per cent. per annum over the rate at which the Security Agent was being offered, by leading banks in the London interbank market, deposits in an amount comparable to the unpaid amounts in the currencies of those amounts for any period(s) that the Security Agent may from time to time select.

22.5 Enforcement and Preservation Costs

The Company shall (or another Debtor so elected shall), within ten (10) Business Days of demand, pay to the Security Agent the amount of all costs and expenses (including legal fees (together with

any applicable VAT)) incurred by it in connection with the enforcement of or the preservation of any rights under any Debt Document, 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 (but excluding any costs and expenses arising as a result of the Security Agent's gross negligence or wilful default).

23. INDEMNITIES

23.1 Debtors' Indemnity

- (a) Each Debtor shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability (together with any applicable VAT) incurred (but excluding any costs and expenses arising as a result of the Security Agent's gross negligence or wilful default) by any of them:
 - (i) in relation to or as a result of:
 - (A) any failure by the Company to comply with obligations under Clause 22 (*Costs and Expenses*);
 - (B) the taking, holding, protection or enforcement of the Transaction Security;
 - (C) the exercise of any of the rights, powers, discretions and remedies vested in the Security Agent, each Receiver and each Delegate by the Debt Documents or by law (including any costs, losses and liabilities which the Security Agent may incur in connection with acting following the request of any member of the Group or Third Party Security Provider as contemplated by the terms of any Debt Document);
 - (D) any default by any Debtor in the performance of any of the obligations expressed to be assumed by it in the Debt Documents;
 - (E) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
 - (F) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; or
 - (G) acting as the Security Agent, Receiver or Delegate under the Debt Documents or which otherwise relates to any of the Security Property; or
 - (ii) which otherwise relates to any of the Security Property or the performance of the terms of this Agreement.
- (b) Each Debtor expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 23.1 (*Debtors' Indemnity*) will not be prejudiced by any release or disposal under Clause 15.2 (*Distressed Disposals*) taking into account the operation of that Clause.

23.2 Priority of Indemnity

The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in Clause 23.1 (*Debtors' Indemnity*) and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it, in each case in accordance with Clause 16.1 (*Order of Application - Transaction Security*).

23.3 Secured Creditors' Indemnity

- (a) Each Secured Creditor (other than the Notes Trustees) shall (in the proportion that the Liabilities due to it bears to the aggregate of the Liabilities due to all the Secured Creditors for the time being (or, if the Liabilities due to each of those Secured Creditors is zero (0), immediately prior to their Liabilities being reduced to zero(0))), indemnify the Security Agent and every Receiver and every Delegate, within three (3) Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct) in acting as Security Agent, Receiver or Delegate under the Debt Documents (unless the Security Agent, Receiver or Delegate has been reimbursed by a Debtor pursuant to a Debt Document) and the Debtors shall jointly and severally indemnify each Secured Creditor against any payment made by it under this Clause 23 (*Indemnities*).
- (b) For the purposes only of paragraph (a) above, to the extent that any hedging transaction under a Hedging Agreement has not been terminated or closed-out, the Hedging Liabilities due to any Hedge Counterparty in respect of that hedging transaction will be deemed to be the amount, if any, which would be payable to it under that Hedging Agreement in respect of those hedging transactions, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement), that amount, in each case, to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

24. INFORMATION

24.1 Information and Dealing

- (a) The Creditors shall provide to the Security Agent from time to time (through their respective Agents in the case of a Senior Lender, Super Senior Lender, Second Lien Lender, Senior Secured Notes Creditor or a Second Lien Notes Creditor) any information that the Security Agent may reasonably specify as being necessary or desirable to enable the Security Agent to perform its functions as trustee or agent.
- (b) Subject to clause 38.5 (*Communication when Agent is Impaired Agent*) of the Senior Facilities Agreement and any substantially equivalent provision in a Permitted Senior Secured Facilities Agreement, Permitted Super Senior Secured Facilities Agreement or a Second Lien Facility Agreement, each Senior Lender, Super Senior Lender and Second Lien Lender shall deal with the Security Agent exclusively through its Agent and the Hedge Counterparties shall deal directly with the Security Agent and shall not deal through any Agent.
- (c) No Agent shall be under any obligation to act as agent or otherwise on behalf of any Hedge Counterparty except as expressly provided for in, and for the purposes of, this Agreement.

24.2 Disclosure

- (a) Notwithstanding any agreement to the contrary but subject to paragraph (b) below, each of the Debtors and Third Party Security Providers consents, until the Final Discharge Date, to the disclosure by any of the Secured Creditors, the Agents, the Arrangers and the Security Agent to each other (whether or not through an Agent and/or the Security Agent) of such information concerning the Debtors and the Third Party Security Providers as any Secured Creditor, any Agent, any Arranger or the Security Agent shall see fit to the extent that the disclosure of such information (a) does not breach any applicable law, and (b) prior to the taking of any Enforcement Action, would not result in any Second Lien Noteholder or Senior Secured Noteholder receiving any material non-public information.

- (b) Prior to the occurrence of an Acceleration Event, a Debtor shall have the right under or in connection with any Debt Document to provide any notice, request or information to the Security Agent or any Secured Creditor or an Agent on a confidential basis and if marked as such, the Security Agent, such Secured Creditor or an Agent shall keep such information confidential and shall not have the right to disclose such information to any other Secured Creditor or person.

24.3 Notification of Prescribed Events

- (a) If a Senior Default, a Senior Secured Notes Default, a Cash Management Facility Default or a Super Senior Cash Management Facility Default either occurs or ceases to be continuing, the Senior Agent, the Super Senior Agent, the Senior Secured Notes Trustee, the Cash Management Facility Lenders (or the relevant Cash Management Facility Agent on its behalf if, if appointed) or the Super Senior Cash Management Facility Lenders (or the relevant Super Senior Cash Management Facility Agent on its behalf, if appointed) (as applicable) shall, upon becoming aware of that occurrence or cessation, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify the Senior Agent, the Super Senior Agent, the relevant Senior Secured Notes Trustee (as applicable), the Second Lien Agent, the Second Lien Notes Trustee, each other Cash Management Facility Lender (or the relevant Cash Management Facility Agent on its behalf, if appointed) and each other Super Senior Cash Management Facility Lender (or the relevant Super Senior Cash Management Facility Agent on its behalf, if appointed) and each Hedge Counterparty.
- (b) If a Senior Acceleration Event occurs the Senior Agent shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
- (c) If a Super Senior Acceleration Event occurs, the Super Senior Agent shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
- (d) If a Super Senior Cash Management Facility Acceleration Event occurs the Super Senior Cash Management Facility Lenders which are providing the relevant Super Senior Cash Management Facility (or the relevant Super Senior Cash Management Facility Agent on their behalf, if appointed) shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
- (e) If a Senior Secured Notes Acceleration Event occurs the relevant Senior Secured Notes Trustee shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
- (f) If a Cash Management Facility Acceleration Event occurs the Cash Management Facility Lenders which are providing the relevant Cash Management Facility (or the relevant Cash Management Facility Agent on their behalf, if appointed) shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
- (g) If a Second Lien Default either occurs or ceases to be continuing the Second Lien Agent or the Second Lien Notes Trustee (as applicable) shall, upon becoming aware of that occurrence or cessation, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
- (h) If a Second Lien Lender Acceleration Event occurs the Second Lien Agent shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.

- (i) If a Second Lien Notes Acceleration Event occurs the Second Lien Notes Trustee shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
- (j) If the Security Agent receives a Second Lien Enforcement Notice under paragraph (a) of Clause 6.10 (*Permitted Second Lien Enforcement*) it shall, upon receiving that notice, notify, and send a copy of that notice to, the Senior Agent, the Super Senior Agent, each Senior Secured Notes Trustee, the Second Lien Agent, the Second Lien Notes Trustee and each Hedge Counterparty.
- (k) If the Security Agent enforces, or takes formal steps to enforce, any of the Transaction Security it shall notify each other Secured Party of that action.
- (l) If any Secured Creditor exercises any right it may have to enforce, or to take formal steps to enforce, any of the Transaction Security it shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party of that action.
- (m) If a Debtor defaults on any Payment due under a Hedging Agreement, the Hedge Counterparty which is party to that Hedging Agreement shall, upon becoming aware of that default, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify the Senior Agent, the Super Senior Agent, the relevant Senior Secured Notes Trustee(s), each other Hedge Counterparty, the Second Lien Agent and the Second Lien Notes Trustee.
- (n) If a Hedge Counterparty terminates or closes-out, in whole or in part, any hedging transaction under any Hedging Agreement under Clause 5.9 (*Permitted Enforcement: Hedge Counterparties*) it shall notify the Security Agent shall, upon receiving that notification, notify each Agent and each other Hedge Counterparty.
- (o) If the Security Agent receives a notice under paragraph (a) of Clause 6.14 (*Option to Purchase: Second Lien Creditors*) it shall upon receiving that notice, notify, and send a copy of that notice to, the Senior Agent and each Senior Secured Notes Trustee.
- (p) If the Security Agent receives a notice under paragraph (a) of Clause 6.15 (*Hedge Transfer: Second Lien Creditors*) it shall upon receiving that notice, notify, and send a copy of that notice to, each Hedge Counterparty.

25. NOTICES

25.1 Communications in Writing

Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made by electronic mail or letter.

25.2 Security Agent's Communications with Secured Creditors

The Security Agent shall be entitled to carry out all dealings:

- (a) with the Senior Lenders, the Senior Arrangers, the Super Senior Lenders, the Super Senior Arrangers, the Senior Secured Notes Creditors, the Second Lien Lenders, the Second Lien Arrangers and the Second Lien Notes Creditors through their respective Agents and may give to the Agents, as applicable, any notice or other communication required to be given by the Security Agent to a Senior Lender, Senior Arranger, Super Senior Lender, Super Senior Arranger, Senior Secured Notes Creditor, Second Lien Lender, Second Lien Arranger or the Second Lien Notes Creditors; and

- (b) with each Super Senior Cash Management Facility Lender and Super Senior Cash Management Facility Arranger, through their respective Super Senior Cash Management Facility Agents (if appointed) or otherwise directly with that Super Senior Cash Management Facility Lender or Super Senior Cash Management Facility Arranger; and
- (c) with each Cash Management Facility Lender and Cash Management Facility Arranger, through their respective Cash Management Facility Agents (if appointed) or otherwise directly with that Cash Management Facility Lender or Cash Management Facility Arranger; and
- (d) with each Hedge Counterparty directly with that Hedge Counterparty.

25.3 Addresses

The address and electronic mail 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 this Agreement is:

- (a) in the case of any person which is a Party on the date of this Agreement, that identified with its signature below; and
- (b) in the case of each other Party, that notified in writing to the Security Agent on or prior to the date on which it becomes a Party,

or any substitute address, electronic mail address or department or officer which that Party may notify to the Security Agent (or the Security Agent may notify to the other Parties, if a change is made by the Security Agent) by not less than five (5) Business Days' notice.

25.4 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:
 - (i) if by way of electronic mail, when received in legible form; or
 - (ii) if by way of letter, when it has been left at the relevant address or five (5) 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 25.3 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by it and then only if it is expressly marked for the attention of the department or officer identified in Clause 25.3 (*Addresses*) (or any substitute department or officer as the Security Agent shall specify for this purpose).
- (c) Any communication or document made or delivered to the Company in accordance with this Clause 25.4 (*Delivery*) will be deemed to have been made or delivered to each of the Debtors, the Third Party Security Providers and each of the Creditors (other than a Secured Creditor or an Unsecured Creditor).

25.5 Notification of Address and Electronic Mail Address

Promptly upon receipt of notification of an address and electronic mail address or change of address or electronic mail address pursuant to Clause 25.3 (*Addresses*) or changing its own address or electronic mail address, the Security Agent shall notify the other Parties.

25.6 Electronic Communication

- (a) Any communication to be made under or in connection with this Agreement (including by way of posting to a secure website) may be made by electronic mail or other electronic means, if the Parties:
 - (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication (with such agreement to be deemed to be given by each person which is a Party unless otherwise notified to the contrary by the Security Agent and the Company);
 - (ii) 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
 - (iii) notify each other of any change to their address or any other such information supplied by them by not less than five (5) Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above made between any Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Security Agent only if it is addressed in such a manner as the Security Agent shall specify for this purpose.

25.7 English Language

- (a) Any notice given under or in connection with this Agreement must be in English.
- (b) All other documents provided under or in connection with this Agreement must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

25.8 Notices to all Creditors

- (a) Where any request for a consent, amendment or waiver which requires the consent of all the Parties or any class of creditors (or percentage of such class) (as the case may be) is received by an Agent from a Debtor or, as the case may be, the Third Party Security Provider, the relevant Agent shall provide notice of such request to such Parties or the relevant class of Creditors at the same time.
- (b) Where an instruction is required by an Agent from a class of Creditors (or a percentage of such class), notice of such instruction shall be provided to each Creditor in the relevant class at the same time.

26. PRESERVATION

26.1 Waiver of Defences

The provisions of this Agreement or any Transaction Security will not be affected by an act, omission, matter or thing which, but for this Clause 26.1 (*Waiver of Defences*), would reduce, release or prejudice the subordination and priorities expressed to be created by this Agreement including (whether or not known to any Party):

- (a) any time, waiver or consent granted to, or composition with, any Debtor or other person;

- (b) the release of any Debtor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Debtor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Debtor or other person;
- (e) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of a Debt Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security;
- (g) any intermediate Payment of any of the Liabilities owing to the Secured Creditors or Unsecured Creditors in whole or in part; or
- (h) any insolvency or similar proceedings.

26.2 Partial Invalidity

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision under the law of any other jurisdiction will in any way be affected or impaired.

26.3 No Impairment

- (a) If, at any time after its date, any provision of a Debt Document (including this Agreement) is not binding on or enforceable in accordance with its terms against a person expressed to be a party to that Debt Document, neither the binding nature nor the enforceability of that provision nor any other provision of that Debt Document will be impaired as against the other party(ies) to that Debt Document.
- (b) Each Party expressly acknowledges and agrees that any right to any payment, indemnity or otherwise under any Debt Document shall not (by reason only of such right) delay, condition or restrict any obligation in this Agreement to act promptly as otherwise required in relation to any step, action or document required to be taken or entered into hereunder.

26.4 Remedies and Waivers

- (a) No failure to exercise, nor any delay in exercising, on the part of any Party, any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- (b) Each Party expressly acknowledges and agrees that any right to any payment, fee, indemnity, amount or otherwise under any Debt Document shall not (by reason only of such right) delay, condition or restrict any obligation in this Agreement to act promptly as otherwise required in relation to any step, action or document required to be taken or entered into hereunder.

26.5 Priorities Not Affected

Except as otherwise provided in this Agreement the priorities referred to in Clause 2 (*Ranking and Priority*) will:

- (a) not be affected by any reduction or increase in the principal amount secured by the Transaction Security in respect of the Liabilities owing to the Secured Creditors or by any intermediate reduction or increase in, amendment or variation to any of the Debt Documents, or by any variation or satisfaction of, any of the Liabilities or any other circumstances;
- (b) apply regardless of the order in which or dates upon which this Agreement and the other Debt Documents are executed or registered or notice of them is given to any person; and
- (c) secure the Liabilities owing to the Secured Creditors in the order specified, regardless of the date upon which any of the Liabilities arise or of any fluctuations in the amount of any of the Liabilities outstanding.

27. CONSENTS, AMENDMENTS AND OVERRIDE

27.1 Required Consents

- (a) Subject to paragraphs (b) to (f) below, Clause 2.6 (*Additional and/or Refinancing Debt*), Clause 15 (*Non-Distressed Disposals, Distressed Disposals and Disposal Proceeds*), Clause 18 (*New Debt Financings*), Clause 27.4 (*Exceptions*) and Clause 27.5 (*Snooze/Lose*), this Agreement may be amended or waived only with the consent of the Company, the Agents and the Security Agent, **provided that**, to the extent that an amendment, waiver or consent only affects one class of Creditors, and such amendment, waiver or consent could not reasonably be expected materially or adversely to affect the interests of the other classes of Creditors, only the written agreement from the relevant Agent acting on behalf of the affected class (or in the case of Hedge Counterparties, each affected Hedge Counterparty) shall be required.
- (b) Subject to paragraphs (c) to (f) below, Clause 2.6 (*Additional and/or Refinancing Debt*), Clause 15 (*Non-Distressed Disposals, Distressed Disposals and Disposal Proceeds*), Clause 18 (*New Debt Financings*), Clause 27.4 (*Exceptions*) and Clause 27.5 (*Snooze/Lose*), an amendment or waiver of this Agreement that has the effect of changing or which relates to:
 - (i) Clause 11 (*Redistribution*), Clause 16 (*Application of Proceeds*) or this Clause 27;
 - (ii) the order of priority or subordination under this Agreement;
 - (iii) paragraphs (e)(iii), (f) and (g) of Clause 19.5 (*Instructions to the Security Agent and Exercise of Discretion*); or
 - (iv) Clause 10 (*Turnover of Receipts*),

other than an amendment or waiver which, without prejudice to the other terms of this Agreement, is consequential to or required to implement a Permitted Structural Adjustment shall not be made without the consent of:

- (A) each of the Agents acting in accordance with the provisions of the applicable Finance Documents;
- (B) each Super Senior Cash Management Facility Lender (or the relevant Super Senior Cash Management Facility Agent on its behalf, if appointed)

but only to the extent that such amendment or waiver would (i) materially adversely affect the rights and obligations of the Super Senior Cash Management Facility Lenders under this Agreement in their capacity as such, and (ii) would not materially adversely affect the rights and obligations of any Creditor or class of Creditors other than the Super Senior Cash Management Facility Lenders (solely in their capacity as such);

- (C) each Cash Management Facility Lender (or the relevant Cash Management Facility Agent on its behalf, if appointed) but only to the extent that such amendment or waiver would (i) materially adversely affect the rights and obligations of the Cash Management Facility Lenders under this Agreement in their capacity as such, and (ii) would not materially adversely affect the rights and obligations of any Creditor or class of Creditors other than the Cash Management Facility Lenders (solely in their capacity as such);
 - (D) each Hedge Counterparty but only to the extent that such amendment or waiver would (i) materially adversely affect the rights and obligations of the Hedge Counterparties under this Agreement in their capacity as such, and (ii) would not materially adversely affect the rights and obligations of any Creditor or class of Creditors other than the Hedge Counterparties (solely in their capacity as such); and
 - (E) the Company.
- (c) Each Agent shall, to the extent it is consented to by the requisite percentage of the Creditors it represents or it is otherwise authorised by the Debt Documents to which it is party, act on such instructions or authorisations in accordance therewith save to the extent that any amendments so consented to or authorised relate to any provision affecting the personal rights and obligations of that Agent in its capacity as such.
- (d) Subject to paragraph (a) of Clause 27.2 (*Amendments and Waivers: Transaction Security Documents*) and Clause 27.4 (*Exceptions*), where the Security Agent consent is required for any amendment or waiver in this Clause 27 (*Consents, Amendments and Override*), the Security Agent shall act on the instructions of the applicable Instructing Group, **provided that** in all cases such consent of the Security Agent shall be deemed to have been given without such instruction or consent where either:
- (i) an Instructing Group is not expressly required to instruct the Security Agent in relation to such amendment or waiver in accordance with the terms of this Agreement; or
 - (ii) the Agents have given their consent on behalf of Creditors which in aggregate comprise an Instructing Group.
- (e) This Agreement may be amended by the Agents, the Security Agent and the Company without the consent of or instruction from any other Party:
- (i) to cure defects, omissions or manifest errors or resolve ambiguities or inconsistencies; or
 - (ii) to effect any amendment that imposes additional obligations or restrictions (whether conditional or otherwise) upon any Debtor, Third Party Security Provider or member of the Group and which does not impose any additional obligations or restrictions on any other Party but which (for the avoidance of doubt) may grant such other Parties additional rights.

- (f) Notwithstanding anything to the contrary in the Debt Documents, a Creditor may unilaterally waive, relinquish or otherwise irrevocably give up all or any of its rights under any Debt Document with the consent of the Company.

27.2 Amendments and Waivers: Transaction Security Documents

Save as otherwise required or permitted by Clause 2.6 (*Additional and/or Refinancing Debt*), Clause 15 (*Non-Distressed Disposals, Distressed Disposals and Disposal Proceeds*), Clause 18 (*New Debt Financings*), Clause 27.1 (*Required Consents*) and to paragraph (b) of Clause 27.4 (*Exceptions*) and Clause 27.5 (*Snooze/Lose*) or as permitted by the Debt Documents:

- (a) subject to paragraph (c) below, the Security Agent may, if the Company consents, amend the terms of, release or waive any of the requirements of or grant consents under, any of the Transaction Security Documents which shall be binding on each Party; and
- (b) subject to paragraph (c) below, the Security Agent may, if the Company consents, and shall promptly upon the request of the Company, amend, release and/or retake any Transaction Security Document where such amendment, release and/or retake is required in order to ensure the validity, perfection or priority of the Transaction Security purported to be created under such Transaction Security Document, together with any related or consequential waiver (including by reason of a failure to register such Transaction Security Document with Companies House within the prescribed time limit set out in section 859 of the Companies Act 2006, in which case the Security Agent shall also irrevocably waive any payment or other obligation or default arising out of such failure to register) and any such amendment, release, waiver and retake shall be binding on each Party; and
- (c) any amendment, release or waiver of, or consent under, any Transaction Security Document which would adversely affect the nature or scope of the assets subject to Transaction Security or the manner in which the proceeds of enforcement of the Transaction Security are distributed, shall not be made without the consent of:
 - (i) each of the Agents (other than the agent in respect of any Super Senior Cash Management Facility or Cash Management Facility) acting in accordance with the provisions of the applicable Finance Documents;
 - (ii) each Super Senior Cash Management Facility Lender (or the relevant Super Senior Cash Management Facility Agent on its behalf, if appointed) but only to the extent that such amendment or waiver would (i) materially adversely affect the rights and obligations of the Super Senior Cash Management Facility Lenders under this Agreement in their capacity as such, and (ii) would not materially adversely affect the rights and obligations of any Creditor or class of Creditors other than the Super Senior Cash Management Facility Lenders (solely in their capacity as such);
 - (iii) each Cash Management Facility Lender (or the relevant Cash Management Facility Agent on its behalf, if appointed) but only to the extent that such amendment or waiver would (i) materially adversely affect the rights and obligations of the Cash Management Facility Lenders under this Agreement in their capacity as such, and (ii) would not materially adversely affect the rights and obligations of any Creditor or class of Creditors other than the Cash Management Facility Lenders (solely in their capacity as such);
 - (iv) each Hedge Counterparty but only to the extent that such amendment or waiver would (i) materially adversely affect the rights and obligations of the Hedge Counterparties under this Agreement in their capacity as such, and (ii) would not materially adversely affect the rights and obligations of any Creditor or class of Creditors other than the Hedge Counterparties (solely in their capacity as such); and

- (v) the Company.

27.3 Effectiveness

Any amendment, waiver or consent given in accordance with this Clause 27 (*Consents, Amendments and Override*) will be binding on all Parties and the Security Agent may effect, on behalf of any Agent, Arranger or Creditor, any amendment, waiver or consent permitted by this Clause 27 (*Consents, Amendments and Override*).

27.4 Exceptions

- (a) Subject to paragraphs (b) and (d) below, an amendment, waiver or consent which relates to the rights or obligations which are personal to an Agent, an Arranger or the Security Agent in its capacity as such (including any ability of the Security Agent to act in its discretion under this Agreement) may not be effected without the consent of that Agent or, as the case may be, that Arranger or the Security Agent.

- (b) Neither paragraph (a) above, nor paragraphs (a) to (d) of Clause 27.1 (*Required Consents*) nor Clause 27.2 (*Amendments and Waivers: Transaction Security Documents*) shall apply:

- (i) to any release of Transaction Security claim or Liabilities; or
- (ii) to any amendment, waiver or consent,

which, in each case, the Security Agent gives in accordance with Clause 2.6 (*Additional and/or Refinancing Debt*), Clause 15 (*Non-Distressed Disposals, Distressed Disposals and Disposal Proceeds*), Clause 18 (*New Debt Financings*), or as contemplated by the terms of any Debt Document or is consequential to or required to implement a Permitted Structural Adjustment and each Party agrees that any such release, amendment, waiver or consent can be effected solely by the Company and the Security Agent acting in accordance with the provisions of such clauses or the applicable Security Document to give effect to the same.

- (c) In all cases, no amendment, waiver or consent under or in connection with this Agreement shall require the consent of any Unsecured Creditor unless such amendment, waiver or consent is expressed to impose additional restrictions on the rights or increases the obligations of any Unsecured Creditor under the Unsecured Finance Documents in their capacity as such (without a corresponding restriction or increase in obligation applicable in a similar manner to any other class of Creditor), in which case such amendment, waiver or consent shall also require the consent of the Majority Unsecured Creditors. Subject to the foregoing, any amendment, waiver or consent otherwise made without the consent of the Unsecured Creditors in accordance with this Agreement shall enter into full force and effect and be binding on all such Unsecured Creditors.

- (d) Paragraph (a) above shall apply to an Arranger only to the extent that Arranger Liabilities are then owed to that Arranger.

- (e) At the request of the Company or the Agent, the Agent and the Company will promptly enter into any amendments to this Agreement, the Senior Facilities Agreement or any other Finance Document as the Company or the Agent (as the case may be) considers necessary (each acting reasonably and in good faith) to (x) ensure that the terms of this Agreement, the Senior Facilities Agreement or any other applicable Finance Document accurately reflect the equivalent terms of any Revolving Facility (as defined in the Senior Facilities Agreement) that is implemented by way of an Additional Facility which is a Super Senior Facility (including, for the avoidance of doubt the designation (including by way of Structural Adjustment) of any transferred, assigned or cancelled commitments as Super Senior Liabilities and/or the establishment of any term facility or tranche constituting Super Senior Liabilities) (any such change, a "**Conforming ssRCF Terms Change**"). The Agent

is authorised and instructed by each Finance Party party hereto (without any further consent sanction authority or further confirmation from them) to enter into such documentation as is reasonably required by the Company or the Agent to make any such Conforming ssRCF Terms Change and shall promptly enter into such documentation at the request of the Company provided that any such Conforming ssRCF Terms Change shall not be materially adverse to the interests of the Original Senior Lenders.

27.5 Snooze/Lose

If in relation to:

- (a) a request for a Consent in relation to any of the terms of an Applicable Agreement;
- (b) a request to participate in any other vote of Cash Management Facility Lenders, Super Senior Cash Management Facility Lenders, Super Senior Creditors, Senior Creditors, Senior Secured Notes Creditors, Second Lien Lenders, Second Lien Notes Creditors or Unsecured Creditors under the terms of an Applicable Agreement;
- (c) a request to approve any other action under an Applicable Agreement; or
- (d) a request to provide any confirmation or notification under an Applicable Agreement,

then, in each case, any Secured Creditor or Unsecured Creditor:

- (i) fails to respond to that request within ten (10) Business Days (or any other period of time notified by the Company, with the prior agreement of the Agents if the period for this provision to operate is less than ten (10) Business Days) of that request being made; or
- (ii) fails to provide details of its Super Senior Credit Participation, Senior Credit Participation, Second Lien Credit Participation or Unsecured Credit Participation to the Security Agent within the timescale specified by the Security Agent:
 - (A) in the case of paragraphs (a) to (c) above, that Secured Creditor's Super Senior Credit Participation, Senior Credit Participation, Second Lien Credit Participation, or in the case of an Unsecured Creditor, its Unsecured Credit Participation (as the case may be) shall be deemed to be zero (0) for the purpose of calculating the Super Senior Credit Participation, Senior Credit Participation, Second Lien Credit Participation or Unsecured Credit Participation when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Super Senior Credit Participations, Pari Passu Credit Participations, Second Lien Credit Participations or Unsecured Credit Participation has been obtained to give that Consent, carry that vote or approve that action;
 - (B) in the case of paragraphs (a) to (c) above, that Secured Creditor's status as a Senior Secured Creditor, Second Lien Creditor or, in the case of an Unsecured Creditor, its status as an Unsecured Creditor shall be disregarded for the purposes of ascertaining whether the agreement of any specified group of Secured Creditors or Unsecured Creditors has been obtained to give that Consent, carry that vote or approve that action; and
 - (C) in the case of paragraph (d) above, that confirmation or notification shall be deemed to have been given,

provided that, notwithstanding the foregoing, this Clause 27.5 (*Snooze/Lose*) shall not apply to any Noteholder in respect of any request where such Noteholder is not given the option to respond to such request in the negative but shall otherwise apply to all Noteholders.

For the purpose of this Clause 27.5 (*Snooze/Lose*), an "**Applicable Agreement**" shall mean this Agreement and any other Debt Document which does not contain a snooze/lose provision substantially equivalent to this clause or which applies a longer period than that specified in this Clause 27.5 (*Snooze/Lose*).

27.6 Disenfranchisement of Defaulting Lenders

- (a) For so long as a Defaulting Lender has any Available Commitment in ascertaining:
- (i) the Majority Super Senior Creditors (or Enhanced Majority Super Senior Creditors (as applicable));
 - (ii) the Majority Pari Passu Creditors (or Enhanced Majority Pari Passu Creditors (as applicable));
 - (iii) the Majority Senior Lenders;
 - (iv) the Majority Super Senior Lenders;
 - (v) the Majority Second Lien Creditors (or Enhanced Majority Second Lien Creditors (as applicable));
 - (vi) the Majority Second Lien Lenders; or
 - (vii) whether:
 - (A) any relevant percentage (including, for the avoidance of doubt, unanimity) of Credit Participations; or
 - (B) the agreement of any specified group of Secured Creditors or Unsecured Creditor, has been obtained to approve any request for a Consent or to carry any other vote or approve any action under this Agreement,
- that Defaulting Lender's Available Commitments will be reduced to zero (0).
- (b) For the purposes of this Clause 27.6 (*Disenfranchisement of Defaulting Lenders*), the relevant Agent and the Security Agent may assume that the following Creditors are Defaulting Lenders:
- (i) any Senior Lender, Super Senior Lender, Cash Management Facility Lender, Super Senior Cash Management Facility Lender, Second Lien Lender or Unsecured Creditor (as applicable) which has notified the Security Agent and its relevant Agent that it has become a Defaulting Lender;
 - (ii) any Senior Lender, Super Senior Lender, Cash Management Facility Lender, Super Senior Cash Management Facility Lender, Second Lien Lender or Unsecured Creditor (as applicable) if the relevant Agent has notified the Security Agent that that Creditor is a Defaulting Lender;
 - (iii) any Senior Lender, Super Senior Lender, Cash Management Facility Lender, Super Senior Cash Management Facility Lender, Second Lien Lender or

Unsecured Creditor (as applicable) if the Company has notified the Security Agent that that Creditor is a Defaulting Lender; and

- (iv) any Senior Lender, Super Senior Lender, Second Lien Lender, Unsecured Creditor, Cash Management Facility Lender, Super Senior Cash Management Facility Lender (as applicable) in relation to which it is aware that any of the events or circumstances referred to in the definition of "*Defaulting Lender*" in the Senior Facilities Agreement, any Permitted Senior Secured Facilities Agreement, any Second Lien Facility Agreement, any Permitted Super Senior Secured Facilities Agreement or any Unsecured Facility Agreement (as appropriate) has occurred,

unless it has received notice to the contrary from the Creditor concerned (together with any supporting evidence reasonably requested by the Security Agent) or the Security Agent is otherwise aware that the Creditor concerned has ceased to be a Defaulting Lender.

- (c) Any Investor Affiliate who is disenfranchised under a Debt Document is equally disenfranchised in respect of a consent or vote under this Agreement which affects or relates to that Debt Document.

27.7 Disenfranchisement of Conflicted Lenders

- (a) In ascertaining the Majority Super Senior Creditors or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Super Senior Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents requiring the consent of the Majority Super Senior Creditors at a time when the aggregate principal amount of all Relevant Commitments (as defined below) equals or exceeds thirty three and a third (33⅓) per cent. of the Super Senior Commitments, a Conflicted Lender's Super Senior Commitments and participations will be deemed to be zero (0) for the purposes of the relevant percentage, **provided that**, in each case, such consent, waiver, amendment or other vote does not result in the Conflicted Lender being treated (solely in its capacity as a Super Senior Lender) in any manner which is objectively less favourable to it (in its capacity as a Super Senior Lender) than the treatment proposed to be applied to any other Super Senior Commitment.
- (b) For the purposes of this Clause 27.7 (*Disenfranchisement of Conflicted Lenders*), the Agents may assume that the following Super Senior Lenders are Conflicted Lenders:
 - (i) any Super Senior Lender which has notified the Agents that it has become a Conflicted Lender; and
 - (ii) any Super Senior Lender in relation to which it is aware that any of the events or circumstances referred to in paragraph (d) below has occurred,

unless it has received notice to the contrary from the Super Senior Lender concerned (together with any supporting evidence reasonably requested by the Agents) or the Agents are otherwise aware that the Lender has ceased to be a Conflicted Lender.

- (c) Any Super Senior Lender which is or becomes a Conflicted Lender shall, by 5.00 pm (in London) on the fifth (5th) Business Day following the date on which it became a Conflicted Lender, notify the Agents that it is a Conflicted Lender and the Agents shall promptly disclose such information to the Senior Lenders, the Super Senior Lenders and the Second Lien Lenders.
- (d) In this Agreement:

"Conflicted Lender" means any Super Senior Lender which:

- (i) is also a Senior Creditor (other than any Pari Passu Hedge Counterparty) or a Second Lien Lender; or
- (ii) has an Affiliate or a Related Fund which is a Senior Creditor (other than any Pari Passu Hedge Counterparty) or a Second Lien Lender.

"Relevant Commitments" means the Super Senior Commitments held by a Conflicted Lender.

27.8 Calculation of Credit Participations

- (a) For the purpose of ascertaining whether any relevant percentage of Credit Participations has been obtained under this Agreement, the Security Agent may notionally convert the Credit Participations into their Common Currency Amounts.
- (b) Each Notes Trustee will, upon the request of the Security Agent, promptly provide the Security Agent with details of the Credit Participations of the Creditors whom it represents (which shall be calculated as at the time stipulated by the Security Agent in such request) and (if applicable) details of the extent to which such Credit Participations have been voted for or against any request.
- (c) Each Agent will, upon the request of the Security Agent, promptly provide the Security Agent with details of the Credit Participations of the Creditors whom it represents (which shall be calculated as at the time stipulated by the Security Agent or the relevant Agent (as applicable) in such request) and (if applicable) details of the extent to which such Credit Participations have been voted for or against any request.
- (d) Each Super Senior Cash Management Facility Lender (or the relevant Super Senior Cash Management Facility Agent on its behalf, if appointed) will, upon the request of the Security Agent or any Agent, promptly provide the details of its Credit Participations which shall be calculated as at the time stipulated by the Security Agent or the relevant Agent (as applicable) in such request) and (if applicable) details of the extent to which such Credit Participations have been voted for or against any request.
- (e) Each Cash Management Facility Lender (or the relevant Cash Management Facility Agent on its behalf, if appointed) will, upon the request of the Security Agent or any Agent, promptly provide the details of its Credit Participations which shall be calculated as at the time stipulated by the Security Agent or the relevant Agent (as applicable) in such request) and (if applicable) details of the extent to which such Credit Participations have been voted for or against any request.
- (f) Each Hedge Counterparty will, upon the request of the Security Agent or any Agent, promptly provide the details of its Credit Participations which shall be calculated as at the time stipulated by the Security Agent or the relevant Agent (as applicable) in such request) and (if applicable) details of the extent to which such Credit Participations have been voted for or against any request.

27.9 Deemed consent

Following a request by a member of the Group, if an Agent gives a Consent in respect of the Senior Finance Documents, the Super Senior Finance Documents or the Second Lien Finance Documents then, if that action was permitted by the terms of this Agreement, the Intra-Group Lenders, the Subordinated Creditors and the Company will (or will be deemed to):

- (a) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and

- (b) do anything (including executing any document) that the relevant Agent may reasonably require to give effect to paragraph (a) above.

27.10 Excluded consents

Clause 27.9 (*Deemed consent*) does not apply to any Consent which has the effect of:

- (a) increasing or decreasing the Liabilities;
- (b) changing the basis upon which any Permitted Payments are calculated (including the timing, currency or amount of such Payments); or
- (c) changing the terms of this Agreement or of any Security Document.

27.11 Administrative Consents

- (a) If, prior to the later of the Super Senior Discharge Date and the Senior Secured Discharge Date, a Senior Agent, a Super Senior Agent or a Senior Secured Notes Trustee at any time in respect of the Senior Finance Documents, the Super Senior Finance Documents and the Senior Secured Notes Finance Documents gives or give any Consent of a minor technical or administrative nature which does not adversely affect the interests of the Super Senior Cash Management Facility Creditors, the Cash Management Facility Creditors, the Second Lien Creditors, or, as the case may be, the Unsecured Creditors or change the commercial terms contained in the Super Senior Cash Management Facility Finance Document, the Cash Management Facility Finance Document, the Second Lien Finance Documents or, as the case may be, the Unsecured Finance Documents then, if that action was permitted by the terms of this Agreement, the Super Senior Cash Management Facility Creditors, the Cash Management Facility Creditors, the Second Lien Creditors, the Unsecured Creditors will (or will be deemed to):
 - (i) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and
 - (ii) do anything (including executing any document) that the Senior Agent or the Senior Secured Notes Trustee (as the context requires) may reasonably require to give effect to this paragraph (a).
- (b) If, at any time after the later of the Super Senior Discharge Date and the Senior Secured Discharge Date, a Second Lien Agent or a Second Lien Notes Trustee at any time in respect of the Second Lien Finance Documents gives or give any Consent of a minor technical or administrative nature which does not adversely affect the interests of any Unsecured Creditor or change the commercial terms contained in the Unsecured Finance Documents then, if that action was permitted by the terms of this Agreement, each Unsecured Creditor will (or will be deemed to):
 - (i) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and
 - (ii) do anything (including executing any document) that the Second Lien Agent or the Second Lien Notes Trustee may reasonably require to give effect to this paragraph (b).

27.12 No Liability

None of the Agents, the Senior Secured Creditors, the Second Lien Creditors or the Unsecured Creditors will be liable to any other Creditor, Agent, Third Party Security Provider or Debtor for

any Consent given or deemed to be given under this Clause 27 (*Consents, Amendments and Override*).

27.13 Agreement to Override

Unless expressly stated otherwise in this Agreement, this Agreement overrides anything in any other Debt Document.

28. NOTES TRUSTEES

28.1 Liability

- (a) It is expressly understood and agreed by the Parties that this Agreement is executed and delivered by each Notes Trustee not individually or personally but solely in its capacity as trustee in the exercise of the powers and authority conferred and vested in it under the relevant Notes Finance Documents for and on behalf of the Noteholders only for which the Notes Trustee acts as trustee and it shall have no liability for acting for itself or in any capacity other than as trustee and nothing in this Agreement shall impose on it any obligation to pay any amount out of its personal assets. Notwithstanding any other provision of this Agreement, its obligations hereunder (if any) to make any payment of any amount or to hold any amount on trust (or otherwise) shall be only to make payment of such amount to or hold any such amount on trust (or otherwise) to the extent that: (i) it has actual knowledge that such obligation has arisen; and (ii) it has received and, on the date on which it acquires such actual knowledge, has not distributed to the Noteholders for which it acts as trustee in accordance with the relevant Notes Indenture (in relation to which it is trustee) any such amount.
- (b) It is further understood and agreed by the Parties that in no case shall any Notes Trustee be: (i) personally responsible or accountable in damages or otherwise to any other party for any loss, damage or claim incurred by reason of any act or omission performed or omitted by that Notes Trustee in good faith in accordance with this Agreement or any of the Notes Finance Documents in a manner that such Notes Trustee believed to be within the scope of the authority conferred on it by this Agreement or any of the Notes Finance Documents or by law; or (ii) personally liable for or on account of any of the statements, representations, warranties, covenants or obligations stated to be those of any other Party, all such liability, if any, being expressly waived by the Parties and any person claiming by, through or under such Party, **provided that** each Notes Trustee shall be personally liable under this Agreement for its own gross negligence or wilful misconduct. It is also acknowledged and agreed that no Notes Trustee shall have any responsibility for the actions of any individual Creditor or Noteholder (save in respect of its own actions).
- (c) The Parties acknowledge and agree that no Notes Trustee shall be charged with knowledge or existence of facts that would impose an obligation on it hereunder to make any payment or prohibit it from making any payment unless, not less than two (2) Business Days prior to the date of such payment, a Responsible Officer of the applicable Notes Trustee receives written notice satisfactory to it that such payments are required or prohibited by this Agreement.
- (d) Notwithstanding anything contained in this Agreement, no provision of this Agreement shall alter or otherwise affect the rights and obligations of the Notes Issuer or any Debtor to make payments in respect of Notes Trustee Amounts as and when the same are due and payable pursuant to the applicable Notes Finance Documents or the receipt and retention by a Notes Trustee of the same or the taking of any step or action by a Notes Trustee in respect of its rights under the Notes Finance Documents to the same.
- (e) No Notes Trustee is responsible for the appointment or for monitoring the performance of the Security Agents.

- (f) [Reserved].
- (g) No Notes Trustee shall be under an obligation to instruct or direct the Security Agent to take any Enforcement Action unless it shall have been instructed to do so by the Noteholders and if it shall have been indemnified and/or secured to its satisfaction.
- (h) Notwithstanding any other provisions of this Agreement or any other Notes Finance Document to which a Notes Trustee is a party to, in no event shall a Notes Trustee be liable for special, indirect, punitive or consequential loss or damages of any kind whatsoever (including loss of business, goodwill, opportunity or profits) whether or not foreseeable even if such Notes Trustee has been advised of the likelihood of such loss or damage and regardless of whether the claim for loss or damage is made in negligence, for breach of contract or otherwise.

28.2 No Action

- (a) Notwithstanding any other provision of this Agreement, no Notes Trustee shall have any obligation to take any action under this Agreement unless it is indemnified and/or secured and/or prefunded by the Noteholders to its satisfaction in respect of all costs, expenses and liabilities which it would in its opinion incur (together with any associated VAT). No Notes Trustee shall have an obligation to indemnify (out of its personal assets) any other person, whether or not a Party, in respect of any of the transactions contemplated by this Agreement. In no event shall the permissive rights of a Notes Trustee to take action under this Agreement be construed as an obligation to do so.
- (b) Prior to taking any action under this Agreement a Notes Trustee may request and rely upon an opinion of counsel or opinion of another qualified expert, at the expense of the Company or another Debtor.

28.3 Reliance on Certificates

The Notes Trustees shall at all times be entitled to and may rely on any notice, consent or certificate given or granted by any Party without being under any obligation to enquire or otherwise determine whether any such notice, consent or certificate has been given or granted by such Party properly acting in accordance with the provisions of this Agreement.

28.4 No Fiduciary Duty

No Notes Trustee shall be deemed to owe any fiduciary duty to any Creditor (save in respect of such persons for whom it acts as trustee) and shall not be personally liable to any Creditor if it shall in good faith mistakenly pay over or distribute to any Creditor or to any other person cash, property or securities to which any other Creditor shall be entitled by virtue of this Agreement or otherwise. With respect to the Creditors, each Notes Trustee undertakes to perform or to observe only such of its covenants or obligations as are specifically set forth in the Notes Finance Documents pursuant to which it acts as trustee and in this Agreement and no implied agreement, covenants or obligations with respect to the other Creditors shall be read into this Agreement against a Notes Trustee.

28.5 Debt Assumptions

- (a) Each Senior Secured Notes Trustee is entitled to assume that in respect of the Secured Liabilities and the Unsecured Liabilities:
 - (i) no Senior Payment Default, Second Lien Payment Default or Unsecured Payment Default has occurred;
 - (ii) no Senior Default, Second Lien Default or Unsecured Default has occurred;

- (iii) none of the Senior Secured Creditor Liabilities, Hedging Liabilities, Second Lien Creditor Liabilities or Unsecured Liabilities have been accelerated;
- (iv) no Default, Event of Default or termination event (however described) has occurred; and
- (v) none of the Senior Discharge Date or the Second Lien Discharge Date has occurred,

unless a Responsible Officer of the relevant Senior Secured Notes Trustee has actual knowledge to the contrary.

- (b) The Second Lien Notes Trustee is entitled to assume that in respect of the Secured Liabilities and the Unsecured Liabilities:

- (i) no Senior Payment Default, Second Lien Payment Default or Unsecured Payment Default has occurred;
- (ii) no Senior Default, Second Lien Default or Unsecured Default has occurred;
- (iii) none of the Senior Secured Creditor Liabilities, Hedging Liabilities, Second Lien Creditor Liabilities or Unsecured Liabilities have been accelerated;
- (iv) no Default, Event of Default or termination event (however described) has occurred; and
- (v) none of the Senior Discharge Date or the Second Lien Discharge Date has occurred,

unless a Responsible Officer of the Second Lien Notes Trustee has actual knowledge to the contrary.

- (c) The Notes Trustee is not obliged to monitor or enquire whether any Event of Default has occurred.

28.6 Senior Secured Notes Creditors/Unsecured Creditors

- (a) In acting pursuant to this Agreement and the relevant Senior Secured Notes Indenture, the Senior Secured Notes Trustee is not required to have any regard to the interests of any Creditor other than the Senior Secured Noteholders for which it is the Senior Secured Notes Trustee.
- (b) In acting pursuant to this Agreement and the relevant Second Lien Notes Indenture, the Second Lien Notes Trustee is not required to have any regard to the interests of any Creditor other than the Second Lien Noteholders for which it is the Second Lien Notes Trustee.

28.7 Claims of Security Agent

The Security Agent agrees and acknowledges that it shall have no claim against the Notes Trustees in respect of any fees, costs, expenses and liabilities due and payable to, or incurred by, the Security Agent.

28.8 Reliance and Advice

Each Notes Trustee may:

- (a) rely on any notice or document believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person;
- (b) rely on any statement made by any person regarding any matters which may be assumed to be within its knowledge or within its powers to verify; and
- (c) engage, pay for and rely on professional advisers selected by it (including those representing a person other than the Notes Trustee).

28.9 Provisions Survive Termination

The provisions of this Clause 28 (*Notes Trustees*) shall survive any termination of this Agreement.

28.10 Other Parties Not Affected

No provision of this Clause 28 (*Notes Trustees*) shall alter or change the rights and obligations as between the other Parties in respect of each other. This Clause 28 (*Notes Trustees*) is intended to afford protection to the Notes Trustees only.

28.11 Instructions

In acting under this Agreement, a Notes Trustee is entitled to seek instructions from the Noteholders for which it acts as trustee at any time and, where it acts on the instructions of such Noteholders, a Notes Trustee shall not incur any liability to any person for so acting. The Notes Trustee is not liable to any person for any loss suffered as a result of any delay caused as a result of it seeking instructions from the Noteholders for which it acts as trustee.

28.12 Responsibility of Notes Trustee

- (a) No Notes Trustee shall be responsible to any other Senior Finance Party, Hedge Counterparty, Senior Secured Notes Finance Party, Second Lien Finance Party or Unsecured Creditor for the legality, validity, effectiveness, enforceability, adequacy, accuracy, completeness or performance of:
 - (i) any Senior Finance Document, Senior Secured Notes Finance Document, Hedging Agreement, Second Lien Finance Document or any other document;
 - (ii) any statement or information (whether written or oral) made in or supplied in connection with any Senior Finance Document, Senior Secured Notes Finance Document, Hedging Agreement, Second Lien Finance Document, Unsecured Finance Document or any other document; or
 - (iii) any observance by any Debtor of its obligations under any Finance Document or any other document.
- (b) Each Notes Trustee may rely, and shall be fully protected in acting or refraining from acting upon, any notice, certificate or other document reasonably believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person.

28.13 Confirmation

Without affecting the responsibility of any Debtor or the Company for information supplied by it or on its behalf in connection with any Senior Secured Finance Documents, the Second Lien Finance Documents and the Unsecured Finance Documents (as applicable), each Senior Finance Party, Hedge Counterparty, Senior Secured Notes Finance Party, Second Lien Lender Party, Unsecured Creditor and Second Lien Notes Finance Party (other than a Notes Trustee (in its personal capacity) and the Security Agent) confirms that it:

- (a) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Senior Finance Documents, the Senior Secured Notes Finance Documents, the Second Lien Lender Finance Documents, the Second Lien Notes Finance Documents, the Unsecured Finance Documents or the Hedging Agreements (including the financial condition and affairs of each Debtor or their related entities and the nature and extent of any recourse against any Party or its assets); and
- (b) has not relied on any information provided to it by a Notes Trustee in connection with any Senior Finance Document, Senior Secured Notes Finance Document, Second Lien Lender Finance Document, Second Lien Notes Finance Document, Unsecured Finance Document or Hedging Agreement.

28.14 Provision of Information

No Notes Trustee is obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party. No Notes Trustee is responsible for:

- (a) providing any Senior Lender, Super Senior Lender, Super Senior Cash Management Facility Creditor, Cash Management Facility Creditor, Senior Secured Notes Creditor, Hedge Counterparty, Second Lien Lender, Second Lien Notes Creditor or Unsecured Creditor with any credit or other information concerning the risks arising under or in connection with the Debt Documents (including any information relating to the financial condition or affairs of any Debtor or their related entities or the nature or extent of recourse against any Party or its assets) whether coming into its possession before, on or after the date of this Agreement; or
- (b) obtaining any certificate or other document from any Debtor or the Company.

28.15 Departmentalism

In acting as a Notes Trustee, each Notes Trustee shall be treated as acting through its agency division which shall be treated as a separate entity from its other divisions and departments. Any information received or acquired by a Notes Trustee which, in its opinion, is received or acquired by some other division or department or otherwise than in its capacity as a Notes Trustee may be treated as confidential by the Notes Trustee and will not be treated as information possessed by the Notes Trustee in its capacity as such.

28.16 Disclosure of Information

Each Debtor irrevocably authorises any Notes Trustee to disclose to any Senior Finance Party, Hedge Counterparty, Senior Secured Notes Finance Party, Second Lien Finance Party and Unsecured Creditor any information that is received by the Notes Trustee in its capacity as the Notes Trustee.

28.17 Illegality

- (a) Each Notes Trustee may refrain from doing anything (including disclosing any information) which might, in its opinion, constitute a breach of any law or regulation and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation.
- (b) Furthermore, each Notes Trustee may also refrain from taking such action if it would otherwise render it liable to any person in that jurisdiction or if, in its opinion based upon such legal advice, it would not have the power to do the relevant thing in that jurisdiction by virtue of any applicable law in that jurisdiction or if it is determined by any court or other competent authority in that jurisdiction that it does not have such power.

28.18 Resignation of Notes Trustee

Each Notes Trustee may resign or be removed in accordance with the terms of the applicable Notes Indenture, **provided that** a replacement Notes Trustee agrees with the Parties to become the replacement trustee under this Agreement by the execution of an Creditor/Agent Accession Undertaking.

28.19 Notes Trustee Assumptions

- (a) The Notes Trustee is entitled to assume that:
 - (i) any payment or other distribution made pursuant to this Agreement in respect of the Second Lien Notes Liabilities or Senior Secured Notes Liabilities (as the case may be) has been made in accordance with the ranking in Clause 2 (*Ranking and Priority*) and is not prohibited by any provisions of this Agreement and is made in accordance with these provisions;
 - (ii) the proceeds of enforcement of any Security conferred by the Security Documents have been applied in the order set out in Clause 16 (*Application of Proceeds*);
 - (iii) any Security, collateral, guarantee or indemnity or other assurance granted to it has been done so in compliance with Clause 3.3 (*Security and Guarantees: Super Senior Creditors*), Clause 4.3 (*Security and Guarantees: Pari Passu Creditors*) and Clause 6.8 (*Security and Guarantees: Second Lien Creditors*); and
 - (iv) any Senior Secured Notes or Second Lien Notes issued comply with the provisions of this Agreement including Clause 6 (*Second Lien Creditors and Second Lien Liabilities*).
- (b) Each Notes Trustee is entitled to assume that any payment or distribution made in respect of the Second Lien Notes Liabilities or Senior Secured Notes Liabilities (as the case may be) is not prohibited by this Agreement, unless it has actual knowledge to the contrary, **provided that** a Notes Trustee shall be liable under this Agreement for its own gross negligence or wilful misconduct.
- (c) A Notes Trustee shall not have any obligation under Clause 9 (*Effect of Insolvency Event*) or Clause 11 (*Redistribution*) in respect of amounts received or recovered by it unless:
 - (i) it has actual knowledge that the receipt or recovery falls within paragraphs (a) or (b) above; and
 - (ii) it has not distributed to the relevant Noteholders in accordance with the Notes Indenture any amount so received or recovered.
- (d) A Notes Trustee shall not be obliged to monitor performance by the Debtors, the Security Agent or any other Party or the Noteholders of their respective obligations under, or compliance by them with, the terms of this Agreement.

28.20 Agents

Each Notes Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any attorney or agent appointed with due care by it hereunder.

28.21 No Requirement for Bond or Surety

No Notes Trustee shall be required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Agreement.

28.22 Notes Trustee Liabilities and Payments

No provision of this Agreement shall alter or otherwise affect the rights and obligations of any Debtor to make payments in respect of the Notes Trustee Liabilities as and when the same are due and payable and demand, receipt and retention by any Notes Trustee of the same or taking of any step or action by any Senior Secured Notes Trustee in respect of its rights under the Notes Finance Documents to the same.

29. 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.

30. CONTRACTUAL RECOGNITION OF BAIL-IN

Notwithstanding any other term of any Debt 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 Debt 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:
 - (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 Debt Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

31. GOVERNING LAW

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

32. ENFORCEMENT

32.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or the consequences of its nullity 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.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement and executed as a deed by the Company, the Original Debtors, the Original Intra-Group Lenders, and is intended to be and is delivered by them as a deed on the date specified above and shall take effect as a deed notwithstanding the fact that the other parties hereto have executed this Agreement under hand.

SCHEDULE 1
Form of Debtor/Third Party Security Provider Accession Undertaking

THIS AGREEMENT is made on [●] and made between:

- (1) [Insert full name of New Debtor/Third Party Security Provider] (the "**Acceding Debtor**"/[**Third Party Security Provider**"]); and
- (2) [Insert full name of current Security Agent] (the "**Security Agent**"), for itself and each of the other parties to the intercreditor agreement referred to below.

This Agreement is made on [date] by the Acceding [Debtor]/[Third Party Security Provider] in relation to an intercreditor agreement (the "**Intercreditor Agreement**") dated [●] between, amongst others, [●] as Parent, [●] as security agent, [●] as senior agent, the other Creditors, Third Party Security Providers and the other Debtors (each as defined in the Intercreditor Agreement).

The Acceding [Debtor]/[Third Party Security Provider] 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]/[provide third party security in respect of Liabilities under the following documents]:

[Insert details (date, parties and description) of relevant documents including, as the case may be, any limitation language applicable to the relevant Debtor/Third Party Security Provider]

(the "**Relevant Documents**").

IT IS AGREED as follows:

1. Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Agreement, bear the same meaning when used in this Agreement.
2. The Acceding [Debtor]/[Third Party Security Provider] and the Security Agent agree that the Security Agent shall hold:
 - (a) any Security in respect of Liabilities or any Parallel Debt created or expressed to be created pursuant to the Relevant Documents;
 - (b) all proceeds of that Security; and
 - (c) all obligations expressed to be undertaken by the Acceding [Debtor]/[Third Party Security Provider] [to pay amounts in respect of the Liabilities to the Security Agent as trustee or otherwise for the benefit of the Secured Parties (in the Relevant Documents or otherwise) and] secured by the Transaction Security] together with all representations and warranties expressed to be given by the Acceding [Debtor]/[Third Party Security Provider] (in the Relevant Documents or otherwise) in favour of the Secured Parties (as represented by the Security Agent) as trustee or otherwise for the benefit of the Secured Parties, on trust (or otherwise) for the benefit of the Secured Parties (or any class thereof as the case may be) on the terms and conditions contained in the Intercreditor Agreement.
3. The Acceding [Debtor]/[Third Party Security Provider] confirms that it intends to be party to the Intercreditor Agreement as a [Debtor]/[Third Party Security Provider], undertakes to perform all the obligations expressed to be assumed by a [Debtor]/[Third Party Security Provider] under the Intercreditor Agreement and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as if it had been an original party to the Intercreditor Agreement.
4. [In consideration of the Acceding Debtor being accepted as an Intra-Group Lender for the purposes of the Intercreditor Agreement, the Acceding Debtor also confirms that it intends to be party to the Intercreditor Agreement as an Intra-Group Lender, and undertakes to perform all the obligations

expressed in the Intercreditor Agreement to be assumed by an Intra-Group Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.]¹

5. The Acceding Debtor expressly confirms that it [can/cannot] exempt the Security Agent from any restrictions on self-dealing and multi-representation applicable to it pursuant to any laws.
6. [Add applicable guarantee limitation language to the extent such guarantee limitation language in Schedule 7 (*Hedge Counterparties' Guarantee and Indemnity*), Schedule 8 (*Cash Management Facility Creditors' Guarantee and Indemnity*) and/or Schedule 9 (*Super Senior Cash Management Facility Creditors' Guarantee and Indemnity*) is insufficient where the relevant Acceding Debtor is also a Hedging Guarantor].

[5]/[6] This Agreement, and any non-contractual obligations arising out of or in connection with it, are governed by English law.

This Agreement has been signed on behalf of the Security Agent and executed as a deed by the Acceding [Debtor]/[Third Party Security Provider] and is delivered on the date stated above.

The Acceding Debtor /[Third Party Security Provider]

[Executed as a Deed

By: [Full name of Acceding Debtor] /[Third Party Security Provider]

) Director
)
) Director/Secretary

or

[Executed as a Deed

By: [Full name of Acceding Debtor] /[Third Party Security Provider]

) Director
)
) Director/Secretary

Name of witness:

Address of witness:

¹ Include this paragraph in the relevant [Debtor]/[Third Party Security Provider] Creditor/Agent Accession Undertaking if the Acceding Debtor is also to accede as an Intra-Group Lender to the Intercreditor Agreement.

Occupation of witness:]

Address for notices:

Address:

The Security Agent

By: [Full name of current Security Agent]

Date: [●]

SCHEDULE 2

Form of Creditor/Agent Accession Undertaking

To: [Insert full name of current Security Agent] for itself and each of the other parties to the Intercreditor Agreement referred to below.

[To: [Insert full name of current Super Senior Agent] as Super Senior Agent.]²

[To: [Insert full name of current Senior Agent] as Senior Agent.]³

From: [Acceding Creditor/Agent]

This Undertaking is made on [date] by [insert full name of applicable party (the "**Acceding Party**") in relation to the intercreditor agreement (the "**Intercreditor Agreement**") dated [●] between, amongst others, [●] as Parent, [●] as security agent, [●] as senior agent and the other Creditors and the other Debtors (each as defined in the Intercreditor Agreement). Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Undertaking, bear the same meanings when used in this Undertaking.

In consideration of the Acceding Party being accepted as a [*insert applicable defined terms and capacity*] for the purposes of the Intercreditor Agreement, the Acceding Party confirms that, as from [date], it intends to be party to the Intercreditor Agreement as a [*insert applicable defined terms and capacity*] and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a [*insert applicable defined terms and capacity*] and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

[The Acceding Party is an Affiliate of a Super Senior Lender and has become a provider of an Ancillary Facility. In consideration of the Acceding Party being accepted as an Ancillary Lender for the purposes of the Senior Facilities Agreement, the Acceding Party confirms, for the benefit of the parties to the Senior Facilities Agreement, that, as from [date], it intends to be party to the Senior Facilities Agreement as an Ancillary Lender, and undertakes to perform all the obligations expressed in the Senior Facilities Agreement to be assumed by a Super Senior Finance Party and agrees that it shall be bound by all the provisions of the Senior Facilities Agreement, as if it had been an original party to the Senior Facilities Agreement as an Ancillary Lender.]

[The Acceding Party is an Affiliate of a Senior Lender and has become a provider of an Ancillary Facility. In consideration of the Acceding Party being accepted as an Ancillary Lender for the purposes of the Senior Facilities Agreement, the Acceding Party confirms, for the benefit of the parties to the Senior Facilities Agreement, that, as from [date], it intends to be party to the Senior Facilities Agreement as an Ancillary Lender, and undertakes to perform all the obligations expressed in the Senior Facilities Agreement to be assumed by a Senior Finance Party and agrees that it shall be bound by all the provisions of the Senior Facilities Agreement, as if it had been an original party to the Senior Facilities Agreement as an Ancillary Lender.]

[The Acceding Party is an Affiliate of a Super Senior Lender and has become a provider of an Ancillary Facility. In consideration of the Acceding Party being accepted as an Ancillary Lender for the purposes of the Permitted Super Senior Secured Facilities Agreement, the Acceding Party confirms, for the benefit of the parties to the Permitted Super Senior Secured Facilities Agreement, that, as from [date], it intends to be party to the Permitted Super Senior Secured Facilities Agreement as an Ancillary Lender, and undertakes to perform all the obligations expressed in the Permitted Super Senior Secured Facilities Agreement to be assumed by a Super Senior Finance Party and agrees that it shall be bound by all the provisions of the Permitted Super Senior Secured Facilities Agreement, as if it had been an original party to the Permitted Super Senior Secured Facilities Agreement as an Ancillary Lender.]

² Include only in the case of: (i) an Ancillary Lender which is an Affiliate of a Super Senior Lender.

³ Include only in the case of: (i) an Ancillary Lender which is an Affiliate of a Senior Lender.

[The Acceding Party is an Affiliate of a Senior Lender and has become a provider of an Ancillary Facility. In consideration of the Acceding Party being accepted as an Ancillary Lender for the purposes of the Permitted Senior Secured Facilities Agreement, the Acceding Party confirms, for the benefit of the parties to the Permitted Senior Secured Facilities Agreement, that, as from [date], it intends to be party to the Permitted Senior Secured Facilities Agreement as an Ancillary Lender, and undertakes to perform all the obligations expressed in the Permitted Senior Secured Facilities Agreement to be assumed by a Senior Finance Party and agrees that it shall be bound by all the provisions of the Permitted Senior Secured Facilities Agreement, as if it had been an original party to the Permitted Senior Secured Facilities Agreement as an Ancillary Lender.]

The Acceding Debtor expressly confirms that it [can/cannot] exempt the Security Agent from any restrictions on self-dealing and multi-representation applicable to it pursuant to any laws.

The Acceding Party expressly ratifies and approves any and all acts done by the Security Agent on its behalf prior to execution by the Acceding Party of this [Creditor/Agent] Accession Undertaking.

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

THIS UNDERTAKING has been entered into as delivered on the date stated above.

Acceding [Creditor/Agent]

[Executed as a Deed]

[insert full name of Acceding)
Creditor/Agent]) By:

Address:

Accepted by the Security Agent)
for and on behalf of) Signed:
[Insert full name of current Security Agent]) Date:

[Accepted by the Senior Agent])
for and on behalf of) Signed:
[Insert full name of Senior Agent]) Date]⁴

[Accepted by the Super Senior Agent])
for and on behalf of) Signed:

⁴ Include only in the case of an Ancillary Lender which is an Affiliate of a Senior Lender.

[Insert full name of Super Senior Agent]) Date]⁵

⁵ Include only in the case of an Ancillary Lender which is an Affiliate of a Super Senior Lender.

SCHEDULE 3
Form of Debtor Resignation Request

To: [●] as Security Agent

From: [resigning Debtor] and [the Company]

Dated:

To whom it may concern,

Intercreditor Agreement dated [●] between, amongst others, [●] as Parent, [●] as security agent, [●] as senior agent, the other Creditors and the other Debtors (each as defined in the Intercreditor Agreement) (the "Intercreditor Agreement")

1. We refer to the Intercreditor Agreement. This is a Debtor Resignation Request. Terms defined in the Intercreditor Agreement have the same meaning in this Debtor Resignation Request unless given a different meaning in this Debtor Resignation Request.
2. Pursuant to Clause 21.20 (*Resignation of a Debtor*) of the Intercreditor Agreement we request that [resigning Debtor] be released from its obligations as a Debtor under the Intercreditor Agreement.
3. We confirm that:

[Add relevant confirmation from Clause 21.20 (*Resignation of a Debtor*)].
4. This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

[the Company]

[resigning Debtor]

By: _____

By: _____

SCHEDULE 4
The Original Debtors

Name	Jurisdiction of incorporation	Registered Office	Registered number or equivalent
Inspired PLC	England and Wales	Calder House, St Georges Park, Kirkham, Lancashire PR4 2DZ, United Kingdom	07639760

SCHEDULE 5
The Original Intra-Group Lenders

Name	Jurisdiction of incorporation	Registered Office	Registered number or equivalent
Inspired PLC	England and Wales	Calder House, St Georges Park, Kirkham, Lancashire PR4 2DZ, United Kingdom	07639760

SCHEDULE 6

Enforcement Principles

1. In this Schedule 6:

"Enforcement Objective" means maximising, to the extent consistent with a prompt and expeditious realisation of value, the value realised from Enforcement.

"Fairness Opinion" means, in respect of any Enforcement, an opinion from a reputable, independent and internationally recognised investment bank, firm of accountants or third party professional firm which is regularly engaged in issuing such opinions (but not being (x) a firm appointed or selected as auditors or as administrator (or other holder of an office in respect of an insolvency) or other relevant officer of the applicable Obligor or Debtor or Third Party Security Provider or (y) a Secured Creditor or an Affiliate of a Secured Creditor) (a **"Third Party Adviser"**) that the proceeds received or recovered in connection with that Enforcement are fair from a financial point of view taking into account all relevant circumstances.

2. Any Enforcement pursuant to Clause 14 (*Enforcement of Transaction Security on or after the Designation Date*) shall be consistent with the Enforcement Objective.

3. Without prejudice to the Enforcement Objective, the Transaction Security will be enforced and other action as to Enforcement will be taken such that either:

- (a) to the extent the Priority Instructing Group is the Enhanced Majority Super Senior Creditors and/or the Majority Super Senior Lenders, all proceeds of Enforcement are received by the Security Agent in cash for distribution in accordance with Clause 16 (*Application of Proceeds*); or
- (b) to the extent the Priority Instructing Group is the Enhanced Majority Pari Passu Creditors or Enforcement Action is taken by the Enhanced Majority Second Lien Creditors either:
 - (i) all proceeds of Enforcement are received by the Security Agent in cash for distribution in accordance with Clause 16 (*Application of Proceeds*); or
 - (ii) sufficient proceeds from Enforcement will be received by the Security Agent in cash to ensure that, when the proceeds are applied in accordance with Clause 16 (*Application of Proceeds*), the Super Senior Discharge Date will occur (unless the Enhanced Majority Super Senior Creditors and Majority Super Senior Lenders agree otherwise).

4. On:

- (a) a proposed Enforcement in relation to assets comprising Charged Property other than shares in a member of the Group over which Transaction Security exists, where the aggregate book value of such assets exceeds £5,000,000 (or its equivalent in any other currency or currencies); or
- (b) a proposed Enforcement in relation to Charged Property comprising some or all of the shares in a member of the Group over which Transaction Security exists,

which, in either case, is not being effected through a Competitive Sales Process, the Security Agent shall, if requested by the Enhanced Majority Super Senior Creditors, the Majority Super Senior Lenders or the Majority Pari Passu Creditors, appoint a Third Party Adviser to provide a Fairness Opinion in relation to that Enforcement, **provided that** the Security Agent shall not be required to appoint a Third Party Adviser nor obtain a Fairness Opinion if a proposed Enforcement:

- (i) would result in the receipt of sufficient Enforcement Proceeds in cash by the Security Agent to ensure that, after application in accordance with Clause 16 (*Application of Proceeds*):
 - (A) in the case of an Enforcement requested by the Enhanced Majority Super Senior Creditors and/or Majority Super Senior Lenders, the Senior Secured Discharge Date would occur; or
 - (B) in the case of an Enforcement requested by the Enhanced Majority Pari Passu Creditors, the Super Senior Discharge Date would occur;
 - (ii) is in accordance with any applicable law; and
 - (iii) complies with Clause 15.2 (*Distressed Disposals*).
- 5. The Security Agent shall be under no obligation to appoint a Third Party Adviser or to seek the advice of a Third Party Adviser unless expressly required to do so by this Schedule 6 or any other provision of this Agreement.
- 6. The Fairness Opinion (or any equivalent opinion obtained by the Security Agent in relation to any other Enforcement of the Transaction Security that such action is fair from a financial point of view after taking into account all relevant circumstances) will be conclusive evidence that the Enforcement Principles have been met.
- 7. In the absence of written notice from a Secured Creditor or group of Secured Creditors, that such Secured Creditor(s) object to any enforcement of any Transaction Security on the grounds that such Enforcement Action does not aim to achieve the Enforcement Objective, the Security Agent is entitled to assume that such enforcement of any Transaction Security is in accordance with the Enforcement Objective.
- 8. If the Security Agent is unable to obtain a Fairness Opinion after attempting to do so (and after considering making such modifications to the enforcement process as may be reasonably available and consistent with the Enforcement Principles to obtain such opinion) because such opinions are not generally available in the market in such circumstances it shall notify each Senior Creditor Representative and may proceed to enforce any Transaction Security without needing to demonstrate (by way of a Fairness Opinion or otherwise) that such enforcement is aiming to achieve the Enforcement Objective.

SCHEDULE 7
Hedge Counterparties' Guarantee and Indemnity

1. Guarantee and indemnity

Each Hedging Guarantor irrevocably and unconditionally jointly and severally but at all times subject to the Guarantee Limitations:

- (a) guarantees to each Hedge Counterparty punctual performance by each other Hedging Debtor of all that Hedging Debtor's obligations under the Hedging Agreements;
- (b) undertakes with each Hedge Counterparty that whenever another Hedging Debtor does not pay any amount when due (allowing for any applicable grace period) under or in connection with any Hedging Agreement, that Hedging Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each Hedge Counterparty that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Hedge Counterparty immediately on demand against any cost, loss or liability it incurs as a result of the Company or a Hedging Debtor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Hedging Agreement on the date when it would have been due.

The amount payable by a Hedging Guarantor under this indemnity will not exceed the amount it would have had to pay under this Schedule 7 if the amount claimed had been recoverable on the basis of a guarantee.

2. Continuing Guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by the Company or any Hedging Debtor under the Hedging Agreements, regardless of any intermediate payment or discharge in whole or in part.

3. Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of the Company or any Hedging Debtor or any security for those obligations or otherwise) is made by a Hedge Counterparty in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Hedging Guarantor under this Schedule 7 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

4. Waiver of defences

Subject to the Guarantee Limitations, the obligations of each Hedging Guarantor under this Schedule 7 will not be affected by an act, omission, matter or thing which, but for this Schedule 7, would reduce, release or prejudice any of its obligations under this Schedule 7 (whether or not known to it or any Hedge Counterparty) including:

- (a) any time, waiver or consent granted to, or composition with, any Hedging Debtor or other person;
- (b) the release of any other Hedging Debtor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Hedging

Debtor or other person or any non-presentation or non observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Hedging Debtor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Hedging Agreement or any other document or security including any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Hedging Agreement or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Hedging Agreement or any other document or security; or
- (g) any insolvency or similar proceedings.

5. Hedging Guarantor Intent

Without prejudice to the generality of paragraph 4 (*Waiver of defences*), but subject to the guarantee limitations set out in paragraphs 11 (*Guarantee Limitations: General*) to 13 (*Additional Guarantee Limitations*) (inclusive) below, each Hedging Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental and of whatsoever nature and whether or not more onerous) variation, increase, extension or addition of or to any of the Hedging Agreements and/or any facility or amount made available under any of the Hedging Agreements for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

6. Immediate recourse

Each Hedging Guarantor waives any right it may have of first requiring any Hedge Counterparty (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person or to require that any liability under this Schedule 7 be divided or apportioned with any other person before claiming from that Hedging Guarantor under this Schedule 7. This waiver applies irrespective of any law or any provision of a Hedging Agreement to the contrary.

7. Appropriations

Until all amounts which may be or become payable by the Hedging Debtors under or in connection with the Hedging Agreements have been irrevocably paid in full, each Hedge Counterparty (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 Hedge Counterparty (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 Hedging Guarantor shall be entitled to the benefit of the same; and
- (b) in respect of any amounts received or recovered by any Hedge Counterparty after a claim pursuant to this guarantee in respect of any sum due and payable by any Hedging Debtor under this Schedule 7 place such amounts in a suspense account (bearing interest at a

market rate usual for accounts of that type) unless and until such moneys are sufficient in aggregate to discharge in full all amounts then due and payable under this guarantee or any other Hedging Agreement.

8. Deferral of Hedging Guarantors' rights

Until all amounts which may be or become payable by the Hedging Debtors under or in connection with the Hedging Agreements have been irrevocably paid in full and unless the Security Agent otherwise directs, no Hedging Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Hedging Agreements or by reason of any amount being payable, or liability arising, under this Schedule 7:

- (a) to be indemnified by a Hedging Debtor;
- (b) to claim any contribution from any other guarantor of any Hedging Debtor's obligations under the Hedging Agreements;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Hedge Counterparties under the Hedging Agreements or of any other guarantee or security taken pursuant to, or in connection with, the Hedging Agreements by any Hedge Counterparty;
- (d) other than where the Hedge Counterparty has acted fraudulently or with wilful misconduct, to bring legal or other proceedings for an order requiring any Hedging Debtor to make any payment, or perform any obligation, in respect of which any Hedging Guarantor has given a guarantee, undertaking or indemnity under paragraph 1 (*Guarantee and indemnity*) above;
- (e) to exercise any right of set off against any Hedging Debtor; and/or
- (f) to claim or prove as a creditor of any Hedging Debtor in competition with any Hedge Counterparty,

in each case, unless the exercise of any such right is necessary or advisable to avoid any risk of personal or criminal liability for any current or former director of that Hedging Guarantor.

If a Hedging Guarantor receives any benefit, payment or distribution in relation to such rights it shall, other than to the extent such Hedging Guarantor is permitted to retain such benefit, payment or distribution in accordance with this Agreement, hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Hedge Counterparties by the Hedging Debtors under or in connection with the Hedging Agreements to be repaid in full on trust (or if it is impossible under the laws of the jurisdiction of incorporation of such Hedging Guarantor to hold the same amount on trust, then as agent under an obligation to pay) for the Hedge Counterparties and shall promptly pay or transfer the same, but subject to the Guarantee Limitations, to the Security Agent or as the Security Agent may direct for application in accordance with Clause 16 (*Application of Proceeds*).

9. Release of Hedging Guarantors' right of contribution

If any Hedging Guarantor (a "**Retiring Hedging Guarantor**") ceases to be a Hedging Guarantor in accordance with the terms of the Hedging Agreements then on the date such Retiring Hedging Guarantor ceases to be a Hedging Guarantor:

- (a) that Retiring Hedging Guarantor is released by each other Hedging Guarantor from any liability (whether past, present or future and whether actual or contingent) to make a contribution to any other Hedging Guarantor arising by reason of the performance by any other Hedging Guarantor of its obligations under the Hedging Agreements; and

- (b) each other Hedging Guarantor waives any rights it may have by reason of the performance of its obligations under the Hedging Agreements to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Hedge Counterparties under any Hedging Agreement or of any other security taken pursuant to, or in connection with, any Hedging Agreement where such rights or security are granted by or in relation to the assets of the Retiring Hedging Guarantor.

10. Additional security

The guarantee contained in this Schedule 7 is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Hedge Counterparty.

11. Guarantee Limitations: General

- (a) Without limiting any specific exemptions set out below and notwithstanding any other provision of this Agreement or any Hedging Agreement to the contrary:
 - (i) no Hedging Guarantor's obligations and liabilities under this Schedule 7 and under any other guarantee or indemnity provision in a Hedging Agreement (the "**Hedging Guarantee Obligations**") will extend to include any obligation or liability; and
 - (ii) no Transaction Security granted by a Hedging Guarantor will secure any Hedging Guarantee Obligation,

to the extent that doing so would constitute unlawful financial assistance (including any unlawful financial assistance within the meaning of sections 678 or 679 of the Companies Act 2006) (notwithstanding any applicable exemptions and/or undertaking of any applicable prescribed whitewash or similar financial assistance procedures) in respect of the acquisition of shares in itself or its Holding Company under the laws of its jurisdiction of incorporation.

- (b) If, notwithstanding paragraph (a) above, the giving of the guarantee in respect of the Hedging Guarantee Obligations or Transaction Security would constitute unlawful financial assistance, then, to the extent necessary to give effect to paragraph (a) above, the obligations under the Hedging Agreements will be deemed to have been split into two (2) tranches; "**Tranche 1**" comprising those obligations which can be secured by the Hedging Guarantee Obligations of the relevant Hedging Guarantor or Transaction Security granted by the relevant Hedging Guarantor without breaching or contravening relevant financial assistance laws applicable to such Hedging Guarantor and "**Tranche 2**" comprising the remainder of the obligations under the Hedging Agreements. The Tranche 2 obligations will be excluded from the relevant Hedging Guarantee Obligations of such Hedging Guarantor (but only for so long as including them within such Hedging Guarantee Obligations would cause such Hedging Guarantor to be in breach of financial assistance laws applicable to it) and will be allocated to the Hedging Agreement to which those obligations relate, to the extent that that can be determined and is permissible under the laws of the jurisdiction of incorporation of the Hedging Guarantor in question.

12. Excluded Swap Obligations

- (a) Notwithstanding anything to the contrary in any Debt Document, the guarantee contained in this Schedule 7 does not apply to any Excluded Swap Obligation of any Hedging Guarantor.
- (b) In this paragraph 12 (*Excluded Swap Obligations*):

"CEA" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute;

"**Excluded Swap Obligation**" means, with respect to any Hedging Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the guarantee of such Hedging Guarantor that relates to such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the CEA or any rule, regulation or order of the US Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Hedging Guarantor's failure for any reason to constitute an "*eligible contract participant*" as defined in the Commodity Exchange Act and the regulations thereunder at the time the guarantee given by such Hedging Guarantor becomes effective with respect to such Swap. If a Swap Obligation arises under a master agreement governing more than one Swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to Swaps for which such guarantee or security interest is or becomes illegal;

"**Swap**" means any agreement, contract or transaction that constitutes a "*swap*" within the meaning of section 1a(47) of the CEA; and

"**Swap Obligation**" means, with respect to any person, any obligation to pay or perform under any Swap.

13. **Additional Guarantee Limitations**

The guarantee of any acceding Debtor which is a Hedging Guarantor (an "**Acceding Hedging Guarantor**") is subject to any limitations relating to that Acceding Hedging Guarantor on the amount guaranteed or to the extent of the recourse of the beneficiaries of the guarantee which is set out in the Debtor/Third Party Security Provider applicable to such Acceding Hedging Guarantor and agreed with the Security Agent (acting reasonably in accordance with the Agreed Security Principles).

SCHEDULE 8
Cash Management Facility Creditors' Guarantee and Indemnity

1. Guarantee and indemnity

Each Cash Management Facility Guarantor irrevocably and unconditionally jointly and severally and at all times subject to the Guarantee Limitations:

- (a) guarantees to each Cash Management Facility Creditor punctual performance by each other Cash Management Facility Debtor of all that Cash Management Facility Debtor's obligations under the Cash Management Facility Finance Documents;
- (b) undertakes with each Cash Management Facility Creditor that whenever another Cash Management Facility Debtor does not pay any amount when due (allowing for any applicable grace period) under or in connection with any Cash Management Facility Finance Document, that Cash Management Facility Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each Cash Management Facility Creditor that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Cash Management Facility Creditor immediately on demand against any cost, loss or liability it incurs as a result of the Company or a Cash Management Facility Debtor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Cash Management Facility Finance Document on the date when it would have been due.

The amount payable by a Cash Management Facility Guarantor under this indemnity will not exceed the amount it would have had to pay under this Schedule 8 if the amount claimed had been recoverable on the basis of a guarantee.

2. Continuing Guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by the Company or any Cash Management Facility Debtor under the Cash Management Facility Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

3. Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of the Company or any Cash Management Facility Debtor or any security for those obligations or otherwise) is made by a Cash Management Facility Creditor in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Cash Management Facility Guarantor under this Schedule 8 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

4. Waiver of defences

Subject to the Guarantee Limitations, the obligations of each Cash Management Facility Guarantor under this Schedule 8 will not be affected by an act, omission, matter or thing which, but for this Schedule 8, would reduce, release or prejudice any of its obligations under this Schedule 8 (whether or not known to it or any Cash Management Facility Creditor) including:

- (a) any time, waiver or consent granted to, or composition with, any Cash Management Facility Debtor or other person;

- (b) the release of any other Cash Management Facility Debtor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Cash Management Facility Debtor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Cash Management Facility Debtor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Cash Management Facility Finance Document or any other document or security including any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Cash Management Facility Finance Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Cash Management Facility Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

5. Cash Management Facility Guarantor Intent

Without prejudice to the generality of paragraph 4 (*Waiver of defences*), but subject to the guarantee limitations set out in paragraphs 11 (*Guarantee Limitations: General*) to 13 (*Additional Guarantee Limitations*) below, each Cash Management Facility Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental and of whatsoever nature and whether or not more onerous) variation, increase, extension or addition of or to any of the Cash Management Facility Finance Documents and/or any facility or amount made available under any of the Cash Management Facility Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

6. Immediate recourse

Each Cash Management Facility Guarantor waives any right it may have of first requiring any Cash Management Facility Creditor (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person or to require that any liability under this Schedule 8 be divided or apportioned with any other person before claiming from that Cash Management Facility Guarantor under this Schedule 8. This waiver applies irrespective of any law or any provision of a Cash Management Facility Finance Document to the contrary.

7. Appropriations

Until all amounts which may be or become payable by the Cash Management Facility Debtors under or in connection with the Cash Management Facility Finance Documents have been irrevocably paid in full, each Cash Management Facility Creditor (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 Cash Management Facility Creditor (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 Cash Management Facility Guarantor shall be entitled to the benefit of the same; and

- (b) in respect of any amounts received or recovered by any Cash Management Facility Creditor after a claim pursuant to this guarantee in respect of any sum due and payable by any Cash Management Facility Debtor under this Schedule 8 place such amounts in a suspense account (bearing interest at a market rate usual for accounts of that type) unless and until such moneys are sufficient in aggregate to discharge in full all amounts then due and payable under this guarantee or any other the Cash Management Facility Finance Document.

8. Deferral of Cash Management Facility Guarantors' rights

Until all amounts which may be or become payable by the Cash Management Facility Debtors under or in connection with the Cash Management Facility Finance Documents have been irrevocably paid in full and unless the Security Agent otherwise directs, no Cash Management Facility Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Cash Management Facility Finance Documents or by reason of any amount being payable, or liability arising, under this Schedule 8:

- (a) to be indemnified by a Cash Management Facility Debtor;
- (b) to claim any contribution from any other guarantor of any Cash Management Facility Debtor's obligations under the Cash Management Facility Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Cash Management Facility Creditors under the Cash Management Facility Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Cash Management Facility Finance Documents by any Cash Management Facility Creditor;
- (d) other than where the Cash Management Facility Creditor has acted fraudulently or with wilful misconduct, to bring legal or other proceedings for an order requiring any Cash Management Facility Debtor to make any payment, or perform any obligation, in respect of which any Cash Management Facility Guarantor has given a guarantee, undertaking or indemnity under paragraph 1 (*Guarantee and indemnity*) above;
- (e) to exercise any right of set off against any Cash Management Facility Debtor; and/or
- (f) to claim or prove as a creditor of any Cash Management Facility Debtor in competition with any Cash Management Facility Creditor,

in each case, the exercise of any such right is necessary or advisable to avoid any risk of personal or criminal liability for any current or former director of that Cash Management Facility Guarantor.

If a Cash Management Facility Guarantor receives any benefit, payment or distribution in relation to such rights it shall, other than to the extent such Cash Management Facility Guarantor is permitted to retain such benefit, payment or distribution in accordance with this Agreement, hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Cash Management Facility Creditors by the Cash Management Facility Debtors under or in connection with the Cash Management Facility Finance Documents to be repaid in full on trust (or if it is impossible under the laws of the jurisdiction of incorporation of such Cash Management Facility Guarantor to hold the same amount on trust, then as agent under an obligation to pay) and shall promptly pay or transfer the same, but subject to the Guarantee Limitations, to the Security Agent or as the Security Agent may direct for application in accordance with Clause 16 (*Application of Proceeds*).

9. Release of Cash Management Facility Guarantors' right of contribution

If any Cash Management Facility Guarantor (a "**Retiring Cash Management Facility Guarantor**") ceases to be a Cash Management Facility Guarantor in accordance with the terms of the Cash Management Facility Finance Documents then on the date such Retiring Cash Management Facility Guarantor ceases to be a Cash Management Facility Guarantor:

- (a) that Retiring Cash Management Facility Guarantor is released by each other Cash Management Facility Guarantor from any liability (whether past, present or future and whether actual or contingent) to make a contribution to any other Cash Management Facility Guarantor arising by reason of the performance by any other Cash Management Facility Guarantor of its obligations under the Cash Management Facility Finance Documents; and
- (b) each other Cash Management Facility Guarantor waives any rights it may have by reason of the performance of its obligations under the Cash Management Facility Finance Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Cash Management Facility Creditors under any Cash Management Facility Finance Document or of any other security taken pursuant to, or in connection with, any Cash Management Facility Finance Document where such rights or security are granted by or in relation to the assets of the Retiring Cash Management Facility Guarantor.

10. Additional security

The guarantee contained in this Schedule 8 is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Cash Management Facility Creditor.

11. Guarantee Limitations: General

- (a) Without limiting any specific exemptions set out below and notwithstanding any other provision of this Agreement or any Cash Management Facility Finance Document:
 - (i) no Cash Management Facility Guarantor's obligations and liabilities under this Schedule 8 and under any other guarantee or indemnity provision in a Cash Management Facility Finance Document (the "**Cash Management Guarantee Obligations**") will extend to include any obligation or liability; and
 - (ii) no Transaction Security granted by a Guarantor will secure any Cash Management Guarantee Obligation,

to the extent that doing so would constitute unlawful financial assistance (including any unlawful financial assistance within the meaning of sections 678 or 679 of the Companies Act 2006) (notwithstanding any applicable exemptions and/or undertaking of any applicable prescribed whitewash or similar financial assistance procedures) in respect of the acquisition of shares in itself or its Holding Company under the laws of its jurisdiction of incorporation.

- (b) If, notwithstanding paragraph (a) above, the giving of the guarantee in respect of the Cash Management Guarantee Obligations or Transaction Security would constitute unlawful financial assistance, then, to the extent necessary to give effect to paragraph (a) above, the obligations under the Cash Management Facility Finance Documents will be deemed to have been split into two (2) tranches; "**Tranche 1**" comprising those obligations which can be secured by the Cash Management Guarantee Obligations of the relevant Cash Management Facility Guarantor or Transaction Security granted by the relevant Cash Management Facility Guarantor without breaching or contravening relevant financial assistance laws applicable to such Cash Management Facility Guarantor and "**Tranche 2**"

comprising the remainder of the obligations under the Cash Management Facility Finance Documents. The Tranche 2 obligations will be excluded from the relevant Cash Management Guarantee Obligations of such Cash Management Facility Guarantor (but only for so long as including them within such Cash Management Guarantee Obligations would cause such Cash Management Guarantor to be in breach of financial assistance laws applicable to it) and will be allocated to the Cash Management Facility to which those obligations relate, to the extent that that can be determined and is permissible under the laws of the jurisdiction of incorporation of the Cash Management Facility Guarantor in question.

12. Excluded Swap Obligations

(a) Notwithstanding anything to the contrary in any Debt Document, the guarantee contained in this Schedule 8 does not apply to any Excluded Swap Obligation of any Cash Management Facility Guarantor.

(b) In this paragraph 12 (*Excluded Swap Obligations*):

"CEA" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute;

"**Excluded Swap Obligation**" means, with respect to any Cash Management Facility Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the guarantee of such Cash Management Facility Guarantor that relates to such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the CEA or any rule, regulation or order of the US Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Cash Management Facility Guarantor's failure for any reason to constitute an "*eligible contract participant*" as defined in the Commodity Exchange Act and the regulations thereunder at the time the guarantee given by such Cash Management Facility Guarantor becomes effective with respect to such Swap. If a Swap Obligation arises under a master agreement governing more than one Swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to Swaps for which such guarantee or security interest is or becomes illegal;

"**Swap**" means any agreement, contract or transaction that constitutes a "*swap*" within the meaning of section 1a(47) of the CEA; and

"**Swap Obligation**" means, with respect to any person, any obligation to pay or perform under any Swap.

13. Additional Guarantee Limitations

The guarantee of any acceding Debtor which is a Cash Management Facility Guarantor (an "**Acceding Cash Management Facility Guarantor**") is subject to any limitations relating to that Acceding Cash Management Facility Guarantor on the amount guaranteed or to the extent of the recourse of the beneficiaries of the guarantee which is set out in the Debtor/Third Party Security Provider Accession Undertaking applicable to such Acceding Cash Management Facility Guarantor and agreed with the Security Agent (acting reasonably in accordance with the Agreed Security Principles).

SCHEDULE 9
Super Senior Cash Management Facility Creditors' Guarantee and Indemnity

1. Guarantee And Indemnity

Each Super Senior Cash Management Facility Guarantor irrevocably and unconditionally jointly and severally and at all times subject to the Guarantee Limitations:

- (a) guarantees to each Super Senior Cash Management Facility Creditor punctual performance by each other Super Senior Cash Management Facility Debtor of all that Super Senior Cash Management Facility Debtor's obligations under the Super Senior Cash Management Facility Finance Documents;
- (b) undertakes with each Super Senior Cash Management Facility Creditor that whenever another Super Senior Cash Management Facility Debtor does not pay any amount when due (allowing for any applicable grace period) under or in connection with any Super Senior Cash Management Facility Finance Document, that Super Senior Cash Management Facility Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each Super Senior Cash Management Facility Creditor that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Super Senior Cash Management Facility Creditor immediately on demand against any cost, loss or liability it incurs as a result of the Company or a Super Senior Cash Management Facility Debtor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Super Senior Cash Management Facility Finance Document on the date when it would have been due.

The amount payable by a Super Senior Cash Management Facility Guarantor under this indemnity will not exceed the amount it would have had to pay under this Schedule 9 if the amount claimed had been recoverable on the basis of a guarantee.

2. Continuing Guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by the Company or any Super Senior Cash Management Facility Debtor under the Super Senior Cash Management Facility Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

3. Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of the Company or any Super Senior Cash Management Facility Debtor or any security for those obligations or otherwise) is made by a Super Senior Cash Management Facility Creditor in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Super Senior Cash Management Facility Guarantor under this Schedule 9 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

4. Waiver Of Defences

Subject to the Guarantee Limitations, the obligations of each Super Senior Cash Management Facility Guarantor under this Schedule 9 will not be affected by an act, omission, matter or thing which, but for this Schedule 9, would reduce, release or prejudice any of its obligations under this Schedule 9 (whether or not known to it or any Super Senior Cash Management Facility Creditor) including:

- (a) any time, waiver or consent granted to, or composition with, any Super Senior Cash Management Facility Debtor or other person;
- (b) the release of any other Super Senior Cash Management Facility Debtor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Super Senior Cash Management Facility Debtor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Super Senior Cash Management Facility Debtor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Super Senior Cash Management Facility Finance Document or any other document or security including any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Super Senior Cash Management Facility Finance Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Super Senior Cash Management Facility Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

5. Super Senior Cash Management Facility Guarantor Intent

Without prejudice to the generality of paragraph 4 (*Waiver of defences*), but subject to the guarantee limitations set out in paragraphs 11 (*Guarantee Limitations: General*) to 13 (*Additional Guarantee Limitations*) below, each Super Senior Cash Management Facility Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental and of whatsoever nature and whether or not more onerous) variation, increase, extension or addition of or to any of the Super Senior Cash Management Facility Finance Documents and/or any facility or amount made available under any of the Super Senior Cash Management Facility Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

6. Immediate Recourse

Each Super Senior Cash Management Facility Guarantor waives any right it may have of first requiring any Super Senior Cash Management Facility Creditor (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person or to require that any liability under this Schedule 9 be divided or apportioned with any other person before claiming from that Super Senior Cash Management Facility Guarantor under this Schedule 9. This waiver applies irrespective of any law or any provision of a Super Senior Cash Management Facility Finance Document to the contrary.

7. Appropriations

Until all amounts which may be or become payable by the Super Senior Cash Management Facility Debtors under or in connection with the Super Senior Cash Management Facility Finance Documents have been irrevocably paid in full, each Super Senior Cash Management Facility Creditor (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 Super Senior Cash Management Facility Creditor (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 Super Senior Cash Management Facility Guarantor shall be entitled to the benefit of the same; and
- (b) in respect of any amounts received or recovered by any Super Senior Cash Management Facility Creditor after a claim pursuant to this guarantee in respect of any sum due and payable by any Super Senior Cash Management Facility Debtor under this Schedule 9 place such amounts in a suspense account (bearing interest at a market rate usual for accounts of that type) unless and until such moneys are sufficient in aggregate to discharge in full all amounts then due and payable under this guarantee or any other the Super Senior Cash Management Facility Finance Document.

8. Deferral Of Super Senior Cash Management Facility Guarantors' Rights

Until all amounts which may be or become payable by the Super Senior Cash Management Facility Debtors under or in connection with the Super Senior Cash Management Facility Finance Documents have been irrevocably paid in full and unless the Security Agent otherwise directs, no Super Senior Cash Management Facility Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Super Senior Cash Management Facility Finance Documents or by reason of any amount being payable, or liability arising, under this Schedule 9:

- (a) to be indemnified by a Super Senior Cash Management Facility Debtor;
- (b) to claim any contribution from any other guarantor of any Super Senior Cash Management Facility Debtor's obligations under the Super Senior Cash Management Facility Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Super Senior Cash Management Facility Creditors under the Super Senior Cash Management Facility Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Super Senior Cash Management Facility Finance Documents by any Super Senior Cash Management Facility Creditor;
- (d) other than where the Super Senior Cash Management Facility Creditor has acted fraudulently or with wilful misconduct, to bring legal or other proceedings for an order requiring any Super Senior Cash Management Facility Debtor to make any payment, or perform any obligation, in respect of which any Super Senior Cash Management Facility Guarantor has given a guarantee, undertaking or indemnity under paragraph 1 (*Guarantee and indemnity*) above;
- (e) to exercise any right of set off against any Super Senior Cash Management Facility Debtor; and/or
- (f) to claim or prove as a creditor of any Super Senior Cash Management Facility Debtor in competition with any Super Senior Cash Management Facility Creditor,

in each case, unless the exercise of any such right is necessary or advisable to avoid any risk of personal or criminal liability for any current or former director of that Super Senior Cash Management Facility Guarantor.

If a Super Senior Cash Management Facility Guarantor receives any benefit, payment or distribution in relation to such rights it shall, other than to the extent such Super Senior Cash Management Facility Guarantor is permitted to retain such benefit, payment or distribution in accordance with this Agreement, hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Super Senior Cash Management Facility Creditors by the Super Senior Cash Management Facility Debtors under or in connection with the Super Senior Cash Management Facility Finance Documents to be repaid in full on trust (or, if it is impossible under the laws of the jurisdiction of incorporation of such Super Senior Cash Management Facility Guarantor to hold the same amount on trust, then as agent under an obligation to pay) and shall promptly pay or transfer the same, but subject to the Guarantee Limitations, to the Security Agent or as the Security Agent may direct for application in accordance with Clause 16 (*Application of Proceeds*).

9. Release Of Super Senior Cash Management Facility Guarantors' Right Of Contribution

If any Super Senior Cash Management Facility Guarantor (a "**Retiring Super Senior Cash Management Facility Guarantor**") ceases to be a Super Senior Cash Management Facility Guarantor in accordance with the terms of the Super Senior Cash Management Facility Finance Documents then on the date such Retiring Super Senior Cash Management Facility Guarantor ceases to be a Super Senior Cash Management Facility Guarantor:

- (a) that Retiring Super Senior Cash Management Facility Guarantor is released by each other Super Senior Cash Management Facility Guarantor from any liability (whether past, present or future and whether actual or contingent) to make a contribution to any other Super Senior Cash Management Facility Guarantor arising by reason of the performance by any other Super Senior Cash Management Facility Guarantor of its obligations under the Super Senior Cash Management Facility Finance Documents; and
- (b) each other Super Senior Cash Management Facility Guarantor waives any rights it may have by reason of the performance of its obligations under the Super Senior Cash Management Facility Finance Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Super Senior Cash Management Facility Creditors under any Super Senior Cash Management Facility Finance Document or of any other security taken pursuant to, or in connection with, any Super Senior Cash Management Facility Finance Document where such rights or security are granted by or in relation to the assets of the Retiring Super Senior Cash Management Facility Guarantor.

10. Additional Security

The guarantee contained in this Schedule 9 is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Super Senior Cash Management Facility Creditor.

11. Guarantee Limitations: General

- (a) Without limiting any specific exemptions set out below and notwithstanding any other provision of this Agreement or any other Super Senior Cash Management Facility Finance Document:
 - (i) no Super Senior Cash Management Facility Guarantor's obligations and liabilities under this Schedule 9 and under any other guarantee or indemnity provision in a Super Senior Cash Management Facility Finance Document (the "**Super Senior**

Cash Management Guarantee Obligations") will extend to include any obligation or liability; and

- (ii) no Transaction Security granted by a Guarantor will secure any Super Senior Cash Management Guarantee Obligation,

to the extent that doing so would constitute unlawful financial assistance (including any unlawful financial assistance within the meaning of sections 678 or 679 of the Companies Act 2006) (notwithstanding any applicable exemptions and/or undertaking of any applicable prescribed whitewash or similar financial assistance procedures) in respect of the acquisition of shares in itself or its Holding Company under the laws of its jurisdiction of incorporation.

- (b) If, notwithstanding paragraph (a) above, the giving of the guarantee in respect of the Super Senior Cash Management Guarantee Obligations or Transaction Security would constitute unlawful financial assistance, then, to the extent necessary to give effect to paragraph (a) above, the obligations under the Super Senior Cash Management Facility Finance Documents will be deemed to have been split into two (2) tranches; "Tranche 1" comprising those obligations which can be secured by the Super Senior Cash Management Guarantee Obligations of the relevant Super Senior Cash Management Facility Guarantor or Transaction Security granted by the relevant Super Senior Cash Management Facility Guarantor without breaching or contravening relevant financial assistance laws applicable to such Super Senior Cash Management Facility Guarantor and "Tranche 2" comprising the remainder of the obligations under the Super Senior Cash Management Facility Finance Documents. The Tranche 2 obligations will be excluded from the relevant Super Senior Cash Management Guarantee Obligations of such Super Senior Cash Management Facility Guarantor (but only for so long as including them within such Super Senior Cash Management Guarantee Obligations would cause such Super Senior Cash Management Facility Guarantor to be in breach of financial assistance laws applicable to it) and will be allocated to the Super Senior Cash Management Facility to which those obligations relate, to the extent that that can be determined and is permissible under the laws of the jurisdiction of incorporation of the Super Senior Cash Management Facility Guarantor in question.

12. Excluded Swap Obligations

- (a) Notwithstanding anything to the contrary in any Debt Document, the guarantee contained in this Schedule 9 does not apply to any Excluded Swap Obligation of any Super Senior Cash Management Facility Guarantor.
- (b) In this paragraph 12 (*Excluded Swap Obligations*):

"CEA" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute;

"**Excluded Swap Obligation**" means, with respect to any Super Senior Cash Management Facility Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the guarantee of such Super Senior Cash Management Facility Guarantor that relates to such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the CEA or any rule, regulation or order of the US Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Super Senior Cash Management Facility Guarantor's failure for any reason to constitute an "*eligible contract participant*" as defined in the Commodity Exchange Act and the regulations thereunder at the time the guarantee given by such Super Senior Cash Management Facility Guarantor becomes effective with respect to such Swap. If a Swap Obligation arises under a master agreement governing more than one Swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to Swaps for which such guarantee or security interest is or becomes illegal;

"**Swap**" means any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the CEA; and

"**Swap Obligation**" means, with respect to any person, any obligation to pay or perform under any Swap.

13. Additional Guarantee Limitations

The guarantee of any acceding Debtor which is a Super Senior Cash Management Facility Guarantor (an "**Acceding Super Senior Cash Management Facility Guarantor**") is subject to any limitations relating to that Acceding Super Senior Cash Management Facility Guarantor on the amount guaranteed or to the extent of the recourse of the beneficiaries of the guarantee which is set out in the Debtor/Third Party Security Provider Accession Undertaking applicable to such Acceding Super Senior Cash Management Facility Guarantor and agreed with the Security Agent (acting reasonably in accordance with the Agreed Security Principles).

SCHEDULE 10
Form of New Debt Financing Designation Certificate

To: [●] as Security Agent and [●] as each Agent

From: [The Company]

Dated:

To whom it may concern,

Intercreditor Agreement dated [●] between, amongst others, [●] as Parent, [●] as Security Agent, [●] as senior agent, the other Creditors and the other Debtors (each as defined in the Intercreditor Agreement) (the "Intercreditor Agreement")

1. We refer to the Intercreditor Agreement. This is a New Debt Financing Designation Certificate. Terms defined in the Intercreditor Agreement have the same meaning in this New Debt Financing Designation Certificate unless given a different meaning in this New Debt Financing Designation Certificate.
2. We refer to a New Debt Financing constituted by [insert description of instrument e.g. loan; facility; indenture; other debt arrangement] (the "**Applicable Agreement**") in an amount of [insert (if applicable) principal amount] with [insert names of applicable agents, trustees or as applicable lenders] (the "**Applicable Financing**").
3. We certify that the Applicable Financing (and its ranking and status for the purposes of this Agreement as designated in paragraphs 4 and 5 of this Certificate) is not prohibited under the terms of any Finance Document as at the Effective Date.
4. We hereby designate the Applicable Financing as [insert type of ranking and status - e.g. Acquired Indebtedness; Super Senior Facility; a Senior Facility; a Super Senior Cash Management Facility; a Cash Management Facility; a [Super Senior / Pari Passu] Hedging Liabilities; a Second Lien Facility; Senior Secured Notes; Second Lien Notes etc.].
5. We hereby designate the Applicable Agreement as [*insert nature of Agreement - e.g. a Permitted Super Senior Secured Facilities Agreement; a Permitted Senior Secured Facilities Agreement; a Super Senior Cash Management Facility Document; a Cash Management Facility Document; a Hedging Agreement; a Second Lien Facility Agreement; a Senior Secured Notes Finance Document; a Second Lien Notes Finance Document; an Unsecured Finance Document*].
6. We hereby designate [insert date] as the "**Specified Date**".
7. [We hereby designate the [existing Agent] as a Super Senior Agent].
8. This certificate and any non-contractual obligations arising out of or in connection with it are governed by English law.

[The Company]

By: _____

SCHEDULE 11
Form of Designation Certificate

To: [●] as [Insert name of Creditor/Security Agent/each Agent as applicable]

From: [The Company]

Dated:

To whom it may concern,

Intercreditor Agreement dated [●] between, amongst others, [●] as Parent, [●] as security agent, [●] as senior agent, the other Creditors and the other Debtors (each as defined in the Intercreditor Agreement) (the "Intercreditor Agreement")

1. We refer to the Intercreditor Agreement. Terms defined in the Intercreditor Agreement have the same meaning in this Certificate unless given a different meaning in this Certificate.
2. We refer to [the definition of / Clause] [●] and the requirement that the Company make a [designation / determination / request / direction / confirmation / nomination / certification] thereunder (the "**Applicable Provision**").
3. For the purposes of the Applicable Provision, the Company [designates / determines / requests / directs / confirms / nominates / certifies] [●].
4. This certificate and any non-contractual obligations arising out of or in connection with it are governed by English law.

[The Company]

By:

SCHEDULE 12
Form of Super Senior Hedging Designation Certificate

To: [●] as Security Agent

From: [The Company]

Dated:

To whom it may concern,

Intercreditor Agreement dated [●] between, amongst others, [●] as Parent, [●] as security agent, [●] as senior agent, the other Creditors and the other Debtors (each as defined in the Intercreditor Agreement) (the "Intercreditor Agreement")

1. We refer to the Intercreditor Agreement. This is a Super Senior Hedging Designation Certificate. Terms defined in the Intercreditor Agreement have the same meaning in this Super Senior Hedging Designation Certificate unless given a different meaning in this Super Senior Hedging Designation Certificate.
2. Pursuant to Clause 5.17 (*Designation of Super Senior Hedging Liabilities*) of the Intercreditor Agreement we request that with effect from the date of delivery of this Super Senior Hedging Designation Certificate:
 - (a) [the Hedging Liabilities owed to [name of new Super Senior Hedge Counterparty] under [details of Hedging Agreement and/or trade confirmation or other equivalent documentation to be inserted] shall be designated and treated as Super Senior Hedging Liabilities and we confirm that such designation is not prohibited by the Finance Documents[.]]; and/or
 - (b) the Hedging Liabilities owed to [name of existing Super Senior Hedge Counterparty] under [details of Hedging Agreement and/or trade confirmation or other equivalent documentation to be inserted] [have expired or are no longer outstanding and] shall no longer be designated as Super Senior Hedging Liabilities.]
3. This certificate and any non-contractual obligations arising out of or in connection with it are governed by English law.

[The Company]

By:

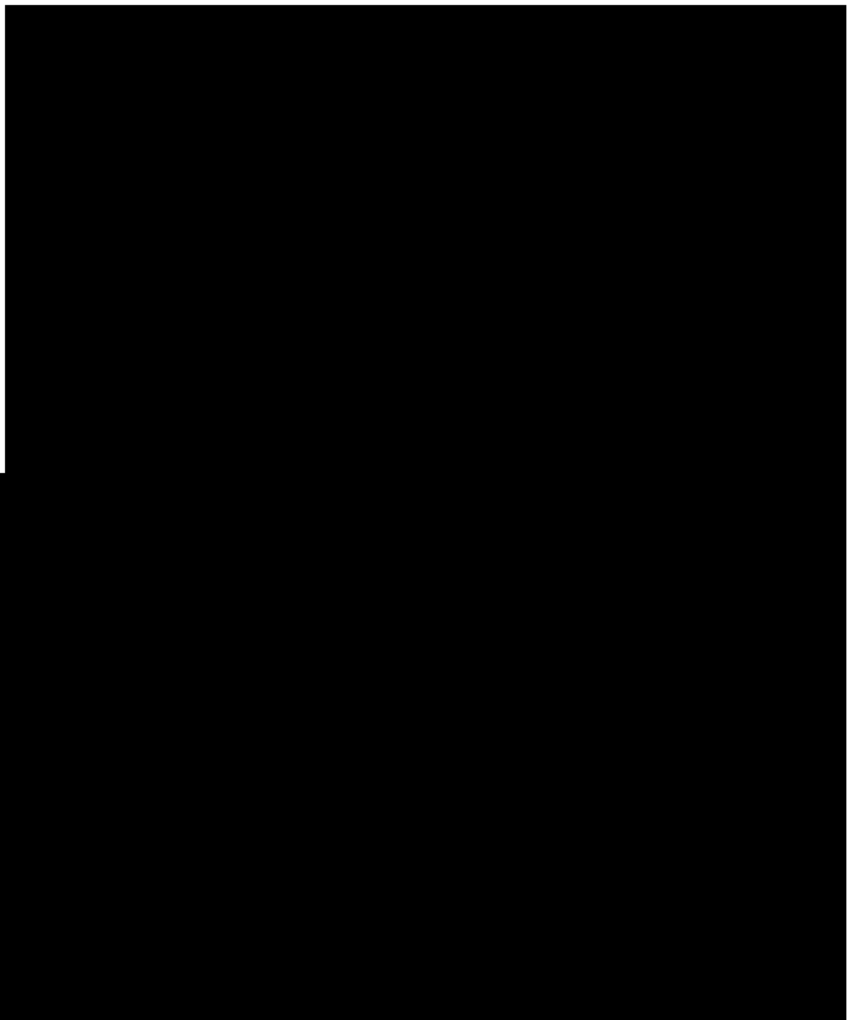
[The Hedge Counterparty]

By:

SIGNATURE PAGES TO THE INTERCREDITOR AGREEMENT

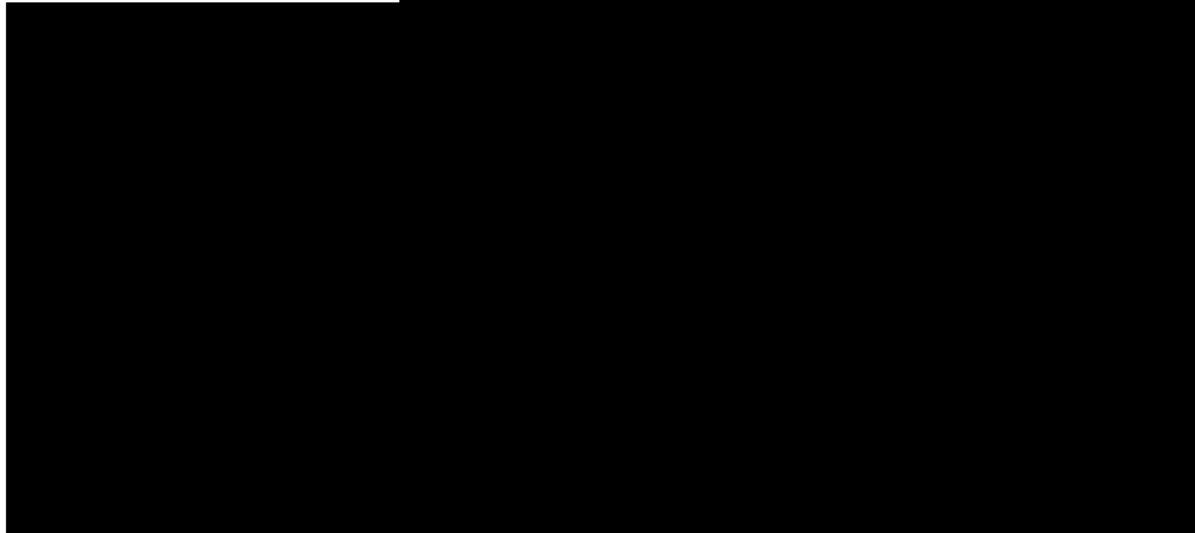
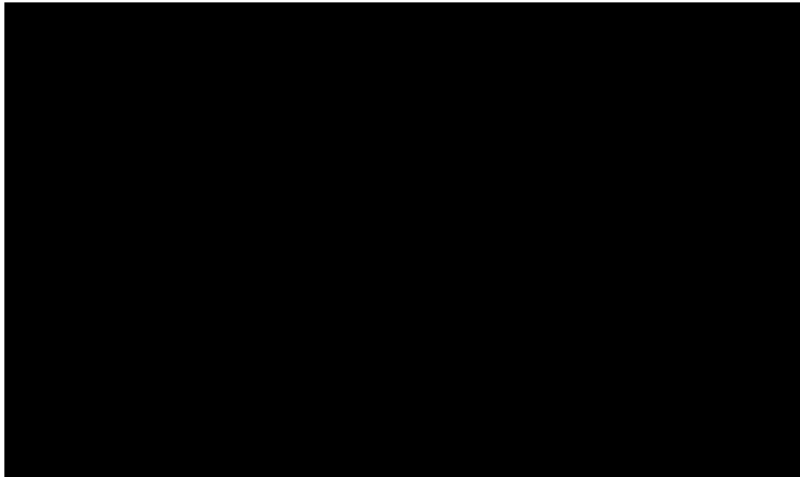
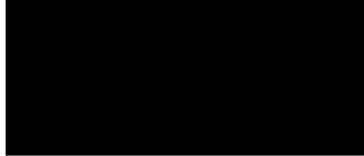
THE COMPANY

EXECUTED as a **DEED** by
INSPIRED PLC
and signed on its behalf by



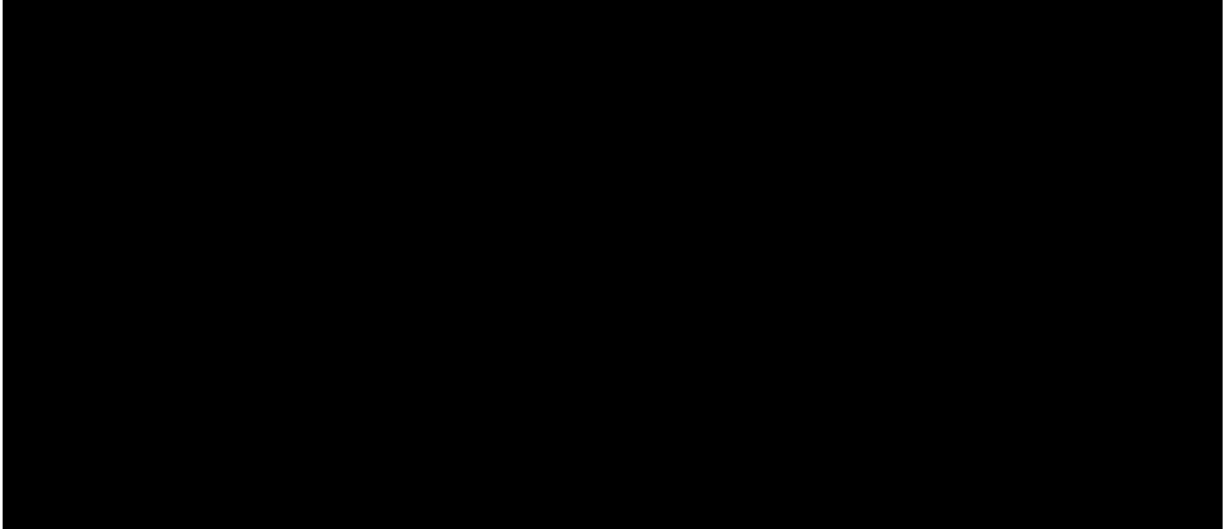
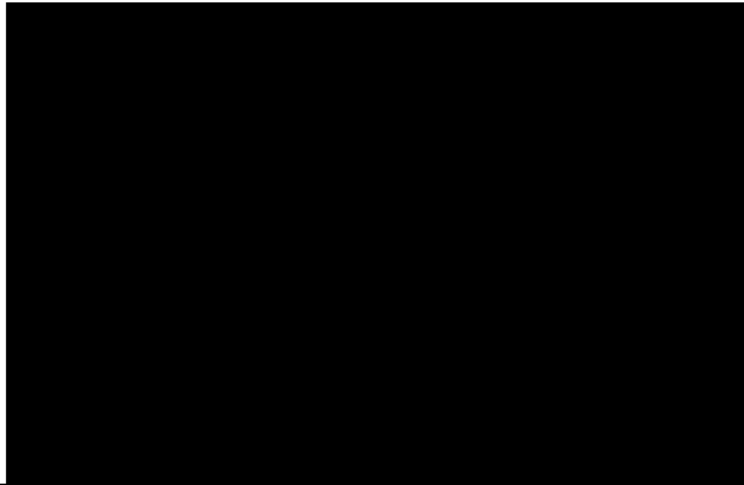
THE ORIGINAL DEBTORS

EXECUTED as a **DEED** by
INSPIRED PLC
and signed on its behalf by



THE ORIGINAL INTRA-GROUP LENDERS

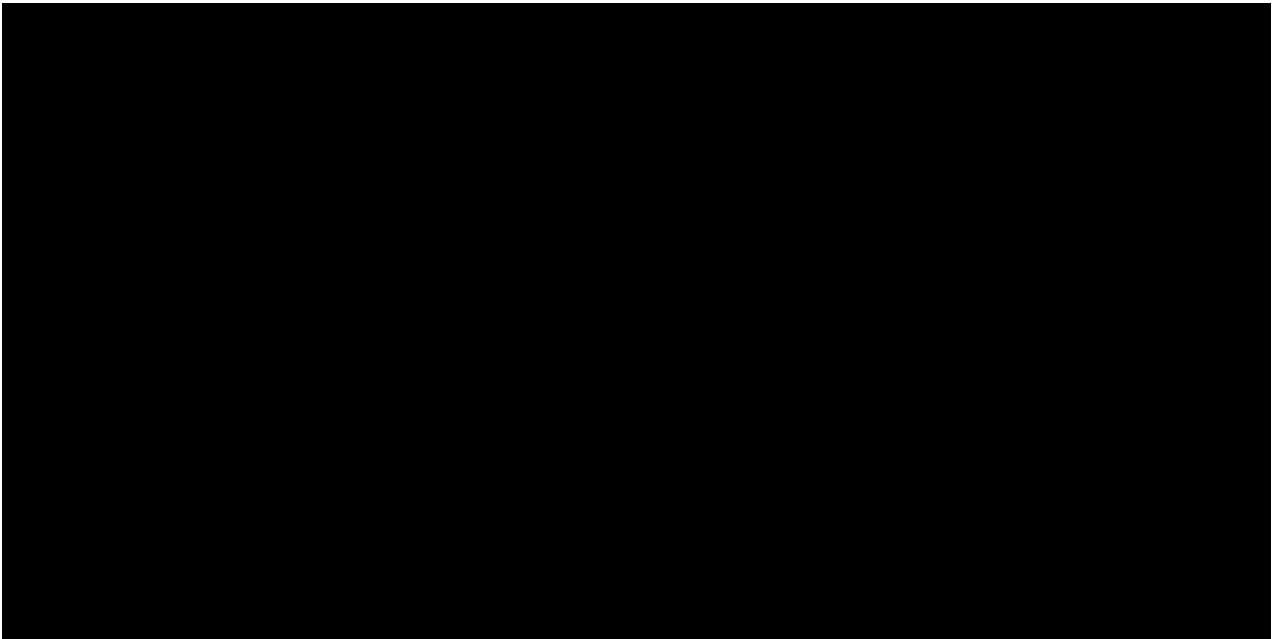
EXECUTED as a **DEED** by
INSPIRED PLC
and signed on its behalf by



ORIGINAL SENIOR ARRANGER

BARING ASSET MANAGEMENT LIMITED

as Original Senior Arranger



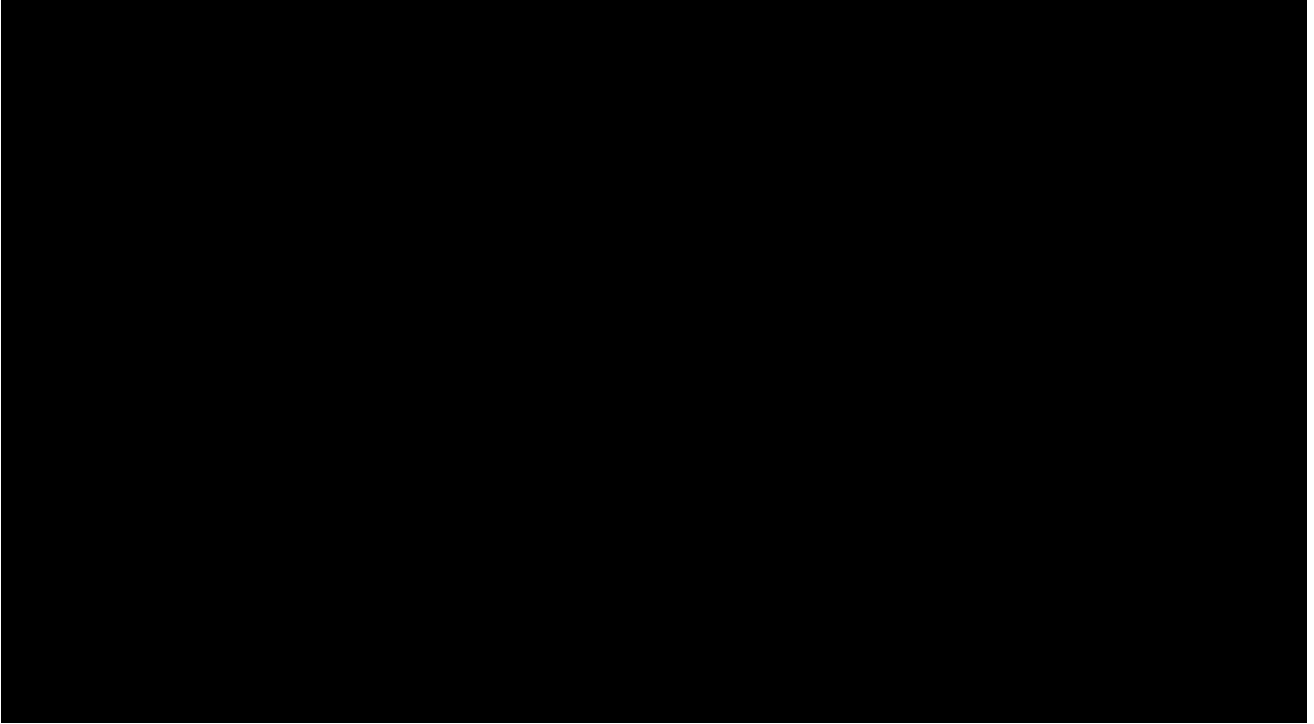
THE ORIGINAL SENIOR LENDERS

BARINGS EUROPEAN PRIVATE LOANS 3 S.À R.L.

Acting by its attorney BARING ASSET MANAGEMENT LIMITED

Acting by its authorised signatory

as Original Senior Lender:

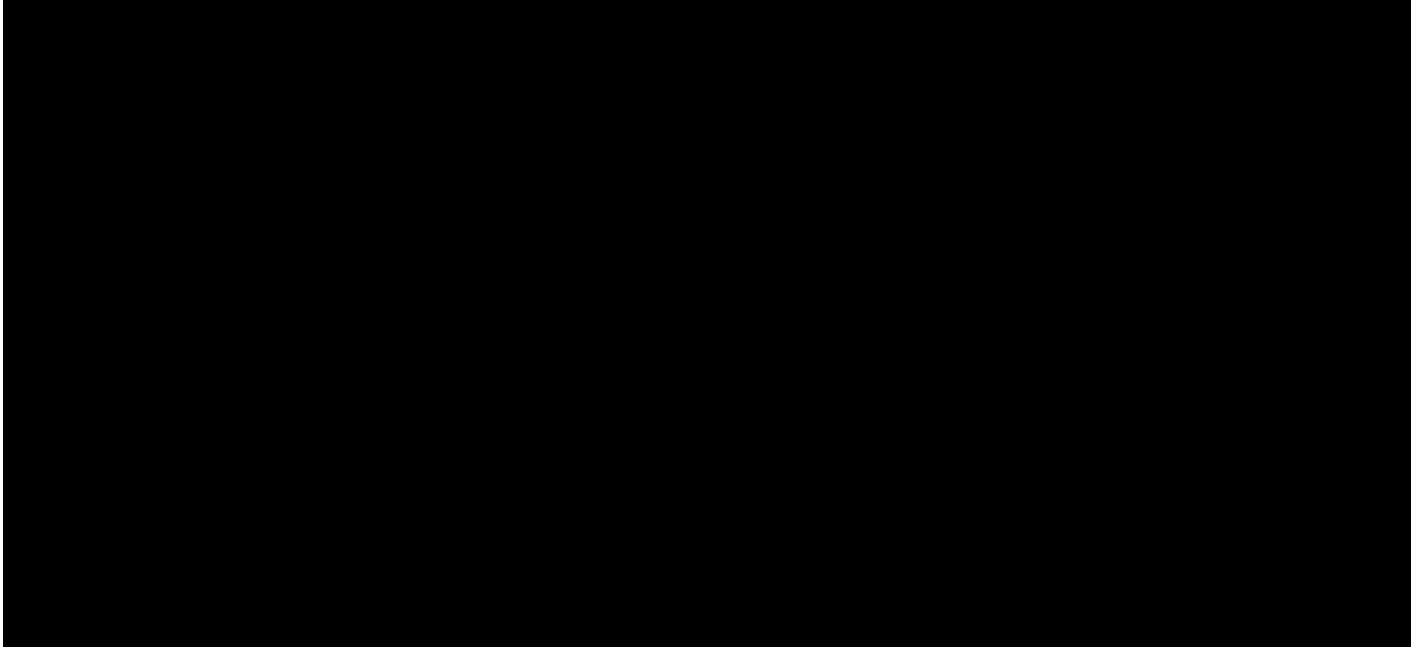


BARINGS EUROPEAN PRIVATE LOANS 3A S.À R.L.

Acting by its attorney BARING ASSET MANAGEMENT LIMITED

Acting by its authorised signatory

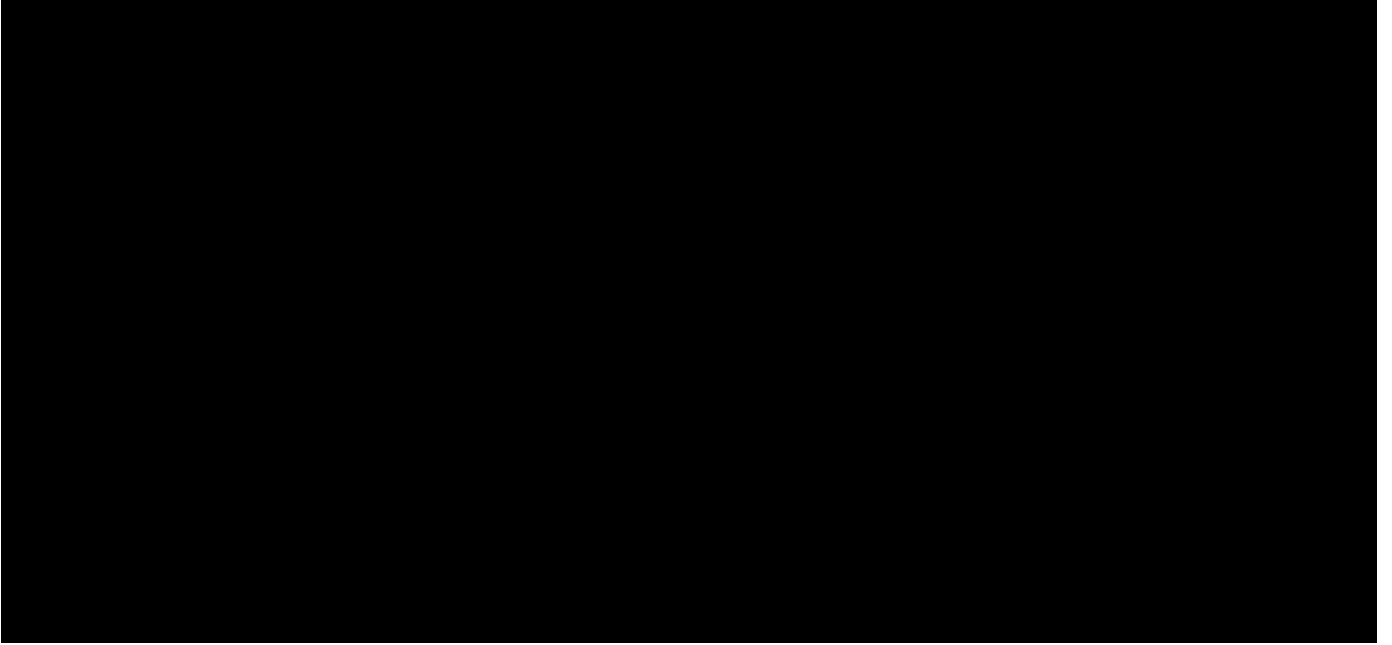
as Original Senior Lender:



BARINGS PERPETUAL EUROPEAN DIRECT LENDING HOLDCO 1 S.À R.L.

Acting by its attorney BARING ASSET MANAGEMENT LIMITED

as Original Senior Lender

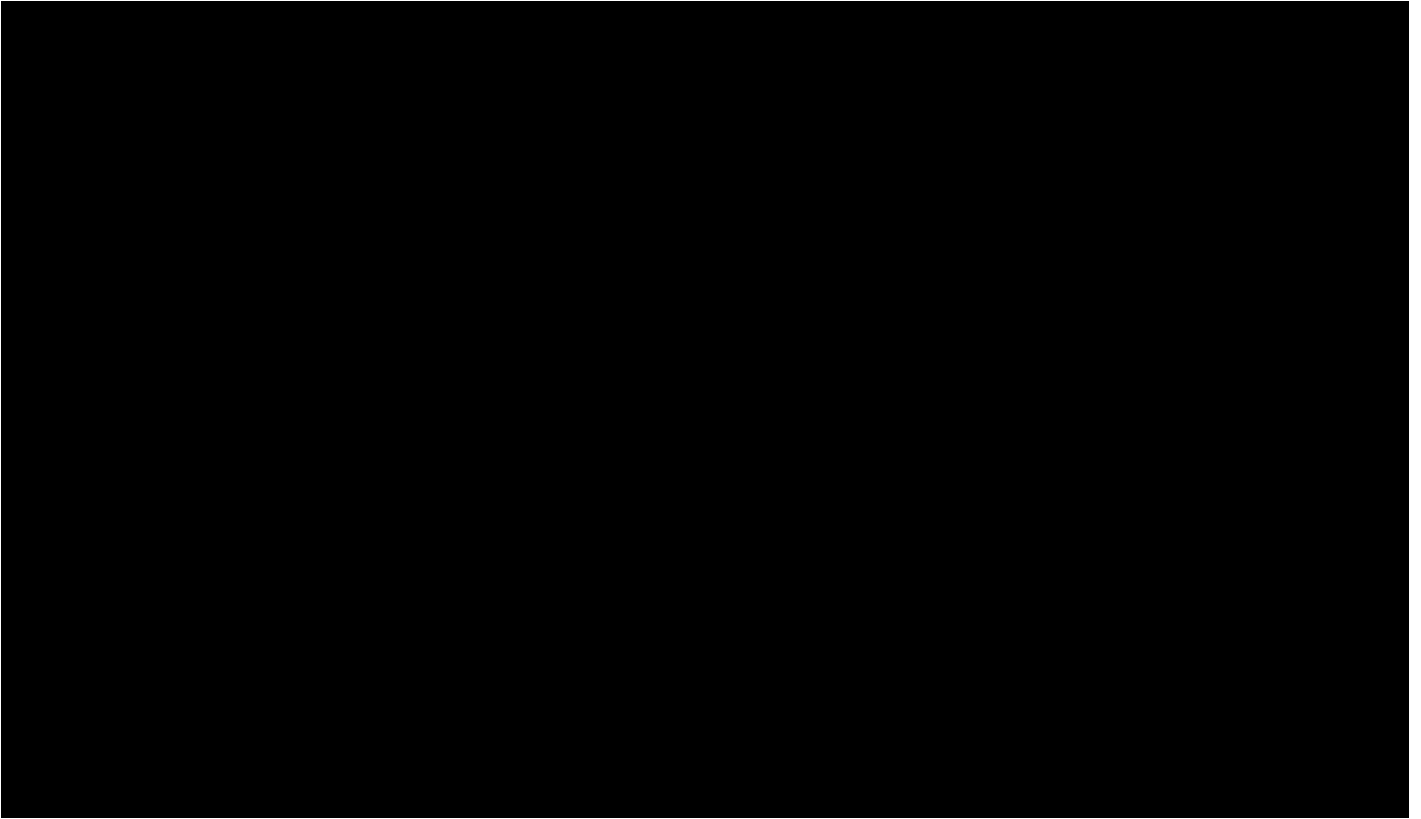


BCF EUROPE FUNDING LIMITED

Acting by its investment manager and adviser BARING ASSET MANAGEMENT LIMITED

By its attorney

as Original Senior Lender:

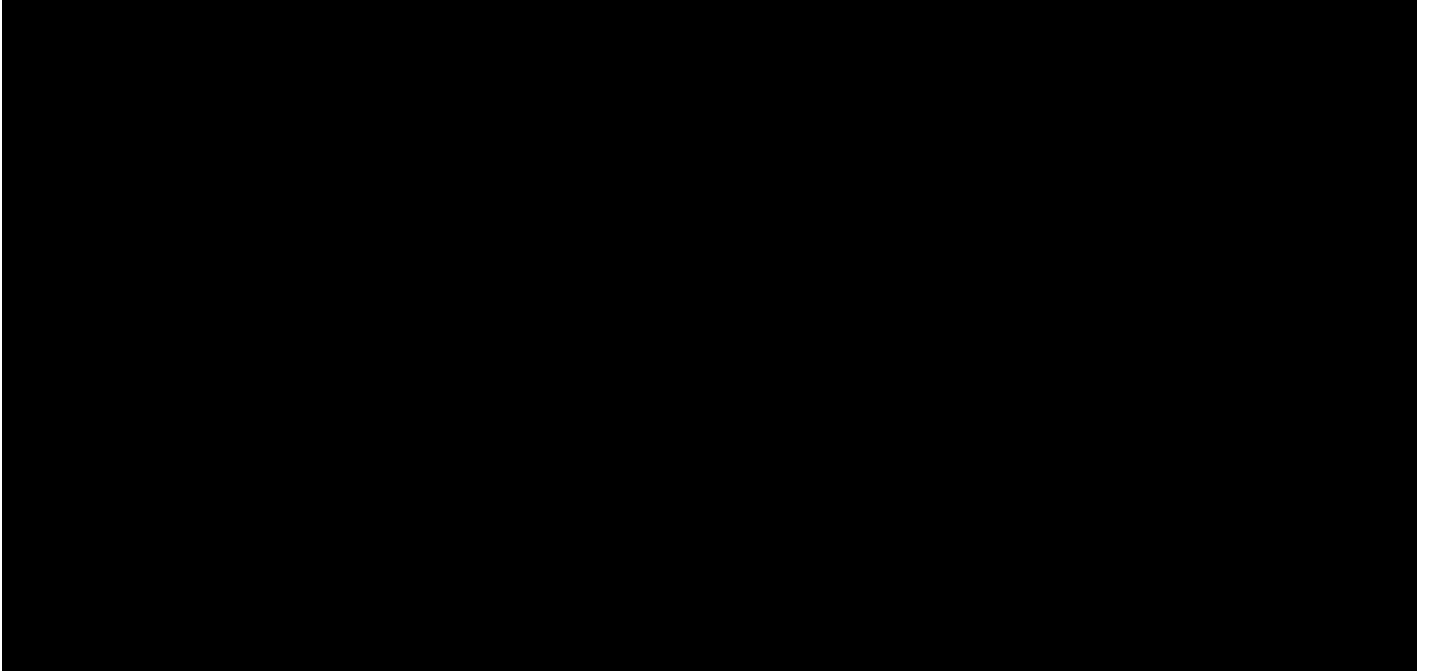


BCF SENIOR FUNDING 1 DESIGNATED ACTIVITY COMPANY

Acting by its investment manager and adviser BARING ASSET MANAGEMENT LIMITED

By its attorney

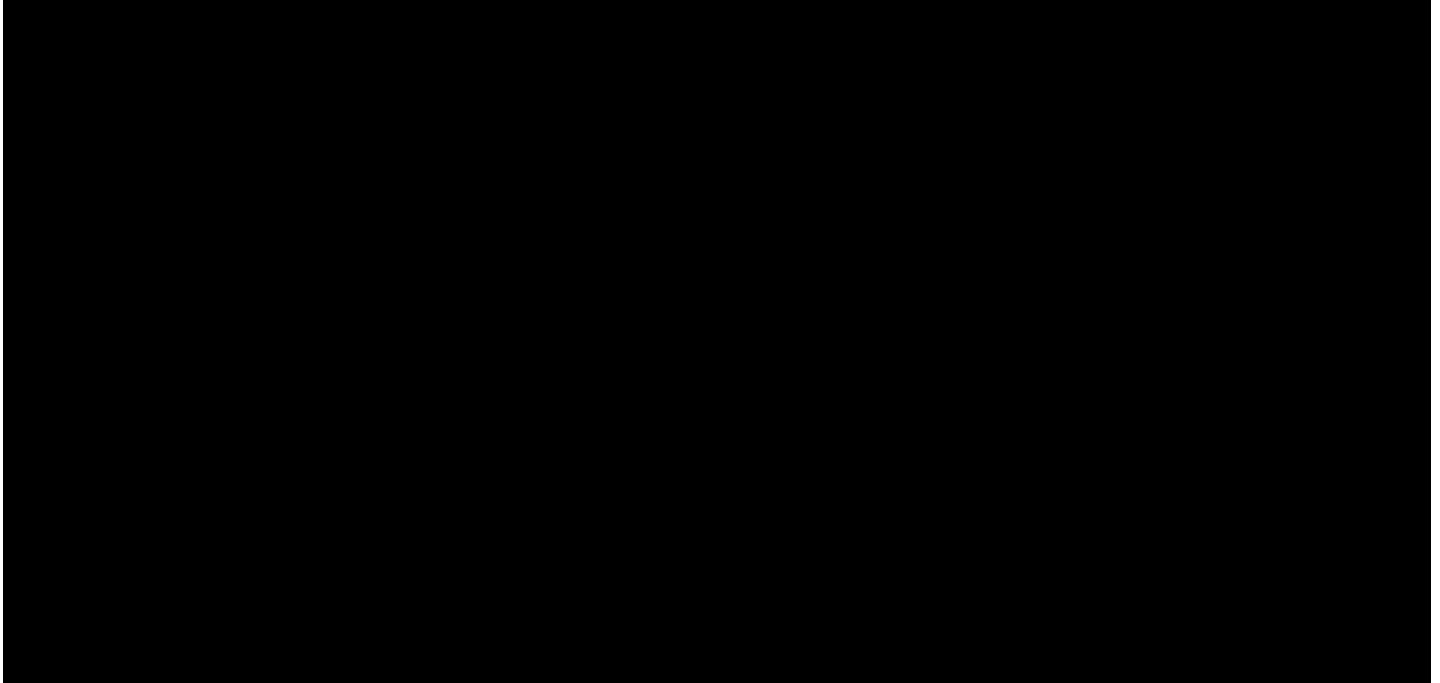
as Original Senior Lender:



BARINGS SEGREGATED DIRECT LENDING HOLDCO 3 S.À R.L.

Acting by its attorney BARING ASSET MANAGEMENT LIMITED

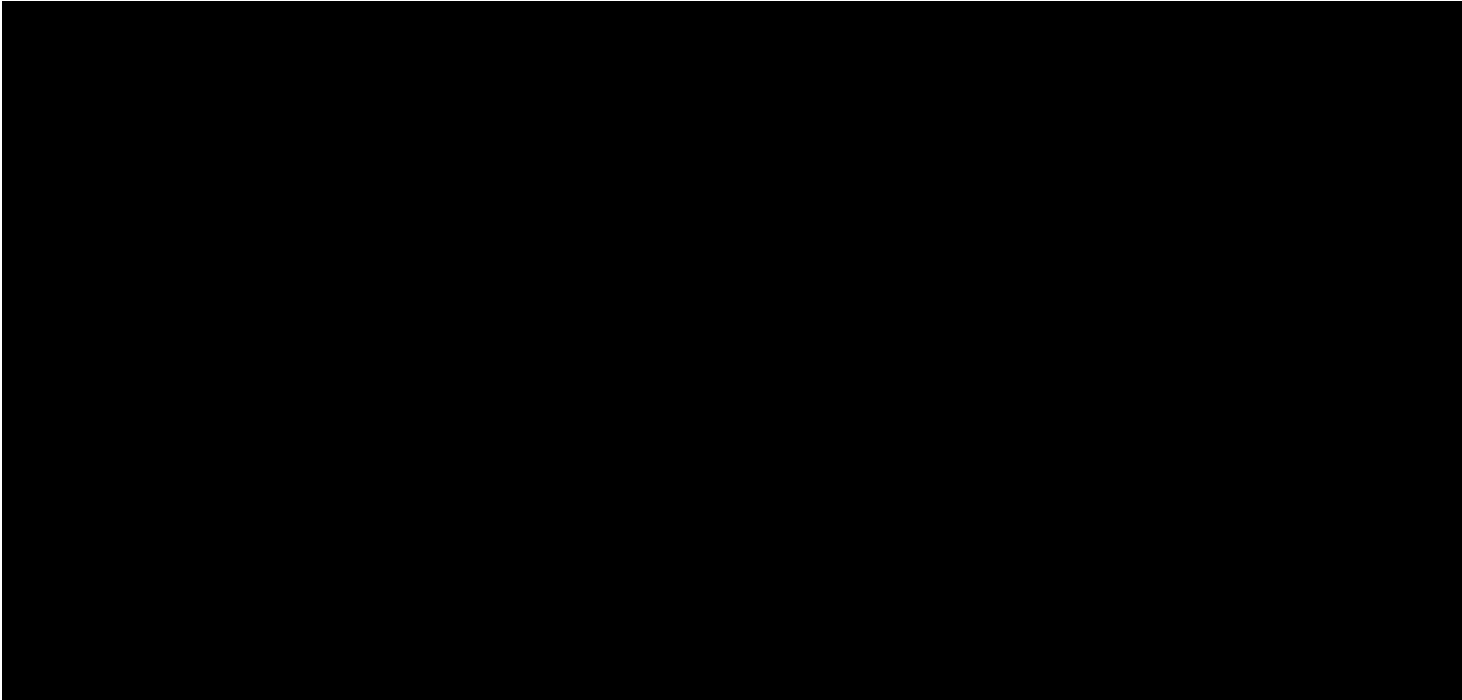
as Original Senior Lender



BARINGS SEGREGATED DIRECT LENDING HOLDCO 4 S.À R.L.

Acting by its attorney BARING ASSET MANAGEMENT LIMITED

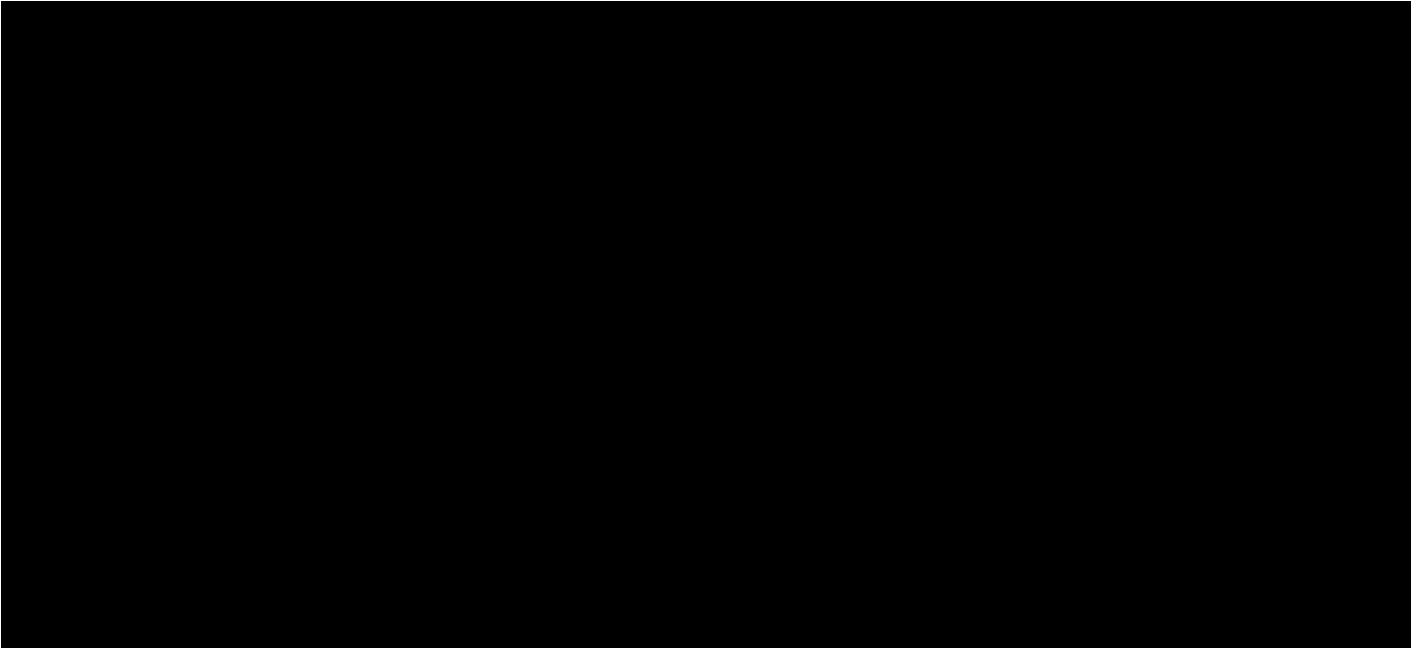
as Original Senior Lender



BARINGS SEGREGATED DIRECT LENDING HOLDCO 1 S.À R.L.

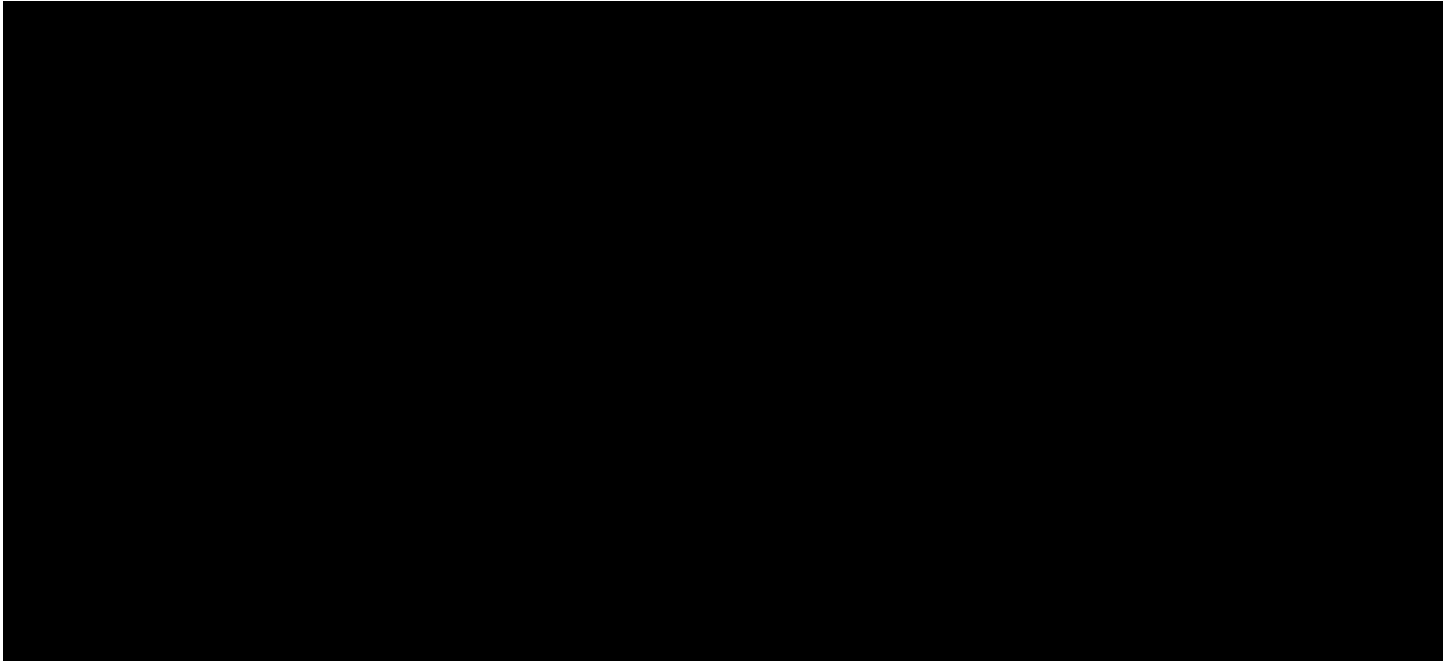
Acting by its attorney BARING ASSET MANAGEMENT LIMITED

as Original Senior Lender



MASSMUTUAL ASCEND LIFE INSURANCE COMPANY

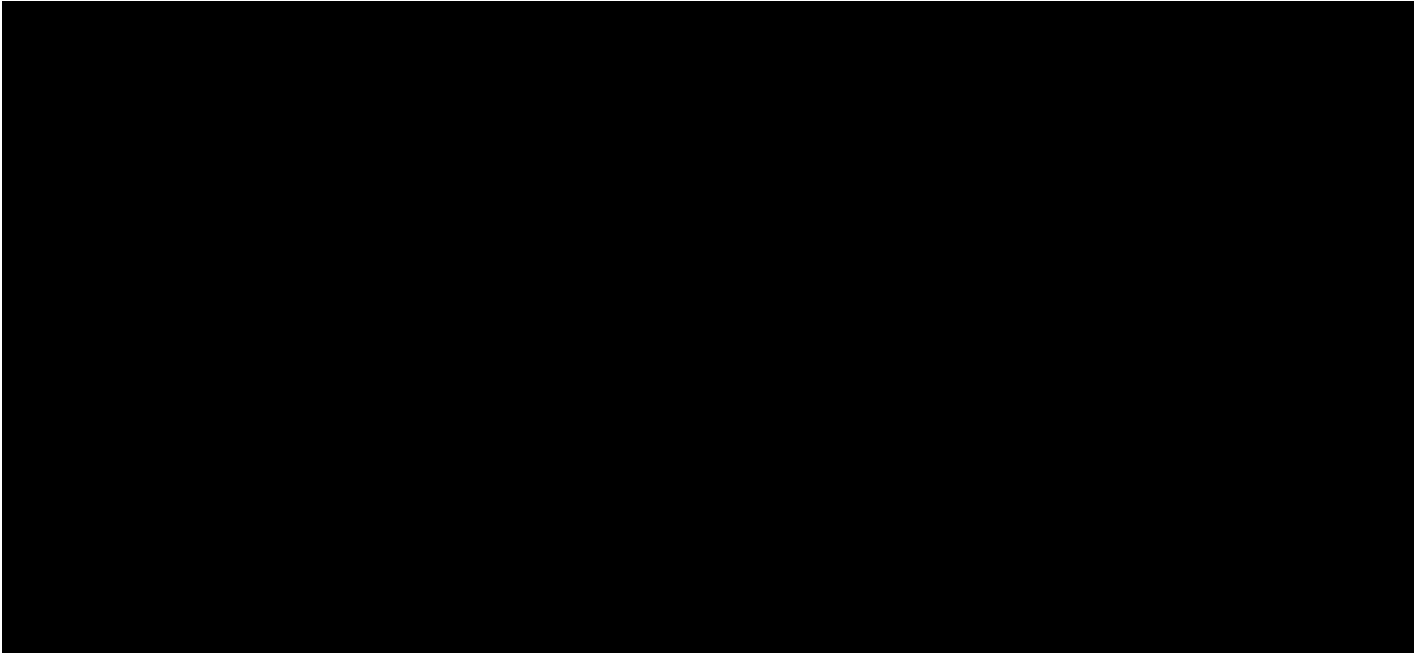
By: Baring International Investment Limited as Sub-Adviser and Attorney-in-fact
as Original Senior Lender



MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY

By Baring International Investment Limited as investment manager

as Original Senior Lender



BARINGS SEGREGATED DIRECT LENDING HOLDCO 2 S.À R.L.

Acting by its attorney BARING ASSET MANAGEMENT LIMITED

as Original Senior Lender



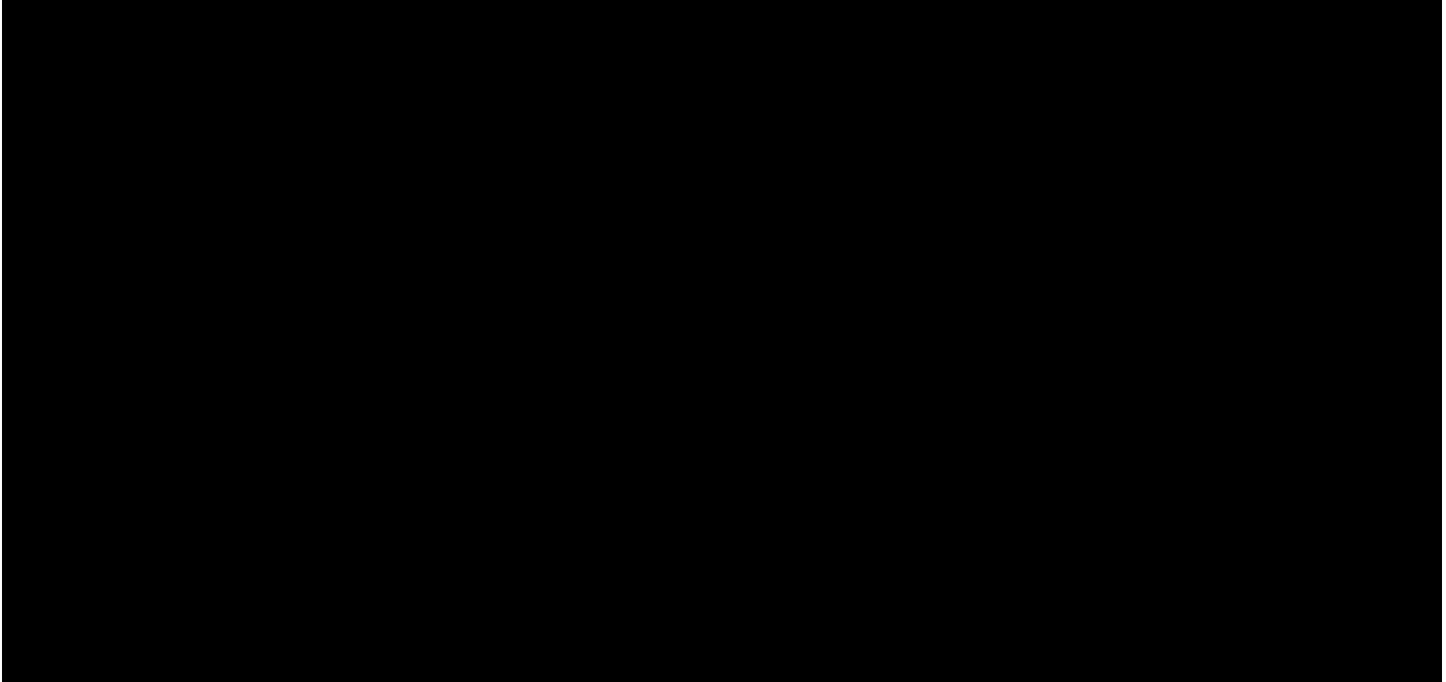
THE ORIGINAL SUPER SENIOR LENDERS

BARINGS EUROPEAN PRIVATE LOANS 3 S.À R.L.

Acting by its attorney BARING ASSET MANAGEMENT LIMITED

Acting by its authorised signatory

as Original Super Senior Lender:

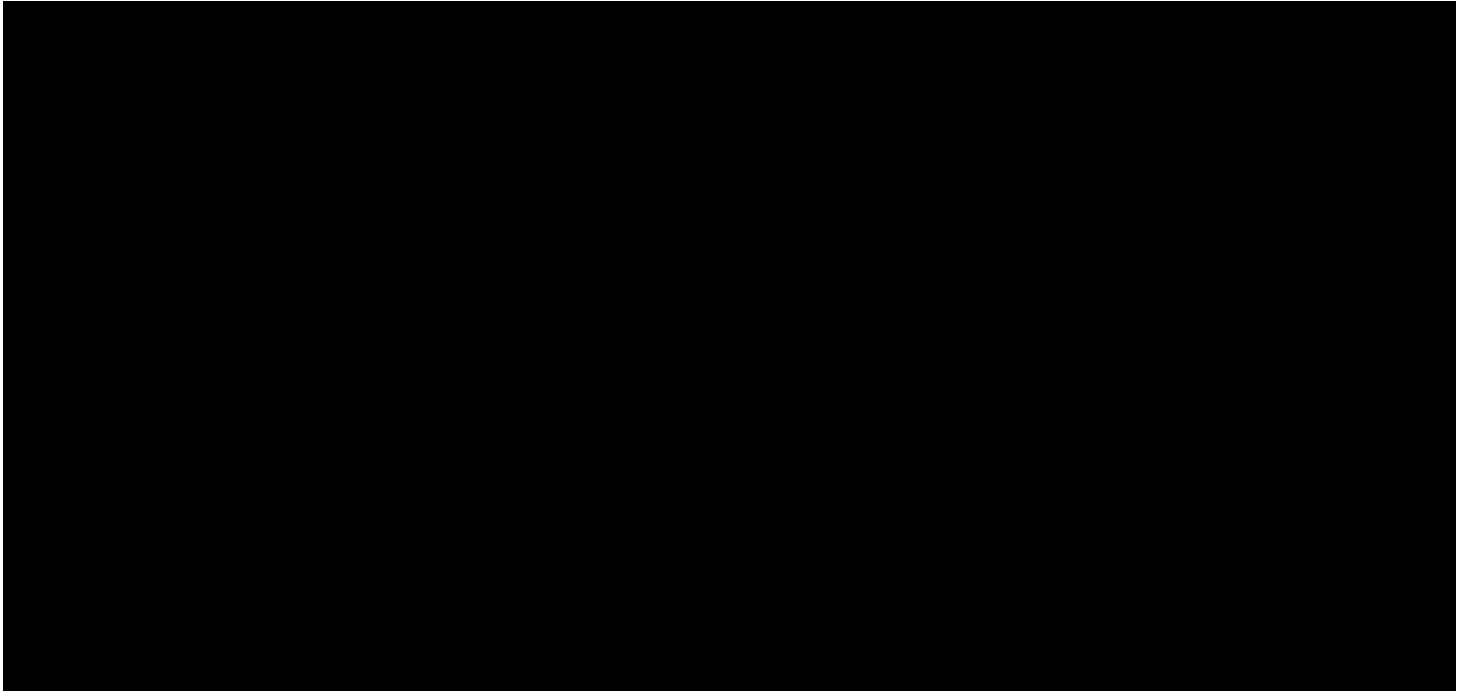


BARINGS EUROPEAN PRIVATE LOANS 3A S.À R.L.

Acting by its attorney BARING ASSET MANAGEMENT LIMITED

Acting by its authorised signatory

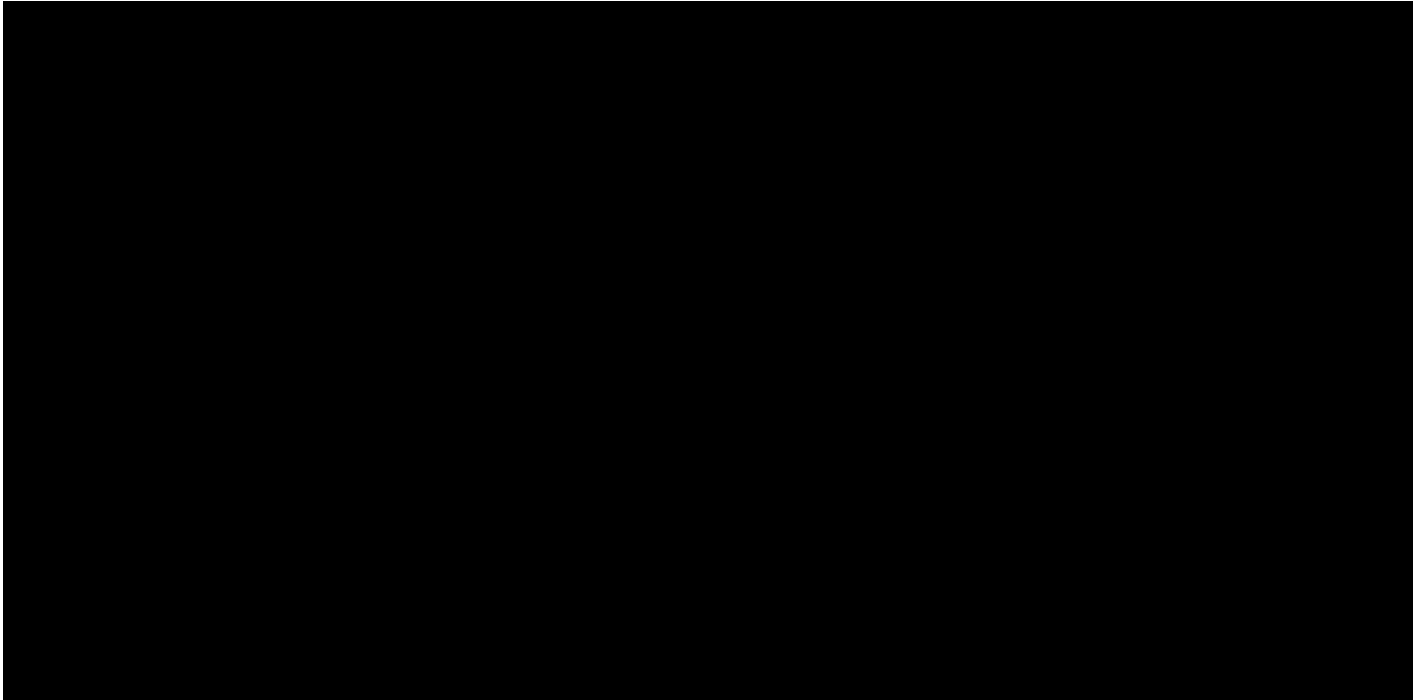
as Original Super Senior Lender:



BARINGS PERPETUAL EUROPEAN DIRECT LENDING HOLDCO 1 S.À R.L.

Acting by its attorney BARING ASSET MANAGEMENT LIMITED

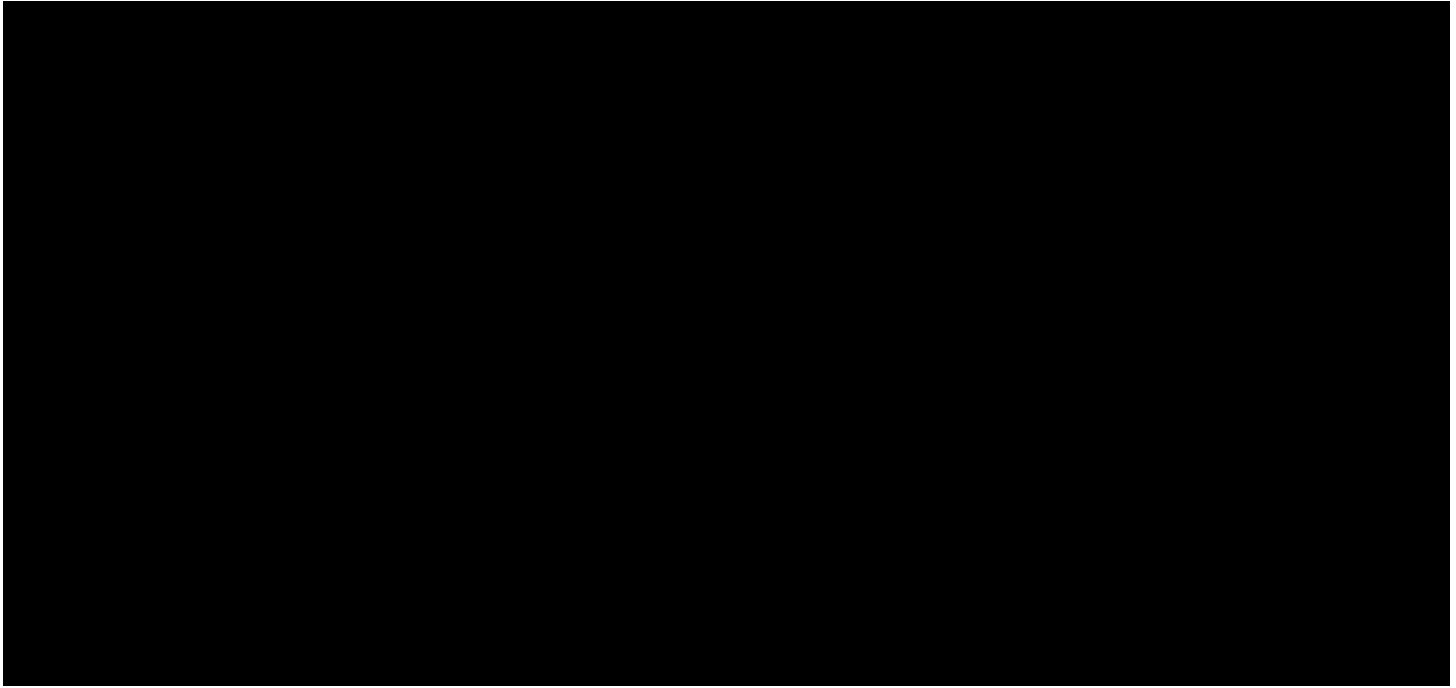
as Original Super Senior Lender



BARINGS SEGREGATED DIRECT LENDING HOLDCO 3 S.À R.L.

Acting by its attorney BARING ASSET MANAGEMENT LIMITED

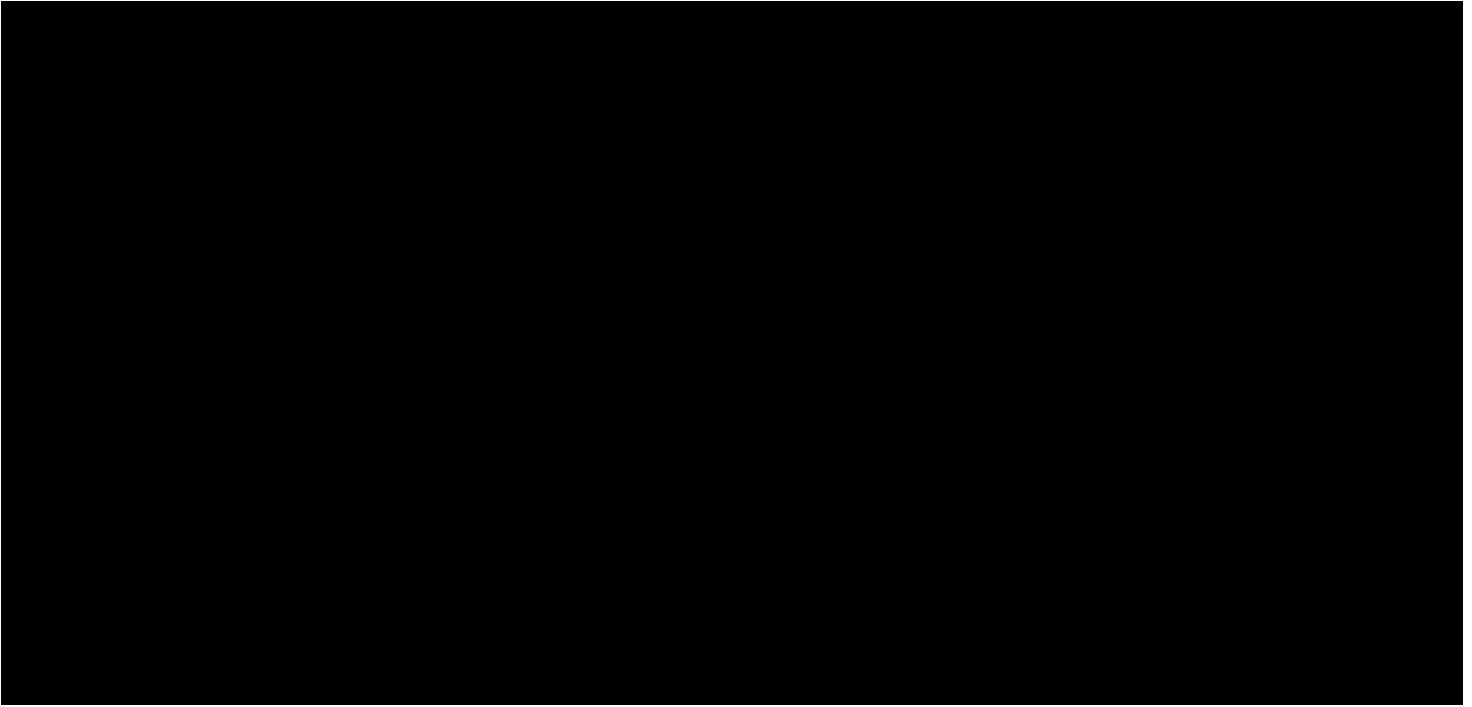
as Original Super Senior Lender



BARINGS SEGREGATED DIRECT LENDING HOLDCO 4 S.À R.L.

Acting by its attorney BARING ASSET MANAGEMENT LIMITED

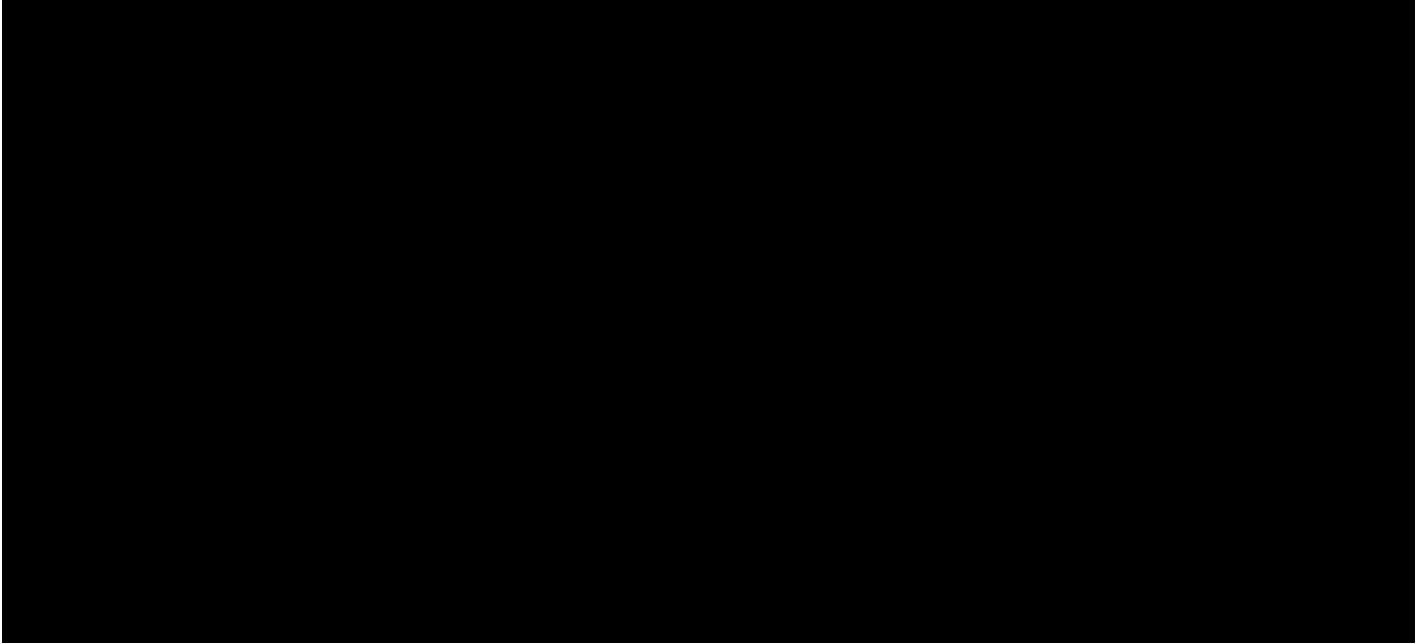
as Original Super Senior Lender



BARINGS SEGREGATED DIRECT LENDING HOLDCO 1 S.À R.L.

Acting by its attorney BARING ASSET MANAGEMENT LIMITED

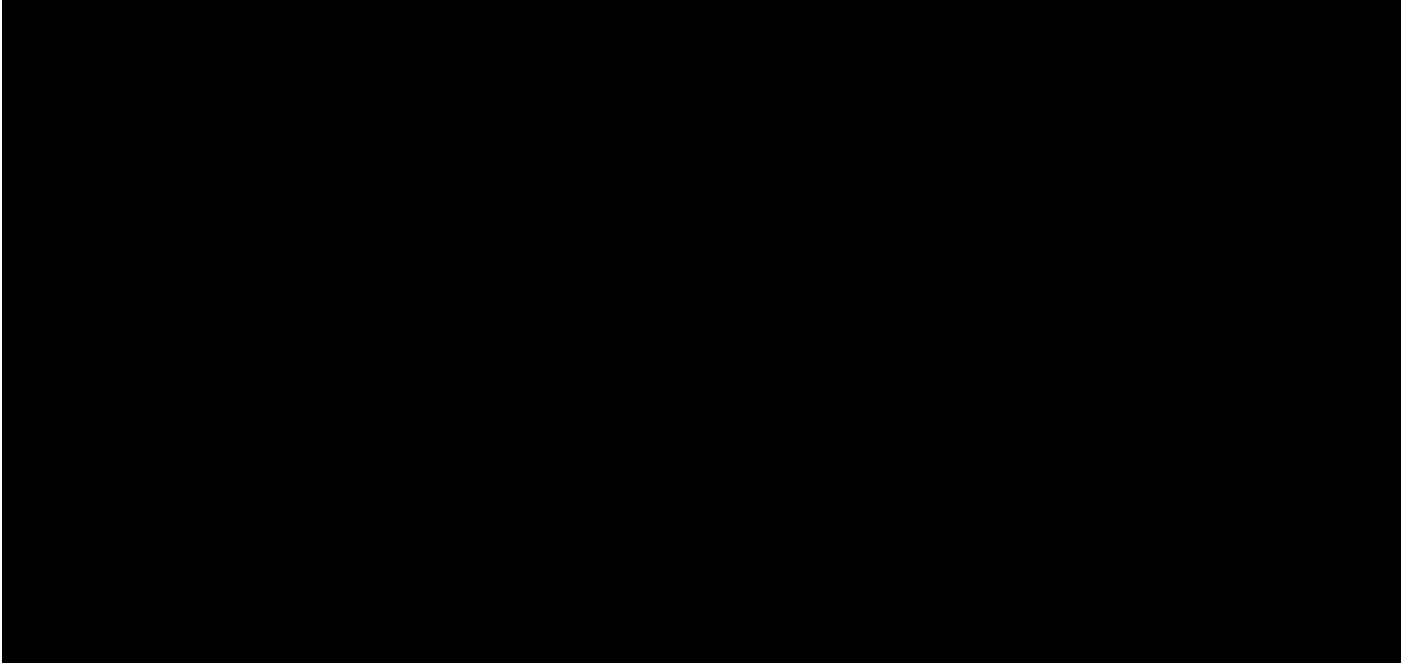
as Original Super Senior Lender



MASSMUTUAL ASCEND LIFE INSURANCE COMPANY

By: Baring International Investment Limited as Sub-Adviser and Attorney-in-fact

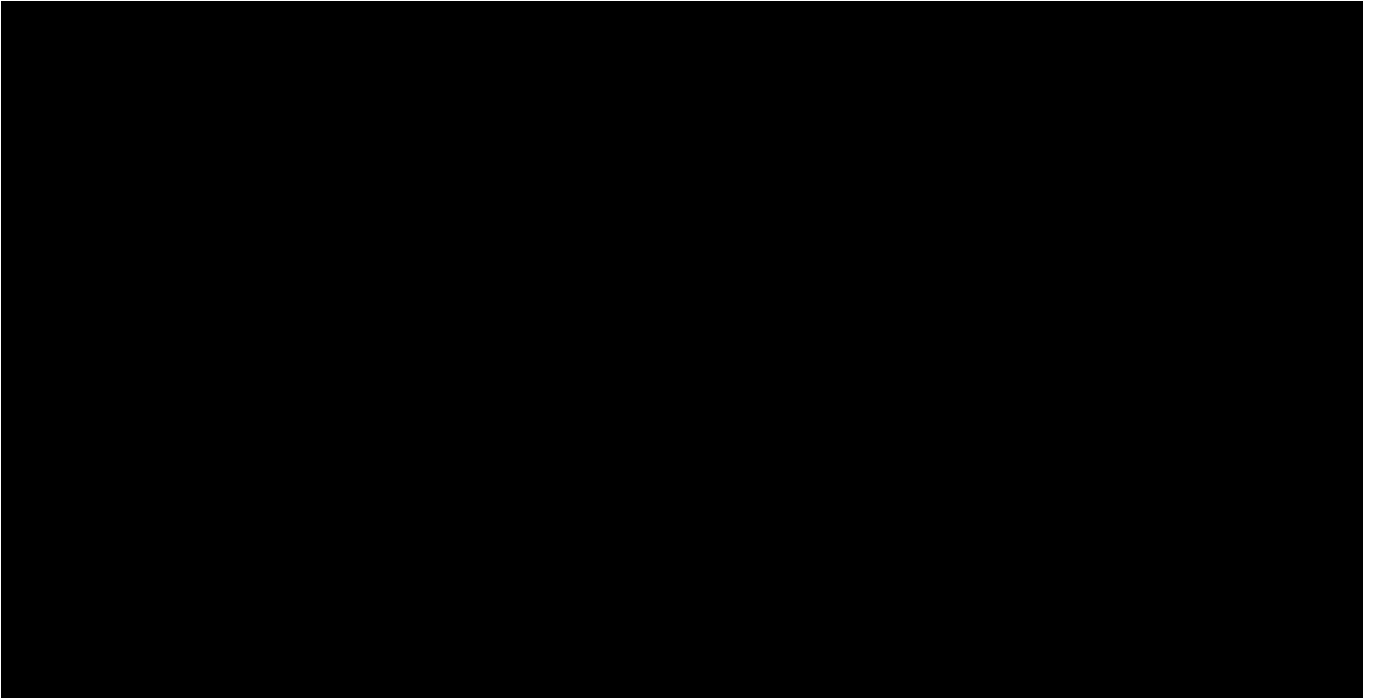
as Original Super Senior Lender



MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY

By Baring International Investment Limited as investment manager

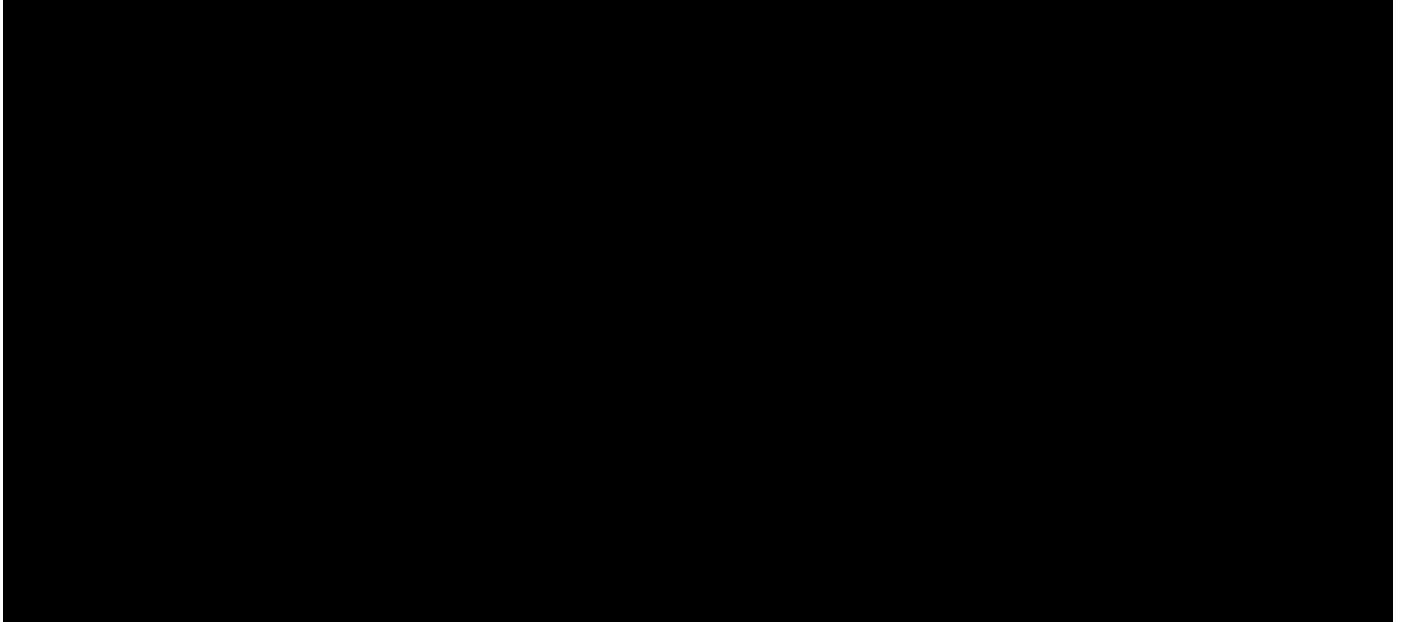
as Original Super Senior Lender



BARINGS SEGREGATED DIRECT LENDING HOLDCO 2 S.À R.L.

Acting by its attorney BARING ASSET MANAGEMENT LIMITED

as Original Super Senior Lender



THE ORIGINAL SENIOR AGENT

EXECUTED by
GLOBAL LOAN AGENCY SERVICES LIMITED



THE SECURITY AGENT

EXECUTED by
GLAS TRUST CORPORATION LIMITED

