**DATED 3 JUNE 2015 AS AMENDED AND RESTATED ON THE EFFECTIVE DATE (AS DEFINED HEREIN)**

**RSK Group PLC  
(as *Borrower*)**

**THE ORIGINAL GUARANTORS  
(as defined herein)**

**PERMIRA CREDIT SOLUTIONS II MASTER L.S. S.A.  
PERMIRA CREDIT SOLUTIONS II L.S. S.A.**and **PERMIRA CREDIT SOLUTIONS II SENIOR S.A.  
(as *Original Lenders*)**

**ELAVON FINANCIAL SERVICES LIMITED   
(as *Facility Agent*)**

**U.S. BANK TRUSTEES LIMITED(*Security Agent*)**

**£37,600,000 FACILITIES AGREEMENT**

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**THIS AGREEMENT** is originally dated 3 June 2015 and amended and restated on [•] 2016 and made between:

1. **RSK GROUP PLC**,a public limited liability company incorporated under the laws of England and Wales, having its registered office at Spring Lodge, 172 Chester Road, Helsby, Cheshire WA6 0AR, United Kingdom, and with company number 03761340(the ***Borrower***);
2. **THE SUBSIDIARIES** of the Borrower listed in Part A of Schedule 1 (*The Original Parties*) as original guarantors (together with the Borrower, the ***Original Guarantors***);
3. **PERMIRA CREDIT SOLUTIONS II MASTER L.S. S.A. PERMIRA CREDIT SOLUTIONS II L.S. S.A.** and **PERMIRA CREDIT SOLUTIONS II SENIOR S.A.** (the ***Original*** ***Lenders***);
4. **ELAVON FINANCIAL SERVICES LIMITED** a limited liability company registered in Ireland with the Companies Registration Office (registered number 418442), with its registered office at Block E, Cherrywood Business Park, Loughlinstown, Dublin, Ireland acting through its UK Branch (registered number BR009373) from its offices at 5th Floor, 125 Old Broad Street, London EC2N 1AR, United Kingdomas facility agent for the other Finance Parties (the ***Facility Agent***); and
5. **U.S. BANK TRUSTEES LIMITED** a limited liability company incorporated under the laws of England and Wales and with registration number 02379632 with its office at 125 Old Broad Street, London, EC2N 1AR, United Kingdomas security agent and trustee for the Secured Parties (the ***Security Agent***).

It is intended that this Agreement takes effect as a deed notwithstanding the fact that a party to it may only execute this document under hand.

**IT IS AGREED** as follows:

1. Definitions and Interpretation
   1. Definitions

In this Agreement:

1. ***Acceptable Bank*** means:
   1. a bank or financial institution which has a rating for its short-term unsecured and non credit-enhanced debt obligations of A-2 or higher by Standard & Poor’s Rating Services or F2 or higher by Fitch Ratings Ltd or P2 or higher by Moody’s Investors Service Limited or a comparable rating from an internationally recognised credit rating agency; or
   2. any other bank or financial institution approved by the Facility Agent (acting on the instruction of the Majority Lenders).
2. ***Accession*** ***Deed*** means a document substantially in the form set out in Schedule 9 (*Form of Accession Deed*).
3. ***Accountants’ Report*** means, together, the reports by Dow Schofield Watts dated 8 October 2014 and 26 February 2015 relating to the Group and addressed to, and/or capable of being relied upon, by the Finance Parties.
4. ***Accounting Principles*** means UK GAAP.
5. ***Accounting Reference Date*** means, in respect of BGT Hungaria Környezettechnológiai Korlátolt Felelősségű Társaság and RSK Environment w.l.l., 31 December and, in respect of each other member of the Group, 31 March.
6. ***Acquisition*** means the acquisition by RSK Environment Limited of the Target Shares on the terms of the Acquisition Documents.
7. ***Acquisition Agreement*** means the acquisition agreement dated on or about the date of the Amendment and Restatement Agreement relating to the sale and purchase of the Target Shares and made between RSK Environment Limited and the Vendors.
8. ***Acquisition Deferred Consideration*** means the deferred consideration payable by RSK Environment Limited to the Vendors forming part of the purchase price for the Target Shares under [clause 3.1 and schedule 8 to] the Acquisition Agreement.

***Acquisition Documents*** means the Acquisition Agreement, the Disclosure Letter in respect of the Acquisition Agreement and any other document designated as an Acquisition Document by the Facility Agent and the Borrower.

1. ***Acquisition Obligor*** means each member of the Target Group.
2. ***Additional*** ***Guarantor*** means a company which becomes an Additional Guarantor in accordance with Clause 28 (*Changes to the Obligors*).
3. ***Adjusted EBITDA*** has the meaning given to that term in Clause 23.1 (*Financial definitions*).
4. ***Affiliate*** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.
5. ***AIFMD***means the Alternative Investment Fund Managers Directive of the European Parliament and the Council of the European Union of 1 July 2011 (2011/61/EU).
6. ***Alan Ryder*** means Alan Ryder of The Forge, Pentre Lane, Ashton, Cheshire, CH3 8BX.
7. ***Alan Ryder Investments*** means Alan Ryder Investments Limited a company registered in England and Wales, having its registered office at 2 Old Bath Road, Newbury, Berkshire RG14 1QL with company number 04487141.
8. ***Alan Ryder Loan*** means the loan made by Alan Ryder Investments to the Borrower under the Alan Ryder Loan Document outstanding on the date of this Agreement (and not exceeding such amount thereafter) of £200,000 (plus accrued but unpaid interest).
9. ***Alan Ryder Loan Document*** means the loan agreement dated 11 November 2015 between Alan Ryder Investments (as lender) and the Borrower (as borrower) in the principal amount of £200,000.
10. ***Amendment and Restatement Agreement*** means the amendment and restatement agreement dated [•] 2016 between, amongst others, the Borrower and the Facility Agent, amending and restating this Agreement.

***Annual Financial Statements*** has the meaning given to that term in Clause 22 (*Information Undertakings*).

1. ***Anti-Corruption Law*** means (i) the US Foreign Corrupt Practices Act of 1977, (ii) the UK Bribery Act 2010, and (iii) any other law, rule, regulation, or other legally binding measure of any jurisdiction that implements the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or that relates to bribery or corruption.
2. ***Appropriation*** means the appropriation (or similar process) of the shares in the capital of a member of the Group by the Security Agent (or any Receiver or Delegate) which is effected (to the extent permitted under the relevant Transaction Security Document and applicable law) by enforcement of the Transaction Security.
3. ***Assignment*** ***Agreement*** means an agreement substantially in the form set out in Schedule 8 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee **provided that** if that other form does not contain the undertaking set out in the form set out in Schedule 8 (*Form of Assignment Agreement*) it shall not be a Creditor Accession Undertaking as defined in, and for the purposes of, the Subordination Deed.

***Audit Laws*** means EU Regulation (537/2014) on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC and the EU Directive (2014/56/EU) amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts and any law or regulation which implements that EU Directive (2014/56/EU).

1. ***Authorisation*** means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.
2. ***Availability Period*** means:
   1. in relation to Facility A1, the period from and including the date of this Agreement to and including 15 June 2015; and
   2. in relation to Facility A2, the period from and including the Effective Date to and including 30 April 2016.
3. ***Available*** ***Commitment*** means a Lender’s Commitment under a Facility minus the amount of its participation in any outstanding Loan.
4. ***Available*** ***Facility*** means the aggregate for the time being of each Lender’s Available Commitment.
5. ***Ayoub Loan Documents*** means:
   1. the loan agreement dated 18 December 2014 between Fares Edwer Ayoub (as lender) and RSK Environment LLC (as borrower) in the principal amount of £50,000; and
   2. the loan agreement dated 4 November 2014 between Fares Edwer Ayoub (as lender) and RSK Environment LLC (as borrower) in the principal amount of $100,000.
6. ***Ayoub Loans*** means the loans made by Fares Edwer Ayoub to RSK Environment LLC under the Ayoub Loan Documents outstanding on the date of this Agreement (and not exceeding such amount thereafter) of £50,000 (plus £4,000 of accrued but unpaid interest) and $100,000 (plus $8,000 of accrued but unpaid interest).
7. ***A1 Loan*** means the loan originally made by A1 Consult B.V. to EMN and subsequently novated to the Borrower under the EMN Loan Document outstanding on the date of this Agreement (and not exceeding such amount thereafter) of €132,910 (plus accrued but unpaid interest).
8. ***Base Case Model*** means the financial model (including the business plan) including profit and loss, balance sheet and cashflow projections in agreed form relating to the Group.
9. ***Base Reference Bank Rate*** means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request by the Base Reference Banks in relation to LIBOR:
   1. (other than where paragraph (b) below applies) as the rate at which the relevant Base Reference Bank could borrow funds in the London interbank market in the relevant currency and for the relevant period were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in that currency and for that period; or
   2. if different, as the rate (if any and applied to the relevant Base Reference Bank and the relevant currency and period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator.
10. ***Base Reference Banks*** means, in relation to LIBOR, the principal London offices of HSBC and Lloyds Banking Group PLC or such other entities as may be appointed by the Facility Agent in consultation with the Borrower.
11. ***Basel III***means:
    1. the agreements on capital requirements, a leverage ratio and liquidity standards contained in “Basel III: A global regulatory framework for more resilient banks and banking systems”, “Basel III: International framework for liquidity risk measurement, standards and monitoring” and “Guidance for national authorities operating the countercyclical capital buffer” published by the Basel Committee on Banking Supervision on 16 December 2010, each as amended, supplemented or restated;
    2. the rules for global systemically important banks contained in “Global systemically important banks: assessment methodology and the additional loss absorbency requirement Rules text” published by the Basel Committee on Banking Supervision in November 2011, as amended supplemented or restated; and
    3. any further guidance or standards published by the Basel Committee on Banking Supervision relating to “Basel III”.
12. ***Benelux Agreement on Outstanding Amounts*** means the agreement on outstanding amounts dated 29 March 2011 between, amongst others, RSK Environment, RSK Benelux, Stefan Bangels, the Borrower and the Environmental Strategic Advice BVBA.
13. ***Benelux Security*** means the Security arising under the limited recourse Belgian law pledge agreement dated 29 March 2011 between RSK Environment Limited and Stefan Bangels, as amended by the Benelux SPA.
14. ***Benelux Security Discharge Date*** has the meaning given to that term in paragraph (d) of Clause 24.42 (*Conditions subsequent*).
15. ***Benelux SPA*** means the share purchase agreement dated 30 June 2013 between Stefan Bangels (as vendor) and RSK Environment Limited (as purchaser) in respect of the shares in RSK Benelux.
16. ***Benelux Working Capital Loan Documents*** means the documents dated 28 October 2014 pursuant to which RSK Environment owes RSK Benelux EUR 1,400,000 in aggregate.
17. ***Borrower’s Auditors*** means Ross Brooke Limited or any other firm appointed by the Borrower to act as its statutory auditors.
18. ***Borrowing Liabilities*** means, in relation to a member of the Group, the liabilities and obligations (not being Guarantee Liabilities) it may have as a principal debtor to a Creditor (other than to the Security Agent or the Facility Agent) or an Obligor in respect of Financial Indebtedness arising under the Finance Documents (whether incurred solely or jointly and including, without limitation, liabilities and obligations as a borrower under the Finance Documents).
19. ***Borrowings*** has the meaning given to that term in Clause 23.1 (*Financial definitions*).
20. ***Break*** ***Costs*** means the amount (if any) by which:
    1. the interest excluding the Margin which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

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

1. ***Budget*** means:
   1. in relation to the period ending on the Accounting Reference Date for the Group in 2016, the Base Case Model in agreed form to be delivered by the Borrower to the Facility Agent pursuant to Clause 4.1 (*Initial conditions precedent*); and
   2. in relation to any other period, any budget delivered by the Borrower to the Facility Agent in respect of that period pursuant to Clause 22.5 (*Budget*).
2. ***Business Acquisition*** means the acquisition of a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them) or the incorporation of a company in each case as permitted under the terms of this Agreement.
3. ***Business*** ***Day*** means a day (other than a Saturday or Sunday) on which banks are open for general business in London.
4. ***Capital*** ***Expenditure*** has the meaning given to that term in Clause 23.1 (*Financial definitions*).
5. ***Cash*** means, at any time, cash denominated in sterling, in hand or at bank and (in the latter case) credited to an account in the name of a member of the Group with an Acceptable Bank and to which that member of the Group is alone (or together with other members of the Group) beneficially entitled and for so long as:
   1. that cash is repayable on demand;
   2. repayment of that cash is not contingent on the prior discharge of any other indebtedness of any member of the Group or of any other person whatsoever or on the satisfaction of any other condition;
   3. there is no Security over that cash except for Transaction Security, Security arising under the HSBC Cash Collateral Agreement (provided that any such cash shall not exceed £500,000), Security arising under the Commerzbank Security Document (provided that any such cash shall not exceed EUR265,000) or any Permitted Security constituted by a netting or set-off arrangement entered into by members of the Group in the ordinary course of their banking arrangements; and
   4. the cash (i) is freely and immediately available to be applied in repayment or prepayment of a Facility or (ii) is cash held by RSK Benelux Group and which (but for the terms of the Benelux SPA) is otherwise freely available to be applied in prepayment of a Facility or (iii) is cash held by Alenco Environmental Consult GmbH which (but for the terms of the Commerzbank Security Document) is otherwise freely available to be applied in prepayment of a Facility or (iv) is cash under the HSBC Cash Collateral Agreement.
6. ***Cash Equivalent Investments*** means at any time:
   1. certificates of deposit maturing within one year after the relevant date of calculation and issued by an Acceptable Bank;
   2. any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;
   3. commercial paper not convertible or exchangeable to any other security:
      1. for which a recognised trading market exists;
      2. issued by an issuer incorporated in the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State;
      3. which matures within one year after the relevant date of calculation; and
      4. which has a credit rating of either A-1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody's Investors Service Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;
   4. sterling bills of exchange eligible for rediscount at the Bank of England and accepted by an Acceptable Bank (or their dematerialised equivalent);
   5. any investment in money market funds which (i) have a credit rating of either A-1 or higher by Standard & Poor’s Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody’s Investors Service Limited, (ii) which invest substantially all their assets in securities of the types described in paragraphs (a) to (d) above and (iii) can be turned into cash on not more than 30 days’ notice; or
   6. any other debt security approved by the Majority Lenders,

in each case, to which any Obligor is alone (or together with other Obligors beneficially entitled at that time and which is not issued or guaranteed by any Obligor) or subject to any Security (other than Security arising under the Transaction Security Documents).

1. ***Cash Interest Payment Date*** means the last day of each Cash Interest Period.
2. ***Cash Interest Period*** means in relation to a Loan and interest thereon to the extent payable in cash pursuant to paragraph (a) of Clause 10.2 (*Payment of Interest*), each period determined in accordance with Clause 11 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 10.3 (*Default interest*).
3. ***Cash Pay Margin*** means 4.00 per cent. per annum.
4. ***Cashflow*** has the meaning given to that term in Clause 23.1 (*Financial definitions*).
5. ***Category 1 Permitted Deferred Consideration*** means the deferred consideration owing by RSK Benelux to Stefan Bangels under Clause 6 of the ESA SPA (as amended by the Benelux Agreement on Outstanding Amounts and the Benelux SPA) outstanding on the date of this Agreement (and not exceeding such amount thereafter) of €780,000 (plus accrued but unpaid interest).
6. ***Category 2 Permitted Deferred Consideration*** means the deferred consideration owing by RSK Environment Limited to Stefan Bangels under Clause 3.3 of the Benelux SPA outstanding on the date of this Agreement (and not exceeding such amount thereafter) of €4,181,058.
7. ***Change of Control*** means other than as a result of a sale, issue or transfer of shares in the Borrower to a Warrantholder pursuant to the Warrant Instrument, an Original Lender or any of their respective Affiliates, Related Funds or associates:
   1. Alan Ryder ceasing to own beneficially (directly or indirectly) at least 25 per cent. of the voting share capital in the Borrower; or
   2. any person or group of persons (other than Alan Ryder and/or Mary-Ann Smyth), acting in concert (i) owning (directly or indirectly) more of the voting share capital of the Borrower than Alan Ryder at any time; or (ii) acquiring control of the Borrower;
   3. the Initial Investors together ceasing to own beneficially (directly or indirectly) at least 40 per cent. of the voting share capital in the Borrower; or
   4. the Borrower ceasing to own beneficially and directly 100 per cent. of the voting share capital in RSK Environment Limited.

For the purposes of this definition:

* + 1. ***control*** of the Borrower means:
       1. the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
          1. cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the Borrower;
          2. appoint or remove all, or the majority, of the directors or other equivalent officers of the Borrower; or
          3. give directions with respect to the operating and financial policies of the Borrower with which the directors or other equivalent officers of the Borrower are obliged to comply; or
       2. the holding beneficially of more than 30 per cent. of the issued share capital of the Borrower (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital);
    2. ***acting in concert*** means, a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition directly or indirectly of shares in the Borrower by any of them, either directly or indirectly, to obtain or consolidate control of the Borrower; and
    3. the Borrower shall not be treated as having ceased to own beneficially and directly 100 per cent. of the voting share capital in RSK Environment Limited by reason only that such share capital has been transferred by way of security to the Security Agent (or its nominee) pursuant to a Scottish Share Pledge.

1. ***Charged*** ***Property*** means all of the assets of the Obligors which from time to time are, or are expressed to be, the subject of the Transaction Security.
2. ***Closing Date*** means the date on which each of the conditions set out in paragraph (a) of Clause 4.1 (*Initial conditions precedent*) have been satisfied or waived in accordance with that provision.
3. ***Closing Reorganisation*** means the transfers of shares in any Subsidiary listed in Part C of Schedule 1 (*The Original Parties*) to RSK Environment Limited on the Closing Date immediately following the first utilisation of a Facility.
4. ***Closing Reorganisation Documents*** means:
   1. the sale and purchase agreement pursuant to which the shares in each Subsidiary listed in Part C of Schedule 1 (*The Original Parties*) are transferred to RSK Environment Limited on the Closing Date immediately following the first utilisation of a Facility; and
   2. a copy of all share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant parties to the Closing Reorganisation,

copies of which are to be delivered by the Borrower to the Facility Agent pursuant to Clause 4.1 (*Initial conditions precedent*).

1. ***Code*** means the US Internal Revenue Code of 1986.
2. ***Commerzbank Facility*** means (i) the credit line granted to Alenco Environment Consult GmbH by Commerzbank with a maximum credit limit, and maximum outstanding amount thereunder, not exceeding 150,000 EUR and (ii) the credit guarantee granted to Alenco Environment Consult GmbH by Commerzbank with a maximum credit limit, and maximum outstanding amount thereunder, not exceeding 115,000 EUR.
3. ***Commerzbank Facility Document(s)*** means (i) the credit line agreement dated 19 February/ 28 March 2013 and (ii) the credit guarantee agreement dated 16/ 22 March 2011, both between Commerzbank and Alenco Environmental Consult GmbH relating to the Commerzbank Facility.
4. Commerzbank Security means the account pledge relating to Alenco Environmental Consult GmbH’s account nr. ffff450 903480 01 and any time or overnight deposits (Fest- und Tagesgeld) at Commerzbank in respect of the credit guarantee issued by Commerzbank from time to time in accordance with the Commerzbank Security Document.
5. ***Commerzbank Security Document*** means the account pledge agreement dated 16/22 March 2011 between Commerzbank and Alenco Environmental Consult GmbH relating to the Commerzbank Security.
6. ***Commitment*** means a Facility A1 Commitment or a Facility A2 Commitment.
7. ***Competitive Sales Process*** means
   1. any auction or other competitive sales process conducted with the advice of a Financial Adviser appointed by, or approved by, the Security Agent pursuant to Clause 30.8 (*Appointment of Financial Adviser*); and
   2. any enforcement of the Transaction Security carried out by way of auction or other competitive sales process pursuant to requirements of applicable law.
8. ***Completion*** means the completion of the Acquisition in accordance with clause [6] of the Acquisition Agreement.
9. ***Completion Date*** means the date on which Completion occurs.
10. ***Compliance*** ***Certificate*** means a certificate substantially in the form set out in Schedule 11 (*Form of Compliance Certificate*).
11. ***Confidential*** ***Information*** means all information relating to the Borrower, any Obligor, the Group, the Finance Documents or a Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or a Facility from either:
    1. any member of the Group or any of its advisers;
    2. another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group or any of its advisers,

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

* + 1. information that:
       1. is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 42 (*Confidentiality*); or
       2. is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
       3. is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and
    2. any Funding Rate or Reference Bank Quotation.

1. ***Confidentiality*** ***Undertaking*** means a confidentiality undertaking substantially in a recommended form of the LMA as set out in Schedule 13 (*LMA Form of Confidentiality Undertaking*) or in any other form agreed between the Borrower and the Facility Agent.
2. ***Constitutional Documents*** means the articles of association of the Borrower and the PLC Shareholder Agreement.
3. ***Contract Summary*** means the summary dated on or about the date of this Agreement, setting out details relating to the top five customer contracts of the Group.
4. ***Contribution*** ***Notice*** means a contribution notice issued by the Pensions Regulator under section 38 or section 47 of the Pensions Act 2004.
5. ***CRD IV*** means:
   1. Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms, amending Regulation (EU) No 648/2012; and
   2. Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.
6. ***Creditor*** means each of the Secured Parties and the Junior Creditors.
7. ***CRO Redemption Payment*** means the redemption payment owed to Alec Handcock and Keith Stead by the Borrower under the RSK Articles outstanding on the date of this Agreement (and not exceeding such amount thereafter) of £600,000 (plus accrued but unpaid interest).
8. ***CTA*** means the Corporation Tax Act 2009.
9. ***Debt Disposal*** means a Senior Debt Disposal or a Junior Debt Disposal (as defined in the Subordination Deed).
10. ***Debt*** ***Purchase Transaction*** means, in relation to a person, a transaction where such person:
    1. purchases by way of assignment or transfer;
    2. enters into any sub-participation in respect of; or
    3. enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of,
11. any Commitment or amount outstanding under this Agreement.
12. ***Debtor*** has the meaning given to that term in the Subordination Deed.
13. ***Default*** means an Event of Default or any event or circumstance specified in Clause 25 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.nnnn
14. ***Delegate*** means any delegate, agent, attorney or co-trustee appointed by the Security Agent.
15. ***Disclosure Letter*** has the meaning given to that term in the Acquisition Agreement.
16. ***Disposal*** has the meaning given to that term in Clause 8.4 (*Disposal Proceeds*).
17. ***Disruption*** ***Event*** means either or both of:
    1. a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with a Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or
    2. the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
       1. from performing its payment obligations under the Finance Documents; or
       2. from communicating with other Parties in accordance with the terms of the Finance Documents,

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

1. ***Distressed Disposal*** means a disposal of an asset of a member of the Group which is:
   1. being effected at the request of the Majority Lenders in circumstances where the Transaction Security has become enforceable;
   2. being effected by enforcement of the Transaction Security (including the disposal of any Property of a member of the Group, the shares in which have been subject to an Appropriation); or
   3. being effected, after the occurrence of a Enforcement Event (as defined in the Subordination Deed) or the enforcement of any Transaction Security, granted by an Obligor or a Debtor to a person or persons which is, or are, not a member, or members, of the Group.
2. ***Dormant*** ***Subsidiary*** means a member of the Group (other than the Borrower or RSK Environment Limited) which does not trade (for itself or as agent for any person) and neither:
   1. owns, legally or beneficially, assets (including, without limitation, indebtedness owed to it) which in aggregate have a value of £50,000 or more or its equivalent in other currencies; nor
   2. has an annual turnover for the previous 12 Months of less than £100,000 or its equivalent in other currencies.

***EBITDA*** has the meaning given to that term in Clause 23.1 (*Financial definitions*).

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

1. ***EMN*** means Eerland Milieutechniek (Nederland) B.V., a *besloten vennootschap* incorporated under the laws of the Netherlands, having its registered office at Klompenmakerstraat 12, 2984BB Ridderkerk, Netherlands, and with company number 29037909.
2. ***EMN Facility*** means the facility letter from Fortis Bank (Nederland) NV to Eerland Milieutechniek (Nederland) B.V. dated 3 May 2006.
3. ***EMN Loan Document*** means the addendum dated 15 June 2011 to the agreement on the acquisition of shares in EMN dated 30 January 2008 and the shareholders agreement of EMN dated 30 January 2008 (as amended by a further addendum to be dated on or about the date of this Agreement) between Management & Adviesbureau Vermeer BV, A1 Consult BV, EMN and the Borrower (amongst others).
4. ***Environment*** means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:
   1. air (including, without limitation, air within natural or man-made structures, whether above or below ground);
   2. water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
   3. land (including, without limitation, land under water).
5. ***Environmental*** ***Claim*** means any claim, proceeding, formal notice or investigation by any person under or pursuant to any Environmental Law.
6. ***Environmental*** ***Law*** means any applicable law or regulation which relates to:
   1. the pollution or protection of the Environment;
   2. health and safety related conditions in the workplace; or
   3. the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to or pollution of the Environment, including, without limitation, any waste.
7. ***Environmental*** ***Permits*** means any permit or other Authorisation or the filing of any notification, report or assessment required under or pursuant to any Environmental Law for the operation of or any activities relating to the business of any member of the Group conducted on or from the properties owned or used by any member of the Group.
8. ***Equity Cure Account*** means an interest-bearing account:
   1. held in the United Kingdom by the Borrower with an Acceptable Bank approved by the Majority Lenders;
   2. identified in a letter from the Borrower to the Facility Agent as an Equity Cure Account;
   3. subject to Security in favour of the Security Agent which Security is in form and substance satisfactory to the Security Agent (acting on the instructions of the Majority Lenders); and
   4. from which no withdrawals may be made by the Borrower (or any other members of the Group) except as contemplated by this Agreement,

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

1. ***Equity Interests*** means shares of capital stock, partnership interests, limited liability company membership interests and units, shares, interests and other participations in the equity of an entity.
2. ***ESA SPA*** means the share purchase agreement dated 13 April 2007 between Stefan Bangels (as vendor) and RSK Benelux (as purchaser) in respect of shares in Environmental Strategic Advice BVBA.
3. ***Event of Default*** means any event or circumstance specified as such in Clause 25 (*Events of Default*).
4. ***Existing Category 1 Loan*** means:
   1. the loan with a principal sum of EUR 1,503,014.20 owed by RSK Benelux to Stefan Bangels under Clause 3.3 of the Benelux SPA, the total amount of such loan outstanding as at the date of this Agreement (including interest) not exceeding EUR 1,503,014.20;
   2. the loan with a principal sum of EUR 1,496,986 owed by RSK Benelux to Stefan Bangels under Clause 5.2 of the Benelux SPA, the total amount of such loan outstanding as at the date of this Agreement (including interest) not exceeding EUR 1,496,986.
   3. the loan with a principal sum of EUR 1,281,844 owing by RSK Benelux to Stefan Bangels under Clause 10.3 of the Benelux SPA, the total amount of such loan outstanding as at the date of this Agreement (including interest) not exceeding EUR 1,281,844.

***Existing Category 1 Loan Document*** means the Benelux SPA.

***Existing Category 2 Loan*** means:

* + - 1. the loan with a principal sum of EUR 1,281,844 owing by RSK Environment to RSK Benelux under Clause 10.3 of the Benelux SPA, the total amount of such loan outstanding as at the date of this Agreement (including interest) not exceeding EUR 1,281,844.
      2. the loan with a principal sum of EUR 1,900,000 owing by RSK Environment to RSK Benelux under Clause 5.2 of the Benelux Agreement on Outstanding Amounts (as amended by Clause 10.5 of the Benelux SPA), the total amount of such loan outstanding as at the date of this Agreement (including interest) not exceeding EUR 1,900,000.
      3. the loan with a principal sum of EUR 1,400,000 owing by RSK Environment to RSK Benelux pursuant to the Benelux Working Capital Loan Document, the total amount of such loan outstanding as at the date of this Agreement (including interest) not exceeding EUR 1,400,000.

1. ***Existing Category 2 Loan Documents*** means the Benelux SPA and the Benelux Agreement on Outstanding Amounts and the Benelux Working Capital Loan Documents.
2. ***Existing Category 3 Loan*** means the Stats Note Loan, the CRO Redemption Payment, the M&A Loan or the A1 Loan.

***Existing Category 3 Loan Documents*** means the Stats Note Loan Document, the RSK Articles and the EMN Loan Document.

1. ***Existing Category 4 Loan*** means the Alan Ryder Loan or the Mary-Ann Smyth Loan.

***Existing Category 4 Loan Documents*** means the Alan Ryder Loan Document and the Mary-Ann Smyth Loan Document.

1. ***Existing Facilities*** means:
   1. the HSBC Loans;
   2. the Short Term Working Capital Loans;
   3. the Structural Soils Loan;
   4. the Tenon Loan; and
   5. the Ayoub Loan.
2. ***Existing Financing*** means the Financial Indebtedness outstanding on the Closing Date owed under the Existing Facilities including any related fees, costs, commissions and expenses.
3. ***Existing Group Documents*** means the Existing Shareholder Agreements and the Existing Loan Documents.
4. ***Existing Group Headleases*** means:
   1. lease of land and premises at 172 Chester Road, Helsby, Cheshire WA6 0AR, United Kingdom dated 6 February 2008, between Alan Ryder Investments Limited and the Borrower;
   2. lease of land and premises at Anerley Court, Half Moon Lane, Hildenborough, Tonbridge, Kent TN11 9HU United Kingdom dated 4 December 2013, between Alan Ryder Investments Limited and the Borrower;
   3. lease of land at Priestner Drive, Helsby, Cheshire WA6 0AE United Kingdom dated 1 January 2013, between Alan Ryder Investments Limited and the Borrower; and
   4. lease of Abbey Park, Humber Road, Coventry, West Midlands CB3 4AT, United Kingdom dated 2 May 2012, between Abbey Park Offices Limited and the Borrower.
5. ***Existing Headlease Summary*** means each summary of an Existing Group Headlease delivered by the Borrower to the Security Agent prior to the date of this Agreement.
6. ***Existing Loans*** means an Existing Category 1 Loan, an Existing Category 2 Loan, an Existing Category 3 Loan or an Existing Category 4 Loan.
7. ***Existing Loan Documents*** means an Existing Category 1 Loan Document, an Existing Category 2 Loan Document, an Existing Category 3 Loan Document or an Existing Category 4 Loan Document.
8. ***Existing Security Agreements*** means:
   1. debenture dated 19 December 2006 granted by the Borrower in favour of HSBC Bank plc;
   2. debenture dated 31 March 2011 granted by the Borrower in favour of HSBC Bank plc;
   3. debenture dated 29 February 2008 granted by Argus Environmental Limited in favour of HSBC Bank plc;
   4. debenture dated 31 March 2011 granted by Argus Environmental Limited in favour of HSBC Bank plc;
   5. debenture dated 9 January 2008 granted by Building Sciences Limited in favour of HSBC Bank plc;
   6. debenture dated 31 March 2011 granted by Building Sciences Limited in favour of HSBC Bank plc;
   7. debenture dated 31 March 2011 granted by Envirolab Limited in favour of HSBC Bank plc;
   8. debenture dated 31 March 2011 granted by Remedx Limited in favour of HSBC Bank plc;
   9. debenture dated 4 April 2007 granted by RSK Carter Ecological Limited in favour of HSBC Bank plc;
   10. debenture dated 31 March 2011 granted by RSK Carter Ecological Limited in favour of HSBC Bank plc;
   11. debenture dated 31 March 2011 granted by RSK (Ireland) Limited in favour of HSBC Bank plc;
   12. debenture dated 31 March 2011 granted by RSK Stats Environment Health and Safety Limited in favour of HSBC Bank plc;
   13. debenture dated 19 December 2006 granted by RSK Stats Geoconsult Limited in favour of HSBC Bank plc;
   14. debenture dated 31 March 2011 granted by RSK Stats Geoconsult Limited in favour of HSBC Bank plc;
   15. debenture dated 24 January 2008 granted by RSK Stats Limited in favour of HSBC Bank plc;
   16. debenture dated 31 March 2011 granted by RSK Stats Limited in favour of HSBC Bank plc;
   17. debenture dated 19 December 2006 granted by R.W. Management (Holdings) Limited in favour of HSBC Bank plc;
   18. debenture dated 31 March 2011 granted by R.W. Management (Holdings) Limited in favour of HSBC Bank plc;
   19. debenture dated 28 February 2007 granted by Structural Soils Limited in favour of HSBC Bank plc;
   20. debenture dated 31 March 2011 granted by Structural Soils Limited in favour of HSBC Bank plc;
   21. loan agreement dated 26 November 2012 between Structural Soils Limited and Structural Soils Ltd Retirement Benefits Plan;
   22. debenture dated 19 June 1996 granted by Technical Editing Services Limited in favour of HSBC Bank plc;
   23. debenture dated 31 March 2011 granted by Technical Editing Services Limited in favour of HSBC Bank plc;
   24. bond and floating charge created on 19 December 2006 granted by RSK Environment Limited in favour of HSBC Bank plc;
   25. floating charge created on 31 March 2011 granted by RSK Environment Limited in favour of HSBC Bank plc;
   26. floating charge created on 31 March 2011 granted by Azerbaijan Environment and Technology Centre Limited in favour of HSBC Bank plc;
   27. debenture dated 19 December 2006 granted by RSK Project Services Limited in favour of HSBC Bank plc;
   28. debenture dated 31 March 2011 granted by RSK Project Services Limited in favour of HSBC Bank plc;
   29. debenture dated 31 March 2011 granted by RSK Radiological Limited in favour of HSBC Bank plc;
   30. debenture dated 19 December 2006 granted by RSK Land and Development Engineering Limited in favour of HSBC Bank plc;
   31. debenture dated 31 March 2011 granted by RSK Land and Development Engineering Limited in favour of HSBC Bank plc;
   32. security assignment of receivables dated 18 February 2014 from RSK Environment LLC in favour of Tenon Investment Limited; and
   33. security assignment of receivables dated 24 February 2014 from RSK Environment LLC in favour of Fares Edwer Ayoub.
9. ***Existing Shareholder Agreements*** means:
   1. the PLC Shareholder Agreement;
   2. the agreement dated 18 October 2007 between Diversified Oil Services and RSK Environment Limited relating to RSK Environment LLC;
   3. the agreement dated 19 January 2015 between RSK Environment Limited, Clive Maynard, Navaratnam Shanmugathas, Mark Franklin, Greg Searing and Kevin Ravenhill relating to RSK Land and Development Engineering Limited;
   4. the agreement dated 4 October 2007 between RSK Geoconsult Limited, Radiation Safety Control and Services Incorporated and RSK Radiological Limited relating to RSK Radiological Limited;
   5. the agreement dated 3 February 2009 between RSK Environment Ltd, Niro Holding BV, Stefan Bangels and Paul Upton relating to RSK Germany GmbH;
   6. the agreement dated 30 March 2012 between the Borrower and Vicesima sp.z.o.o relating to RSK Polska z.o.o.;
   7. the agreement between RSK Environment Limited and Mohd Ghanim S H Al-Kuwari relating to RSK Environment w.l.l.;
   8. the agreement dated 21 April 2010 between the Borrower, BEA Consultancy, Alenco Consult and BGT Hungaria Környezettechnológiai Korlátolt Felelősségű Társaság and Ejlskov relating to RSK Europe BVBA; and
   9. the agreement dated 17 July 2009 between the Borrower, David Wallace Pratt, Daniel Paul Charles Bird and RSK Business Solutions Limited relating to RSK Business Solutions Limited.
10. ***Facility***means Facility A1 or Facility A2.
11. ***Facility A1***means the term loan facility made available under this Agreement as described in Clause 2.1 (*The Facilities*).
12. ***Facility A2***means the term loan facility made available under this Agreement as described Clause 2.1 (*The Facilities*).
13. ***Facility A1 Commitment*** means:
    1. in relation to an Original Lender, the amount set opposite its name in Part E (*The Original Lenders*) of Schedule 1 (*The Original Parties*) together with any amount transferred to it under this Agreement; and
    2. in relation to any other Lender, the amount transferred to it under this Agreement,
14. to the extent not cancelled, reduced or transferred by it under this Agreement.
15. ***Facility A2 Commitment*** means:
    1. in relation to an Original Lender, the amount set opposite its name in Part E (*The Original Lenders*) of Schedule 1 (*The Original Parties*) together with any amount transferred to it under this Agreement; and
    2. in relation to any other Lender, the amount transferred to it under this Agreement,
16. to the extent not cancelled, reduced or transferred by it under this Agreement.
17. ***Facility A1 Loan*** means a loan made or to be made under Facility A1 or the principal amount outstanding for the time being of that loan.
18. ***Facility A2 Loan*** means a loan made or to be made under Facility A2 or the principal amount outstanding for the time being of that loan.
19. ***Facility Office*** means:
    1. in respect of a Lender, the office or offices notified by that Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days’ written notice) as the office or offices through which it will perform its obligations under this Agreement; or
    2. in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes.
20. ***Fairness Opinion*** means, in respect of a Distressed Disposal or a Liabilities Sale, an opinion that the proceeds received or recovered in connection with that Distressed Disposal or Liabilities Sale are fair from a financial point of view taking into account all relevant circumstances, including, without limitation, the method of enforcement or disposal.
21. ***Fallback Interest*** ***Period*** means three months.
22. ***FATCA*** means:
    1. sections 1471 to 1474 of the Code or any associated regulations or other official guidance;
    2. any treaty, law, regulation or other official guidance enacted in any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
    3. any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.
23. ***FATCA Application Date*** means:
    1. in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;
    2. in relation to a "withholdable payment" described in section 1473(1)(A)(ii) of the Code (which relates to "gross proceeds" from the disposition of property of a type that can produce interest from sources within the US), 1 January 2017; or
    3. in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2017,

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

1. ***FATCA Deduction*** means a deduction or withholding from a payment under a Finance Document required by FATCA.
2. ***FATCA Exempt Party*** means a Party that is entitled to receive payments free from any FATCA Deduction.
3. ***FCA*** means the Financial Conduct Authority acting in accordance with Part 6 of the Financial Services and Markets Act 2000.

***Fee Letter*** means any letter or letters dated on or about the date of this Agreement or the Effective Date between, among others, the Original Lenders and the Borrower (or the Facility Agent and the Borrower or the Security Agent and the Borrower) setting out any of the fees referred to in Clause 14 (*Fees*).

1. ***Finance Document*** means this Agreement, the Amendment and Restatement Agreement, any Accession Deed, any Compliance Certificate, any Permitted Distribution Certificate, any Fee Letter, the Subordination Deed, any Resignation Letter, any Selection Notice, any Transaction Security Document, the Utilisation Request and any other document designated as a “Finance Document” by the Facility Agent and the Borrower. dddd
2. ***Finance*** ***Party*** means the Facility Agent, the Security Agent or a Lender.
3. ***Financial Adviser*** means any:
   1. independent investment bank;
   2. independent accountancy firm; or
   3. other independent professional services firm which is nationally recognised and regularly engaged in providing valuations of businesses or financial assets or, where applicable, advising on competitive sales processes.
4. ***Financial*** ***Indebtedness*** means any indebtedness for or in respect of:
   1. moneys borrowed and debit balances at banks or other financial institutions;
   2. any acceptance under any acceptance credit or bill discounting facility;
   3. any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
   4. the amount of any liability in respect of Finance Leases;
   5. receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirement for de-recognition under the Accounting Principles);
   6. any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);
   7. any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of (i) an underlying liability of an entity which is not a member of the Group which liability would fall within one of the other paragraphs of this definition or (ii) any liabilities of any member of the Group relating to any post-retirement benefit scheme;
   8. any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before the date falling six months after the Termination Date or are otherwise classified as borrowings under the Accounting Principles);
   9. any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 90 days after the date of invoice;
   10. any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles; and
   11. (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above.
5. ***Financial*** ***Quarter*** has the meaning given to that term in Clause 23.1 (*Financial definitions*).
6. ***Financial*** ***Support*** ***Direction*** means a financial support direction issued by the Pensions Regulator under section 43 of the Pensions Act 2004.
7. ***Financial*** ***Year*** has the meaning given to that term in Clause 23.1 (*Financial definitions*).
8. ***Flotation*** means:
   1. a successful application being made for the admission of any part of the share capital of any member of the Group or Holding Company of any member of the Group to the Official List maintained by the FCA and the admission of any part of the share capital of any member of the Group or Holding Company of any member of the Group to trading on the London Stock Exchange plc; or
   2. the grant of permission to deal in any part of the issued share capital of any member of the Group or Holding Company of any member of the Group on the AIM Market or the Main Board or the Growth Market of the ICAP Securities & Derivatives Exchange (ISDX) or on any recognised investment exchange (as that term is used in the Financial Services and Markets Act 2000) or in or on any exchange or market replacing the same or any other exchange or market in any country.
9. ***Flotation Proceeds*** means the consideration receivable by any member of the Group or any Holding Company of the Group (including any amount receivable in repayment of intercompany debt) for any Flotation after deducting:
   1. any reasonable expenses which are incurred by any Obligor with respect to that Flotation to persons who are not members of the Group; and
   2. any Tax incurred and required to be paid by the seller in connection with that Flotation (as reasonably determined by the seller, on the basis of existing rates and taking account of any available credit, deduction or allowance).
10. ***Funding Deliverables*** means:
    1. a copy of each Acquisition Document duly executed by the parties to those documents;
    2. evidence of payment of all fees (including legal fees), costs and expenses due under the Amendment and Restatement Agreement on or before the Completion Date;
    3. evidence that any PIK Margin accrued and/or outstanding as at 31 December 2015 will be paid in cash in immediately cleared funds on or before the Completion Date, being £803,075.34;
    4. the Group Structure Chart certified as being true and complete by an authorised signatory of the Borrower, showing the ownership structure of the Group immediately following the Completion Date;
    5. an executed Utilisation Request relating to a Loan to be made on the Completion Date;
    6. [an undertaking from Memery Crystal LLP to hold any monies received by it from the Lenders in relation to a Facility A2 Loan to the Lenders’ order pending Completion];
    7. evidence required by the Lenders and the Facility Agent for the purposes of any “Know your Customer” requirements or similar procedures;
    8. a certificate of an authorised signatory of the Borrower certifying that each copy document specified in Schedule 2 to the Amendment and Restatement Agreement and delivered by it, or on its behalf is correct, complete and in full force and effect and has not been amended or superseded since its delivery (other than as permitted by the Amendment and Restatement Agreement and, if so amended or superseded, appending a copy of such amended or supplemented document) as at a date no earlier than the Completion Date; and
    9. a copy of any other Authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by this Agreement or for the validity and enforceability of this Agreement.
11. ***Funding Rate*** means any individual rate notified by a Lender to the Facility Agent pursuant to paragraph ‎(a)(ii) of Clause ‎12.5 (*Cost of Funds*).
12. ***Funds*** ***Flow*** ***Statement*** means a funds flow statement setting out the application of funds in relation to the refinancing contemplated by this Agreement and payment of all transaction fees, costs and expenses and Taxes in connection to the same, in agreed form.

***German Obligor*** means any Obligor which is incorporated or established under the laws of the Federal Republic of Germany.

1. ***Group*** means the Borrower and its Subsidiaries from time to time, including (immediately following Completion) the Target and its Subsidiaries from time to time.
2. ***Group Sales Plan*** means the sales plan relating to the Group’s business updated on February 2015.
3. ***Group*** ***Structure*** ***Chart*** means the group structure chart in the agreed form.
4. ***Guarantee Liabilities*** means, in relation to a member of the Group, the liabilities and obligations under the Finance Documents (present or future, actual or contingent and whether incurred solely or jointly) it may have to a Creditor (other than to the Security Agent or the Facility Agent) or an Obligor as or as a result of its being a guarantor or surety (including, without limitation, liabilities and obligations arising by way of guarantee, indemnity, contribution or subrogation and in particular any guarantee or indemnity arising under or in respect of the Finance Documents).
5. ***Guarantor*** means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 28 (*Changes to the Obligors*).
6. ***Headlease*** means a lease under which an Obligor holds title to or an interest in any part of a Property, including the Existing Group Headleases.
7. ***Historic Screen Rate*** means, in relation to any Loan, the most recent applicable Screen Rate for the currency of that Loan and for a period equal in length to the Cash Interest Period of that Loan and which is as of a day which is no more than 5 days before the Quotation Day.
8. ***Holding Company*** means, in relation to a person, any other person in respect of which it is a Subsidiary.
9. ***HSBC Ancillary Facilities*** means all ancillary facilities (including the cash pooling arrangements referred to in paragraph (f) of Permitted Financial Indebtedness) entered into in connection with and substantially on the terms set out in the HSBC Ancillary Facilities Terms Letter.
10. ***HSBC Ancillary Facilities Terms Letter*** means the draft letter dated 22 May 2015 from HSBC Bank plc to the Directors of the Borrower.
11. ***HSBC Cash Collateral Agreement*** means the cash collateral agreement entered into in connection with the HSBC Ancillary Facilities and substantially on the terms set out in the HSBC Ancillary Facilities Terms Letter and the HSBC Pro-Forma Cash Collateral Agreement.
12. ***HSBC Collateral Account*** means the account held in the United Kingdom by the Borrower with HSBC Bank plc pursuant to the HSBC Cash Collateral Agreement.
13. ***HSBC Loans*** means the loan made by HSBC Bank plc to the Borrower under the HSBC Loan Document outstanding on the date of this Agreement (and not exceeding such amount thereafter) of £21,300,000 (plus accrued but unpaid interest).
14. ***HSBC Loan Document*** means the loan agreement dated 31 March 2011 between HSBC Bank plc (as lender) and the Borrower (as borrower) in the principal amount of £21,300,000 (as amended and restated from time to time).
15. ***HSBC Pro-Forma Cash Collateral Agreement*** means HSBC Bank plc’s pro forma cash collateral agreement.
16. ***Impaired Agent*** means the Facility Agent at any time when:
    1. 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;
    2. the Facility Agent otherwise rescinds or repudiates a Finance Document;
    3. an Insolvency Event has occurred and is continuing with respect to the Facility Agent;
    4. unless, in the case of paragraph (a) above:
       1. its failure to pay is caused by:
          1. administrative or technical error; or
          2. a Disruption Event; and

payment is made within 3 Business Days of its due date; or

* + 1. the Facility Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

1. ***Information Package*** means the Reports, the Q&A Document and the Base Case Model.
2. ***Initial Investors*** means Alan Ryder and Mary-Ann Smyth.
3. ***Insolvency*** ***Event*** in relation to an entity means that the entity:
   1. is dissolved (other than pursuant to a consolidation, amalgamation or merger);
   2. becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
   3. makes a general assignment arrangement or composition with or for the benefit of its creditors;
   4. institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;
   5. has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (d) above and:
      1. results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
      2. is not dismissed, discharged, stayed, sisted or restrained in each case within 30 days of the institution or presentation thereof;
   6. has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
   7. seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets (other than, for so long as it is required by law or regulation not to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in paragraph (d) above);
   8. has a secured party take possession of all or substantially all its assets or has a distress, execution, diligence, arressment, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed, sisted or restrained, in each case within 30 days thereafter;
   9. causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (h) above; or
   10. takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.
4. ***Insurance Report*** means the insurance report dated 6 May 2015 prepared by Gallaghers relating to the Group.
5. ***Intellectual Property*** means:
   1. any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and
   2. the benefit of all applications and rights to use such assets of each Obligor (which may now or in the future subsist).
6. ***Interest Payment Date*** means a Cash Interest Payment Date or a PIK Interest Payment Date.
7. ***Interest Period*** means a Cash Interest Period or a PIK Interest Period.
8. ***Interpolated Historic Screen Rate*** means, in relation to any Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:
   1. the most recent applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and
   2. the most recent applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each for the currency of that Loan and each of which is as of a day which is no more than 5 days before the Quotation Day.

1. ***Interpolated Screen Rate*** means, in relation to any Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:
   1. the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and
   2. the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of the Specified Time for the currency of that Loan.

1. ***Investor Affiliate*** means any Holding Company of the Borrower, the Investors, each of their Affiliates, any trust of which the Investors or any of their Affiliates is a trustee, any partnership of which the Investors or any of their Affiliates is a partner and any trust, fund or other entity which is managed by, or is under the control of, the Investors or any of their Affiliates.
2. ***Investors*** means the Initial Investors and any other investor in the ordinary shares in the capital of the Borrower and any other person who makes a New Shareholder Loan and their or any subsequent successors or assigns or transferees.
3. ***ITA*** means the Income Tax Act 2007.
4. ***Joint*** ***Venture*** means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity.
5. ***Junior Creditor*** has the meaning given to that term in the Subordination Deed.
6. ***Junior Liabilities*** has the meaning given to that term in the Subordination Deed.
7. ***Legal Due Diligence Report*** means the legal due diligence report dated on or about the date of this Agreement prepared by Memery Crystal LLP relating to the Group and addressed to, and/or capable of being relied upon by, the Finance Parties.
8. ***Legal*** ***Opinion*** means any legal opinion delivered to the Facility Agent under Clause 4.1 (*Initial conditions precedent*) or Clause 28 (*Changes to the Obligors*).
9. ***Legal Reservations*** means:
   1. the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
   2. the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim; and
   3. any other matters which are set out as qualifications or reservations as to matters of law of general application in the Legal Opinions.
10. ***Lender*** means:
    1. an Original Lender; and
    2. any bank, financial institution, trust, fund or other entity which has become a Party as a Lender in accordance with Clause 26 (*Changes to the Lenders*),

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

1. ***Liabilities*** means all present and future liabilities and obligations at any time of any member of the Group to any Creditor under the Finance Documents, both actual and contingent and whether incurred solely or jointly or as principal or as surety or guarantor or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:
   1. any refinancing, novation, deferral or extension;
   2. 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;
   3. any claim for damages or restitution; and
   4. any claim as a result of any recovery by any Obligor 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.

1. ***Liabilities Sale*** means a Senior Liabilities Sale or a Junior Liabilities Sale (each as defined in the Subordination Deed).
2. ***LIBOR*** means, in relation to any Loan:
   1. the applicable Screen Rate as of the Specified Time for the currency of that Loan and for a period equal in length to the Cash Interest Period of that Loan; or
   2. as otherwise determined pursuant to Clause ‎12.1 (*Unavailability of Screen Rate*),

and if, in either case:

* + 1. that rate is less than 1.0 per cent., LIBOR shall be deemed to be 1.0 per cent.; or
    2. that rate is more than 2.5 per cent., LIBOR shall be deemed to be 2.5 per cent.

1. ***Limitation*** ***Acts*** means the Limitation Act 1980, the Foreign Limitation Periods Act 1984 and the Prescription and Limitation (Scotland) Act 1973 as amended by the Prescription and Limitation (Scotland) Act 1984.
2. ***LMA*** means the Loan Market Association.
3. ***Loan*** means a Facility A1 Loan or a Facility A2 Loan.
4. ***Long Leasehold Interest*** means a leasehold interest (including, in Scotland, the tenant’s interest under a lease) for a term of 7 years or longer.
5. ***Majority Lenders*** means a Lender or Lenders whose Commitments aggregate more than 662/3 per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 662/3 per cent. of the Total Commitments immediately prior to that reduction).
6. ***Make-Whole Premium*** means the higher of:
   1. all interest (including accrued interest and any related amounts and accrued but unpaid fees) that would otherwise accrue or become due on the the Relevant Prepayment Amount during the period (the ***Relevant Period***) from the relevant prepayment date until and including the date falling on the second anniversary of the Closing Date, calculated by applying the relevant interest rate (for, the avoidance of doubt, including the Margin plus Forecast LIBOR); and
   2. an amount equal to 3.00 per cent. of the Relevant Prepayment Amount.
7. For the purposes of this definition, ***Forecast LIBOR*** shall be:
   * 1. the applicable Screen Rate for the Relevant Period; or
     2. if no Screen Rate is available for the Relevant Period, a rate interpolated from Screen Rates, that are available for other periods,

and if, in either case:

* + - 1. that rate is less than 1.0 per cent., Forecast LIBOR shall be deemed to be 1.0 per cent.; or
      2. that rate is more than 2.5 per cent., Forecast LIBOR shall be deemed to be 2.5 per cent.

1. ***Mandatory*** ***Prepayment*** ***Account*** means an interest-bearing account:
   1. held in the United Kingdom by the Borrower with an Acceptable Bank approved by the Majority Lenders;
   2. identified in a letter from the Borrower to the Facility Agent as a Mandatory Prepayment Account;
   3. subject to Security in favour of the Security Agent which Security is in form and substance satisfactory to the Security Agent (acting on the instructions of the Majority Lenders); and
   4. from which no withdrawals may be made by the Borrower (or any other members of the Group) except as contemplated by this Agreement,

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

1. ***Margin*** means the Cash Pay Margin and the PIK Margin.
2. ***Mary-Ann Smyth*** means Mary-Ann Elizabeth Smyth of Craig Farm, Balmaclellan Castle Douglas, Kirkcudbright DG7 3QS.
3. ***Mary-Ann Smyth Loan*** means the loan made by Mary-Ann Smyth to the Borrower under the Mary-Ann Smyth Loan Document outstanding on the date of this Agreement (and not exceeding such amount thereafter) of £500,000 (plus accrued and unpaid interest).
4. ***Mary-Ann Smyth Loan Document*** means the loan agreement dated 10 November 2010 between Mary-Ann Smyth (as lender) and the Borrower (as borrower) in the principal amount of £500,000.
5. ***Material Adverse Effect*** means a material adverse effect on:
   1. the business, assets or financial condition of the Group taken as a whole; or
   2. the ability of the Obligors (taken as a whole) to perform their payment obligations under the Finance Documents and/or their obligations under Clause 23.2 (*Financial condition*); or
   3. the validity or enforceability of any of the Finance Documents or the Warrant Instrument in a manner which would be materially adverse to the interests of the Finance Parties under the Finance Documents or the Warrant Instrument (as the case may be).
6. ***Material Company*** means, at any time:
   1. an Obligor;
   2. a wholly-owned member of the Group that holds shares in an Obligor; or
   3. a Subsidiary of the Borrower which:
      1. is listed in Schedule 15 (*Material Companies*); or
      2. has either:
         1. earnings before interest, tax, depreciation and amortisation calculated on the same basis as EBITDA (as defined in Clause 23.1 (*Financial definitions*)) representing 5 per cent. or more of EBITDA, as defined in Clause 23.1 (*Financial definitions*)); or
         2. gross assets or turnover (excluding intra-group items) representing 5 per cent. or more of the gross assets or turnover of the Group, calculated on a consolidated basis.
7. Compliance with the conditions set out in paragraph (c)(ii)(B) above shall be determined by reference to the most recent Compliance Certificate supplied by the Borrower and/or the latest audited financial statements of that Subsidiary (consolidated in the case of a Subsidiary which itself has Subsidiaries) and the latest audited consolidated financial statements of the Group.
8. However, if a Subsidiary has been acquired since the date as at which the latest audited consolidated financial statements of the Group were prepared, the financial statements shall be deemed to be adjusted in order to take into account the acquisition of that Subsidiary (that adjustment being certified by the Borrower’s Auditors as representing an accurate reflection of the revised EBITDA (as defined in Clause 23.1 (*Financial definitions*), gross assets, net assets or turnover of the Group).
9. A report by the Monitoring Accountants that a Subsidiary is or is not a Material Company shall, in the absence of manifest error, be conclusive and binding on all Parties.
10. ***Monitoring* *Accountants*** means PricewaterhouseCoopers LLP, Ernst & Young LLP, Deloitte LLP or KPMG LLP or any other firm approved in advance by the Majority Lenders (such approval not to be unreasonably withheld or delayed).
11. ***Month*** means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:
    1. (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
    2. if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
    3. if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

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

1. ***M&A Loan*** means the loan originally made by Management & Adviesbureau Vermeer B.V. to EMN and subsequently novated to RSK Environment Limited under the EMN Loan Document outstanding on the date of this Agreement (and not exceeding such amount thereafter) of €98,543 (plus accrued but unpaid interest).
2. ***New Lender*** has the meaning given to that term in Clause 26 (*Changes to the Lenders*).
3. ***New Shareholder Injections*** means the aggregate amount subscribed for in cash by the Investors after the Closing Date for any ordinary shares in the Borrower or made available in cash by way of New Shareholder Loans.
4. ***New Shareholder Loan*** means any loan, or any instrument or agreement evidencing a loan (as the case may be) made by:
   1. the Investors; or
   2. any Investor Affiliate; or
   3. any other person who does not hold shares in the capital of the Borrower, but to whom the Facility Agent (acting on the instructions of the Majority Lenders) has given its prior consent to the making of such loan, instrument or agreement (such consent not to be unreasonably withheld or delayed, subject to the right of the Facility Agent to withhold consent if the proposed investor is a competitor of the Original Lenders, private equity fund or distressed debt or equity fund),
5. to the Borrower after the Closing Date and not included in the Funds Flow Statement, and which is subordinated pursuant to the terms of this Agreement and the Subordination Deed pursuant to the terms of, and as defined in, the Subordination Deed or otherwise on terms satisfactory to the Majority Lenders.
6. ***Notifiable******Debt******Purchase******Transaction*** has the meaning given to that term in paragraph (b) of Clause 27.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Investor Affiliates*).
7. ***Obligor*** means the Borrower or a Guarantor.
8. ***Obligors’ Agent*** means the Borrower, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to Clause 2.3 (*Obligors’ Agent*).
9. ***Obligors’ Intra-Group Receivables*** means in relation to a member of the Group, any liabilities and obligations owed to any Obligor (whether actual or contingent and whether incurred solely or jointly) by that member of the Group.
10. ***OFAC*** means the Office of Foreign Assets Control of the US Department of the Treasury.
11. ***Official*** means any official, employee or representative of, or any other person acting in an official capacity for or on behalf of, any (i) national, federal, state, provincial or local government, including any entity owned or controlled thereby, (ii) political party, party official or political candidate, or (iii) public international organisation.
12. ***Original Financial Statements*** means the Borrower’s consolidated audited financial statements for its Financial Year ended 31 March 2014.
13. ***Original Jurisdiction*** means, in relation to an Original Obligor, the jurisdiction under whose laws that Original Obligor is incorporated as at the date of this Agreement or, in the case of an Additional Guarantor, as at the date on which that Additional Guarantor becomes Party as a Guarantor.
14. ***Original Obligations*** has the meaning given to that term in paragraph (a) (i) of Clause 30.2 (*Parallel Debt*).
15. ***Original*** ***Obligor*** means the Borrower or an Original Guarantor.
16. ***Other Liabilities*** means, in relation to a member of the Group, any trading and other liabilities and obligations (not being Borrowing Liabilities or Guarantee Liabilities) it may have to a Junior Creditor.
17. ***Parallel Debt Security*** has the meaning given to that term in paragraph (a) of Clause 30.2 (*Parallel Debt*).
18. ***Parallel Obligations*** has the meaning given to that term in paragraph (a) (i) of Clause 30.2 (*Parallel Debt*).
19. ***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.
20. ***Party*** means a party to this Agreement.
21. ***Payment*** means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Liabilities (or other liabilities or obligations).
22. ***Pensions*** ***Regulator*** means the body corporate called the Pensions Regulator established under Part I of the Pensions Act 2004.
23. ***Perfection Requirements*** means the making or procuring of appropriate registrations, filings, endorsements, notarisations, stampings and/or notifications of the Transaction Security Documents necessary in any Relevant Jurisdiction for the enforceability or production in evidence of the relevant Transaction Security Document **provided** that, in each case, the same is performed not later than the earlier of (i) the date required by law, and (ii) the date (if any) specified in the Finance Documents for performance of the same.
24. ***Permitted Acquisition*** means:
    1. the Acquisition;
    2. an acquisition by a member of the Group of an asset sold, leased, transferred or otherwise disposed of by another member of the Group in circumstances constituting a Permitted Disposal;
    3. an acquisition of shares or securities pursuant to a Permitted Share Issue;
    4. an acquisition of securities which are Cash Equivalent Investments so long as those Cash Equivalent Investments become subject to the Transaction Security as soon as is reasonably practicable;
    5. the incorporation of a company which on incorporation becomes a member of the Group, but only if:
       1. that company is incorporated in the United Kingdom with limited liability;
       2. that company is at all times a wholly-owned Subsidiary of RSK Environment Limited; and
       3. if the shares in the company are owned by an Obligor, Security over the shares of that company, in form and substance satisfactory to the Facility Agent, is created in favour of the Security Agent within 30 days of the date of its incorporation; or
    6. an acquisition (not being an acquisition by the Borrower) with the prior written consent of the Majority Lenders (such consent not to be unreasonably withheld or delayed, provided that without prejudice to the generality of the foregoing it shall not be unreasonable for the Majority Lenders to withhold their consent where the proposed acquisition:
       * 1. is of less than 80 per cent. of the membership interests of an entity; or
         2. is not by RSK Environment Limited or a wholly-owned Subsidiary of RSK Environment Limited; or
         3. is of an entity whose Original Jurisdiction is not in the United Kingdom; or
         4. results in an increase in Adjusted Net Leverage (pro forma for the acquisition in question and any debt incurred or assumed by the Group in relation thereto)).
25. ***Permitted Deferred Consideration*** means Category 1 Permitted Deferred Consideration or Category 2 Permitted Deferred Consideration.
26. ***Permitted*** ***Disposal*** means any sale, lease, licence, transfer or other disposal which, except in the case of paragraph (b) below, is on arm’s length terms:
    1. of trading stock or cash made by any member of the Group in the ordinary course of trading of the disposing entity;
    2. of any asset by a member of the Group other than the Borrower (the ***Disposing Company***) to another member of the Group other than the Borrower (the ***Acquiring Company***), but if:
       1. the Disposing Company is an Obligor, the Acquiring Company must also be an Obligor;
       2. the Disposing Company had given Security over the asset, the Acquiring Company must give equivalent Security by way of Transaction Security over that asset; and
       3. the Disposing Company is a Guarantor, the Acquiring Company must be a Guarantor guaranteeing at all times an amount no less than that guaranteed by the Disposing Company;
    3. of assets (other than shares, businesses, Real Property or Intellectual Property) in exchange for other assets comparable or superior as to type, value and quality;
    4. of obsolete, redundant or uneconomic vehicles, plant and equipment for cash or by way of exchange or part-exchange for assets comparable or superior as to type, value and quality and (in the case of part-exchange) cash;
    5. of Cash Equivalent Investments for cash or in exchange for other Cash Equivalent Investments;
    6. constituted by a licence of intellectual property rights permitted by Clause 24.34 (*Intellectual Property*);
    7. to a Joint Venture, to the extent permitted by Clause 24.12 (*Joint ventures*);
    8. arising as a result of any Permitted Security; and
    9. of assets (other than shares) for cash where the higher of the market value and net consideration receivable (when aggregated with the higher of the market value and net consideration receivable for any other sale, lease, licence, transfer or other disposal not allowed under the preceding paragraphs) does not exceed £500,000 (or its equivalent) in total during the term of this Agreement.
27. ***Permitted Distribution*** means:
    1. the payment of a dividend to the Borrower or any of its wholly-owned Subsidiaries;
    2. the payment of a dividend by any of the following members of the Group (each a ***Relevant Subsidiary***):
       1. RSK Benelux;
       2. RSK Germany GmbH, a private limited liability company (*Gesellschaft mit beschränkter Haftung*) incorporated under the laws of Germany, having its registered office at Ulmer Str. 239, 70327 Stuttgart, Germany, and with company number HRB 729478;
       3. RSK Romania s.r.l., a company incorporated under the laws of Romania, having its registered office at Str Spatarului 33, Apt 1, Sector 2, Bucharest, Romania, and with company number 230867;
       4. RSK Environment LLC, a limited liability company incorporated under the laws of the UAE, having its registered office at Suite 1201, Al Gaith Tower, PO Box 46112, Hamdan Bin Mohammed Street, Abu Dhabi, and with commercial registration number 219692;
       5. RSK Land and Development Engineering Limited, a private limited liability company incorporated under the laws of England and Wales, having its registered office at Spring Lodge, 172 Chester Road, Helsby, Cheshire WA6 0AR, United Kingdom, and with company number 04723837;
       6. RSK Europe BVBA, a private limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of Belgium, having its registered office at Jaargetijden 100-102, bus 30, 1050 Brussels, Belgium, and with company number 0821-407-678;
       7. RSK Albania SH.P.K., a company incorporated on 3 May 2006 under the laws of Albania, having its registered office at Rr. Barrikadave, 64, Tirana, Albania, with no registered company number;
       8. RSK ESA BVBA, a private limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of Belgium, having its registered office at Jaargetijden 100-102, bus 30, 1050 Brussels, Belgium, and with company number 0280-230-370;
       9. RSK Radiological Limited, a private limited liability company incorporated under the laws of England and Wales, having its registered office at Spring Lodge, 172 Chester Road, Helsby, Cheshire WA6 0AR, United Kingdom, and with company number 06367880;
       10. RSK Environment w.l.l., a company incorporated under the laws of Qatar, having its registered office at Office 937, 8th and 9th Floors, Al Fardan Office Tower, PO Box 31316, West Bay, Doha, Qatar, and with company number 01/25582;
       11. RSK Polska SP z.o.o., a private limited company incorporated under the laws of Poland, having its registered office at ul. Al Jerozolimskie 56C, Warsaw 00-803, Poland, and with company number 300981; or
       12. EMN,

**provided that** the amount of any dividend paid by a Relevant Subsidiary must be split pro rata between: (A) shareholders in that Relevant Subsidiary that are members of the Group; and (B) shareholders in that Relevant Subsidiary that are not members of the Group, according to their respective shareholdings in the Relevant Subsidiary or (where applicable) the relevant Existing Shareholder Agreements (as set out in the Legal Due Diligence Report or as otherwise amended in accordance with this Agreement); or

* 1. if the Majority Lenders have given their prior written consent, or if
     1. Adjusted Net Leverage (calculated on the basis applicable to the Financial Covenant in paragraph (a) of Clause 23.2 (*Financial condition*), and pro forma for the proposed dividend) is less than 1.75:1.00; and
     2. the Group will be compliant with the Financial Covenants set out in Clause 23.2 (*Financial Condition*) during the remainder of the then current Relevant Period in which the Permitted Distribution Certificate is delivered, and during the Relevant Period starting on the First Quarter Date after the date of the Permitted Distribution Certificate; and
     3. no Default is continuing or would occur following any such payment; and
     4. the Group (excluding the RSK Benelux Group) will have Cash of at least £2,000,000 after payment of the proposed dividend; and
     5. the Borrower delivers a Permitted Distribution Certificate to the Facility Agent confirming that the conditions in paragraphs (i) to (iv) above are satisfied,

the payment of a dividend by the Borrower to the Investors, **provided that** no person (other than a Finance Party) is in breach of the Subordination Deed and the date upon which any such dividend is paid (the ***Distribution Date***) is not later than 10 Business Days after the date upon which either the Majority Lenders give their prior written consent to that dividend or the date of the relevant Permitted Distribution Certificate (as applicable).

1. ***Permitted Distribution Certificate*** means a certificate signed by a director of the Borrower substantially in the form set out in Schedule 12 (*Form of Permitted Distribution Certificate*).
2. ***Permitted*** ***Financial*** ***Indebtedness*** means Financial Indebtedness:
   1. arising in respect of Permitted Deferred Consideration or the Existing Loans in each case as in force on the date of this Agreement and subject always to the terms of this Agreement and the Subordination Deed;
   2. arising in respect of Acqusition Deferred Consideration or the completion account arrangement set out in clause 3 (*Consideration*) of the Acquisition Agreement in each case subject always to the terms of this Agreement and the Subordination Deed;
   3. arising under a Permitted Loan or a Permitted Guarantee or as permitted by Clause 24.38 (*Treasury Transactions*);
   4. of any person acquired by a member of the Group after the Closing Date which is incurred under arrangements in existence at the date of acquisition, but not incurred or increased or having its maturity date extended in contemplation of, or since, that acquisition, and outstanding only for a period of three months following the date of acquisition;
   5. arising under a New Shareholder Loan;
   6. arising under the EMN Loan Document;
   7. the cash pooling arrangements entered into between certain members of the Group and HSBC Bank plc, provided that the aggregate Financial Indebtedness of the Group owed or owing to HSBC Bank plc, after giving effect to the netting provided for by such arrangements, does not exceed £100;
   8. arising under the HSBC Ancillary Facilities provided that the outstanding amount of such facilities shall not exceed £500,000 (or its equivalent in other currencies) in aggregate at any time;
   9. under finance, capital or hire purchase leases of vehicles, plant, equipment or computers provided that the aggregate capital value of all such items so leased or hired (as the case may be) under outstanding leases by members of the Group does not exceed in aggregate £3,200,000 (or its equivalent in other currencies at any time);
   10. indebtedness incurred in the ordinary course of business in relation to any part time workers arrangements in accordance with the German Old Age Employee Part Time Act (*Altersteilzeitgesetz*) or pursuant to section 7 (d) of book IV of the German Social Act (*Sozialgesetzbuch*) or any other social security legislation or any pension schemes for current and/or former managing directors;
   11. arising under the Existing Facilities until the Closing Date;
   12. arising under the Commerzbank Facility;
   13. arising under the HSBC Bank PLC (i) corporate card facilities in a maximum aggregate amount not exceeding £280,000 and (ii) BACs facility in a maximum aggregate amount not exceeding £1,500,000, in each case existing on the date of this Agreement;
   14. not permitted by the preceding paragraphs or as a Permitted Transaction, not being Financial Indebtedness arising under any Existing Loan or any other Loan outstanding from time to time between any member of the Group and the Investors, and the outstanding principal amount of which does not exceed £250,000 (or its equivalent) in aggregate for the Group at any time.
3. ***Permitted Guarantee*** means:
   1. the endorsement of negotiable instruments, or the issue of guarantees to suppliers on customary terms in the ordinary course of trade;
   2. any performance or similar bond guaranteeing performance by a member of the Group under any contract entered into in the ordinary course of trade;
   3. any guarantee of a Joint Venture to the extent permitted by Clause 24.12 (*Joint ventures*);
   4. any guarantee permitted under Clause 24.29 (*Financial Indebtedness*);
   5. any guarantee in connection with the German Old Age Employee Part-Time Act (*Altersteilzeitgesetz*), the German Social Act (*Sozialgesetzbuch*) or any other social legislation or any pension schemes for current and/or former managing directors;
   6. any guarantee given in respect of the netting or set-off arrangements permitted pursuant to paragraph (b) of the definition of “Permitted Security”; or
   7. any indemnity given in the ordinary course of the documentation of an acquisition or disposal transaction which is a Permitted Acquisition or Permitted Disposal which indemnity is in a customary form and subject to customary limitations.
4. ***Permitted Joint Venture*** means any investment in any Joint Venture where:
   1. the Joint Venture is incorporated in the United Kingdom;
   2. the Joint Venture is engaged in a business substantially the same as that carried on by the Group; and
   3. in any Financial Year of the Borrower, the aggregate (the ***Joint Venture Investment***) of:
      1. all amounts subscribed for shares in, lent to, or invested in all such Joint Ventures by any member of the Group;
      2. the contingent liabilities of any member of the Group under any guarantee given in respect of the liabilities of any such Joint Venture; and
      3. the market value of any assets transferred by any member of the Group to any such Joint Venture,

does not exceed £250,000 (or its equivalent in other currencies) in any Financial Year.

1. ***Permitted Loan*** means:
   1. any trade credit extended by any member of the Group to its customers on normal commercial terms and in the ordinary course of its trading activities;
   2. a loan made to a Joint Venture to the extent permitted under Clause 24.12 (*Joint ventures*);
   3. a loan made by an Obligor to another Obligor or made by a member of the Group which is not an Obligor to another member of the Group (other than the Borrower);
   4. any loan made by an Obligor (other than the Borrower) to a member of the Group which is not an Obligor so long as the aggregate amount of the Financial Indebtedness under any such loans does not exceed £250,000 (or its equivalent) at any time;
   5. a loan made by a member of the Group to an employee or director of any member of the Group if the amount of that loan when aggregated with the amount of all loans to employees and directors by members of the Group outstanding at any time does not exceed £100,000 (or its equivalent);
   6. any loan made by the Borrower to the RSK Group Employee Benefit Trust provided that such loans do not exceed £100,000 in any 12 month rolling period; and
   7. any loan (other than a loan made by a member of the Group to another member of the Group or a loan detailed in paragraphs (a) to (f) above) so long as the aggregate amount of the Financial Indebtedness outstanding under any such loans does not exceed £100,000 (or its equivalent) at any time,

so long as in the case of paragraph (d) above:

* + 1. the creditor of such Financial Indebtedness shall (if it is an Obligor) grant security over its rights in respect of such Financial Indebtedness in favour of the Secured Parties on terms acceptable to the Facility Agent (acting on the instructions of the Majority Lenders); and
    2. to the extent required by the Subordination Deed, the creditor and (if the debtor is a member of the Group) the debtor of such Financial Indebtedness are or become party to the Subordination Deed as an Intra-Group Lender and a Debtor (as defined, in each case, in the Subordination Deed) respectively.

1. ***Permitted Payment*** means a scheduled payment of rent to the relevant landlord under an Existing Group Headlease.
2. ***Permitted Security*** means:
   1. any lien arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by any member of the Group;
   2. any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of members of the Group but only so long as (i) such arrangement does not permit credit balances of Obligors to be netted or set off against debit balances of members of the Group which are not Obligors and (ii) such arrangement does not give rise to other Security over the assets of Obligors in support of liabilities of members of the Group which are not Obligors except, in the case of (i) and (ii) above, to the extent such netting, set-off or Security relates to, or is granted in support of, a loan permitted pursuant to paragraph (d) of the definition of “Permitted Loan”;
   3. any payment or close out netting or set-off arrangement pursuant to any Treasury Transaction or foreign exchange transaction entered into by a member of the Group which constitutes Permitted Financial Indebtedness, excluding any Security or Quasi‑Security under a credit support arrangement;
   4. any Security or Quasi-Security over or affecting any asset acquired by a member of the Group after the Closing Date if:
      1. the Security or Quasi-Security was not created in contemplation of the acquisition of that asset by a member of the Group;
      2. the principal amount secured has not been increased, or any repayment date extended, in contemplation of or since the acquisition of that asset by a member of the Group; and
      3. the Security or Quasi-Security is removed or discharged within three months of the date of acquisition of such asset;
   5. any Security or Quasi-Security over or affecting any asset of any company which becomes a member of the Group after the Closing Date, where the Security or Quasi-Security is created prior to the date on which that company becomes a member of the Group if:
      1. the Security or Quasi-Security was not created in contemplation of the acquisition of that company;
      2. the principal amount secured has not increased, or any repayment date extended, in contemplation of or since the acquisition of that company; and
      3. the Security or Quasi-Security is removed or discharged within three months of that company becoming a member of the Group;
   6. any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a member of the Group in the ordinary course of trading and on the supplier’s standard or usual terms and not arising as a result of any default or omission by any member of the Group;
   7. until the Benelux Security Discharge Date, the Benelux Security;
   8. any other Security which cannot be prohibited under section 1136 of the German Civil Code (*Bürgerliches Gesetzbuch*);
   9. the Rent Deposit Deeds, provided that the only security provided thereunder shall be over cash provided to secure rent obligations and the maximum aggregate amount of cash so provided under:
      1. the Rent Deposit Deed under paragraph (a) of such definition, does not exceed £60,000 (or equivalent); and
      2. the Rent Deposit Deed under paragraph (b) of such definition, does not exceed £55,000 (or equivalent);
   10. any Security or Quasi-Security arising in connection with workers’ compensation, unemployment insurance, the German Old Age Employee Part-Time Act (*Altersteilzeitgesetz*), the German Social Act (*Sozialgesetzbuch*) or other types of social security legislation or any pension schemes for current and/or former managing directors;
   11. any Security or Quasi Security arising under the HSBC Cash Collateral Agreement;
   12. any Security or Quasi Security arising under the Commerzbank Security;
   13. any Security arising under the Existing Security Agreements until and including the Closing Date;
   14. any Quasi-Security arising as a result of a disposal which is a Permitted Disposal;
   15. any Security or Quasi-Security arising as a consequence of any finance or capital lease permitted pursuant to paragraph (e) of the definition of “Permitted Financial Indebtedness”;
   16. any Security provided with the written consent of the Facility Agent (acting on the instructions of the Majority Lenders); or
   17. any Security (other than in respect of shares, businesses, Properties, Intellectual Property or bank accounts) securing indebtedness (not being Financial Indebtedness arising under any Existing Loan or any other Loan outstanding from time to time between any member of the Group and the Investor), the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other indebtedness which has the benefit of Security given by any member of the Group (other than the Borrower) other than any permitted under paragraphs (a) to (o) above), does not exceed £100,000 (or its equivalent in other currencies).
3. ***Permitted*** ***Share*** ***Issue*** means an issue of:
   1. shares by a member of the Group which is a wholly-owned Subsidiary of the Borrower to its immediate Holding Company and where (if the existing shares of the Subsidiary are the subject of the Transaction Security) the newly-issued shares also become subject to the Transaction Security on the same terms;
   2. share capital in the Borrower to a Warrantholder (or a person nominated by such a person) issued pursuant to the Warrant Instrument; and
   3. ordinary shares by the Borrower to the Investors or to an employee of the Group, paid for in full in cash upon issue and which by their terms are not redeemable until at least six Months after the Discharge Date (as defined in the Subordination Deed) and where (i) such issue does not lead to a Change of Control of the Borrower, and (ii) such issue is made in accordance with the terms of the Warrant Instrument.
4. ***Permitted Transaction*** means:
   1. the Post-Closing Reorganisation;
   2. any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the Finance Documents;
   3. the solvent liquidation or reorganisation of any member of the Group which is not an Obligor so long as any payments or assets distributed as a result of such liquidation or reorganisation are distributed to other members of the Group; or
   4. transactions (other than (i) any sale, lease, license, transfer or other disposal, (ii) the granting or creation of Security or (iii) the incurring or permitting to subsist of Financial Indebtedness) conducted in the ordinary course of trading on arm’s length terms.

***PIK Interest Payment Date*** means the last day of each PIK Interest Period.

***PIK Interest Period*** means in relation to a Loan and the interest thereon to the extent payable in kind pursuant to paragraph (b) of Clause 10.2 (*Payment of Interest*) each period determined in accordance with Clause 11 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 10.3 (*Default interest*).

***PIK Margin*** means 4.25 per cent. per annum.

1. ***Pipeline Comments Document*** means the pipeline comments document relating to the Group’s business dated 12 March 2015.
2. ***PLC Shareholder Agreement*** means the shareholders agreement dated 29 March 2006 (and as amended and restated on or about the date of this Agreement) originally between Alan Ryder, Susan Sljivic, Mary-Ann Smyth, Ian Strudwick, Alan Ryder Investments Limited, 3H Investments Limited, Nigel Board, David Taylor, Jenny Wilson, John Jones, Peter Witherington, Paul Upton, Gary Charnock and RSK ENSR Group plc in respect of the Borrower.
3. ***PLC Shareholder Agreement Amendment Agreement***  means the amendment agreement to the PLC Shareholder Agreement dated on or around the date of this agreement between Alan Ryder, Susan Sljivic, Mary-Ann Smyth, Ian Strudwick, Alan Ryder Investments Limited, 3H Investments Limited, Nigel Board, David Taylor, Jenny Wilson, John Jones, Peter Witherington, Paul Upton, Gary Charnock, Rob Jaques, Adrian Marsh, Karin Borland, Stuart Borland, Anne Charnock, Sarah Mogford, Ian Sims, Shon Williams, Fergus Collie, Nick Selves, Ruth Allen, Carolyn Young, Alec Handcock, Keith Steed, Permira Credit Solutions II Senior S.A., Permira Credit Solutions II L.S. S.A., and Permira Credit Solutions II Master L.S. S.A. and RSK Group plc.
4. ***Post-Closing Reorganisation*** means the transfers of shares in any Subsidiary listed in Part D of Schedule 1 (*The Original Parties*) to RSK Environment Limited after the Closing Date.
5. ***Post-Closing Reorganisation Documents*** means:
   1. the sale and purchase agreement pursuant to which the shares in each Subsidiary listed in Part D of Schedule 1 (*The Original Parties*) are transferred to RSK Environment Limited within 30 days of the Closing Date; and
   2. a copy of all share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant parties to the Post-Closing Reorganisation,

copies of each of which are to be delivered by the Borrower to the Facility Agent pursuant to paragraph (e) of Clause 24.42 (*Conditions subsequent*).

***Properties*** means each of the properties listed in the Security Agreement or in any accession deed in respect thereof and any other Real Property with a market value in excess of £250,000 acquired by a member of the Group after the date of this Agreement. A reference to a “Property” is a reference to any of the Properties.

1. ***Qualifying*** ***Lender*** has the meaning given to that term in Clause 15 (*Tax Gross Up and Indemnities*).
2. ***Quarter*** ***Date*** means the last day of a Financial Quarter.
3. ***Quarterly Financial Statements*** means the financial statements delivered pursuant to paragraph (b) of Clause ‎‎22.2 (*Financial statements*).
4. ***Quasi-Security*** has the meaning given to that term in Clause 24.19 (*Negative pledge*).
5. ***Quotation*** ***Day*** means the first day of any period for which an interest rate is to be determined.
6. ***Q&A Document*** means the due diligence questionnaire with final responses from the Borrower dated on or about the date of this Agreement (together with all supporting material) delivered by or on behalf of the Borrower in connection therewith, in each case in the agreed form.
7. ***Real Property*** means:
   1. any freehold, leasehold or immovable property (including, in Scotland, any heritable property or the tenant’s interest in any property held under a long lease); and
   2. any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that freehold, leasehold or immovable property.
8. ***Receiver*** means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.
9. ***Reference Bank Quotation*** means any quotation supplied to the Facility Agent by a Base Reference Bank.
10. ***Related*** ***Fund*** in relation to a fund (the ***first*** ***fund***), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.
11. ***Relevant*** ***Jurisdiction*** means, in relation to an Obligor:
    1. its Original Jurisdiction;
    2. any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;
    3. any jurisdiction where it conducts its business; and
    4. the jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it.
12. ***Relevant*** ***Period*** has the meaning given to that term in Clause 23.1 (*Financial definitions*).
13. ***Relevant Prepayment Amount*** has the meaning given to that term in paragraph (a) of Clause 6.2 (*Make-Whole Premium and Prepayment Fees*).

***Relevant Proceeds*** means Insurance Proceeds (as defined in Clause 8.2 (*Insurance Claims*)), Recovery Proceeds (as defined in Clause 8.3 (*Report Claims*)) and Relevant Disposal Proceeds as defined in Clause 8.4 (*Disposal Proceeds*)).

1. ***Rent Deposit Deeds*** means each of:
   * 1. rent deposit deed dated 24 April 2009 granted by the Borrower in favour of David Shamash and Yeshayow Shooly Shamash; and
     2. rent deposit deed dated 10 February 2010 granted by the Borrower in favour of LCP Real Estate Limited.
2. ***Repeating*** ***Representations*** means each of the representations set out in Clause 21.2 (*Status*) to Clause 21.7 (*Governing law and enforcement*), Clause 21.11 (*No default*), paragraphs (d), (f) and (g) of Clause 21.13 (*Original Financial Statements*), Clause 21.18 (*Sanctions*), Clause 21.21 (*Ranking*) to Clause 21.23 (*Legal and beneficial ownership*) and Clause 21.32‎ (*Centre of Main Interests and Establishments*).
3. ***Reports*** means the Accountants’ Report, the Legal Due Diligence Report, the Tax Report, the Insurance Report, the Contract Summary and the Existing Headlease Summaries.
4. ***Representative*** means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.
5. ***Resignation*** ***Letter*** means a letter substantially in the form set out in Schedule 10 (*Form of Resignation Letter*).
6. ***Restricted Party*** means any person, organisation or vessel:
   1. listed on a Sanctions List;
   2. that is, or is part of, a government of a Sanctioned Country;
   3. owned or controlled by, or acting on behalf of, any of the foregoing;
   4. resident or located in, operating from, or incorporated under the laws of, a Sanctioned Country; or
   5. to the best of the knowledge of any Obligor (acting with due care and enquiry), otherwise a target of any Sanctions.
7. ***Restrictions Notice*** means a “restrictions notice” within the meaning of paragraph 1(2) of Schedule 1B to the Companies Act 2006 and for the purposes of paragraph 1 of that Schedule.
8. ***RSK Articles*** means the articles of association of the Borrower.
9. ***RSK Benelux*** means RSK Benelux BVBA, a private limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of Belgium, having its registered office at 3500 Hasselt (Belgium), Sittardlaan 34, RPR Hasselt, and with company number 0480-230-370.
10. ***RSK Benelux Group*** means RSK Benelux and its direct Subsidiaries from time to time.
11. ***RSK Environment*** means RSK Environment Limited, a private limited company incorporated under the laws of Scotland, having its registered office at 34 Albyn Place, Aberdeen, AB10 1FW and with company number SC115530.
12. ***Sanctioned Country*** means any country or other territory subject to a general export, import, financial or investment embargo under any Sanctions including, as of the date of this Agreement, Crimea, Cuba, Iran, North Korea, Sudan and Syria.
13. ***Sanctions*** means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by any Sanctions Authority.
14. ***Sanctions Authority*** means:
    1. the United States;
    2. the United Nations Security Council;
    3. the European Union or any member state thereof; or
    4. any governmental agency or institution of any of the foregoing which has the power to impose, administer or enforce economic or financial sanctions or trade embargoes including Her Majesty’s Treasury, OFAC, the US Department of Commerce and the US Department of State.
15. ***Sanctions List*** means the OFAC list of Specially Designated Nationals and Blocked Persons, the Consolidated List of Financial Sanctions Targets maintained by Her Majesty’s Treasury, or any list of targeted persons issued under the Sanctions of any other country, each as amended, supplemented or substituted from time to time.
16. ***Scottish Floating Charge*** means a floating charge governed by the laws of Scotland granted or to be granted by any Obligor incorporated in Scotland in favour of the Security Agent in agreed form.
17. ***Scottish Share Pledge*** means a share pledge governed by the laws of Scotland in respect of the shares in any Obligor incorporated in Scotland granted or to be granted by the Holding Company of such Obligor in favour of the Security Agent in agreed form.
18. ***Screen Rate*** means in relation to LIBOR, the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant currency and period displayed on pages LIBOR01 or LIBOR02 of the Bloomberg screen (or any replacement Bloomberg page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Bloomberg. If such page or service ceases to be available, the Facility Agent may specify another page or service displaying the relevant rate after consultation with the Borrower.
19. ***Secured Obligations*** means any and all present and future sums, liabilities and obligations (actual or contingent and whether owed solely or jointly with any other person and whether as principal or as surety or guarantor) owing, payable or incurred by any Obligor or any Debtor to any Secured Party in any currency under the Finance Documents.
20. ***Secured*** ***Parties*** means each Finance Party from time to time party to this Agreement and any Receiver or Delegate.
21. ***Security*** means a mortgage, standard security, charge, pledge, lien, assignment or assignation by way of security, right in security, right of set‑off, right to retention of title or other encumbrance, whether fixed or floating, over any present or future property, assets or undertaking or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.
22. ***Security Agreement*** means the English law all-asset debenture dated on or about the date of this Agreement between, among others, each of the Original Obligors incorporated in England and Wales and Scotland as chargors and the Security Agent.
23. ***Selection*** ***Notice*** means a notice substantially in the form set out in Schedule 6 (*Selection Notice Applicable to a Term Loan*) given in accordance with Clause 11 (*Interest Periods*) in relation to a Facility.
24. ***Senior Debt Disposal*** means any disposal of any Liabilities or Obligors’ Intra-Group Receivables pursuant to paragraphs (iv) or (v) of Clause ‎30.5 (*Facilitation of distressed disposals*).
25. ***Senior Liabilities Sale*** means a Senior Debt Disposal pursuant to paragraph (v) of Clause ‎30.5 (*Facilitation of distressed disposals*).
26. ***Senior Management*** means each and all of Alan Ryder and Stefan Bangels.

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

1. ***Shareholder Loan*** means:
   1. an Existing Loan; and
   2. a New Shareholder Loan.
2. ***Short Term Working Capital Loan*** means the aggregate sum of £2,682,000 plus accrued interest owing to A. Ryder, E. Chapman, G Charnock,  J Jones and R Jones by the Borrower, which will be repaid on the Closing Date.
3. ***Specified*** ***Time*** means a time determined in accordance with Schedule 14 (*Timetables*).
4. ***Stats Note Loan*** means the loan made by Fergus Collie, Clive Griffiths, Gareth Jones, Annette Jones, Ian Sims and Shon Williams to the Borrower under the Stats Note Loan Document outstanding on the date of this Agreement (and not exceeding such amount thereafter) of £882,244.
5. ***Stats Note Loan Document*** means the loan note instrument dated 24 January 2008 and amended by the supplemental deed dated 13 June 2014 between Fergus Collie, Clive Griffiths, Gareth Jones, Annette Jones, Ian Sims and Shon Williams (as noteholders) and the Borrower (as issuer) in the principal amount of £1,245,521.
6. ***Structural Soils Loan*** means the loan made by the Structural Soils Limited Retirement Benefits Plan to Structural Soils Limited under the Structural Soils Loan Document outstanding on the date of this Agreement (and not exceeding such amount thereafter) of £130,257.80 (plus £43,592.00 of accrued but unpaid interest).
7. ***Structural Soils Loan Document*** means the loan agreement dated 26 November 2012 between the Structural Soils Retirement Benefits Plan (as lender) and Structural Soils Limited (as borrower) in the principal amount of £130,257.80.
8. ***Subordination Deed*** means the subordination deed dated on or about the date of this Agreement, between, amongst others, the Borrower, and the companies listed therein as Original Debtors (as defined therein).
9. ***Subsidiary*** means a subsidiary within the meaning of section 1159 of the Companies Act 2006 or a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006
10. ***Supplemental Funds*** ***Flow*** ***Statement*** has the meaning given to it in the Amendment and Restatement Agreement.
11. ***Supplemental Security Agreement*** has the meaning given to it in the Amendment and Restatement Agreement.
12. ***Supplemental Transaction Security Document*** has the meaning given to it in the Amendment and Restatement Agreement.
13. ***Target*** means Dynamic Sampling UK Limited, a limited liability company incorporated under the laws of England and Wales and with registration number 04143018.

***Target Group*** means the Target and its Subsiddiaries.

1. ***Target Shares*** means all the shares in the Target and all warrants and options (if any) in respect of the share capital of the Targevvvt.
2. ***Tax*** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).
3. ***Tax Deduction*** has the meaning given to that term in Clause 15 (*Tax Gross Up and Indemnities*).
4. ***Tax Report*** means the tax report dated 20 May 2015 prepared by PricewaterhouseCoopers LLP relating to the Group.
5. ***Tenon Loan*** means the loans made by Tenon Investment Limited to RSK Environment LLC under the Tenon Loan Documents outstanding on the date of this Agreement (and not exceeding such amount thereafter) of £50,000 (plus £4,000 of accrued but unpaid interest) and $100,000 (plus $8,000 of accrued but unpaid interest).
6. ***Tenon Loan Document*** means:
   1. the loan agreement dated 18 December 2014 between Tenon Investment Limited (as lender) and RSK Environment LLC (as borrower) in the principal amount of £50,000; and
   2. the loan agreement dated 4 November 2014 between Tenon Investment Limited (as lender) and RSK Environment LLC (as borrower) in the principal amount of $100,000.
7. ***Termination Date*** means the date falling six years after the Closing Date.
8. ***Total*** ***Commitments*** means the aggregate of the Facility A1 Commitments and the Facility A2 Commitments, being £37,600,000 at the Effective Date.
9. ***Total Purchase Price*** means in respect of an acquisition, the consideration (including associated costs and expenses) for the acquisition and any Financial Indebtedness or other assumed actual or contingent liability, in each case remaining in the acquired company (or any such business) at the date of acquisition.
10. ***Trade Instruments*** has the meaning given to that term in Clause 23.1 (*Financial definitions*).

***Transaction Costs*** means all fees, costs and expenses, stamp, registration and other Taxes incurred by the Borrower or any other member of the Group in connection with a Transaction Document or negotiations with other parties with the aim of obtaining debt finance for the Group.

***Transaction Documents*** means the Acquisition Documents, the Finance Documents, the Warrant Instrument, the Existing Loan Documents, the Existing Shareholder Agreements, the Closing Reorganisation Documents and the Post-Closing Reorganisation Documents.

1. ***Transaction*** ***Security*** means the Security created or expressed to be created in favour of the Security Agent pursuant to the Transaction Security Documents.
2. ***Transaction Security Documents*** means each of the documents listed as being a Transaction Security Document in Schedule 4 (*Transaction Security Documents*) and each Supplemental Transaction Security Document in schedule 3 (*Supplemental* *Transaction Security Documents*) to the Amendment and Restatement Agreement,together with any other document entered into by any Obligor creating or expressed to create any Security in favour of the Security Agent over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents.
3. ***Transfer*** ***Certificate*** means a certificate substantially in the form set out in Schedule 7 (*Form of Transfer Certificate*) or any other form agreed between the Facility Agent and the Borrower.
4. ***Transfer*** ***Date*** means, in relation to an assignment or a transfer, the later of:
   1. the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
   2. the date on which the Facility Agent executes the relevant Assignment Agreement or Transfer Certificate.
5. ***Treasury*** ***Transactions*** means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price.
6. ***UAE*** means the United Arab Emirates.
7. ***UAE Governing Law Qualification*** means that the courts of the UAE would be likely to accept jurisdiction in any claim brought by any party (i) in connection with this Agreement or (ii) againt RSK Environment LLC (or any other Guarantor from time to time incorporated in the UAE, and may apply the laws of the UAE to such claim; and (ii) whilst a tribunal constituted pursuant to the rules of the DIFC-LCIA Arbitration Centre may issue an arbitral award pursuant to the conclusion of arbitral proceedings, and whilst the UAE is a party to the United Nations Convention on the Recognition of Foreign Arbitral Awards, such an award may not be enforced by a UAE court on the grounds of, but not limited to, public policy, order or morals in the UAE, or otherwise violation of any applicable law in the UAE.
8. ***UK GAAP*** means generally accepted accounting principles in the United Kingdom from time to time, including IFRS.
9. ***Unpaid*** ***Sum*** means any sum due and payable but unpaid by an Obligor under the Finance Documents.
10. ***US*** means the United States of America.
11. ***Utilisation*** ***Date*** means the date on which a Loan is to be made.
12. ***Utilisation*** ***Request*** means a notice substantially in the relevant form set out in Schedule 5 (*Utilisation* *Request*).
13. ***VAT*** means:
    1. any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
    2. any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.
14. ***Vendors*** means Debbie Stanojevic and Petar Michael Stanojevic.
15. ***Warning Notice*** means a “warning notice” within the meaning of paragraph 1(2) of Schedule 1B to the Companies Act 2006 and for the purposes of paragraph 1 of that Schedule.
16. ***Warrant Instrument*** means the share warrant instrument in the agreed form executed as a deed poll by the Borrower in favour of the Warrantholder (or their nominees) on or about the date of this Agreement.
17. ***Warrantholder*** means on the date of this Agreement Permira Credit Solutions II Senior S.A., Permira Credit Solutions II L.S. S.A., and Permira Credit Solutions II Master L.S. S.A..
    1. Construction
       * 1. Unless a contrary indication appears, a reference in this Agreement to:
            1. the ***Facility Agent***, any ***Finance Party***, any ***Lender***, any ***Obligor***, any ***Party***, any ***Secured Party***, the ***Security Agent***, any ***Warrantholder*** or any other person shall be construed so as to include its successors in title, permitted assigns or assignees and permitted transferees to, or of, its rights and/or obligations under the Finance Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;
            2. a document in ***agreed form*** is a document which is previously agreed in writing by or on behalf of the Borrower and the Facility Agent or, if not so agreed, is in the form specified by the Facility Agent;
            3. ***assets*** includes present and future properties, revenues and rights of every description;
            4. a ***Finance Document*** or a ***Transaction Document*** or any other agreement or instrument is a reference to that Finance Document or Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
            5. a ***group of Lenders*** includes all the Lenders;
            6. ***guarantee*** means (other than in Clause 20 (*Guarantee and Indemnity*)) any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
            7. ***includes*** and ***including*** mean without limitation;
            8. ***indebtedness*** includes any obligation (whether incurred as principal or as surety or guarantor) for the payment or repayment of money, whether present or future, actual or contingent;
            9. a ***person*** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
            10. a ***regulation*** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
            11. shares includes equivalent ownership interests in legal entities (including but not limited to business quotas (in Hungarian: üzletrész) in respect of limited liability companies incorporated in Hungary) and shareholder shall be construed accordingly (being a "quotaholder" (in Hungarian: üzletrésztulajdonos) or "member" (in Hungarian: tag) in respect of limited liability companies incorporated in Hungary);
            12. a right or a discretion of a Finance Party shall (unless a contradictory indication appears) be construed as a right or discretion of that Finance Party which may be exercisable in its absolute discretion;
            13. a reference to the knowledge and belief, awareness or similar of an Obligor (or any director, officer, authorised signatory or member of management thereof, as the case may be) means the knowledge and belief, awareness or similar (as applicable) of the relevant Obligor (or director, officer, authorised signatory or member of management thereof, as the case may be) after making due and careful enquiry to ascertain the veracity and completeness of such matter;
            14. a provision of law is a reference to that provision as amended or re-enacted; and
            15. a time of day is a reference to London time.
         2. The determination of the extent to which a rate is ***for a period equal in length*** to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
         3. Section, Clause and Schedule headings are for ease of reference only.
         4. Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
         5. A Default is continuing if it has not been waived or (except for an Event of Default) remedied, other than an Event of Default under paragraph (a) of Clause 25.2 (*Financial covenants and other obligations*) in respect of non-compliance with Clause 23.2 (*Financial condition*) where such Event of Default has been remedied in accordance with Clause 23.4 (*Equity cure rights*).
         6. Words imparting the plural include the singular and vice versa.
         7. Dutch terms:
            1. where it relates to a Dutch entity, a ***necessary action to authorise*** includes without limitation:

any action required to comply with the Dutch Works Councils Act (*Wet op de ondernemingsraden*); and

obtaining an unconditional positive advice from the competent works council(s);

* + - * 1. where it relates to a Dutch entity, ***financial assistance*** means any act contemplated by section 2:98(c) of the Dutch Civil Code;
        2. where it relates to a Dutch entity, a ***security interest*** includes any mortgage (*hypotheek*), pledge (*pandrecht*), retention of title arrangement (*eigendomsvoorbehoud*), privilege (*voorrecht*), right of retention (*recht van retentie*), right to reclaim goods (*recht van reclame*) and, in general any right in rem (*beperkt recht*) created for the purpose of granting security (*goederenrechtelijk zekerheidsrecht*);
        3. where it relates to a Dutch entity, a ***winding-up, administration or dissolution*** includes a Dutch entity being declared bankrupt (*failliet verklaard*) or dissolved (*ontbonden*);
        4. where it relates to a Dutch entity, a ***moratorium*** includes surseance *van betaling* and a ***moratorium is declared*** or ***occurs*** includes *surseance verleend*;
        5. where it relates to a Dutch entity, a ***trustee in bankruptcy*** includes a curator;
        6. where it relates to a Dutch entity, an ***administrator*** includes a *bewindvoerder*;
        7. where it relates to a Dutch entity, an ***attachment*** includes a *beslag*; and
        8. where it relates to a Dutch entity, a ***subsidiary*** includes a *dochtermaatschappij* as defined in of the Dutch Civil Code.
      1. With respect to any Obligor incorporated in, or any assets situated in or subject to the laws of, Scotland, any terms and extensions used in this Agreement which are particular to the law of Scotland shall be construed in accordance therewith.
      2. Any reference to any English legal term of any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing of any jurisdiction other than England shall be deemed to include a reference to what merely approximates to the English legal term in the jurisdiction.
  1. Currency, symbols and definitions
     1. ***£***, ***GBP*** and ***sterling*** denote the lawful currency of the United Kingdom.
     2. ***€***, ***EUR*** and ***euro*** denote the single currency of the Participating Member States.
     3. ***$***, ***USD*** and ***dollar*** denote the lawful currency of the US.
  2. Third party rights
     1. Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 or the corresponding rules of the Scottish common law (together, the ***Third Parties Rights Act***) to enforce or enjoy the benefit of any term of this Agreement.
     2. Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.
  3. Facility Agent and Security Agent
     + 1. Where:
          1. the Facility Agent or the Security Agent is referred to in this Agreement as acting “reasonably” or in a “reasonable” manner or as coming to an opinion or determination that is “reasonable” (or any similar or analogous wording is used), unless they are not required to do so, this shall mean that the Facility Agent or Security Agent, as applicable, shall, where they have in fact sought such instructions, be acting or coming to an opinion or determination on the instructions of the Majority Lenders or all the Lenders (as applicable) acting reasonably and the Facility Agent or Security Agent shall be under no obligation to determine the reasonableness of such instructions from the Majority Lenders or all the Lenders (as applicable) or whether in giving such instructions the Majority Lenders or all the Lenders (as applicable) are acting in a reasonable manner; and
          2. agreement or approval, acceptability to, satisfaction with, or approval of the Facility Agent and/or the Security Agent is referred to (or any similar or analogous wording is used) in relation to a matter not affecting the personal interests of the Facility Agent and/or the Security Agent (including for the avoidance of doubt, any satisfaction, or determination in relation to any condition precedent) this shall mean the agreement or approval, acceptability to or satisfaction with or approval of, (or similar where similar or analogous wording is used, as applicable) the Majority Lenders as notified by or on behalf of, the Majority Lenders to the Facility Agent and/or the Security Agent,

and in respect of paragraphs (i) and (ii) above the Facility Agent and/or the Security Agent shall not be responsible for any liability occasioned by any delay or failure on the part of the Majority Lenders to give, or have given on their behalf, any such notice or instructions or to form any such opinion.

* + - 1. Subject to all applicable laws, any entity into which the Facility Agent or Security Agent may be merged or converted or with which the Facility Agent or Security Agent may be consolidated, or which results from any merger, conversion or consolidation to which the Facility Agent or Security Agent shall be a party, or any succeeding entity, including Affiliates of the Agent or Security Agent, to which the Facility Agent or Security Agent shall sell or otherwise transfer:
         1. all or substantially all of its assets; or
         2. all or substantially all of its corporate trust business;

shall, on the date when the merger, conversion, consolidation or transfer becomes effective, become the successor Facility Agent or Security Agent under this Agreement, to the extent possible in accordance with applicable law, without the execution or filing of any paper or any further act or formality on the part of the parties to this Agreement and after the said effective date all references in this Agreement to the Facility Agent or Security Agent shall be deemed to be references to such successor entity, provided that any fees, costs or expenses incurred by the Facility Agent or Security Agent associated with any such merger, conversion, consolidation or transfer shall be for the account of Facility Agent or Security Agent (as applicable).

1. The Facilities
   1. The Facilities

Subject to the terms of this Agreement, the Lenders make available to the Borrower:

* + - 1. Facility A1, a sterling term loan facility in an aggregate amount equal to the Facility A1 Commitments; and
      2. Facility A2, a sterling term loan facility in an aggregate amount equal to the Facility A2 Commitments.
  1. Finance Parties’ rights and obligations
     + 1. The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
       2. The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt.
       3. A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.
  2. Obligors’ Agent
     + 1. Each Obligor (other than the Borrower) by its execution of this Agreement or an Accession Deed irrevocably appoints the Borrower (acting through one or more authorised signatories) to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
          1. the Borrower on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions, to execute on its behalf any Accession Deed, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Obligor notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and
          2. each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Borrower,

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

* + - 1. Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligors’ Agent or given to the Obligors’ Agent under any Finance Document on behalf of another Obligor or in connection with any Finance Document (whether or not known to any other Obligor and whether occurring before or after such other Obligor became an Obligor under any Finance Document) shall be binding for all purposes on that Obligor as if that Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Obligors’ Agent and any other Obligor, those of the Obligors’ Agent shall prevail.
      2. To the extent legally possible, each Obligor (other than the Borrower) hereby releases the Borrower from any restrictions on self-dealing and multi-representation set out in section 181 German Civil Code (*Bürgerliches Gesetzbuch*, ***BGB***) and any similar restrictions (if any) under any other applicable laws.

1. Purpose
   1. Purpose
      * 1. The Borrower shall apply all amounts borrowed by it under Facility A1 towards:
           1. repayment of the Existing Financing;
           2. payment of agreed fees, costs, commissions and expenses relating to the transactions contemplated by the Transaction Documents; and
           3. the general corporate and working capital purposes of the Group,

in each case as described in the Funds Flow Statement.

* + - 1. The Borrower shall apply all amounts borrowed by it under Facility A2 towards making available by way of Permitted Loan or making available the amount by way of subscription for shares to RSK Environment Limited for:
         1. payment to the Vendors or as the Vendors shall direct on the Completion Date of the Completion purchase price for the Target Shares under the Acquisition Agreement; and
         2. payment of agreed fees, costs, commissions and expenses relating to the Acquisition and the other transactions contemplated by the Acquisition Documents (other than in each case periodic fees),

in each case as described in the Supplemental Funds Flow Statement.

* 1. Monitoring

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

1. Conditions of Utilisation
   1. Initial conditions precedent
      * 1. The Lenders will only be obliged to comply with Clause 5.4 (*Lenders’ participation and limitations on Loans*) if on or before the Utilisation Date for a Loan, the Facility Agent has received:
           1. in relation to a Facility A1 Loan, all of the documents and other evidence listed in Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Facility Agent (acting on the instructions and direction of the Lenders). The Facility Agent shall notify the Borrower promptly upon being so satisfied; and
           2. in relation to a Facility A2 Loan:

all of the documents and other evidence listed in Schedule 2 (*Conditions Precedent*) to the Amendment and Restatement Agreement; and

each Funding Deliverable,

in form and substance satisfactory to the Facility Agent (acting on the instructions and direction of the Lenders). The Facility Agent shall notify the Borrower promptly upon being so satisfied.

* + - 1. Other than to the extent that the Majority Lenders notify the Facility Agent in writing to the contrary before the Facility Agent gives the notification described in paragraph (a) above, the Lenders authorise (but do not require) the Facility Agent to give that notification. The Facility Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.
  1. Further conditions precedent

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

* + - 1. no Default is continuing or would result from the proposed Loan; and
      2. all the representations and warranties in Clause 21 (*Representations*) are true.
  1. Maximum number of Loans

The Borrower may deliver:

* + - 1. only one Utilisation Request for one Loan to be made under Facility A1 on the Closing Date under this Agreement; and
      2. only one Utilisation Request for one Loan to be made under Facility A2 on the Effective Date under this Agreement.

1. Utilisation – Loan
   1. Delivery of a Utilisation Request

The Borrower may utilise a Facility by delivery to the Facility Agent of a duly completed Utilisation Request not later than the Specified Time.

* 1. Completion of a Utilisation Request

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

* + - 1. the proposed Utilisation Date is a Business Day within the Availability Period;
      2. the currency and amount of the Loan comply with Clause 5.3 (*Currency and amount*); and
      3. the proposed Cash Interest Period complies with Clause ‎11 (*Interest Periods*).
  1. Currency and amount
     + 1. The currency specified in a Utilisation Request must be sterling.
       2. The amount of each proposed Utilisation must be an amount equal to all of a Facility or, if less, an Available Facility.
  2. Lenders’ participation and limitations on Loans
     + 1. If the conditions set out in this Agreement have been met, each Lender shall make its participation in a Loan available by the Utilisation Date through its Facility Office.
       2. Each Lender shall make its participation in a Loan available directly to the Facility Agent (net of any amount due and payable to the Lender) on the Closing Date.
       3. The amount of each Lender’s participation in each Loan will be equal to the proportion borne by its Available Commitment to an Available Facility, in each case in relation to the relevant Facility immediately prior to making that Loan.
       4. The Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the relevant Availability Period.

1. Repayment
   1. Repayment of Loans

The Borrower shall repay the Loans in full (including, for the avoidance of doubt, all PIK Margin payable thereon) on the Termination Date.

* 1. Make-Whole Premium and Prepayment Fees
     + 1. Subject to paragraph (c) below, if all or any part of a Facility is prepaid, redeemed, defeased or purchased or otherwise acquired or retired at any time prior to the second anniversary of the Closing Date (such amount being so prepaid, redeemed, defeased or purchased or otherwise acquired or retired being a ***Relevant Prepayment Amount***) by any member of the Group, or its Affiliates, such prepayment, redemption, defeasance, purchase, acquisition or retirement (a ***Relevant Prepayment***) may only be made if and only if, in addition to all other sums required to be paid under this Agreement in connection with such Relevant Prepayment, the Borrower pays to the Facility Agent for the account of the Lenders, at the same time as the Relevant Prepayment, the Make-Whole Premium.
       2. Subject to paragraph (c) below, if all or any part of a Facility is prepaid, redeemed, defeased or purchased or otherwise acquired or retired at any time either:
          1. on or after the second anniversary of the Closing Date but prior to the third anniversary of the Closing Date; or
          2. on or after the third anniversary of the Closing Date but prior to the fourth anniversary of the Closing Date,

(such amounts being so prepaid, redeemed, defeased or purchased or otherwise acquired or retired being a ***Subsequent Prepayment Amount***), in either case by any member of the Group, or its Affiliates, such prepayment, redemption, defeasance, purchase, acquisition or retirement (each a ***Subsequent Prepayment***) may only be made if and only if, in addition to all other sums required to be paid under this Agreement in connection with such Subsequent Prepayment, the Borrower pays to the Facility Agent for the account of the Lenders, at the same time as the Subsequent Prepayment:

in respect of a Subsequent Prepayment described in sub-paragraph (i) above, an amount equal to 2.00 per cent. of the Subsequent Prepayment Amount; and

in respect of a Subsequent Prepayment described in sub-paragraph (ii) above, an amount equal to 1.00 per cent. of the Subsequent Prepayment Amount,

(such amount being each a ***Prepayment Fee***).

* + - 1. No Make-Whole Premium or Prepayment Fee shall be payable where the Relevant Prepayment or Subsequent Prepayment (as the case may be) is required to be made in accordance with Clause 6.1 (*Repayment of Loans*), Clause 7.1 (*Illegality*), Clause 7.3 (*Right of cancellation and repayment in relation to a single Lender*), Clause 8.2 (*Insurance Claims*) or Clause 23.4 (*Equity cure rights*).

1. Illegality, Voluntary Prepayment and Cancellation
   1. Illegality

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

* + - 1. that Lender, shall promptly notify the Facility Agent upon becoming aware of that event;
      2. upon the Facility Agent notifying the Borrower, each Available Commitment of that Lender will be immediately cancelled; and
      3. to the extent that the Lender’s participation has not been transferred pursuant to Clause 41.4 (*Replacement of Lender*), the Borrower shall repay that Lender’s participation in the Loans on the last day of the Cash Interest Period occurring after the Facility Agent has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Facility Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender’s corresponding Commitment(s) shall be cancelled in the amount of the participations repaid.
  1. Voluntary prepayment of Loan
     + 1. The Borrower may, if it gives the Facility Agent not less than 5 Business Days’ (or such shorter period as the Facility Agent and the Majority Lenders may agree) prior notice, prepay the whole or any part of a Loan (but, if in part, in a minimum amount of £500,000 or such other amount as the Majority Lenders may agree).
       2. A Loan may only be prepaid after the last day of the Availability Period for the applicable Facility (or, if earlier, the day on which the applicable Available Facility is zero).
  2. Right of cancellation and repayment in relation to a single Lender
     + 1. If:
          1. any sum payable to any Lender by an Obligor is required to be increased under paragraph (c) of Clause 15.2 (*Tax gross-up*);
          2. any Lender claims indemnification from an Obligor under Clause ‎15.3 (*Tax indemnity*) or Clause ‎16.1 (*Increased costs*); or
          3. the Facility Agent receives a notification from any Lender pursuant to Clause 12.3 (*Market Disruption*),

the Borrower may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Facility Agent notice of its intention to procure the repayment of that Lender’s participation in the Loans.

* + - 1. On the last day of each Cash Interest Period which ends after the Borrower has given notice under paragraph (a) above in relation to a Lender (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay that Lender’s participation in that Loan together with all interest and other amounts accrued under the Finance Documents.
  1. Mandatory cancellation

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

1. Mandatory Prepayment
   1. Exit
      * 1. Upon the occurrence of:
           1. a Change of Control;
           2. the sale of all or substantially all of the assets of the Group whether in a single transaction or a series of related transactions; or
           3. subject to paragraph (b) below, a Flotation,

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

* + - 1. Each Lender agrees to consider in good faith any request made by the Borrower for its consent to waive, on such terms and conditions as the Majority Lenders may agree in writing, the application of paragraph (a)(iii) above, provided that:
         1. each Lender may in its absolute discretion determine whether it is willing to provide such a waiver (and in the absence of any such waiver being given by a Lender, that Lender’s participations shall be cancelled and repaid in accordance with paragraph (a) above); and
         2. such request is made in writing not less than 20 Business Days prior to the Flotation.
  1. Insurance Claims
     + 1. If any member of the Group receives or recovers any proceeds as a result of making a claim under an insurance policy (other than Excluded Insurance Proceeds), the Borrower shall procure that the net proceeds (***Insurance Proceeds***) of such claim, after the deduction of any reasonable expenses in relation to that claim which were incurred by any member of the Group to persons who are not members of the Group, to the extent they exceed £150,000 when aggregated with all other proceeds from insurance claims in that Financial Year (other than in relation to any third party liability) are applied in prepayment of the Loans.
       2. For the purpose of Clause 8.2(a), ***Excluded Insurance Proceeds*** means any Insurance Proceeds which the Borrower notifies the Facility Agent are or are to be applied:
          1. to meet a third party claim;
          2. to cover operating losses in respect of which the relevant insurance claim was made; or
          3. in the replacement, reinstatement and/or repair of the assets or otherwise in amelioration of the loss in respect of which the relevant insurance claim was made,

in each case as soon as possible (but in any event within 12 Months, or such longer period as the Majority Lenders may agree) after receipt.

* 1. Report Claims
     + 1. If any member of the Group receives or recovers any amount in respect of any liability claim against any professional adviser who prepared any Report or any party to a Report (other than Excluded Recovery Proceeds), the Borrower shall procure that the net proceeds (***Recovery Proceeds***) of such claim after deducting:
          1. any reasonable expenses which are incurred by any Obligor to persons who are not members of the Group; and
          2. any Tax incurred and required to be paid by any Obligor (as reasonably determined by the relevant Obligor on the basis of existing rates and taking into account any available credit deduction or allowance),

to the extent they exceed £150,000 when aggregated with all other such proceeds in that Financial Year, are applied in prepayment of the Loans.

* + - 1. For the purpose of Clause 8.3(a), ***Excluded Recovery Proceeds*** means any Recovery Proceeds which the Borrower notifies the Facility Agent are, or are to be applied:
         1. to satisfy (or reimburse any Obligor which has discharged) any liability, charge or claim upon any Obligor by a person which is not an Obligor or an Investor; or
         2. in the replacement, reinstatement and/or repair of assets of members of the Group which have been lost, destroyed or damaged,

in each case as soon as possible (but in any event within 12 Months, or such longer period as the Majority Lenders may agree) after receipt.

* 1. Disposal Proceeds
     + 1. For the purposes of this Clause 8.4 (*Disposal Proceeds*), Clause 8.5 (*Application of mandatory prepayments and cancellations*) and Clause 8.6 (*Mandatory Prepayment Accounts*):

1. ***Disposal*** means a sale, lease, licence, transfer, loan or other disposal by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions).
2. ***Relevant Disposal*** means any Disposal other than:
   * 1. a Permitted Disposal under paragraphs (a), (b), (c), (d), (e), (g) and (h) of the Definition thereof; and
     2. a Disposal in respect of which the consideration received by a member of the Group is less than £150,000.
3. ***Relevant Disposal Proceeds*** means the consideration receivable by any member of the Group (including any amount receivable in repayment of intercompany debt) for any Relevant Disposal made by any member of the Group after deducting:
   * 1. any reasonable expenses which are incurred by any member of the Group with respect to that Disposal to persons who are not members of the Group;
     2. any Tax incurred and required to be paid by the seller in connection with that Disposal (as reasonably determined by the seller, on the basis of existing rates and taking account of any available credit, deduction or allowance); and
     3. any sums applied toward discharging indebtedness secured on the asset being disposed of required to be paid as a result of the disposal.
        1. If any member of the Group receives or recovers any Relevant Disposal Proceeds, the Borrower shall procure that they are applied in prepayment of a Facility in accordance with paragraph (b) of Clause 8.5 (*Application of mandatory prepayments and cancellations*).
   1. Application of mandatory prepayments and cancellations
      * 1. A prepayment of the Loans made under Clause 8.2 (*Insurance Claims*), Clause 8.3 (*Report Claims*) or Clause 8.4 (*Disposal Proceeds*) shall be applied in prepayment of the Loans as contemplated in paragraphs (b) to (e) inclusive below and pro rata as between Loans.
        2. The Borrower shall prior to receipt of any Insurance Proceeds, Recovery Proceeds or Relevant Disposal Proceeds (as applicable) notify the Facility Agent in writing of the expected receipt and the requirement to prepay such proceeds.
        3. Unless the Borrower makes an election under paragraph (d) below, the Borrower shall prepay the Loans promptly upon receipt of any Insurance Proceeds, Recovery Proceeds or Relevant Disposal Proceeds (as applicable).
        4. Subject to paragraph (e) below, the Borrower may elect that any prepayment under Clause 8.2 (*Insurance Claims*), Clause 8.3 (*Report Claims*) or Clause ‎8.4 (*Disposal Proceeds*) be applied in prepayment of a Loan on the last day of the Cash Interest Period relating to that Loan. If the Borrower makes that election by notice to the Facility Agent not less than 5 Business Days prior to the last day of the current Cash Interest Period, then a proportion of that Loan equal to the amount of the relevant prepayment will be due and payable on the last day of its Cash Interest Period.
        5. If the Borrower has made an election under paragraph (d) above but a Default has occurred and is continuing, that election shall no longer apply and a proportion of that Loan in respect of which the election was made equal to the amount of the relevant prepayment shall be immediately due and payable (unless the Majority Lenders otherwise agree in writing).
   2. Mandatory Prepayment Accounts
      * 1. The Borrower shall ensure that any Insurance Proceeds, Recovery Proceeds and Relevant Disposal Proceeds in respect of which the Borrower has made an election under paragraph (d) of Clause 8.5 (*Application of mandatory prepayments and cancellations*) are paid into a Mandatory Prepayment Account as soon as reasonably practicable after receipt by a member of the Group.
        2. The Borrower irrevocably authorises the Facility Agent to apply amounts credited to the Mandatory Prepayment Account to pay amounts due and payable under Clause 8.5 (*Application of mandatory prepayments and cancellations*) and otherwise under the Finance Documents.
        3. A Lender with which a Mandatory Prepayment Account is held acknowledges and agrees that (i) interest shall accrue at normal commercial rates on amounts credited to those accounts and that the account holder shall be entitled to receive such interest (which shall be paid in accordance with the mandate relating to such account) unless an Event of Default is continuing and (ii) each such account is subject to the Transaction Security.
   3. Declining prepayments
      * 1. Where a prepayment of a Loan is to be made under the provisions set out in Clause 8.5 (*Application of mandatory prepayments and cancellations*), the Facility Agent shall, once it has received a notice from the Borrower under either paragraphs (b) or (d) of Clause 8.5 (*Application of mandatory prepayments and cancellations*), promptly notify the Lenders of such prepayment and a Lender may, if it notifies the Facility Agent within 5 Business Days from the date that it receives such notice from the Facility Agent, elect to waive all or a specified part of its share of such prepayment. If a Lender fails to give the Facility Agent such notice that Lender shall be deemed to have elected not to waive any part of its share of the relevant prepayment and the Facility Agent shall be entitled to proceed accordingly.
        2. Prepayments waived by a Lender in accordance with paragraph (a) above will be offered to those Lenders (if any) that did not waive such prepayment *pro rata* to their share of Commitments under a Facility and any remaining balance not so accepted by a Lender within 5 Business Days of such offer will be retained by the Group.
4. Restrictions
   1. Notices of Cancellation or Prepayment

Any notice of cancellation, prepayment, authorisation or other election given by any Party under Clause 7 (*Illegality, Voluntary Prepayment and Cancellation*), paragraph (d) of Clause ‎8.5 (*Application of Mandatory prepayments and cancellations*) or Clause 8.6 (*Mandatory Prepayment Accounts*)shall (subject to the terms of those Clauses) be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

* 1. Interest and other amounts

Any prepayment or repayment under this Agreement shall be made together with accrued interest (and any Make-Whole Premium or Prepayment Fees required pursuant to Clause 6.2 (*Make-Whole Premium and Prepayment Fees*)) on the amount prepaid.

* 1. No reborrowing

No part of a Facility which is prepaid may be reborrowed.

* 1. Prepayment in accordance with Agreement

The Borrower shall not repay or prepay all or any part of a Loan except at the times and in the manner expressly provided for in this Agreement.

* 1. Facility Agent’s receipt of Notices

If the Facility Agent receives a notice under Clause ‎7 (*Illegality, Voluntary Prepayment and Cancellation*) or an election under paragraph (d) of Clause ‎8.5 (*Application of mandatory prepayments and cancellations*), it shall promptly forward a copy of that notice or election to either the Borrower or the affected Lender, as appropriate.

* 1. Effect of repayment and prepayment on Commitments

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

* 1. Application of prepayments

Subject to Clause 8.7 (*Declining prepayments*), any prepayment of a Loan (other than a prepayment pursuant to Clause 7.1 (*Illegality*) or Clause 7.3 (*Right of cancellation and repayment in relation to a single Lender*)) shall be applied *pro rata* to each Lender's participation in that Loan.

1. Interest
   1. Calculation of interest

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

* + - 1. the Margin; and
      2. LIBOR.
  1. Payment of Interest
     + 1. The Borrower shall pay accrued interest (excluding PIK Margin) on a Loan in cash on each Cash Interest Payment Date.
       2. Any interest accruing on a Loan in respect of the PIK Margin shall be compounded with that Loan on each PIK Interest Payment Date. Any such interest shall, immediately after being compounded, be treated as part of the aggregate principal amount of that Loan for the purposes of all the provisions of this Agreement and the other Finance Documents and, for the avoidance of doubt, shall be payable in accordance with (*inter alia*) Clause 6 (*Repayment*), Clause 7 (*Illegality, Voluntary Prepayment and Cancellation*), Clause 8 (*Mandatory Prepayment*) and Clause 25.21 (*Acceleration*).
  2. Default interest
     + 1. If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment or decree) at a rate which, subject to paragraph (b) below, is 2.00 per cent. per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Facility Agent (acting reasonably). Any interest accruing under this Clause ‎10.3 shall be immediately payable by the Obligor on demand by the Facility Agent.
       2. If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:
          1. the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
          2. the rate of interest applying to the overdue amount during that first Interest Period shall be 2.00 per cent. per annum higher than the rate which would have applied if the overdue amount had not become due.
       3. Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.
  3. Notification of rates of interest

The Facility Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.

1. Interest Periods
   1. Selection of Interest Periods
      * 1. The Borrower may select a Cash Interest Period for a Loan in respect of the Cash Pay Margin and LIBOR in the Utilisation Request for that Loan or, if the Loan has already been borrowed, in a Selection Notice, in each case of three Months or such other periods as are agreed between the Borrower and the Facility Agent (acting on the instructions of all the Lenders).
        2. The PIK Interest Period for a Loan in respect of the PIK Margin is 12 Months.
        3. In respect of an Interest Period for a Loan which would otherwise extend beyond the Termination Date, it shall end on the Termination Date.
        4. Each Interest Period for a Loan shall start on the Utilisation Date or (if already made) on the immediately preceding Interest Payment Date.
        5. Each Selection Notice is irrevocable and must be delivered to the Facility Agent by the Borrower not later than 9:30am on the day five Business Days prior to the end of the current Interest Period.
        6. If the Borrower fails to deliver a Selection Notice to the Facility Agent in accordance with paragraph (e) above, the relevant Cash Interest Period will be three Months and the relevant PIK Interest Period will be 12 Months.
   2. Non‑Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

1. Changes to the Calculation of Interest
   1. Unavailability of Screen Rate
      * 1. *Interpolated Screen Rate:* If no Screen Rate is available for LIBOR for the Cash Interest Period of a Loan, the applicable LIBOR shall be the Interpolated Screen Rate for a period equal in length to the Cash Interest Period of that Loan.
        2. *Shortened Interest Period:* If no Screen Rate is available for LIBOR for the Cash Interest Period of a Loan and it is not possible to calculate the Interpolated Screen Rate, the Cash Interest Period of that Loan shall (if it is longer than the applicable Fallback Interest Period) be shortened to the applicable Fallback Interest Period and the applicable LIBOR for that shortened Cash Interest Period shall be determined pursuant to the definition of LIBOR.
        3. *Shortened Interest Period and Historic Screen Rate:* If the Cash Interest Period of a Loan is, after giving effect to paragraph (b) above, either the applicable Fallback Interest Period or shorter than the applicable Fallback Interest Period and, in either case, no Screen Rate is available for LIBOR for the Cash Interest Period of that Loan and it is not possible to calculate the Interpolated Screen Rate, the applicable LIBOR shall be the Historic Screen Rate for that Loan.
        4. *Shortened Interest Period and Interpolated Historic Screen Rate:* If paragraph ‎(c) above applies but no Historic Screen Rate is available for the Cash Interest Period of the Loan, the applicable LIBOR shall be the Interpolated Historic Screen Rate for a period equal in length to the Cash Interest Period of that Loan.
        5. *Base Reference Bank Rate:* If paragraph (d) above applies but it is not possible to calculate the Interpolated Historic Screen Rate, the Cash Interest Period of that Loan shall, if it has been shortened pursuant to paragraph (b) above, revert to its previous length and the applicable LIBOR shall be the Base Reference Bank Rate as of the Specified Time for a period equal in length to the Cash Interest Period of that Loan.
        6. *Cost of funds*: If paragraph (e) above applies but no Base Reference Bank Rate is available for the relevant Cash Interest Period there shall be no LIBOR for that Loan and Clause ‎12.5 (*Cost of Funds*) shall apply to that Loan for that Cash Interest Period.
   2. Calculation of Base Reference Bank Rate
      * 1. Subject to paragraph (b) below, if LIBOR is to be determined on the basis of a Base Reference Bank Rate but a Base Reference Bank does not supply a quotation by the Specified Time, the Base Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Base Reference Banks.
        2. If at or about noon on the Quotation Day none or only one of the Base Reference Banks supplies a quotation, there shall be no Base Reference Bank Rate for the relevant Cash Interest Period.
   3. Market disruption

If before close of business in London on the Quotation Day for the relevant Cash Interest Period the Facility Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 35 per cent. of that Loan) that the cost to it of funding its participation in that Loan from whatever source it may reasonably select would be in excess of LIBOR then Clause ‎12.5 (*Cost of Funds*) shall apply to that Loan for the relevant Cash Interest Period.

* 1. Alternative basis of interest or funding
     + 1. If a Disruption Event occurs and the Facility Agent or the Borrower so requires, the Facility Agent and the Borrower shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.
       2. Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.
  2. Cost of Funds
     + 1. If this Clause ‎12.5 applies, the rate of interest on each Lender's share of the relevant Loan for the relevant Cash Interest Period shall be the percentage rate per annum which is the sum of:
          1. the Margin; and
          2. the rate notified to the Facility Agent by that Lender as soon as practicable and in any event within 5 Business Days of the first day of that Interest Period (or, if earlier, on the date falling 10 Business Days before the date on which interest is due to be paid in respect of that Interest Period), to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in that Loan from whatever source it may reasonably select.
       2. If this Clause ‎12.5 applies and the Facility Agent (acting on the instructions of all the Lenders) or the Borrower so requires, the Facility Agent and the Borrower shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.
       3. Any alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.
       4. If this Clause ‎12.5 applies pursuant to Clause ‎12.3 (*Market disruption*) and
          1. a Lender's Funding Rate is less than LIBOR; or
          2. a Lender does not supply a quotation by the time specified in paragraph (a)(ii) above,

the cost to that Lender of funding its participation in that Loan for that Cash Interest Period shall be deemed, for the purposes of paragraph (a) above, to be LIBOR.

* + - 1. If this Clause ‎12.5 applies pursuant to Clause ‎12.1 (*Unavailability of Screen Rate*) but any Lender does not supply a quotation by the time specified in paragraph (a)(ii) above the rate of interest shall be calculated on the basis of the quotations of the remaining Lenders.
  1. Notification to Borrower

If Clause ‎12.5 (*Cost of Funds*) applies the Facility Agent shall, as soon as is practicable, notify the Borrower.

1. Break Costs
   * + 1. The Borrower shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by the Borrower on a day other than the last day of a Cash Interest Period for that Loan or Unpaid Sum.
       2. Each Lender shall, as soon as reasonably practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Break Costs for any Cash Interest Period in which they accrue.
2. Fees
   1. Arrangement fee

The Borrower shall pay to the Facility Agent (for the account of the Lenders) an arrangement fee in the amount and at the time agreed in a Fee Letter.

* 1. Agency fee

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

* 1. Security Agent fee

The Borrower shall pay to the Security Agent (for its own account) a security agent fee in the amount and at the times agreed in a Fee Letter.

1. Tax Gross Up and Indemnities
   1. Definitions

In this Agreement:

1. ***Borrower DTTP Filing*** means an HM Revenue & Customs' Form DTTP2 duly completed and filed by the Borrower, which:
   1. where it relates to a Treaty Lender that is an Original Lender, contains the scheme reference number and jurisdiction of tax residence stated opposite that Lender's name in Part B (*The Original Lenders*) of Schedule 1 (*The Original Parties*), and is filed with HM Revenue & Customs within 30 days of the date of this Agreement; or
   2. where it relates to a Treaty Lender that is a New Lender, contains the scheme reference number and jurisdiction of tax residence stated in respect of that Lender in the relevant Transfer Certificate or Assignment Agreement, and is filed with HM Revenue & Customs within 30 days of that Transfer Date.
2. ***Protected Party*** means a Finance Party which is or will be subject to any liability or required to make any payment for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

***Qualifying Lender*** means a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document and is:

* 1. a Lender:
     1. which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under a Finance Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payments apart from section 18A of the CTA; or
     2. ,in respect of an advance made under a Finance Document by a person that was a bank (as defined for the purpose of section 879 of the ITA) at the time that that advance was made, which is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or is a bank that would be within the charge to corporation tax as respects the payments of interest apart from section 18A of the CTA; or
  2. a Lender which is:
     1. a company resident in the United Kingdom for United Kingdom tax purposes;
     2. a partnership each member of which is:
        1. a company so resident in the United Kingdom; or
        2. a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA;
     3. a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company; or
  3. a Treaty Lender.

1. ***Tax Confirmation*** means a confirmation by a Lender that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:
   1. a company resident in the United Kingdom for United Kingdom tax purposes;
   2. a partnership each member of which is:
      1. a company so resident in the United Kingdom; or
      2. a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
   3. a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.
2. ***Tax Credit*** means a credit against, relief or remission for, or repayment of, any Tax.
3. ***Tax Deduction*** means a deduction or withholding for or on account of Tax from a payment under a Finance Document other than a FATCA Deduction.
4. ***Tax Payment*** means either the increase in a payment made by an Obligor to a Finance Party under Clause ‎15.2 (*Tax gross-up*) or a payment under Clause 15.3 (*Tax indemnity*).
5. ***Treaty Lender*** means a Lender which:
   1. is treated as a resident of a Treaty State for the purposes of the Treaty; and
   2. does not carry on a business in the United Kingdom through a permanent establishment with which that Lender's participation in a Loan is effectively connected.
6. ***Treaty State*** means a jurisdiction having a double taxation agreement (a ***Treaty***) with the United Kingdom which makes provision for full exemption from tax imposed by the United Kingdom on interest.
7. ***UK Non-Bank Lender*** means, where a Lender becomes a Party after the day on which this Agreement is entered into, a Lender which gives a Tax Confirmation in the Assignment Agreement or Transfer Certificate which it executes on becoming a Party.
8. Unless a contrary indication appears, in the Clause 15 a reference to ***determines*** or ***determined*** means a determination made in the absolute discretion of the person making the determination.
   1. Tax gross-up
      * 1. Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
        2. The Borrower shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the Borrower and that Obligor.
        3. If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
        4. A payment shall not be increased under paragraph (c) above by reason of a Tax Deduction on account of Tax imposed by the United Kingdom, if on the date on which the payment falls due:
           1. the payment could have been made to the relevant Lender without a Tax Deduction if the Lender had been a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or Treaty or any published practice or published concession of any relevant taxing authority; or
           2. the relevant Lender is a Qualifying Lender solely by virtue of paragraph (b) of the definition of "Qualifying Lender" and:

an officer of H.M. Revenue & Customs has given (and not revoked) a direction (a ***Direction***) under section 931 of the ITA which relates to the payment and that Lender has received from the Obligor making the payment or from the Borrower a certified copy of that Direction; and

the payment could have been made to the Lender without any Tax Deduction if that Direction had not been made; or

* + - * 1. the relevant Lender is a Qualifying Lender solely by virtue of paragraph (b) of the definition of "Qualifying Lender" and:

the relevant Lender has not given a Tax Confirmation to the Borrower; and

the payment could have been made to the Lender without any Tax Deduction if the Lender had given a Tax Confirmation to the Borrower, on the basis that the Tax Confirmation would have enabled the Borrower to have formed a reasonable belief that the payment was an "excepted payment" for the purpose of section 930 of the ITA; or

* + - * 1. the relevant Lender is a Treaty Lender and the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under paragraphs (g) or (h) (as applicable) below.
      1. If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
      2. Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Facility Agent for the Finance Party entitled to the payment a statement under section 975 of the ITA or other evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
      3. 1. Subject to paragraph (ii) below, a Treaty Lender and each Obligor which makes a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.

A Treaty Lender which becomes a Party on the day on which this Agreement is entered into that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence opposite its name in Part B (*The Original Lenders*) of Schedule 1 (*The Original Parties*); and

a New Lender that is a Treaty Lender that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence in the Transfer Certificate or Assignment Agreement which it executes,

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

* + - 1. If a Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with paragraph (g)(ii) above and:
         1. the Borrower when making a payment to that Lender, has not made a Borrower DTTP Filing in respect of that Lender; or
         2. the Borrower when making a payment to that Lender, has made a Borrower DTTP Filing in respect of that Lender but:

that Borrower DTTP Filing has been rejected by HM Revenue & Customs; or

HM Revenue & Customs has not given the Borrower authority to make payments to that Lender without a Tax Deduction within 60 days of the date of the Borrower DTTP Filing,

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

* + - 1. If a Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph ‎(g)(ii) above, no Obligor shall make a Borrower DTTP Filing or file any other form relating to the HMRC DT Treaty Passport scheme in respect of that Lender's Commitment(s) or its participation in any Loan unless the Lender otherwise agrees.
      2. The Borrower shall, promptly on making a Borrower DTTP Filing or filing of any other form relating to the HMRC DT Treaty Passport scheme in respect of a Lender’s Commitment(s) or its participation in any Loan, deliver a copy of that filing to the Facility Agent for delivery to the relevant Lender.
      3. A UK Non-Bank Lender which becomes a Party on the day on which this Agreement is entered into gives a Tax Confirmation to the Borrower by entering into this Agreement.
      4. A UK Non-Bank Lender shall promptly notify the Borrower and the Facility Agent if there is any change in the position from that set out in the Tax Confirmation.
  1. Tax indemnity
     + 1. The Obligors jointly and severally shall (within three Business Days of demand by the Facility Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
       2. Paragraph (a) above shall not apply:
          1. with respect to any Tax assessed on a Finance Party:

under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or

under the law of the jurisdiction in which that Finance Party’s Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or

* + - * 1. to the extent a loss, liability or cost:

is compensated for by an increased payment under Clause 15.2 (*Tax gross‑up*); or

would have been compensated for by an increased payment under Clause ‎15.2 (*Tax gross-up*) but was not so compensated solely because one of the exclusions in paragraph (d) of Clause ‎15.2 (*Tax gross-up*) applied; or

relates to a FATCA Deduction required to be made by a Party.

* + - 1. A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Borrower.
      2. A Protected Party shall, on receiving a payment from an Obligor under this Clause 15.3, notify the Facility Agent.
  1. Tax Credit
     + 1. If an Obligor makes a Tax Payment and the relevant Finance Party determines that:
          1. a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
          2. that Finance Party has obtained and utilised that Tax Credit,

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

* 1. Lender Status Confirmation

Each Lender which becomes a Party to this Agreement after the date of this Agreement shall indicate, in the Transfer Certificate or Assignment Agreement which it executes on becoming a Party, and for the benefit of the Facility Agent and without liability to any Obligor, which of the following categories it falls in:

* + - 1. not a Qualifying Lender;
      2. a Qualifying Lender (other than a Treaty Lender); or
      3. a Treaty Lender.

If a New Lender fails to indicate its status in accordance with this Clause 15.5 then such New Lender shall be treated for the purposes of this Agreement (including by each Obligor) as if it is not a Qualifying Lender until such time as it notifies the Facility Agent which category applies (and the Facility Agent, upon receipt of such notification, shall inform the Borrower). For the avoidance of doubt, a Transfer Certificate or Assignment Agreement shall not be invalidated by any failure of a Lender to comply with this Clause 15.5.

* 1. Stamp taxes

The Borrower shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

* 1. VAT
     + 1. All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).
       2. If VAT is or becomes chargeable on any supply made by any Finance Party (the ***Supplier***) to any other Finance Party (the ***Recipient***) under a Finance Document, and any Party other than the Recipient (the ***Relevant Party***) is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
          1. (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
          2. (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
       3. Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
       4. Any reference in this Clause 15.7 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term “representative member” to have the same meaning as in the Value Added Tax Act 1994).
       5. In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.
  2. FATCA Information
     + 1. Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
          1. confirm to that other Party whether it is:

a FATCA Exempt Party; or

not a FATCA Exempt Party; and

* + - * 1. supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA;
        2. supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party’s compliance with any other law, regulation, or exchange of information regime.
      1. If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
      2. Paragraph (a) above shall not oblige any Finance Party to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
         1. any law or regulation;
         2. any fiduciary duty; or
         3. any duty of confidentiality.
      3. If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
  1. FATCA Deduction
     + 1. Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
       2. Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) notify the Party to whom it is making the payment and, in addition, shall notify the Borrower and the Facility Agent and the Facility Agent shall notify the other Finance Parties.

1. Increased Costs
   1. Increased costs
      * 1. Subject to Clause 16.3 (*Exceptions*) each Obligor jointly and severally shall, within three Business Days of a demand by the Facility Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:
           1. the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or
           2. compliance with any law or regulation made after the date of this Agreement; or
           3. (without prejudice to the foregoing generality) the implementation or application of, or compliance with, AIFMD, Basel III or CRD IV or any law or regulation that implements or applies AIFMD, Basel III or CRD IV.
        2. In this Agreement ***Increased Costs*** means:
           1. a reduction in the rate of return from a Facility or on a Finance Party’s (or its Affiliate’s) overall capital;
           2. an additional or increased cost; or
           3. a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

* 1. Increased cost claims
     + 1. A Finance Party intending to make a claim pursuant to Clause 16.1 (*Increased costs*) shall notify the Facility Agent of the event giving rise to the claim, following which the Facility Agent shall promptly notify the Borrower.
       2. Each Finance Party shall, as soon as practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Increased Costs.
  2. Exceptions
     + 1. Clause 16.1 (*Increased costs*) does not apply to the extent any Increased Cost is:
          1. attributable to a Tax Deduction required by law to be made by an Obligor;
          2. attributable to a FATCA Deduction required to be made by a Party;
          3. compensated for by Clause 15.3 (*Tax indemnity*) (or would have been compensated for under Clause 15.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 15.3 (*Tax indemnity*) applied); or
          4. attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.
       2. In this Clause 16.3 reference to a ***Tax Deduction*** has the same meaning given to the term in Clause ‎15.1 (*Definitions*).

1. Other Indemnities
   1. Currency indemnity
      * 1. If any sum due from an Obligor under the Finance Documents (a ***Sum***), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the ***First Currency***) in which that Sum is payable into another currency (the ***Second Currency***) for the purpose of:
           1. making or filing a claim or proof against that Obligor; or
           2. obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

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

* + - 1. Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.
  1. Other indemnities
     + 1. Each Obligor jointly and severally shall within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability incurred by it as a result of:
          1. the occurrence of any Event of Default;
          2. a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 33 (*Sharing among the Finance Parties*);
          3. funding, or making arrangements to fund, its participation in a Loan requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone);
          4. a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower or the Borrower.
       2. Each Obligor jointly and severally shall promptly indemnify each Finance Party and each officer or employee of a Finance Party, against any cost, loss or liability incurred by that Finance Party or its Affiliate (or officer or employee of that Finance Party) in connection with or arising out of an Acquisition or the funding of an Acquisition (including but not limited to those incurred in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry concerning an Acquisition), unless such loss or liability is caused by the gross negligence or wilful misconduct of that Finance Party (or employee or officer of that Finance Party). Any officer or employee of a Finance Party may rely on this Clause 17.2.
  2. Indemnity to the Facility Agent

Each Obligor jointly and severally shall promptly indemnify the Facility Agent against:

* + - 1. any cost, loss or liability (together with any applicable VAT) incurred by the Facility Agent (acting reasonably) as a result of:
         1. investigating any event which it reasonably believes is a Default;
         2. acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
         3. instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and
      2. any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Facility Agent (acting reasonably) (otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents.
      3. This Clause 17.3 shall survive in full force and effect notwithstanding the termination of this Agreement or the resignation or termination of the Facility Agent.
  1. Indemnity to the Security Agent
     + 1. Each Obligor jointly and severally shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability (together with any applicable VAT) incurred by any of them as a result of:
          1. any failure by the Borrower to comply with its obligations under Clause 19 (*Costs and Expenses*);
          2. acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
          3. the taking, holding, protection or enforcement of the Transaction Security;
          4. the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law;
          5. instructing lawyers, accountants, tax advisers, surveyors, a financial adviser or other professional advisers or experts as permitted under this Agreement;
          6. any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; or
          7. acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Charged Property (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct).
       2. Each Obligor expressly acknowledges and agrees that the continuation of its indemnity obligations under this clause 17.4 will not be prejudiced by any release or disposal under clause 3 (*Subordination*) of the Subordination Deed taking into account the operation of that Clause.
       3. The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 17.4 and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it.

1. Mitigation by the Lenders
   1. Mitigation
      * 1. Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any Facility ceasing to be available or amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 (*Illegality*), Clause ‎15 (*Tax Gross Up and Indemnities*) or Clause ‎16 (*Increased Costs*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.
        2. Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.
   2. Limitation of liability
      * 1. Each Obligor jointly and severally shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 18.1 (*Mitigation*).
        2. A Finance Party is not obliged to take any steps under Clause ‎18.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.
2. Costs and Expenses
   1. Transaction expenses
      * 1. Each Obligor jointly and severally shall, promptly on demand, pay the Lender, the Facility Agent and the Security Agent the amount of all costs and expenses (including legal fees and out-of-pocket expenses), plus VAT or other similar tax (in accordance with paragraph (d) of Clause 15.7 (*VAT*), reasonably incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation, execution and perfection of:
           1. this Agreement and any other documents referred to in this Agreement and the Transaction Security; and
           2. any other Finance Documents executed after the date of this Agreement.
        2. The Borrower shall pay all costs due under sub-paragraph (i) of paragraph (a) above on the last day of the Availability Period, or, if earlier, the Utilisation Date, which costs shall save to the extent agreed otherwise by the Facility Agent (acting on the instructions of the Lenders) include an estimate of the costs and expenses anticipated to be incurred in respect thereof during the period from the Closing Date until the last date for satisfaction of the conditions subsequent set out in Clause 24.42 (*Conditions subsequent*).
        3. The Obligors shall be responsible for their own costs and expenses.
   2. Amendment costs

If:

* + - 1. an Obligor requests an amendment, waiver or consent; or
      2. an amendment is required pursuant to Clause 34.14 (*Change of currency*),

each Obligor jointly and severally shall, within three Business Days of demand, reimburse each of the Facility Agent and the Security Agent for the amount of all costs and expenses (including legal fees), plus VAT or other similar tax (in accordance with paragraph (d) of Clause 15.7 (*VAT*), reasonably incurred by the Facility Agent and the Security Agent (and, in the case of the Security Agent, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

* 1. Security Agent’s management time and additional remuneration
     + 1. Any amount payable to the Security Agent under Clause 17.4 (*Indemnity to the Security Agent*) and this Clause 19 shall include the cost of utilising the Security Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Security Agent may notify to the Borrower and the Lenders, and is in addition to any other fee paid or payable to the Security Agent.
       2. Without prejudice to paragraph (a) above, in the event of:
          1. a Default;
          2. the Security Agent being requested by an Obligor or the Majority Lenders to undertake duties which the Security Agent and the Borrower agree to be of an exceptional nature or outside the scope of the normal duties of the Security Agent under the Finance Documents; or
          3. the Security Agent and the Borrower agreeing that it is otherwise appropriate in the circumstances,

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

* + - 1. If the Security Agent and the Borrower fail to agree upon the nature of the duties, or upon the additional remuneration referred to in paragraph (a) above or whether additional remuneration is appropriate in the circumstances, any dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Borrower 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 Borrower) and the determination of any investment bank shall be final and binding upon the Parties.
  1. Enforcement and preservation costs

The Borrower shall, within three Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including legal fees), plus VAT or other similar tax (in accordance with paragraph (d) of Clause 15.7 (*VAT*), incurred by it in connection with the enforcement of or the preservation of any rights under any Finance Document and the Transaction Security and any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Transaction Security or enforcing these rights.

1. Guarantee and Indemnity
   1. Guarantee and indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

* + - 1. guarantees to each Finance Party punctual performance by each other Obligor of all that Obligor’s obligations under the Finance Documents;
      2. undertakes with each Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
      3. agrees with each Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Finance Party immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 20 if the amount claimed had been recoverable on the basis of a guarantee.
  1. Continuing Guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

* 1. Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Finance Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 20 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

* 1. Waiver of defences
     + 1. The obligations of each Guarantor under this Clause 20 will not be affected by an act, omission, matter or thing which, but for this Clause ‎20, would reduce, release or prejudice any of its obligations under this Clause 20 (without limitation and whether or not known to it or any Finance Party) including:
          1. any time, waiver or consent granted to, or composition with, any Obligor or other person;
          2. the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
          3. the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
          4. any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
          5. any amendment, novation, supplement, extension restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security;
          6. any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
          7. any insolvency or similar proceedings.
       2. To the extent possible under the UAE Federal Law No. 5 of 1985 regarding civil transactions (as amended) (the ***UAE Civil Code***) each Guarantor expressly agrees that the provisions of Articles 1080, 1089, 1092, 1101 and 1105 of the UAE Civil Code, to the extent that a court would hold these Articles to be applicable to this guarantee, shall not apply to this guarantee and, insofar as Article 1092 is concerned, that no Finance Party (or any trustee or agent on its behalf) shall be obliged to make any demand within the six-month period referred to in Article 1092 of the UAE Civil Code.
  2. Guarantor Intent

Without prejudice to the generality of Clause 20.4 (*Waiver of defences*), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

* 1. Immediate recourse

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Clause 20. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

* 1. Appropriations

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

* + - 1. refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and
      2. hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor’s liability under this Clause 20.
  1. Deferral of Guarantors’ rights

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 20:

* + - 1. to be indemnified by an Obligor;
      2. to claim any contribution from any other guarantor of any Obligor’s obligations under the Finance Documents;
      3. to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
      4. to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 20.1 (*Guarantee and indemnity*);
      5. to exercise any right of set-off against any Obligor; and/or
      6. to claim, rank or prove as a creditor of any Obligor in competition with any Finance Party.

If a Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and shall promptly pay or transfer the same to the Facility Agent or as the Facility Agent may direct for application in accordance with Clause 34 (*Payment Mechanics*).

* 1. Release of Guarantors’ right of contribution

If any Guarantor (a ***Retiring Guarantor***) ceases to be a Guarantor in accordance with the terms of the Finance Documents for the purpose of any sale or other disposal of that Retiring Guarantor then on the date such Retiring Guarantor ceases to be a Guarantor:

* + - 1. that Retiring Guarantor is released by each other Guarantor from any liability (whether past, present or future and whether actual or contingent) to make a contribution to any other Guarantor arising by reason of the performance by any other Guarantor of its obligations under the Finance Documents; and
      2. each other Guarantor waives any rights it may have by reason of the performance of its obligations under the Finance Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under any Finance Document or of any other security taken pursuant to, or in connection with, any Finance Document where such rights or security are granted by or in relation to the assets of the Retiring Guarantor.
  1. Additional security

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

* 1. Guarantee Limitations
     + 1. **English and Scottish Guarantors**

Without prejudice to Clause 24.36 (*Financial assistance*), this guarantee does not apply to any liability to the extent that it would result in this guarantee constituting unlawful financial assistance within the meaning of sections 678 or 679 of the Companies Act 2006 or any equivalent and applicable provisions under the laws of the Original Jurisdiction of the relevant Guarantor and, with respect to any Additional Guarantor, is subject to any limitations set out in the Accession Deed applicable to such Additional Guarantor.

* + - 1. **German Guarantors**
      2. For the purpose of this paragraph (b):
         1. ***German Guarantor*** means a German GmbH Guarantor or a German GmbH & Co. KG Guarantor;
         2. ***German GmbH Guarantor*** means any Guarantor incorporated in Germany as a private limited company (*Gesellschaft mit beschränkter Haftung*);
         3. ***German GmbH & Co. KG Guarantor*** means any Guarantor established in Germany as a limited partnership (*Kommanditgesellschaft*) with a private limited company (*Gesellschaft mit beschränkter Haftung*) as its sole general partner (*Komplementär*); and
         4. ***Guarantee Obligations*** means the payment obligations of any Guarantor incurred pursuant to this Clause 20, any indemnity or any other payment obligation created under this Agreement.
      3. The Parties to this Agreement agree that the relevant German GmbH Guarantor shall have the burden of proof for all facts required for the limitation agreed in this paragraph (b).
      4. The right to enforce any Guarantee Obligation against a German GmbH Guarantor shall be limited if and to the extent that such Guarantee Obligation secures any obligation of an affiliated company (*verbundenes Unternehmen*) of such German GmbH Guarantor within the meaning of section 15 AktG (in each case other than any of the German GmbH Guarantor's direct or indirect subsidiaries) (such Guarantee Obligations also referred to in this paragraph (b) as ***upstream and/or cross-stream Guarantee Obligations***) and the enforcement of such Guarantee Obligation would cause:
         1. the German GmbH Guarantor's net assets to be (determined in accordance with the provisions of the German Commercial Code (*Handelsgesetzbuch*, ***HGB***) consistently applied by the German GmbH Guarantor in preparing its unconsolidated balance sheets (*Jahresabschluss*) according to section 42 of the German Limited Liabilities Companies Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung*,***GmbHG***) and in accordance with sections 30, 31 GmbHG (as applicable at the time of enforcement) and by only taking into account the sum of the values of the assets of the German GmbH Guarantor which correspond to those items listed in section 266 subsection (2) A, B, C, D and E HGB less the German GmbH Guarantor’s liabilities, consisting of all liabilities and liability reserves which correspond to those items listed in accordance with section 266 subsection (3) B, C, D and E HGB and any amounts not available for distribution according to section 268 subsection (8) HGB but, for the avoidance of doubt, excluding any liabilities under or relating to the Guarantee Obligations (the ***Net Assets***) to be less than its registered share capital (*Stammkapital*) (*Begründung einer Unterbilanz*); or
         2. if the German GmbH Guarantor's Net Assets are already less than its registered share capital, the German GmbH Guarantor's Net Assets to be further reduced (*Vertiefung einer Unterbilanz*),

(in each case a ***Capital Impairment***).

* + - 1. For the purposes of calculating the Net Assets, the following balance sheet items shall be adjusted as follows:
         1. the amount of any increase in the registered share capital of the relevant German GmbH Guarantor through the relevant German GmbH Guarantor’s retained earnings (*Kapitalerhöhung aus Eigenmitteln*) which was carried out after the relevant German GmbH Guarantor became a party to this Agreement without the prior written consent of the Facility Agent shall be deducted from the amount of the registered share capital of the relevant German GmbH Guarantor;
         2. any funds borrowed by the Borrower under this Agreement which have been or are on-lent or otherwise passed on to the relevant German GmbH Guarantor or to any subsidiary of such German GmbH Guarantor and have not yet been repaid at the time when payment of a Guarantee Obligation is demanded, shall be disregarded; and
         3. loans or other contractual liabilities incurred by the relevant German GmbH Guarantor in breach of the Finance Documents shall not be taken into account as liabilities.
      2. The relevant German GmbH Guarantor shall deliver to the Facility Agent, within ten (10) Business Days after receipt from the Facility Agent of a notice stating that the Facility Agent intends to demand payment under the Guarantee Obligation (A) an up-to-date balance sheet of such German GmbH Guarantor and (B) a confirmation in writing (together with a detailed calculation of the amount of such German GmbH Guarantor's Net Assets stating to what extent the Guarantee Obligations are up-stream and/or cross-stream Guarantee Obligations and which amount of such up-stream and/or cross-stream Guarantee Obligations cannot be enforced as it would cause a Capital Impairment of such German GmbH Guarantor (the ***Management Determination***). The relevant German GmbH Guarantor shall fulfil its Guarantee Obligations, and the Facility Agent shall be entitled to enforce the Guarantee Obligations, in an amount which would, in accordance with the Management Determination, not cause a Capital Impairment of such German GmbH Guarantor.
      3. Following the Facility Agent’s receipt of the Management Determination, the relevant German GmbH Guarantor shall deliver to the Facility Agent within ten (10) Business Days from the date of the Facility Agent's further request (A) an up-to-date balance sheet of such German GmbH Guarantor and (B) a determination in writing (together with a detailed calculation of the amount of such German GmbH Guarantor's Net Assets taking into account the adjustments set out above) in each case prepared by auditors of international standard and reputation reasonably appointed by the relevant German GmbH Guarantor either confirming the Management Determination or setting out deviations from the Management Determination (the ***Auditor's Determination***). Such balance sheet and Auditor’s Determination shall be prepared in accordance with HGB consistently applied and as of the date of the demand by the Facility Agent against the relevant German GmbH Guarantor to make payments on its Guarantee Obligations. The relevant German GmbH Guarantor shall fulfil its Guarantee Obligations, and the Facility Agent shall be entitled to enforce the relevant Guarantee Obligation, in an amount which would, in accordance with the Auditor’s Determination, not cause a Capital Impairment of such German GmbH Guarantor.

If the relevant German GmbH Guarantor does not provide the Management Determination or the Auditor’s Determination within the time frame set out above, demanding payment of a Guarantee Obligation shall not be limited pursuant to paragraph (b)(iii) above. If, and to the extent that, a Guarantee Obligation has been enforced without regard to the limitation on enforcement set out in this paragraph (b) because (A) the Management Determination or the Auditor's Determination was not delivered within the relevant time frame set out above or (B) the amount payable from the Auditor's Determination is lower than the respective amount resulting from the Management Determination, the Finance Parties shall upon written demand of the relevant German GmbH Guarantor to the Facility Agent (on behalf of the Finance Parties) repay to the relevant German GmbH Guarantor any amount in the case of (A) above, which the Facility Agent would not have been entitled to enforce had the Management Determination or the Auditor's Determination been delivered in time, and in the case of (B) above, the difference between the amount paid and the amount payable resulting from the Auditor’s Determination calculated as of the date the demand in respect of a Guarantee Obligation was made and in accordance with paragraphs (b)(iii) and (vi) above, provided that such demand for repayment to the Facility Agent must be made no later than (*Ausschlussfrist*) two (2) Months from the date the guarantee has been enforced. In no event shall the Facility Agent have any responsibility or liability for the repayment of any such monies distributed to any Finance Party, including, without limitation, any obligation to seek return of such amounts from such Finance Party. In particular the Facility Agent shall not be obliged to make available to that German GmbH Guarantor any proceeds realised.

* + - 1. The restriction under paragraph 20.11(b)(iii) (*Guarantee Limitations – German Guarantors*)above shall not apply or, as the case may be, shall cease to apply to a German GmbH Guarantor
         1. if and so long it is (as a dominated and/or profit distributing company) party to a domination and/or profit and loss pooling agreement (*Beherrschungs- und/oder Gewinnab­führungsvertrag*) (section 291 AktG), either directly or through an unbroken chain of domination and/or profit and loss pooling agreements, and an Obligor whose payment obligation against any of the Finance Parties the relevant German GmbH Guarantor has committed itself to the Guarantee Obligations and provided that the existence of such domination and/or profit and loss pooling agreement leads to the inapplicability of Section 30 paragraph 1 sentence 1 German Limited Liability Companies Act (*GmbHG*);
         2. if the relevant German GmbH Guarantor's Guarantee Obligation is covered by a valuable claim for consideration or recourse claim (*vollwertiger Gegen­leistungs- oder Rückgewähranspruch*); or
         3. if and to the extent an enforcement is not prohibited under the rules set out in sections 30 et seq. of the German Limited Liability Companies Act (*GmbHG*), each as applicable and as amended, supplemented and/or replaced from time to time.
      2. If the Management Determination shows that a Capital Impairment would occur upon payment under the guarantee, the relevant German GmbH Guarantor shall realise all of its assets that are shown in the balance sheet with a book value (*Buchwert*) that is significantly lower than the market value of the assets to the extent this is necessary to fulfil its obligations under the Finance Documents. If the relevant assets are necessary for the business of that German GmbH Guarantor (*betriebsnotwendig*), it will use its best efforts to realise the higher market value by sale and lease-back or similar measures.
      3. If the Facility Agent ascertains in good faith that the financial condition of the relevant German GmbH Guarantor as set out in the Auditor’s Determination has improved (in particular, if the relevant German GmbH Guarantor has taken any action in accordance with the mitigation provisions set out in paragraph (b)(viii) above), the Facility Agent may in its reasonable discretion, at the relevant German GmbH Guarantor's reasonable cost and expense, arrange for the preparation of an updated balance sheet of the relevant German GmbH Guarantor by applying the same principles that were used for the preparation of the Auditor’s Determination by the auditors who prepared the Auditor’s Determination in order for such auditors to determine whether (and, if so, to what extent) the Capital Impairment has been cured as a result of the improvement of the financial condition of the relevant German GmbH Guarantor. The Facility Agent may consequently demand payment under this guarantee to the extent that the auditors determine that the Capital Impairment has been cured.
      4. Other than as specifically set out herein this paragraph (b) shall not affect the enforceability, legality or validity of this guarantee.
      5. In the case of a German GmbH & Co. KG Guarantor the aforementioned provisions shall apply *mutatis mutandis* and all references to Capital Impairment and Net Assets shall be construed as a reference to capital impairment and net assets of the general partner (*Komplementär*) of such German GmbH & Co. KG.

1. Representations
   1. General

Each Obligor makes the representations and warranties set out in this Clause 21 to each Finance Party.

* 1. Status
     + 1. It is a limited liability corporation, limited liability company or limited partnership duly incorporated or established and validly existing under the law of its Original Jurisdiction.
       2. Each of its Subsidiaries is a limited liability corporation, limited liability company or limited partnership duly incorporated or established and validly existing under the law of its jurisdiction of incorporation.
       3. It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.
  2. Binding obligations

Subject to the Legal Reservations and, in the case of paragraph (b) below, the Perfection Requirements:

* + - 1. the obligations expressed to be assumed by it in each Transaction Document to which it is a party are legal, valid, binding and enforceable obligations, it being acknowledged that any waiver of defences agreed to by an Obligor which is in the nature of a public order or mandatory provision under the UAE Civil Code may not be enforceable; and
      2. (without limiting the generality of paragraph (a) above), each Transaction Security Document to which it is a party creates the security interests which that Transaction Security Document purports to create and those security interests are valid and effective.
  1. Non-conflict with other obligations

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

* + - 1. any law or regulation applicable to it;
      2. the constitutional documents of it or any member of the Group; or
      3. any agreement or instrument binding upon it or any member of the Group or any of its or any member of the Group’s assets or constitute a default or termination event (however described) under any such agreement or instrument in a manner which has or is reasonably likely to have a Material Adverse Effect.
  1. Power and authority
     + 1. Subject to the Legal Reservations and the Perfection Requirements, it has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Transaction Documents to which it is or will be a party and the transactions contemplated by those Transaction Documents.
       2. No limit on its powers will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by the Transaction Documents to which it is a party.
  2. Validity and admissibility in evidence
     + 1. Subject to the Legal Reservations and the Perfection Requirements, all Authorisations required or desirable:
          1. to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party; and
          2. to make the Transaction Documents to which it is a party admissible in evidence in its Relevant Jurisdictions (other than any requirement to translate any document into Arabic or Hungarian, as applicable),

have been obtained or effected and are in full force and effect except any Authorisation referred to in Clause ‎21.9 (*No filing or stamp taxes*), which Authorisations will be promptly obtained or effected after the date of the relevant Finance Document and in any event within the applicable time limits.

* + - 1. All Authorisations necessary for the conduct of the business, trade and ordinary activities of members of the Group have been obtained or effected and are in full force and effect if failure to obtain or effect those Authorisations has or is reasonably likely to have a Material Adverse Effect.
  1. Governing law and enforcement
     + 1. Subject to the Legal Reservations, the choice of governing law of the Finance Documents will be recognised and enforced in its Relevant Jurisdictions of each Obligor executing that Finance Document.
       2. Subject to the Legal Reservations and the UAE Governing Law Qualification, any judgment or decree obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document to which it is a party will be recognised and enforced in its Relevant Jurisdictions subject to any limitations arising from the Lugano Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters dated 30 October 2007 (approved by Council Decision 2009/430/EC).
  2. Insolvency

No:

* + - 1. corporate action, legal proceeding or other procedure or step described in paragraph (a) of Clause 25.7 (*Insolvency proceedings*); or
      2. creditors’ process described in Clause 25.8 (*Creditors’ process*),

has been taken or, to the knowledge of the Borrower, threatened in relation to a member of the Group; and none of the circumstances described in Clause 25.6 (*Insolvency*) applies to a member of the Group.

* 1. No filing or stamp taxes

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

* + - 1. registration of particulars of the relevant Transaction Security Documents at the Companies Registration Office in England and Wales or in Scotland under section 859A of the Companies Act 2006 and payment of associated fees; and
      2. registration of the Transaction Security Documents which create a charge or mortgage over Properties at the Land Registry or Land Charges Registry in England and Wales and payment of associated fees;
      3. the registration of the Transaction Security established pursuant to the Hungarian law governed (i) quota pledge agreement with the competent court of registration, (ii) bank account pledge with the credit collateral registry and (iii) receivables pledge with the credit collateral registry and the duties payable for such registration,

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

* 1. Deduction of Tax

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

* + - 1. a Qualifying Lender:

(i) falling within paragraph (a) of the definition of "Qualifying Lender"; or

(ii) except where a Direction has been given under section 931 of the ITA in relation to the payment concerned, falling within paragraph (b) of the definition of "Qualifying Lender";

* + - 1. a Treaty Lender and the payment is one specified in a direction given by the Commissioners of Revenue & Customs under Regulation 2 of the Double Taxation Relief (Taxes on Income) (General) Regulations 1970 (SI 1970/488).
  1. No default
     + 1. No Event of Default and, on the date of this Agreement, the Closing Date and the Effective Date, no Default is continuing or is reasonably likely to result from the making of any Loan or the entry into, the performance of, or any transaction contemplated by, any Transaction Document.
       2. No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (however described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries’) assets are subject which has or is reasonably likely to have a Material Adverse Effect.
  2. No misleading information

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

* + - 1. any factual written information contained in the Information Package was true and accurate in all material respects as at the date of the relevant report or document containing the information or (as the case may be) as at the date the information is expressed to be given;
      2. the Base Case Model has been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements, and the financial projections contained in the Base Case Model have been prepared on the basis of recent historical information, are fair and based on assumptions reasonable at the time prepared and have been approved by the board of directors of the Borrower (provided that the Lender acknowledges that projections and forecasts are subject to significant uncertainties and contingencies and no assurance can be given that such projections or forecasts will be realised);
      3. any financial projection or forecast contained in the Information Package has been prepared on the basis of recent historical information and on the basis of reasonable assumptions and was fair (as at the date of the relevant report or document containing the projection or forecast) and arrived at after careful consideration;
      4. the expressions of opinion or intention provided by or on behalf of an Obligor for the purposes of the Information Package were made after careful consideration and (as at the date of the relevant report or document containing the expression of opinion or intention) were fair and based on reasonable grounds;
      5. so far as the Borrower is aware, no event or circumstance has occurred or arisen and no information has been omitted from the Information Package and no information has been given or withheld that results in the information, opinions, intentions, forecasts or projections contained in the Information Package being untrue or misleading in any material respect; and
      6. all projections provided to any Finance Party on or before the date of this Agreement have been prepared in good faith on the basis of assumptions which were reasonable at the time at which they were prepared and supplied; and
      7. all other written information provided by any member of the Group (including its advisers) to a Finance Party or a Warrantholder or the provider of any Report was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any material respect.

The representations and warranties made with respect to the Reports are made by each Obligor in this Clause 21.12 only so far as it is aware.

* 1. Original Financial Statements
     + 1. The Original Financial Statements were prepared in accordance with the Accounting Principles consistently applied.
       2. The audited Original Financial Statements give a true and fair view of the consolidated financial condition and results of operations for the relevant financial year.
       3. There has been no material adverse change in the assets, business or financial condition (or the assets, business or consolidated financial condition) of the Group since the date of the Accountant’s Report.
       4. The Original Financial Statements of the Borrower do not consolidate the results, assets or liabilities of any person or business which does not form part of the Group.
       5. Its most recent financial statements delivered pursuant to Clause 22.2 (*Financial statements*):
          1. have been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements; and
          2. give a true and fair view of (if audited) or fairly represent (if unaudited) its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.
       6. The budgets and forecasts supplied under this Agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were reasonable as at the date they were prepared and supplied.
       7. Since the date of the most recent financial statements delivered pursuant to Clause 22.2 (*Financial statements*) there has been no material adverse change in the business, assets or financial condition of the Group.
  2. No proceedings pending or threatened

No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which are reasonably likely to be adversely determined, and, if so determined would be reasonably likely to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or so far as it is reasonably aware have been threatened (and not unconditionally withdrawn) against it or any of its Subsidiaries.

* 1. No breach of laws
     + 1. It has not (and none of its Subsidiaries has) breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.
       2. No labour disputes are current or, to the best of its knowledge and belief, threatened against any member of the Group which have or are reasonably likely to have a Material Adverse Effect.
  2. Environmental laws
     + 1. Each member of the Group is in compliance with Clause 24.3 (*Environmental compliance*) and to the best of its knowledge and belief no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.
       2. No Environmental Claim has been commenced or (to the best of its knowledge and belief) is threatened (and not unconditionally withdrawn) against any member of the Group where that claim has or is reasonably likely, if determined against that member of the Group, to have a Material Adverse Effect.
       3. The cost to the Group of compliance with Environmental Laws (including Environmental Permits) is (to the best of its knowledge and belief) adequately provided for in the Base Case Model.
  3. Taxation
     + 1. It is not (and none of its Subsidiaries is) materially overdue in the filing of any Tax returns and it is not (and none of its Subsidiaries is) overdue in the payment of any amount in respect of Tax of £100,000 (or its equivalent in any other currency) or more, other than those amounts of PAYE not exceeding £650,000 owed to HMRC which as at the date of this Agreement have been disclosed to the Facility Agent provided that such overdue amounts shall be paid within one Month of the date of this Agreement.
       2. No claims or investigations are being or, as far as it is aware, are reasonably likely to be, made or conducted against it (or any of its Subsidiaries) with respect to Taxes such that a liability of, or claim against it (or any of its Subsidiaries) of, £100,000 (or its equivalent in any other currency) or more is reasonably likely to arise.
       3. It is resident for Tax purposes only in its Original Jurisdiction.
  4. Sanctions
     + 1. No member of the Group:
          1. is, or is owned or controlled by, a Restricted Party, and no officer, director or holder of more than 10 per cent. of the Equity Interests in, or to its knowledge any employee, agent or affiliate of, any such person is a Restricted Party;
          2. is subject to any claim, proceeding, formal notice (so far as it is aware) or investigations with respect to Sanctions; or
          3. has, during the past five years, knowingly entered into any agreement, transaction or dealing with or for the benefit of any Restricted Party (or involving any property thereof), involving any Sanctioned Country, or involving any Iranian-origin crude oil, petroleum products or petrochemical products, in violation of, or in a manner that could expose such person to penalties under, any applicable Sanctions.
       2. The representation given in this Clause 21.18 shall not be made by nor apply to any Obligor that qualifies as a resident party domiciled in the Federal Republic of Germany (*Inländer*) within the meaning of section 2 paragraph 15 German Foreign Trade Act (*Außenwirtschaftsgesetz*) in so far as it would result in a violation of or conflict with section 7 German Foreign Trade Regulation (*Außenwirtschaftsverordnung*), any provision of Council Regulation (EC) 2271/96 or any other anti-boycott statute.
  5. Anti-corruption law
     + 1. Each member of the Group has conducted its businesses in compliance with any Anti-Corruption Law to which such person is subject and has instituted (and to the extent reasonable for a group operating in the business and jurisdictions in which the Group operates) has maintained policies and procedures designed to promote and achieve, and which are reasonably expected to continue to achieve, compliance with such laws.
       2. No member of the Group, nor any director, officer, employee, agent or holder of Equity Interests of any such person (acting in such capacity), has (i) in order to assist any such person in improperly obtaining or retaining business for or with any person, in improperly directing business to any person, or in securing any improper advantage, made, authorised, offered or promised to make any payment, gift or transfer of anything of value, directly, indirectly or through a third party, to or for the use or benefit of any Official, or (ii) made, authorised, offered or promised to make any unlawful bribe, rebate, payoff, influence payment or kickback or has taken any other action that would violate any Anti-Corruption Law binding on such person or in effect in any jurisdiction in which such action is taken.
  6. Security and Financial Indebtedness
     + 1. No Security or Quasi-Security exists over all or any of the present or future assets of any member of the Group other than as permitted by this Agreement.
       2. No member of the Group has any Financial Indebtedness or guarantees outstanding other than as permitted by this Agreement.
  7. Ranking

Subject to the Legal Reservations and the Perfection Requirements, the Transaction Security has or will have the ranking in priority which it is expressed to have in the Transaction Security Documents and it is not subject to any prior ranking or *pari passu* ranking Security.

* 1. Good title to assets

It and each of its Subsidiaries has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on the business of the Group as presently conducted.

* 1. Legal and beneficial ownership
     + 1. It and each of its Subsidiaries is the sole legal and beneficial owner of the respective assets over which it purports to grant Security free from any Security (other than as set out in the Transaction Security Documents or any Permitted Security) and, save as disclosed in the Reports, any restrictions or covenants that would have a materially adverse effect on the value or saleability of the Real Property/assets.
       2. As at the Utilisation Date:
          1. the Properties listed in the Security Agreement (including the Existing Group Headleases) are all of the properties held by it; and
          2. there are no other Properties in which it holds any interests.
  2. Shares

The shares of any member of the Group which are subject to the Transaction Security are fully paid and not subject to any option to purchase or similar rights. The constitutional documents of companies whose shares are subject to the Transaction Security do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security (other than to the extent of restrictions or inhibitions required by applicable law). Except as provided in the Existing Shareholder Agreements, the Warrant Instrument, the Closing Reorganisation Documents, the Post-Closing Reorganisation Documents and the Existing Loan Documents, there are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of any member of the Group (including any option or right of pre-emption or conversion).

* 1. Intellectual Property

It and each of its Subsidiaries:

* + - 1. is the sole legal and beneficial owner of or has licensed to it all the Intellectual Property which is material in the context of its business and which is required by it in order to carry on its business as it is being conducted and as contemplated in the Base Case Model; and
      2. does not, in carrying on its businesses, infringe any Intellectual Property of any third party in any respect which has or is reasonably likely to have a Material Adverse Effect.
  1. Group Structure Chart
     + 1. The Group Structure Chart and list of Dormant Subsidiaries delivered to the Facility Agent pursuant to Schedule 2 (*Conditions Precedent*) and Schedule 2 (*Conditions Precedent*) to the Amendment and Restatement Agreement are, in each case, true, complete and accurate in all material respects and show the following information:
          1. each member of the Group, including current name and company registration number, its Original Jurisdiction (in the case of an Obligor), its jurisdiction of incorporation (in the case of a member of the Group which is not an Obligor) and/or its jurisdiction of establishment, a list of shareholders and indicating whether a company is a Dormant Subsidiary or is not a company with limited liability; and
          2. all minority interests in any member of the Group and any person in which any member of the Group holds shares in its issued share capital or equivalent ownership interest of such person,

in each case assuming that the Closing Reorganisation or Completion (as applicable) has occurred.

* + - 1. All necessary intra-Group loans, transfers, share exchanges and other steps resulting in the final Group structure are set out in the Group Structure Chart and have been or will be taken in compliance with all relevant laws and regulations and all requirements of relevant regulatory authorities.
  1. Obligors

Each Subsidiary of the Borrower incorporated under the laws of (i) England and Wales or (ii) Scotland (other than a Dormant Subsidiary except (i) RSK Stats Limited and (ii) R.W. Management (Holdings) Limited) is or will be an Obligor on the Closing Date.

* 1. Accounting Reference Date and Auditors
     + 1. The Accounting Reference Date of each member of the Group is 31 March or as set out in the definition of such term.
       2. The Borrower’s Auditors on the date of this Agreement are Ross Brooke Limited.
  2. Existing Shareholder Agreements

The constitutional documents and relevant Existing Shareholder Agreements of the Borrower and each other member of the Group (as amended to the extent permitted under this Agreement and the Subordination Deed) contain all the material terms of all the agreements and arrangements between Senior Management and the Investors and the shareholders of each member of the Group and between Senior Management, the Borrower and any member of the Group.

* 1. Closing Reorganisation
     + 1. Each Subsidiary listed in Part C of Schedule 1 (*The Original Parties*) is, or shall be on the Closing Date, a Subsidiary of RSK Environment.
       2. The Closing Reorganisation Documents contain all the material terms relating to the Closing Reorganisation.
       3. The Closing Reorganisation was conducted in compliance with the Existing Facilities, the Existing Loan Documents, the Existing Shareholder Agreements and the Closing Reorganisation Documents.
  2. Post-Closing Reorganisation Documents
     + 1. Each Subsidiary listed in Part D of Schedule 1 (*The Original Parties*) shall be on completion of the Post-Closing Reorganisation, a Subsidiary of RSK Environment.
       2. The Post-Closing Reorganisation Documents shall contain all the material terms relating to the Post-Closing Reorganisation.
       3. The Post-Closing Reorganisation was conducted in compliance with the Constitutional Documents, the Existing Loan Documents and the Existing Shareholder Agreements.
  3. Centre of Main Interests and Establishments

For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the ***Regulation***), and in respect of those Obligors which are incorporated in a member state of the European Union, its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in its Original Jurisdiction and it has no “establishment” (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

* 1. Pensions

Except for the Structural Soils Limited Retirement Benefits Plan:

* + - 1. no member of the Group is or has at any time been an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pensions Schemes Act 1993); and
      2. no member of the Group is or has at any time been “connected” with or an “associate” of (as those terms are used in sections 38 and 43 of the Pensions Act 2004) such an employer.
  1. Dormant Companies

Each of RSK ENSR Albania SHRK, RW Management Holdings Ltd, Amberco BvBa, RSK Environmental LLC (*Georgia*), RSK Training Ltd, RSK Renewables Ltd, Stats Group Ltd, KETC Ltd, RSK Remediation Ltd, RSK Carters Ecological Ltd, RSK Environment (Isle of Man) Ltd, RSK Environment LLC (*Ukraine*), RSK Resourcing Ltd, RSK (Eastern Europe) Ltd, RSK Turkey Ltd, RSK Environmental W.L.L., RSK Europe BVBA, RSK Remediation and Development Ltd, RSK Carbon Management Ltd and, with effect from the Completion Date, PS Rail Limited is a Dormant Subsidiary.

* 1. Compliance with Money Laundering Regulations

Each Obligor confirms that in entering into this Agreement and making Loans hereunder it is acting for its own account.

* 1. Times when representations made
     + 1. All the representations and warranties in this Clause 21 are made by each Original Obligor on the date of this Agreement except for:
          1. the representations and warranties set out in paragraphs (a) to (e) of Clause 21.12 (*No misleading information*) which are deemed to be made by each Obligor:

with respect to the Base Case Model, on the date of this Agreement and on the Closing Date; and

with respect to the Information Package (other than the Base Case Model), on the date of this Agreement and on any later date on which the Information Package (or part of it) is released to the Lenders; and

* + - * 1. the representations and warranties set out in Clause 21.31 (*Post-Closing Reorganisation Documents*).
      1. Except for the representations and warranties in Clause 21.31 (*Post-Closing Reorganisation Documents*), all the representations and warranties in this Clause 21 are deemed to be made by each Obligor on the Closing Date.
      2. The Repeating Representations are deemed to be made by each Obligor on the date of the Utilisation Request, on the Utilisation Date and on the first day of each Interest Period, provided that in the case of sub-paragraphs (d), (e) and (f) of Clause 21.13 (*Original Financial Statements*), the Repeating Representation is made in respect of the financial statements, budgets or forecasts most recently delivered under this Agreement.
      3. The representations and warranties in Clause 21.26 (*Group Structure Chart*) are deemed to be made by each Obligor on the date the updated Group Structure Chart is delivered to the Facility Agent under paragraph (e)(iii) of Clause 24.42 (*Conditions subsequent*), but as though references in those representations and warranties to the Group Structure Chart were to the updated Group Structure Chart.
      4. The representations and warranties in Clause 21.31 (*Post-Closing Reorganisation Documents*) are deemed to be made by each Obligor (respectively) on the day on which the Borrower has delivered all of the Post-Closing Reorganisation Documents to the Facility Agent under paragraph (e) of Clause 24.42 (*Conditions subsequent*).
      5. All the representations and warranties in this Clause 21 except Clause ‎21.12 (*No misleading information*), Clause ‎21.26 (*Group Structure Chart*), Clause 21.29 (*Existing Shareholder Agreements*) and 21.34 (*Dormant Companies*) are deemed to be made by each Additional Guarantor on the day on which it becomes (or it is proposed that it becomes) an Additional Guarantor.
      6. Each representation or warranty deemed to be made after the date of this Agreement shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

1. Information Undertakings
   1. The undertakings
      * 1. This Clause 22 shall remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.
        2. In this Clause ‎22:
           1. ***Annual Financial Statements*** means the financial statements for a Financial Year delivered pursuant to paragraph (a) of Clause ‎22.2 (*Financial statements*);
           2. ***Quarterly Financial Statements*** means the financial statements delivered pursuant to paragraph (b) of Clause ‎‎22.2 (*Financial statements*);
           3. ***Monthly Financial Statements*** means the financial statements delivered pursuant to paragraph (c) of Clause ‎‎22.2 (*Financial statements*); and
           4. ***Cash Flow Forecasts*** means the cash flow forecasts delivered pursuant to paragraph (d) of Clause 22.2 (*Financial statements*).
   2. Financial statements

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

* + - 1. as soon as they are available, but in any event within 150 days after the end of each of its Financial Years: 
         1. its audited consolidated financial statements for that Financial Year; and
         2. the audited financial statements of any other Subsidiary for that Financial Year if requested by the Facility Agent;
      2. as soon as they are available, but in any event within 45 days after the end of each Financial Quarter of each of its Financial Years its consolidated financial statements for that Financial Quarter;
      3. as soon as they are available, but in any event within 30 days after the end of each month its financial statements on a consolidated basis for that month (to include cumulative management accounts for the relevant Financial Year to date); and
      4. as soon as they are available, but in any event within 10 days after the beginning of each calendar month its 13 week cash flow forecasts for that month.
  1. Provision and contents of Compliance Certificate
     + 1. The Borrower shall supply a Compliance Certificate to the Facility Agent with each set of its Annual Financial Statements and each set of its Quarterly Financial Statements.
       2. The Compliance Certificate shall, amongst other things, set out (in reasonable detail) computations as to compliance with Clause 23 (*Financial Covenants*).
       3. Each Compliance Certificate shall be signed by two directors of the Borrower and, if required to be delivered with the Annual Financial Statements of the Borrower, shall be reported on by the Borrower’s Auditors or, if the Majority Lenders so require, the Monitoring Accountants in the form agreed by the Borrower and the Majority Lenders.
  2. Requirements as to financial statements
     + 1. The Borrower shall procure that each set of Annual Financial Statements, Quarterly Financial Statements and Monthly Financial Statements includes a balance sheet, profit and loss account and cashflow statement. In addition the Borrower shall procure that:
          1. each set of Annual Financial Statements shall be audited by the Borrower’s Auditors;
          2. each set of Quarterly Financial Statements includes a cashflow forecast in respect of the Group relating to the three Month period commencing at the end of the relevant Financial Quarter;
          3. each set of Monthly Financial Statements is accompanied by a statement by the directors of the Borrower commenting on the performance of the Group for the month to which the financial statements relate and the Financial Year to date and any material developments or proposals affecting the Group or its business.
       2. Each set of financial statements delivered pursuant to Clause 22.2 (*Financial statements*):
          1. shall be certified by a director of the relevant company as giving a true and fair view of (in the case of Annual Financial Statements for any Financial Year), or fairly representing (in other cases), its financial condition and operations as at the date as at which those financial statements were drawn up and, in the case of the Annual Financial Statements, shall be accompanied by any letter addressed to the management of the relevant company by the auditors of those Annual Financial Statements and accompanying those Annual Financial Statements;
          2. in the case of consolidated financial statements of the Group, shall be accompanied by a statement by the directors of the Borrower comparing actual performance for the period to which the financial statements relate to:

the projected performance for that period set out in the Budget; and

the actual performance for the corresponding period in the preceding Financial Year of the Group; and

* + - * 1. shall be prepared using the Accounting Principles, accounting practices and financial reference periods consistent with those applied in the preparation of the Base Case Model, unless, in relation to any set of financial statements, the Borrower notifies the Facility Agent that there has been a change in the Accounting Principles or the accounting practices and the Borrower’s Auditors deliver to the Facility Agent:

a description of any change necessary for those financial statements to reflect the Accounting Principles or accounting practices upon which the Base Case Model was prepared; and

sufficient information, in form and substance as may be reasonably required by the Facility Agent, to enable the Lenders to determine whether Clause 23 (*Financial Covenants*) has been complied with, to determine the Margin as set out in the definition of ***Margin***, make an accurate comparison between the financial position indicated in those financial statements and the Base Case Model.

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

* + - 1. If the Facility Agent wishes to discuss the financial position of any member of the Group with the auditors of that member of the Group, the Facility Agent may notify the Borrower, stating the questions or issues which the Facility Agent wishes to discuss with those auditors. In this event, the Borrower must ensure that those auditors are authorised (at the expense of the Borrower):
         1. to discuss the financial position of each member of the Group with the Facility Agent on request from the Facility Agent (acting on the direction of the Majority Lenders); and
         2. to disclose to the Facility Agent for the Finance Parties any information which the Facility Agent (acting on the direction of the Majority Lenders) may reasonably request.
      2. Notwithstanding any other term of this Agreement no Event of Default shall occur, or be deemed to occur, as a result of any restriction on the identity of the Borrower’s Auditors contained in this Agreement being prohibited, unlawful, ineffective, invalid or unenforceable pursuant to the Audit Laws.
  1. Budget
     + 1. The Borrower shall supply to the Facility Agent in sufficient copies for all the Lenders as soon as the same become available but in any event not less than 5 days before the start of each of its Financial Years, an annual Budget for that Financial Year.
       2. The Borrower shall ensure that each Budget:
          1. is in a form reasonably acceptable to the Facility Agent (as directed by the Majority Lenders) and includes a projected consolidated profit and loss, balance sheet and cashflow statement for the Group and projected financial covenant calculations;
          2. is prepared in accordance with the Accounting Principles and the accounting practices and financial reference periods applied to financial statements under Clause 22.2 (*Financial statements*); and
          3. has been approved by the board of directors of the Borrower.
       3. If the Borrower updates or changes the Budget, it shall promptly deliver to the Facility Agent, in sufficient copies for each of the Lenders, such updated or changed Budget together with a written explanation of the main changes in that Budget.
  2. Group companies

The Borrower shall, at any time after the occurrence of an Event of Default which is continuing or if the Facility Agent suspects a breach of Clause 24.14 (*Guarantees and Security*) or Clause 24.39 (*Guarantors*), at the request of the Facility Agent, supply to the Facility Agent a report issued by the Borrower’s Accountants stating which of its Subsidiaries are:

* + - 1. Material Companies; and
      2. are to be treated as Material Companies for the purpose of paragraph (b) of Clause 24.14 (*Guarantees and Security*),

and confirming that the Group is in compliance with the requirements in Clause 24.39 (*Guarantors*).

* 1. Presentations

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

* 1. Senior Management Access

The Borrower shall procure that Senior Management are available if requested by the Lenders, to meet with the Lenders in person (during business hours) once in every Financial Quarter.

* 1. Year-end

The Borrower shall not change its Accounting Reference Date.

* 1. Information: miscellaneous

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

* + - 1. as soon as reasonably practicable after they are dispatched, copies of all documents legally required to be dispatched by the Borrower to its shareholders generally (or any class of them) or dispatched (for any reason) by the Borrower or any Obligor to its creditors generally (or any class of them), provided that, in each case, there will be no obligation to deliver information which is purely administrative in nature;
      2. promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings or insolvency or other enforcement action which are current, threatened or pending against any member of the Group and which are or are reasonably likely to be adversely determined, and if so determined, are reasonably likely to have a Material Adverse Effect or which would involve a liability, or a potential or alleged liability, exceeding £50,000;
      3. promptly upon becoming aware of the relevant claim, the details of any disposal or insurance claim which will require a prepayment under Clause 8.2 (*Insurance Claims*), 8.3 (*Report Claims*) or 8.4 (*Disposal Proceeds)*.
      4. promptly, such information as the Security Agent may reasonably require about the Charged Property and compliance of the Obligors with the terms of any Transaction Security Documents;
      5. copies of any updated Group Sales Plan or Pipeline Comments Document promptly upon such documents becoming available, and a notification in respect of any material deviations from any Group Sales Plan or Pipeline Comments Document supplied in connection with this Agreement; and
      6. as soon as reasonably practicable on request, such further information regarding the financial condition, assets and operations of the Group and/or any member of the Group (including any requested amplification or explanation of any item in the financial statements, budgets or other material provided by any Obligor under this Agreement, any changes to Senior Management and an up to date copy of its shareholders’ register (or equivalent in its Original Jurisdiction)) as any Finance Party through the Facility Agent may reasonably request.
  1. Notification of default
     + 1. Each Obligor shall notify the Facility Agent in writing of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).
       2. Promptly upon a request by the Facility Agent, the Borrower shall supply to the Facility Agent a certificate signed by two of its directors or on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).
  2. “Know your customer” checks
     + 1. If:
          1. the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
          2. any change in the status of an Obligor or the composition of the shareholders of an Obligor after the date of this Agreement; or
          3. a proposed assignment or transfer by a Lender of any of its rights and/or obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

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

* + - 1. Each Lender shall promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself) in order for the Facility Agent to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.
      2. The Borrower shall, by not less than 10 Business Days’ prior written notice to the Facility Agent, notify the Facility Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Guarantor pursuant to Clause 28 (*Changes to the Obligors*).
      3. Following the giving of any notice pursuant to paragraph (c) above, if the accession of such Additional Guarantor obliges the Facility Agent or any Lender to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of the Facility Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective new Lender) in order for the Facility Agent or such Lender or any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the accession of such Subsidiary to this Agreement as an Additional Guarantor.

1. Financial Covenants
   1. Financial definitions

In this Agreement:

1. ***Adjusted EBITDA*** means, in relation to a Relevant Period, EBITDA for that Relevant Period adjusted by:
   1. including the operating profit before interest, tax, depreciation and amortisation and impairment charges (calculated on the same basis as EBITDA) of a member of the Group (or attributable to a business or assets acquired during the Relevant Period) for that part of the Relevant Period prior to its becoming a member of the Group or (as the case may be) prior to the acquisition of the business or assets; and
   2. excluding the operating profit before interest, tax, depreciation and amortisation and impairment charges (calculated on the same basis as EBITDA) attributable to any member of the Group (or to any business or assets) disposed of during the Relevant Period for that part of the Relevant Period.
2. ***Adjusted Net Leverage*** means, in respect of any Relevant Period, the ratio of Total Net Debt on the last day of that Relevant Period to Adjusted EBITDA in respect of that Relevant Period.
3. ***Borrowings*** means, at any time, the aggregate outstanding principal, capital or nominal amount (and any fixed or minimum premium payable on prepayment or redemption and any capitalised interest) of any indebtedness of members of the Group for or in respect of:
   1. moneys borrowed and debit balances at banks or other financial institutions;
   2. any acceptances under any acceptance credit or bill discount facility (or dematerialised equivalent);
   3. any note purchase facility or the issue of bonds (but not Trade Instruments), notes, debentures, loan stock or any similar instrument;
   4. any Finance Lease;
   5. receivables sold or discounted (other than any receivables to the extent they are sold on a non–recourse basis and meet any requirements for de–recognition under the Accounting Principles);
   6. any counter–indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument (but not, in any case, Trade Instruments other than to the extent they exceed £500,000 (or its equivalent) in aggregate) issued by a bank or financial institution in respect of (i) an underlying liability of an entity which is not a member of the Group which liability would fall within one of the other paragraphs of this definition or (ii) any liabilities of any member of the Group relating to any post retirement benefit scheme;
   7. any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before the date falling six months after the Termination Date;
   8. any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind the entry into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question (including, without limitation, by way of deferred consideration or earn-out) or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 90 days after the date of invoice;
   9. any amount raised under any other transaction (including any forward sale or purchase agreement, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles; and
   10. (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (i) above,

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

1. ***Capital Expenditure*** means any expenditure or obligation in respect of expenditure which, in accordance with the Accounting Principles, is treated as capital expenditure:
   1. excluding expenditure or obligations in respect of a Business Acquisition; and
   2. (except for the purposes of paragraph (g) of the definition of ***Cashflow*** where it shall not be included) including the capital element of any expenditure or obligation incurred in connection with a Finance Lease.
2. ***Cashflow*** means, in respect of any Relevant Period, Adjusted EBITDA for that Relevant Period after:
   1. adding the amount of any decrease (and deducting the amount of any increase) in Working Capital for that Relevant Period;
   2. adding the amount of any cash receipts (and deducting the amount of any cash payments) during that Relevant Period in respect of any Exceptional Items not already taken account of in calculating Adjusted EBITDA for any Relevant Period (other than, in the case of cash receipts, Relevant Proceeds to the extent such Relevant Proceeds have been, or are required to be, applied in prepayment of a Facility or for another purpose permitted under such Facility);
   3. adding the amount of any cash receipts during that Relevant Period in respect of any Tax rebates or credits and deducting the amount actually paid or due and payable in respect of Taxes during that Relevant Period by any member of the Group;
   4. adding (to the extent not already taken into account in determining Adjusted EBITDA) the amount of any dividends or other profit distributions received in cash by any member of the Group during that Relevant Period from any entity which is itself not a member of the Group and deducting (to the extent not already deducted in determining Adjusted EBITDA) the amount of any dividends paid in cash during the Relevant Period to minority shareholders in members of the Group;
   5. adding the amount of any cash paid to a member of the Group in the Relevant Period that represents repayment of any loan made to a Joint Venture;
   6. adding the amount of any increase in provisions, other non–cash debits and other non–cash charges (which are not Current Assets or Current Liabilities) and deducting the amount of any non–cash credits (which are not Current Assets or Current Liabilities) in each case to the extent taken into account in establishing Adjusted EBITDA;
   7. deducting the amount of any Capital Expenditure actually made in cash during that Relevant Period by any member of the Group;
   8. the aggregate of any cash consideration paid for, or the cash cost of, any Business Acquisition and the amount of any Joint Venture investments in cash except (in each case) to the extent funded from Non-Cashflow Items;
   9. deducting the amount of any cash costs of Pension Items during that Relevant Period to the extent not taken into account in establishing EBITDA;
   10. adding the amount of any Transaction Costs in relation to the Acquistion; and
   11. adding the payment of PIK Margin in the sum of £803,075.34 payable on the Effective Date,

and so that no amount shall be added (or deducted) more than once and there shall be excluded the effect of all cash movements in respect of Transaction Costs;

1. ***Cashflow Cover*** means the ratio of Cashflow to Debt Service in respect of any Relevant Period.
2. ***Current Assets*** means the aggregate (on a consolidated basis) of all inventory, work in progress, trade and other receivables of each member of the Group including prepayments in relation to operating items and sundry debtors (but excluding Cash and Cash Equivalent Investments) maturing within twelve months from the date of computation but excluding amounts in respect of:
   1. receivables in relation to Tax;
   2. Exceptional Items and other non–operating items;
   3. insurance claims; and
   4. any interest owing to any member of the Group;
3. ***Current Liabilities*** means the aggregate (on a consolidated basis) of all liabilities (including trade creditors, accruals and provisions) of each member of the Group falling due within twelve months from the date of computation but excluding amounts in respect of:
   1. liabilities for Borrowings and Finance Charges;
   2. liabilities for Tax;
   3. Exceptional Items and other non–operating items;
   4. insurance claims; and
   5. liabilities in relation to dividends declared but not paid by the Borrower or by a member of the Group in favour of a person which is not a member of the Group;
4. ***Debt Service*** means, in respect of any Relevant Period, the aggregate of:
   1. Net Finance Charges for that Relevant Period;
   2. the aggregate of all scheduled and mandatory repayments of Borrowings (other than Acquisition Deferred Consideration) falling due and any voluntary prepayments made during that Relevant Period but excluding:
      1. any amounts falling due under any overdraft or revolving facility and which were available for simultaneous redrawing according to the terms of that facility;
      2. for the avoidance of doubt, any mandatory prepayment made pursuant to Clauses 8.2 (*Insurance Claims*) to 8.4 (*Disposal Proceeds*);
      3. any such obligations owed to any member of the Group or (in respect of the Permitted Deferred Consideration or Existing Category 1 Loans to which he is party and made in accordance with this Agreement) Stefan Bangels; and
      4. any prepayment of Borrowings on the Closing Date which is required to be repaid under the terms of this Agreement;
   3. in respect of the Acquisition Deferred Consideration, any amount paid or payable in respect thereof during that Relevant Period;
   4. the amount of any cash dividends or distributions paid or made by the Borrower in respect of that Relevant Period; and
   5. the amount of the capital element of any payments in respect of that Relevant Period payable under any Finance Lease entered into by any member of the Group,

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

1. ***EBIT*** means, in respect of any Relevant Period, the consolidated operating profit of the Group before taxation (excluding the results from discontinued operations):
   1. before deducting any interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments whether paid, payable or capitalised by any member of the Group (calculated on a consolidated basis) in respect of that Relevant Period;
   2. not including any accrued interest owing to any member of the Group;
   3. before taking into account any Exceptional Items;
   4. before deducting any Transaction Costs;
   5. after deducting the amount of any profit (or adding back the amount of any loss) of any member of the Group which is attributable to minority interests to the extent any dividend or other profit distribution has been paid or made during the Relevant Period (but excluding any such dividend or other profit distribution to the extent declared but not actually paid or made in that Relevant Period, and, for the avoidance of doubt, including any such dividend or other profit distribution paid or made during the Relevant Period where the same was declared but not actually paid or made during a previous Relevant Period) to or to the order or for the benefit of one or more of the holders of the minority interests;
   6. after deductingthe amount of any profit of any Non-Group Entity to the extent that the amount of the profit included in the financial statements of the Group exceeds the amount actually received in cash by members of the Group through distributions by the Non-Group Entity;
   7. before taking into account any unrealised gains or losses on any derivative instrument (other than any derivative instrument which is accounted for on a hedge accounting basis);
   8. before taking into account any gain or loss arising from an upward or downward revaluation of any other asset at any time after the date of the then most recent Annual Financial Statements;
   9. before taking into account any Pension Items;
   10. excluding the charge to profit represented by the expensing of stock options;
   11. after adding an amount equal to the Van Capex Adjustment;
   12. before deducting bonus payments made to employees of the Borrower during the Financial Year ending on or about 31 March 2016 in respect of the Financial Year ending 31 March 2015 in an amount not exceeding £300,000 in aggregate (Bonus Payments) and/or, prior to the date of any such payment, adding back any provision made in the financial statements of the Borrower in respect of anticipated Bonus Payments; and
   13. before deducting a provision for project costs in the Middle East and Romania which may be irrecoverable from clients of up to £300,000 for the Financial Year ending 31 March 2015.

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

1. ***EBITDA*** means, in respect of any Relevant Period, EBIT for that Relevant Period after adding back any amount attributable to the amortisation, depreciation or impairment of assets of members of the Group (and taking no account of the reversal of any previous impairment charge made in that Relevant Period).
2. ***Exceptional Items*** means any exceptional, one off, non–recurring or extraordinary items including those arising:
   1. on the restructuring of the operations, activities and functions of an entity and reversals of any provisions for the cost of restructuring;
   2. on disposals, revaluations or impairment of non–current assets; and
   3. on disposals of assets associated with discontinued operations,

in an aggregate amount which does not exceed an amount equal to 5.00 per cent. of EBITDA in any Relevant Period.

1. ***Finance Charges*** means, for any Relevant Period, the aggregate amount of the accrued interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments in respect of Borrowings whether paid, or payable by, any member of the Group (calculated on a consolidated basis) in cash or capitalised, in respect of that Relevant Period:
   1. including the interest (but not the capital) element of payments in respect of Finance Leases;
   2. including any commission, fees, discounts and other finance payments payable by (and deducting any such amounts payable to) any member of the Group under any interest rate hedging arrangement;
   3. excluding any Transaction Costs;
   4. excluding any interest cost or expected return on plan assets in relation to any post–employment benefit schemes;
   5. if a Joint Venture is accounted for on a proportionate consolidation basis, after adding the Group’s share of the finance costs or interest receivable of the Joint Venture;
   6. taking no account of any unrealised gains or losses on any derivative instruments other than any derivative instruments which are accounted for on a hedge accounting basis;
   7. excluding (for the purposes of the covenant set out at paragraph (c) of Clause 23.2 (*Cashflow Cover*) any interest capitalised to principal **provided** that such exclusion shall not apply (subject to paragraph (h)) to the extent capitalised interest is paid in cash during the Relevant Period (including any cash pay interest on capitalised interest);
   8. excluding payments of interest and fees to Stefan Bangels in respect of the Permitted Deferred Consideration or Existing Category 2 Loans to the extent permitted under this Agreement,
2. and so that no amount shall be added (or deducted) more than once.
3. ***Finance Lease*** means any lease or hire purchase contract which would, in accordance with the Accounting Principles, be treated as a finance or capital lease.
4. ***Financial Quarter*** means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.
5. ***Financial Year*** means the annual accounting period of the Group ending on or about 31 March in each year.
6. ***Interest Cover*** means the ratio of Adjusted EBITDA to Net Finance Charges in respect of any Relevant Period.
7. ***Net Finance Charges*** means, for any Relevant Period, the Finance Charges for that Relevant Period after deducting any interest payable in that Relevant Period to any member of the Group (other than by another member of the Group) on any Cash or Cash Equivalent Investment.
8. ***Non-Cashflow Items*** means:
   1. the proceeds of disposals, insurance or recovery claims permitted to be retained for this purpose (if any); or
   2. New Shareholder Injections,

in each case to the extent not otherwise applied or required to be applied.

1. ***Non–Group Entity*** means any investment or entity (which is not itself a member of the Group (including associates and Joint Ventures)) in which any member of the Group has an ownership interest.
2. ***Pension Items*** means any income or charge attributable to a post–employment benefit scheme other than the current service costs and any past service costs and curtailments and settlements attributable to the scheme.
3. ***Permitted Carry Forward Amount*** has the meaning given to it in Clause 23.2 (*Financial condition*).
4. ***Quarter Date*** means each of 31 March, 30 June, 30 September and 31 December.
5. ***Relevant Period*** means each period of twelve months (or, in the case of paragraph (c) of Clause 23.2 (*Financial condition*), such shorter period commencing on the Closing Date) ending on or about the last day of the Financial Year and each period of twelve months ending on or about a Quarter Date.
6. ***Total Net Debt*** means, at any time, the aggregate amount of all obligations of members of the Group for or in respect of Borrowings at that time but:
   1. excluding any such obligations to any other member of the Group;
   2. excluding any such obligations in respect of any New Shareholder Injections (to the extent they constitute Borrowings);
   3. including, in the case of Finance Leases only, their capitalised value;
   4. deducting the aggregate amount of Cash and Cash Equivalent Investments held by members of the Group at that time;
   5. including, in respect of the Acquistion Deferred Consideration, for each Relevant Period until discharge in full of the Acquisition Deferred Consideration, the sum of £600,000 less (subject to a maximum aggregate deduction of £600,000):
      1. any amounts paid on or prior to the relevant date in respect of Acquisition Deferred Consideration which shall for this purpose not exceed in aggregate the following sums:
         1. £150,000 for any Relevant Period ending until (and including) 31 December 2017;
         2. £300,000 for any Relevant Period ending after 31 December 2017 and until (and including) 31 December 2018;
         3. £450,000 for any Relevant Period ending after 31 December 2018 and until (and including) 31 December 2019; and
         4. £600,000 for any Relevant Period ending after 31 December 2019 until discharge in full of the Acquisition Deferred Consideration; and
      2. if, in respect of any Financial Year ending prior to or during a Relevant Period ending after 30 September 2017, no Acquisition Deferred Consideration has been paid or is payable as at 31 October following the end of the relevant Financial Year, £150,000 in respect of each such Financial Year where that is the case; and
   6. including, in circumstances where a deduction has been made for the purpose of calculating Total Net Debt in relation to an earlier Relevant Period under paragraph (e)(ii) above, any amount which is paid in respect of Acquisition Deferred Consideration during the (current) Relevant Period, which if it had been paid in an earlier Relevant Period, would have caused the deduction not to have been so made,

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

1. ***Trade Instruments*** means any performance bonds or documentary letters of credit issued in respect of the obligations of any member of the Group arising in the ordinary course of trading of that member of the Group.
2. ***Unused Amount*** has the meaning given to it in Clause 23.2 (*Financial condition*).
3. ***Van Capex*** means the capital expenditure incurred by the Group [by way of up-front payment] during the Financial Year ending 31 March 2017 to acquire Vans on hire purchase up to a maximum of £1,200,000.
4. ***Van Capex Adjustment*** means the aggregate of £x for each Van acquired on hire purchase during the Relevant Period, calculated in accordance with the following formula:
5. £x= 39% of the Van Capex in relation to the relevant Van x [A/365]
6. Where:
7. A: the number of days commencing on the first day of the Relevant Period and ending on the date that the relevant Van was acquired on hire purchase.”
8. ***Vans*** means small vans, medium vans, short wheel base large vans and long wheel base large vans or similar vehicles bought on hire purchase by the Group and ***Van***means any one of them.
9. ***Working Capital*** means, on any date, Current Assets less Current Liabilities.
   1. Financial condition

The Borrower shall ensure that:

* + - 1. *Adjusted Net Leverage:* Adjusted Net Leverage in respect of any Relevant Period specified in column 1 below shall not exceed the ratio set out in column 2 below opposite that Relevant Period.

| Column 1 Relevant Period expiring | Column 2 Ratio | Column 3 “Soft” Ratio |
| --- | --- | --- |
| 31 March 2016 | 5.00x | 4.50x |
| 31 March 2017 | 5.00x | 4.50x |
| 31 March 2018 | 4.75x | 4.25x |
| 31 March 2019 | 4.50x | 4.00x |
| 31 March 2020 | 4.00x | 3.50x |
| 31 March 2021 | 3.50x | 3.00x |

* + - 1. *Interest Cover Ratio:* Interest Cover in respect of any Relevant Period specified in column 1 below shall not be less than the ratio set out in column 2 below opposite that Relevant Period.

| Column 1 Relevant Period expiring | Column 2 Ratio |  |
| --- | --- | --- |
| 31 March 2016 | 1.90x |  |
| 31 March 2017 | 1.70x |  |
| 31 March 2018 | 1.60x |  |
| 31 March 2019 | 1.50x |  |
| 31 March 2020 | 1.50x |  |
| 31 March 2021 | 1.50x |  |

* + - 1. *Cashflow Cover:* Cashflow Cover in respect of any Relevant Period specified in column 1 below shall not be less than the ratio set out in column 2 below opposite that Relevant Period.

| Column 1 Relevant Period expiring | Column 2 Ratio | Column 3 “Soft” Ratio |
| --- | --- | --- |
| 31 March 2016 | 1.00x | 1.50x |
| 31 March 2017 | 1.00x | 1.50x |
| 31 March 2018 | 1.00x | 1.50x |
| 31 March 2019 | 1.00x | 1.50x |
| 31 March 2020 | 1.00x | 1.50x |
| 31 March 2021 | 1.00x | 1.50x |

* + - 1. *Capital Expenditure:*
         1. The aggregate Capital Expenditure of the Group (other than Capital Expenditure funded from Non-Cashflow Items) in respect of any Financial Year specified in column 1 below shall not exceed the amount set out in column 2 below opposite that Financial Year.

|  |  |
| --- | --- |
| **Column 1  Financial Year Ending** | **Column 2  Maximum Expenditure** |
| 31 March 2015 | £1,750,000 |
| 31 March 2016 | £1,750,000 |
| 31 March 2017 | £3,250,000 |
| 31 March 2018 | £2,000,000 |
| 31 March 2019 | £2,000,000 |
| 31 March 2020 | £2,000,000 |
| 31 March 2021 | £2,000,000 |

* + - * 1. Each Lender agrees to act reasonably when considering whether to provide its consent to any amendment to a maximum expenditure limit set out in column 2 above to permit additional capital expenditure projects, **provided that** the Borrower shall have delivered to the Lender (in form and substance satisfactory to that Lender) evidence that any such additional capital expenditure project is fully funded from the existing Cash and Cash Equivalent Investments of the Group or the proceeds of a New Shareholder Injection.

If in any Financial Year (the ***Original Financial Year***) the amount of the Capital Expenditure is less than the maximum amount permitted for that Original Financial Year (the difference being referred to below as the “Unused Amount”), then the following Financial Year (the ***Carry Forward Year***) shall for the purpose of that Carrying Forward Year only be increased by an amount (the ***Permitted Carry Forward Amount***) equal to the lower of (1) the Unused Amount and (2) the amount which could have been utilised by way of additional Capital Expenditure in the Original Financial Year without causing a breach of the Cash Cover test during that Original Financial Year.

In any Carry Forward Year, the original amount specified in column 2 above shall be treated as having been incurred prior to any Permitted Carry Forward Amount carried forward into that Carry Forward Year and no amount carried forward into that Carry Forward Year may be carried forward into a subsequent Financial Year.

* 1. Financial testing

The financial covenants set out in Clause 23.2 (*Financial condition*) shall be calculated in accordance with the Accounting Principles, and shall be tested:

* + - 1. subject to paragraph (c) below, in relation to sub-paragraphs (a) (*Adjusted Net Leverage*), (b) (*Interest Cover Ratio*), and (c) (*Cashflow Cover*) of Clause 23.2 (*Financial condition*), by reference to each of the financial statements delivered pursuant to paragraphs (a) and (b) of Clause 22.2 (*Financial statements*) and/or each Compliance Certificate delivered pursuant to Clause 22.3 (*Provision and contents of Compliance Certificate*), in each case beginning with those relating to the last day of the first full Financial Quarter to occur after the Closing Date and thereafter each subsequent Quarter Date; and
      2. subject to paragraph (c) below, in relation to sub-paragraph (d) (*Capital Expenditure*) of Clause 23.2 (*Financial condition*), by reference to each of the financial statements delivered pursuant to paragraph (a) of Clause 22.2 (*Financial statements*) and/or each Compliance Certificate delivered pursuant to Clause 22.3 (*Provision and contents of Compliance Certificate*), in each case beginning with those relating to the first Financial Year to end after the Closing Date and thereafter at the end of each Financial Year; and
      3. for the purpose to sub-paragraph (b) (*Interest Cover Ratio*) of Clause 23.2 (*Financial condition*) and each of the Relevant Periods ending on a date which is less than 12 Months after the Closing Date, (i) EBITDA shall be calculated by reference to the amount of EBITDA as disclosed in the financial statements and/or Compliance Certificates and (ii) Net Finance Charges shall be annualised on a straight line basis.
  1. Equity cure rights
     + 1. If the Borrower fails to comply with any of its obligations under any of the financial covenants set out in paragraphs (a) (*Adjusted Net Leverage*), (b) (*Interest Cover Ratio*) or (c) (*Cashflow Cover*) of Clause 23.2 (*Financial condition*) (each, a ***Financial Covenant***) in respect of any Relevant Period, the Borrower may provide notice to the Facility Agent, on or before the date (the ***Cure Deadline***) falling five Business Days after the earlier of the date on which the relevant Compliance Certificate (i) is, or (ii) is required to be, delivered under paragraph (a) of Clause 22.3 (*Provision and contents of Compliance Certificate*), that the Investors or one or more Investor Affiliates intends to provide an amount in sterling (the ***Cure Amount***) to the Borrower by way of New Shareholder Injection and that this Cure Amount shall be applied to cure such failure to comply in accordance with the provisions of this Clause 23.4. Any such New Shareholder Injection must be provided to the Borrower on or before the date falling ten Business Days’ after the Cure Deadline.
       2. Upon receipt of the relevant Cure Amount by the Borrower pursuant to this Clause 23.4:
          1. the Financial Covenant in paragraph (a) (*Adjusted Net Leverage*) of Clause 23.2 (*Financial condition*) shall be recalculated by reference to such Cure Amount, which shall be deemed to have been received by the Group on the last day of the applicable Relevant Period to which the breach of Clause 23.2 (*Financial condition*) relates, such that the Total Net Debt as at the last day of that Relevant Period shall be deemed to have been reduced by the amount of the Cure Amount;
          2. the Financial Covenant in paragraph (b) (*Interest Cover Ratio*)of Clause 23.2 (*Financial condition*) shall be recalculated by reference to such Cure Amount, which shall be deemed to have been received by the Group on the last day of the applicable Relevant Period to which the breach of Clause 23.2 (*Financial condition*) relates, such that EBITDA as at the last day of that Relevant Period shall be deemed to have been increased by the amount of the Cure Amount; and
          3. the Financial Covenant in paragraph (c) (*Cashflow Cover*) of Clause 23.2 (*Financial condition*) shall be recalculated by reference to such Cure Amount, which shall be deemed to have been received by the Group on the last day of the applicable Relevant Period to which the breach of Clause 23.2 (*Financial condition*) relates, such that, for the purposes of calculating the Cashflow, EBITDA for that Relevant Period shall be deemed to have been increased by the amount of the Cure Amount,

without double-counting for the actual effect during such Relevant Period of any prepayment of the Cure Amount pursuant to paragraph (c) below, and in each case such Cure Amount shall be deemed to reduce the Total Net Debt or increase the EBITDA (as applicable) in accordance with the foregoing provisions for such Relevant Period and the Relevant Periods ending on the three immediately following Quarter Dates; and the results of the recalculation shall apply in lieu of the original calculation for such Relevant Period **provided that** in each case**:**

the Borrower may not receive any Cure Amount for the purposes of this Clause 23.4 in respect of a failure to comply (but for this Clause 23.4) with a Financial Covenant during any two consecutive Financial Quarters; and

the Borrower may not receive any Cure Amount for the purposes of this Clause 23.4 in respect of a failure to comply (but for this Clause 23.4) with a Financial Covenant on more than four occasions during the term of the Facilities; and

the Cure Amount may not exceed the minimum amount required to cure the relevant breach of a Financial Covenant.

* + - 1. The Borrower shall procure that any Cure Amount received for the purposes of this Clause 23.4 is either:
         1. applied in prepayment of the Facilities in accordance with Clause 8.5 (*Application of mandatory prepayments and cancellations*); or
         2. held in an Equity Cure Account and shall not be released to the Borrower until the earlier of:

a request by the Borrower that such Cure Amount shall be applied in prepayment of the Facilities in accordance with Clause 8.5 (*Application of mandatory prepayments and cancellations*) and the Security Agreement;

such amount being released to the Borrower by the Facility Agent (acting on the instructions of the Majority Lenders); or

the Discharge Date as defined in the Subordination Deed.

* + - 1. If, after giving effect to the recalculations referred to in paragraph (b) above, the Borrower is in compliance with the requirements of paragraphs (a), (b) and/or (c) of Clause 23.2 (*Financial condition*), the Borrower shall be deemed to have complied with the requirements in respect of paragraphs (a), (b) and/or (c) of Clause 23.2 (*Financial condition*) (as applicable) in respect of the most recent Relevant Period as if there had been no failure to do so and the applicable breach or default which had occurred in respect of such requirements shall be deemed cured.
      2. Any recalculation made under this Clause 23.4 will be solely for the purpose of curing a failure to comply with the Financial Covenants and not for any other purpose, including for determining compliance with conditions to the making of a Permitted Acquisition or Non-Cashflow Items.

1. General Undertakings

The undertakings in this Clause 24 remain in force from the date of this Agreementfor so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

Authorisations and compliance with laws

* 1. Authorisations

Subject to (in the case of paragraphs (a) and (b) below) the Legal Reservations and (in the case of paragraph (b) below) the Perfection Requirements, each Obligor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect any Authorisation required under any law or regulation of a Relevant Jurisdiction to:

* + - 1. enable it to perform its obligations under the Finance Documents, the Existing Shareholder Agreements and the Warrant Instrument;
      2. ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document, the Existing Shareholder Agreements or the Warrant Instrument; and
      3. carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.
  1. Compliance with laws

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

* 1. Environmental compliance

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

* + - 1. comply with all Environmental Law;
      2. obtain, maintain and ensure compliance with all requisite Environmental Permits;
      3. implement procedures to monitor compliance with and to prevent liability under any Environmental Law,

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

* 1. Environmental claims

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

* + - 1. any Environmental Claim against it or any member of the Group which is current or pending or threatened against; and
      2. any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against it or any member of the Group,

where the claim is reasonably likely to be adversely determined and if determined against that member of the Group (as applicable), has or is reasonably likely to have a Material Adverse Effect.

* 1. Anti-corruption law
     + 1. No Obligor shall (and the Borrower shall ensure that no other member of the Group will) directly or indirectly use the proceeds of a Facility for any payment to any Official in order to obtain, retain or direct business or obtain any improper advantage, in violation of any Anti-Corruption Law, or for any other purpose which would breach any Anti-Corruption Law.
       2. Each Obligor shall (and the Borrower shall ensure that each other member of the Group will):
          1. conduct its businesses in compliance with any applicable Anti-Corruption Law; and
          2. maintain (to the extent reasonable for a group operating in the business and jurisdictions in which the Group operates) policies and procedures designed to promote and achieve compliance with such laws.
  2. Sanctions

No Obligor shall:

* + - 1. directly or indirectly use any proceeds of a Facility, or lend, contribute or otherwise make available such proceeds to any other person, entity, joint venture or organisation (i) to fund, finance or facilitate any agreement, transaction, dealing or relationship with or for the benefit of any Restricted Party (or involving any property thereof), involving any Sanctioned Country, or involving any Iranian-origin crude oil, petroleum products or petrochemical products, or (ii) in any other manner that could reasonably be expected to result in a violation of Sanctions by any person, including any person participating in a Facility, whether as a Finance Party or otherwise.;
      2. directly or indirectly fund all or part of any repayment or prepayment of a Facility with funds that (i) are the property of, or are beneficially owned directly or indirectly by, any Restricted Party, or (ii) are the direct proceeds of any agreement, transaction, dealing or relationship that involves any Restricted Party or otherwise would, if entered into by a US citizen, violate OFAC sanctions regulations, and at no time during the term of this Agreement shall such funds constitute more than 5 per cent. of the Obligor’s monthly, quarterly, or annual gross revenue; or
      3. engage in any transaction, activity or conduct that would violate Sanctions, that would cause any Finance Party to be in breach of any Sanctions or that is reasonably likely to result in it, any other Obligor or any Finance Party being designated as a Restricted Party.

The undertaking in this Clause 24.6 shall not apply to any Obligor that qualifies as a resident party domiciled in the Federal Republic of Germany (*Inländer*) within the meaning of section 2 paragraph 15 German Foreign Trade Act (*Außenwirtschaftsgesetz*) in so far as it would result in a violation of or conflict with section 7 German Foreign Trade Regulation (*Außenwirtschaftsverordnung*), any provision of Council Regulation (EC) 2271/96 or any other anti-boycott statute.

* 1. No change to centre of main interest

Each Obligor shall ensure that there will be no change to its centre of main interests (as that term is used in Article 3(1) of the Regulation) (***COMI***) between the date of this Agreement and the Closing Date and that there will be no change to its COMI whilst there is any amount outstanding under a Loan.

* 1. Taxation
     + 1. Each Obligor shall (and the Borrower shall ensure that each member of the Group will) pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:
          1. such payment is being contested in good faith;
          2. adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements delivered to the Facility Agent under Clause 22.2 (*Financial statements*); and
          3. such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.
       2. No Obligor shall (and the Borrower shall ensure that no other members of the Group will) change its residence for Tax purposes.

Restrictions on business focus

* 1. Merger

No Obligor shall (and the Borrower shall ensure that no other member of the Group will) enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction other than a Permitted Transaction or any sale, lease, transfer or other disposal permitted pursuant to Clause 24.20 (*Disposals*).

* 1. Change of business

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

* 1. Acquisitions
     + 1. Except as permitted under paragraph (b) below, no Obligor shall (and the Borrower shall ensure that no other member of the Group will):
          1. acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them); or
          2. incorporate a company.
       2. Paragraph (a) above does not apply to an acquisition of a company, of shares, securities or a business or undertaking (or, in each case, any interest in any of them) or the incorporation of a company which is:
          1. a Permitted Acquisition; or
          2. a Permitted Transaction.
  2. Joint ventures
     + 1. Except as permitted under paragraph (b) below, no Obligor shall (and the Borrower shall ensure that no other member of the Group will):
          1. enter into, invest in or acquire (or agree to acquire) any shares, stocks, securities or other interest in any Joint Venture; or
          2. transfer any assets or lend to or guarantee or give an indemnity for or give Security for the obligations of a Joint Venture or maintain the solvency of or provide working capital to any Joint Venture (or agree to do any of the foregoing).
       2. Paragraph (a) above shall not apply to any acquisition of (or agreement to acquire) any interest in a Joint Venture or transfer of assets (or agreement to transfer assets) to a Joint Venture or loan made to or guarantee given in respect of the obligations of a Joint Venture if such transaction is a Permitted Acquisition, a Permitted Disposal, a Permitted Loan or a Permitted Joint Venture.
  3. Subsidiaries
     + 1. No Obligor shall (and the Borrower shall ensure no other member of the Group will) cause or permit any member of the Group which is a Dormant Subsidiary to commence trading or cease to satisfy the criteria for a Dormant Subsidiary unless such Dormant Subsidiary becomes an Additional Guarantor in accordance with Clause 28.2 (*Additional Guarantors*).
       2. No Obligor shall (and the Borrower shall ensure no other member of the Group will) incorporate a Subsidiary, unless the Subsidiary is at all times a wholly-owned Subsidiary of RSK Environment.
  4. Guarantees and Security
     + 1. Subject to paragraph (b), the Borrower shall ensure that each member of the Group which is or becomes a Material Company shall, within 45 days of becoming a Material Company, become a Guarantor and grant Transaction Security in accordance with the terms of this Agreement.
       2. Prior to the Benelux Security Discharge Date:
          1. no member of the RSK Benelux Group shall be considered a Material Company for the purposes of paragraph (a) above only; and
          2. for the purposes of paragraph (a) above and calculating whether or not a member of the Group is a Material Company under paragraph (c) of that definition, the consolidated EBITDA, gross assets and turnover of each member of the RSK Benelux Group shall be excluded from the EBITDA, gross assets or turnover of the Group (as applicable), but otherwise calculated in each case in accordance with the definition of Material Company.

Restrictions on dealing with assets and Security

* 1. Preservation of assets

Each Obligor shall (and the Borrower shall ensure that each other member of the Group will) maintain in good working order and condition (ordinary wear and tear excepted) all of its assets necessary in the conduct of the business of the Group.

* 1. Properties
     + 1. Each Obligor shall (and the Borrower shall ensure that each other member of the Group will):
          1. ensure that all of its Properties and any fixtures, plant and machinery at the Properties are maintained in good and substantial repair and condition and, as appropriate, in good working order to the extent necessary or desirable in the conduct of its business;
          2. within 14 days of receipt of any application, requirement, order or notice served or given by any public or local or any other authority with respect to all or any part of a Property which would be reasonably likely to have a materially adverse effect on its value, saleability or use, deliver a copy to the Security Agent and inform the Security Agent of the steps taken or proposed to be taken to comply with the requirements of that notice; and
          3. exercise its rights and comply in all material respects with any covenant, stipulation, title condition or obligation (restrictive or otherwise) at any time affecting a Property.
       2. Without prejudice to Clause 24.35 (*Amendments*), no Obligor shall (and the Borrower shall ensure that no other member of the Group) without the prior consent of the Security Agent:
          1. acquire, transfer, dispose of or otherwise deal with (whether directly or indirectly) a freehold interest in (including, in Scotland, the heritable title to) any Real Property; or
          2. acquire, transfer, dispose of or otherwise deal with (whether directly or indirectly) a Long Leasehold Interest; or
          3. grant or enter into an agreement to grant a Long Leasehold Interest; or
          4. agree to any material amendment, variation, supplement, waiver, surrender, renunciation or release of any covenant, stipulation, title condition or obligation (restrictive or otherwise) at any time affecting the interests referred to in (b)(i) to (b)(iii) above.
  2. Headleases
     + 1. Each Obligor shall (and the Borrower shall ensure that each other member of the Group will):
          1. exercise its rights and comply with its obligations under each Headlease;
          2. use its reasonable endeavours to ensure that each landlord complies with its obligations under each Headlease; and
          3. if so required by the Security Agent, apply for relief against forfeiture or protection from irritancy of any Headlease,

in a proper and timely manner.

* + - 1. No Obligor shall (and the Borrower shall ensure no other member of the Group will):
         1. agree to any amendment, variation, supplement, waiver, surrender, renunciation, termination or release of any Headlease;
         2. exercise any right to break, determine or extend any Headlease; or
         3. agree to any rent review in respect of any Headlease (save to the extent contemplated by an Existing Group Headlease); or
         4. do or allow to be done any act as a result of which any Headlease may become liable to forfeiture or irritancy or otherwise be terminated.
      2. No Obligor shall take any action to commence forfeiture or irritancy proceedings in respect of any Headlease.
  1. *Pari passu* ranking

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

* 1. Negative pledge

In this Clause 24.19, ***Quasi-Security*** means an arrangement or transaction described in paragraph (b) below.

Except as permitted under paragraph (c) below:

* + - 1. No Obligor shall (and the Borrower shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets.
      2. No Obligor shall (and the Borrower shall ensure that no other member of the Group will):
         1. sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group;
         2. sell, transfer or otherwise dispose of any of its receivables on recourse terms;
         3. enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
         4. enter into any other preferential arrangement having a similar effect,

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

* + - 1. Paragraphs (a) and (b) above do not apply to any Security or (as the case may be) Quasi-Security, which is:
         1. Permitted Security; or
         2. a Permitted Transaction.
  1. Disposals
     + 1. Except as permitted under paragraph (b) below, no Obligor shall (and the Borrower shall ensure that no other member of the Group will) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.
       2. Paragraph (a) above does not apply to any sale, lease, transfer or other disposal which is:
          1. a Permitted Disposal; or
          2. a Permitted Transaction.
  2. Arm’s length basis
     + 1. Except as permitted by paragraph (b) below, no Obligor shall (and the Borrower shall ensure that no other member of the Group will) enter into any transaction with any person except on arm’s length terms and for full market value.
       2. The following transactions shall not be a breach of this Clause 24.21:
          1. intra-Group loans permitted under Clause 24.22 (*Loans or credit*);
          2. fees, costs and expenses payable under the Finance Documents in the amounts set out in the Finance Documents delivered to the Facility Agent under Clause ‎4.1 (*Initial conditions precedent*) or agreed by the Facility Agent; and
          3. any Permitted Transaction.

Restrictions on movement of cash - cash out

* 1. Loans or credit
     + 1. Except as permitted under paragraph (b) below, no Obligor shall (and the Borrower shall ensure that no other member of the Group will) be a creditor in respect of any Financial Indebtedness.
       2. Paragraph (a) above does not apply to:
          1. a Permitted Loan; or
          2. a Permitted Transaction.
  2. No Guarantees or indemnities
     + 1. Except as permitted under paragraph (b) below, no Obligor shall (and the Borrower shall ensure that no other member of the Group will) incur or allow to remain outstanding any guarantee in respect of any obligation of any person.
       2. Paragraph (a) does not apply to a guarantee which is:
          1. a Permitted Guarantee; or
          2. a Permitted Transaction.
  3. Dividends and share redemption
     + 1. Except as permitted under paragraph (b) below or Clause 24.28 (*Benelux arrangements*), no Obligor shall and the Borrower will ensure that no other member of the Group will:
          1. declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);
          2. repay or distribute any dividend or share premium reserve;
          3. pay or allow any member of the Group to pay any management, advisory or other fee to or to the order of any of the shareholders of the Borrower;
          4. redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so or issue any redeemable shares other than to its immediate Holding Company; or
          5. pay (or allow any member of the Group to pay) any amount to, or transfer any assets to, or in each case to the order of or for the benefit of, any of the Investors from time to time or any of their officers or directors.
       2. Paragraph (a) above does not apply to:
          1. a Permitted Distribution;
          2. a Permitted Transaction (other than one referred to in paragraph (d) of the definition of that term);
          3. a payment to an Original Lender under this Agreement or the other Finance Documents;
          4. (in the case of paragraph (a)(iii) and (v) only), a Permitted Payment; or
          5. a payment for bona fide management or consultancy services provided on arms’ length terms to a member of the Group pursuant to a written contract.
  4. Permitted Deferred Consideration
     + 1. Except as permitted under paragraph (b) or (c) below or Clause 24.28 (*Benelux arrangements*), no Obligor shall and the Borrower will ensure that no other member of the Group will:
          1. repay or prepay any principal amount (or capitalised interest) outstanding under the Permitted Deferred Consideration;
          2. pay any interest, fee or charge accrued or due under the Permitted Deferred Consideration; or
          3. purchase, redeem, defease or discharge any of the loan notes outstanding under the Permitted Deferred Consideration.
       2. The restriction in paragraph (a) above shall not apply to scheduled payments of Category 1 Permitted Deferred Consideration **provided** such payments are made in December 2015.
       3. RSK Environment may make scheduled payments of principal (but not of interest) of Category 2 Permitted Deferred Consideration, on the terms set out in the Benelux SPA **provided** such payments are made in December 2018.
  5. Acquisition Deferred Consideration
     + 1. Subject to paragraph (b) below and except with the prior consent of the Facility Agent (acting on the instructions of the Majority Lenders), no Obligor shall and the Borrower shall ensure that no other member of the Group will:
          1. pay, purchase, redeem, defease, discharge, repay or prepay any amount (or capitalised interest) outstanding under the Acquisition Deferred Consideration; or
          2. pay any interest, fee or charge accrued or due under the Acquisition Deferred Consideration.
       2. Paragraph (a) above only applies if an Event of Default is continuing.
  6. Shareholder Loans
     + 1. No Obligor shall (and the Borrower shall ensure that no other member of the Group will) prior to the Discharge Date (as defined in the Subordination Deed):
          1. repay or prepay any principal amount (or capitalised interest) outstanding under any Shareholder Loans;
          2. pay any interest or any other amounts payable in connection with any Shareholder Loans; or
          3. purchase, redeem, defease or discharge any amount outstanding with respect to any Shareholder Loans.
       2. Paragraph (a) above does not apply to scheduled payments of principal and/or interest pursuant to the terms of any Existing Category 1 Loan or any Existing Category 2 Loan (other than the loan referred to in paragraph (a) of that definition) and (provided any such payments do not exceed €6,000 per Month), or the M&A Loan under the EMN Loan Document.
       3. If:
          1. Adjusted Net Leverage in respect of any Relevant Period specified in column 1 of Clause 23.2(a) (*Adjusted Net Leverage*) is less than the ratio set out in column 3 of Clause 23.2(a) (*Adjusted Net Leverage*) opposite that Relevant Period; and
          2. Cashflow Cover in respect of any Relevant Period specified in column 1 of Clause 23.2(c) (*Cashflow Cover*) is less than the ratio set out in column 3 of Clause 23.2(c) (*Cashflow Cover*) opposite that Relevant Period,

(in each case as evidenced by the most recent Compliance Certificate supplied to the Facility Agent under Clause 22.3 (*Provision and contents of Compliance Certificate*) (pro forma for the payment to be made); and

* + - * 1. no Event of Default is continuing,

the Borrower or EMN (as applicable) may:

* + - 1. make scheduled payments of principal and/or interest due under the Stats Loan Note Document and the A1 Loan Document;
      2. on or after 1 June 2015, make an aggregate monthly payment of no more than £5,000 to the creditors in respect of the CRO Redemption Payment (such payment to be divided between those creditors on the terms set out in the RSK Articles); and
      3. make scheduled payments of cash pay interest at up to 5 per cent. per annum (but not of principal and/or capitalised interest) due under any Existing Category 4 Loan Documents,

but only if the aggregate of any interest payments made by the Borrower and EMN under this paragraph does not exceed £130,000 in any one Financial Year.

* 1. Benelux arrangements

All amounts which are owed by any member of the Group to Stefan Bangels shall be irrevocably and unconditionally repaid (and any Security granted by a member of the Group to Stefan Bangels in respect of such amount shall be fully discharged) not later than 31 December 2018.

Restrictions on movement of cash – cash in

* 1. Financial Indebtedness
     + 1. Except as permitted under paragraph (b) below, no Obligor shall (and the Borrower shall ensure that no other member of the Group will) incur or allow to remain outstanding any Financial Indebtedness.
       2. Paragraph (a) above does not apply to Financial Indebtedness which is:
          1. Permitted Financial Indebtedness; or
          2. a Permitted Transaction.
  2. Share capital

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

* + - 1. a Permitted Share Issue; or
      2. a Permitted Transaction.

Miscellaneous

* 1. Insurance
     + 1. Each Obligor shall (and the Borrower shall ensure that each other member of the Group will) maintain insurances on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.
       2. All insurances must be with reputable independent insurance companies or underwriters.
  2. Pensions
     + 1. The Borrower shall ensure that all pension schemes operated by or maintained for the benefit of any members of the Group and/or any of their employees are fully funded based on the statutory funding objective under sections 221 and 222 of the Pensions Act 2004 and that no action or omission is taken by any member of the Group in relation to such a pension scheme which has or is reasonably likely to have a Material Adverse Effect (including, without limitation, the termination or commencement of winding-up proceedings of any such pension scheme or any member of the Group ceasing to employ any member of such a pension scheme).
       2. Except for the Structural Soils Limited Retirement Benefits Plan, the Borrower shall ensure that no member of the Group is or has been at any time an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pension Schemes Act 1993) or “connected” with or an “associate” of (as those terms are used in sections 38 or 43 of the Pensions Act 2004) such an employer.
       3. The Borrower shall deliver to the Facility Agent at such times as those reports are prepared in order to comply with the then current statutory or auditing requirements (as applicable either to the trustees of any relevant schemes or to the Borrower), actuarial reports in relation to all pension schemes mentioned in paragraph (a) or (b) above.
       4. The Borrower shall promptly notify the Facility Agent of any material change in the rate of contributions to any pension schemes mentioned in paragraph (a) or (b) above paid or recommended to be paid (whether by the scheme actuary or otherwise) or required (by law or otherwise).
       5. Each Obligor shall immediately notify the Facility Agent of any investigation or proposed investigation by the Pensions Regulator which may lead to the issue of a Financial Support Direction or a Contribution Notice to it or any member of the Group.
       6. Each Obligor shall immediately notify the Facility Agent if it or a member of the Group receives a Financial Support Direction or a Contribution Notice from the Pensions Regulator.
  3. Access

If an Event of Default is continuing or the Facility Agent reasonably suspects an Event of Default is continuing or is reasonably likely to occur, each Obligor shall, and the Borrower shall ensure that each member of the Group will, (not more than once in every Financial Year unless the Facility Agent reasonably suspects an Event of Default is continuing or is reasonably likely to occur) permit the Facility Agent and/or the Lenders and/or the Security Agent and/or accountants or other professional advisers and contractors of the Facility Agent or Security Agent free access at all reasonable times and on reasonable notice at the risk and cost of the Obligor or the Borrower to (a) the premises, assets, books, accounts and records of each member of the Group and (b) meet and discuss matters with Senior Management.

* 1. Intellectual Property

Each Obligor shall (and the Borrower shall procure that each other member of the Group will):

* + - 1. preserve and maintain the subsistence and validity of the Intellectual Property necessary or desirable for the business of the relevant Group member where the Borrower (acting reasonably) considers it prudent to do so or upon a reasonable request from the Facility Agent and provided that it shall promptly do so in circumstances where the Borrower is not certain that rights rest in it or the Group rather than an Investor;
      2. use reasonable endeavours to prevent any infringement in any material respect of the Intellectual Property;
      3. make registrations and pay all registration fees and taxes necessary to maintain the Intellectual Property referred to in paragraph (a) in full force and effect and record its interest in that Intellectual Property;
      4. not use or permit the Intellectual Property to be used in a way or take any step or omit to take any step in respect of that Intellectual Property which may materially and adversely affect the existence or value of the Intellectual Property or imperil the right of any member of the Group to use such property; and
      5. not discontinue the use of the Intellectual Property referred to in paragraph (a) necessary for the continuing business of the relevant member of the Group or which has a material value,

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

* 1. Amendments
     + 1. No Obligor shall (and the Borrower shall ensure that no other member of the Group will) amend, vary, novate, assign, transfer, supplement, supersede, waive, terminate or grant any consent under any term of a Transaction Document or Existing Group Document or any other document delivered to the Facility Agent pursuant to Clause ‎4.1 (*Initial conditions precedent*) or Clause ‎28 (*Changes to the Obligors*) or the definition of Effective Date and Schedule 2 (*Conditions Precedent*) to the Amendment and Restatement Agreement or enter into any agreement with any shareholders of the Borrower (other than as set out in the Shareholders’ Agreement) or any of their Affiliates which is not a member of the Group except in writing:
          1. in accordance with Clause 41 (*Amendments and Waivers*);
          2. to the extent that that amendment, variation, novation, supplement, superseding, waiver or termination is expressly permitted by the Subordination Deed;
          3. prior to or on the Closing Date, with the prior written consent of the Original Lenders; or
          4. (other than in relation to an Existing Group Headlease, the Constitutional Documents and Closing Reorganisation Documents) after the Closing Date (or, in relation to the Acquisition Agreement, after the Effective Date), in a way which (whether alone or when taken together with any other such changes):

could not be reasonably expected materially and adversely to affect the interests of the Lenders; and

would not change the date, amount or method of payment of fees, interest, principal or other amounts on the Permitted Deferred Consideration, the Acquisition Deferred Consideration or the Existing Loans.

* + - 1. The Borrower shall promptly supply to the Facility Agent a copy of any document relating to any of the matters referred to in paragraphs (a)(i) to (iv) above.
  1. Financial assistance

Each Obligor shall (and the Borrower shall procure each other member of the Group will) comply in all respects with sections 678 and 679 of the Companies Act 2006 and any equivalent legislation in other jurisdictions including in relation to the execution of the Transaction Security Documents, the giving of any guarantees, the issuing of any warrants and the payment of amounts due under or in connection with this Agreement.

* 1. Group bank accounts

The Borrower shall ensure that within 45 days of the Closing Date all bank accounts of any Material Companies shall be opened and maintained with an Acceptable Bank or an Affiliate of an Acceptable Bank and are subject to valid Security under the Transaction Security Documents.

* 1. Treasury Transactions

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

* + - 1. spot and forward delivery foreign exchange contracts entered into in the ordinary course of business and not for speculative purposes; and
      2. any Treasury Transaction entered into for the hedging of actual or projected real interest rate exposures arising in the ordinary course of trading activities of a member of the Group and not for speculative purposes.
  1. Guarantors
     + 1. The Borrower shall ensure that:
          1. as soon as reasonably practicable and in any event from 30 days after the Closing Date;
          2. upon each date falling 45 days after the delivery of the Annual Financial Statements for each Financial Year; and
          3. following a period of not more than 45 days after the delivery of the most recent Quarterly Financial Statements following:

the acquisition or incorporation of an entity that becomes a Subsidiary of the Borrower or a Business Acquisition; or

the disposal of a Subsidiary or a business or undertaking (or, in each case, any interest in any of them),

the aggregate of:

* + - * 1. earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Adjusted EBITDA, as defined in Clause 23 (*Financial Covenants*)) of the Guarantors; and
        2. the aggregate gross assets, the aggregate net assets and aggregate turnover of the Guarantors (in each case calculated on an unconsolidated basis and excluding all intra-group items and investments in Subsidiaries of any member of the Group),

represents not less than 80 per cent. of (respectively):

* + - * 1. Adjusted EBITDA (as defined in Clause 23 (*Financial covenants*); and
        2. consolidated gross assets, consolidated net assets and consolidated turnover of the Group

(in each case excluding the RSK Benelux Group, but only prior to the Benelux Security Discharge Date).

* + - 1. The Borrower need only perform its obligations under paragraph (a) if it is not unlawful for the relevant person to become a Guarantor and that person becoming a Guarantor would not result in personal liability for that person’s directors or other management. Each Obligor must use, and must procure that the relevant person uses, all reasonable endeavours lawfully available to avoid any such unlawfulness or personal liability. This includes agreeing to a limit on the amount guaranteed. The Facility Agent may (but shall not be obliged to) agree to such a limit if, in its opinion, to do so would avoid the relevant unlawfulness or personal liability.
      2. Where any Guarantor has EBITDA below zero, such EBITDA shall be deemed to be zero for the purposes of any calculation made pursuant to this Clause 24.39 or Clause 24.14 (*Guarantees and Security*).
  1. Cash management
     + 1. Subject to paragraph (b) below, no Obligor shall, and the Borrower will procure that no member of the Group will, at any time hold cash or Cash Equivalent Investments greater than required for its projected cashflow requirements for the next 45 days (the amount of such excess being the ***Cash Balance***) and any such Cash Balance shall be lent by such member of the Group to the Borrower pursuant to an intra-group loan.
       2. No member of the Group shall be obliged at any time to lend, or procure that a Subsidiary lend, any Cash Balance under paragraph (a) above:
          1. at a time when to do so would cause the member of the Group or the Subsidiary (despite that person using all reasonable efforts to avoid the relevant Tax liability) to incur a materially greater Tax liability in respect of the Cash Balance than it would otherwise incur if the loan were made at a later date; or
          2. if (despite using all reasonable efforts to avoid the breach or result) to do so would breach any applicable law or result in personal liability for the member of the Group or the Subsidiary or any of such person’s directors or management.
       3. The provisions of this Clause shall not apply to RSK Benelux until the Benelux Security Discharge Date.
  2. Further assurance
     + 1. Each Obligor shall (and the Borrower shall procure that each other member of the Group will) promptly do all such acts or execute all such documents (including assignments, assignations, transfers, mortgages, standard securities, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
          1. to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, standard securities, charge, assignment, assignations or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law;
          2. to confer on the Security Agent or confer on the Finance Parties Security over any property and assets of that Obligor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents; and/or
          3. to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.
       2. Each Obligor shall (and the Borrower shall procure that each other member of the Group will) take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents or to extend the scope of assets the subject of the Transaction Security Documents.
  3. Conditions subsequent – Closing Date
     + 1. The Borrower shall procure that:
          1. at least two originals of each of the Transaction Security Documents set out in Part B of Schedule 4 (*Transaction Security Documents*);
          2. where applicable, copies of all notices required to be sent under the Transaction Security Document set out in Part B of Schedule 4 (*Transaction Security Documents*);
          3. where applicable, copies of any share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant Obligor in blank in relation to the assets subject or expressed to be subject to the Transaction Security granted by the Transaction Security Documents set out in Part B of Schedule 4 (*Transaction Security Documents*)and other documents of title to be provided under such Transaction Security Documents; and
          4. all the documents and other evidence listed in Schedule 3 (*Additional Guarantor Conditions Precedent*) as the Facility Agent may require,

are delivered to the Facility Agent in form and substance satisfactory to the Facility Agent (acting reasonably) not later than the date falling 30 days after the Closing Date.

* + - 1. The Borrower shall use its best endeavours to deliver to the Facility Agent in form and substance satisfactory to the Facility Agent (acting reasonably) as soon as reasonably practicable following the date of publication of the UAE Federal Law No.2 of 2015 concerning the federal commercial companies law in the UAE Official Gazette:
         1. at least two originals of the Transaction Security Document set out in Part C of Schedule 4 (*Transaction Security Documents*) which have been notarised in the presence of a UAE court notary;
         2. evidence that the Security created by the Transaction Security Document set out in Part C of Schedule 4 (*Transaction Security Documents*) (the ***UAE Share Pledge Agreement***) has been duly registered on the relevant commercial register in the UAE,
         3. to the extent not already delivered pursuant to Clause ‎4.1(a) (*Initial conditions precedent*), certified copies of the constitutional documents of each corporate shareholder of RSK Environment LLC and any power(s) of attorney relied upon in connection with the execution of the UAE Share Pledge Agreement;
         4. a certified copy of a resolution of the board of each corporate shareholder of RSK Environment LLC:

approving the terms of, and the transactions contemplated by, the UAE Share Pledge Agreement and resolving that it execute, deliver and perform the UAE Share Pledge Agreement;

authorising a specified person or persons to execute the UAE Share Pledge Agreement to which it is a party on its behalf;

authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the UAE Share Pledge Agreement;

* + - * 1. a specimen of the signature of each person authorised by each resolution referred to in paragraph (iv) above in relation to the UAE Share Pledge Agreement and related documents;
        2. a certificate of each corporate shareholder (signed by a director) confirming that securing, as appropriate, the Total Commitments would not cause any security or similar limit binding on it to be exceeded;
        3. a legal opinion of Simmons and Simmons, legal advisers to the Borrower as to UAE law in relation to each corporate shareholder of RSK Environment LLC in substance and form satisfactory to the Lenders; and
        4. a legal opinion of Afridi & Angell (or such other legal advisers as the Lenders may choose from time to time) as to UAE law in relation to the UAE Share Pledge Agreement in substance and form satisfactory to the Lenders and addressed to the Facility Agent, the Security Agent and the Original Lenders,

together with any other Authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable in connection with the entry into and performance of the transactions contemplated by the Transaction Security Document set out in Part C of Schedule 4 (*Transaction Security Documents*).

* + - 1. The Borrower shall procure that the Subsidiaries listed in Part B of Schedule 1 (*The Original Parties*):
         1. accede to this Agreement as Additional Guarantors on or before the date that is 30 days after the Closing Date; and
         2. deliver to the Facility Agent all the documents and other evidence listed in Schedule 3 (*Additional Guarantor Conditions Precedent*) in form and substance satisfactory to the Facility Agent (acting on the instructions of the Lenders).

The Facility Agent (upon direction of all of the Lenders) shall notify the Borrower promptly upon being so satisfied.

* + - 1. The Borrower shall:
         1. upon repayment in full of all of the Category 1 Permitted Deferred Consideration, the Category 2 Permitted Deferred Consideration and the €1,900,000 Loan, take, or procure that the relevant members of the Group take, all steps necessary to discharge the Benelux Security; and
         2. procure that:

at least two originals of the Transaction Security Documents set out in Part D of Schedule 4 (*Transaction Security Documents*); and

any other Authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable in connection with the entry into and performance of the transactions contemplated by the Transaction Security Documents set out in Part D of Schedule 4 (*Transaction Security Documents*).

are delivered to the Facility Agent in form and substance satisfactory to the Facility Agent (acting reasonably) not later than the date 30 days after the Benelux Security Discharge Date. In this Agreement, the ***Benelux Security Discharge Date*** means the earlier of: (I) the date which is five Business Days after the date on which the Category 1 Permitted Deferred Consideration, the Category 2 Permitted Deferred Consideration and the €1,900,000 Loan are repaid in full; and (II) the date that the Benelux Security is discharged.

* + - 1. The Borrower shall:
         1. procure that the Subsidiaries listed in Part D of Schedule 1 (*The Original Parties*) become Subsidiaries of RSK Environment on or before the date that is 30 days after the Closing Date;
         2. on the date upon which any Post-Closing Reorganisation Document is entered into, deliver that Post-Closing Reorganisation Document to the Facility Agent; and
         3. within five Business Days after the date on which all of the Subsidiaries listed in Part D of Schedule 1 (*The Original Parties*) are Subsidiaries of RSK Environment, deliver to the Facility Agent an updated certified copy of the Group Structure Chart, evidencing that the transfers described in paragraph (i) above have taken place.

The transfers described in paragraph (i) above are together known as the ***Post-Closing Reorganisation***.

* + - 1. The Borrower shall:
         1. procure that Structural Soils Limited shall, as soon as practicable and no later than 10 Business Days after the Closing Date, make a written report to the Pensions Regulator about the Structural Soils Loan under section 70 of the Pensions Act 1995; and
         2. deliver a copy of the written report to the Facility Agent as soon as reasonably practicable after it has been sent to the Pensions Regulator.
      2. The Borrower shall use reasonable endeavours to assist the Lenders in obtaining a one-off corporate family rating for the Group as soon as reasonably practicable following the Closing Date.
      3. The Borrower will supply to the Facility Agent within the earlier of (i) 60 days of the Closing Date and (ii) the date falling 5 Business Days prior to the first date on which the Borrower wishes to exercise the right under paragraph (d) of Clause 8.5 (*Application of mandatory prepayments and cancellations*)), a letter from the Borrower to the Facility Agent specifying the Mandatory Prepayment Account, including details of such account, name, account number and the name and address of the bank, where such account is held.
      4. The Borrower will supply copies of:
         1. ‘the managing directors’ assessments of procedures for preventing and detecting bribery and corruption’; and
         2. the summary of the assessments referred to in (i) above which are provided to the board of directors of the Borrower,

to the Facility Agent not later than 30 June 2015, and on the date on which these documents are delivered, the representation set out in Clause 21.19 (*Anti-corruption law*) shall be deemed to be made by each Obligor.

* + - 1. The Borrower shall use all reasonable endeavours after the date of this Agreement to ensure that:
         1. any new business activities of the Group are conducted by an Obligor (other than the Borrower) or a Subsidiary of RSK Environment Limited(a ***Relevant Group Member***); and
         2. material existing business activities and assets of the Group are (to the extent performed by the Borrower) transferred from the Borrower to a Relevant Group Member incorporated in the UK to the extent the Borrower (acting reasonably) considers it feasible to do so without incurring significant expense,

in each case to the extent it is otherwise permitted to do so in accordance with the provisions of this Agreement.

* 1. Conditions subsequent – Completion Date

The Borrower will supply to the Facility Agent on the Completion Date, immediately following Completion, in form and substance satisfactory to the Facility Agent (acting on the instructions of the Lenders):

* + - 1. evidence that:
         1. contemporaneously with, or immediately following, first utilisation of Facility A2, all Financial Indebtedness of the Target Group (other than Permitted Financial Indebtedness) has been discharged; and
         2. contemporaneously with, or immediately following, first utilisation of Facility A2, all guarantees, Security and Quasi-Security of the Target Group (other than Permitted Guarantees and Permitted Security) will be released or terminated;
      2. a copy of the constitutional documents of the Acquisition Obligor;
      3. a copy of a resolution of the board of the Acquisition Obligor:
         1. confirming that the Acquisition Obligor:

is solvent; and

has positive net assets;

* + - * 1. approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party and resolving that it execute, deliver and perform the Transaction Documents to which it is a party;
        2. authorising a specified person or persons to execute the Accession Deed and other Finance Documents on its behalf;
        3. authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request or Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party;
        4. authorising the Borrower to act as its agent in connection with the Finance Documents;
      1. a specimen of the signature of each person authorised by the resolution referred to in paragraph (c) above;
      2. a copy of a resolution signed by all the holders of the issued shares in the Acquisition Obligor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Acquisition Obligor is a party;
      3. a certificate of the Acquisition Obligor (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on it to be exceeded;
      4. a certificate of an authorised signatory of the Acquisition Obligor certifying that each copy document relating to it specified in this Clause 24.43 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Deed;
      5. a certificate of an authorised signatory of the Acquisition Obligor appending a copy of the Acquisition Obligor’s PSC Register certifying, in each case, assuming that the Completion Date has occurred, that such PSC Register:
         1. is correct and complete;
         2. has not been amended or superseded; and
         3. sets out the “required particulars” (within the meaning (iii) of section 790K of the CA 2006) and any other information prescribed under Part 21A of the CA 2006 (including section 790M) and/or any related law, in each case, in relation to all of the Relevant Legal Entities and Persons with Significant Control that are “registrable” (within the meaning of section 790C(4) or section 790C(8), as applicable) in respect of that Obligor (or that other member of the Group, as the case may be) in accordance with Part 21A of the CA 2006;
      6. an Accession Deed executed by the Acquisition Obligor and the other parties to it;
      7. an Accession Deed in respect of the Subordination Deed executed by the Acquisition Obligor and each of the other parties to it;
      8. an accession deed in respect of the Security Agreement executed by the Acquisition Obligor and each of the other parties to it;
      9. an accession deed in respect of the Supplemental Security Agreement executed by the Acquisition Obligor and each of the other parties to it;
      10. a copy of all notices required to be sent under the Transaction Security Documents up to and including 5 Business Days after the Completion Date executed by the Acquisition Obligor;
      11. a copy of all share certificates, transfers and stock transfer forms or equivalent duly executed by the Acquisition Obligor in blank in relation to the assets subject to or expressed to be subject to the Transaction Security and other documents of title to be provided under the Transaction Security Documents;
      12. a legal opinion of Freshfields Bruckhaus Deringer LLP, legal advisers to the Lenders as to English law in substance and form satisfactory to the Lenders;
      13. a legal opinion of Shepherd and Wedderburn LLP, as to Scots law in substance and form satisfactory to the Lenders; and
      14. a copy of any other Authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Transaction Document or for the validity and enforceability of any Transaction Document.

1. Events of Default

Each of the events or circumstances set out in this Clause ‎25 is an Event of Default (save for Clause ‎25.21 (*Acceleration*)).

* 1. Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document or the Warrant Instrument at the place at and in the currency in which it is expressed to be payable unless:

* + - 1. its failure to pay is caused by:
         1. administrative or technical error; or
         2. a Disruption Event; and
      2. payment is made within three Business Days of its due date.
  1. Financial covenants and other obligations
     + 1. Subject to Clause 23.4 (*Equity cure rights*), any requirement of Clause ‎23 (*Financial Covenants*) is not satisfied.
       2. An Obligor does not comply with the provisions of Clause 22.2 (*Financial statements*), Clause 22.3 (*Provision and contents of* *Compliance Certificate*), Clause 24.42 (*Conditions subsequent – Closing Date*) or Clause 24.43 (*Conditions subsequent – Completion Date*).
       3. Any Obligor or other member of the Group receives or issues a Restrictions Notice under paragraph 1 of Schedule 1B to the Companies Act 2006 in respect of any “relevant interest” (within the meaning of paragraph 2 of Schedule 1B to the Companies Act 2006) that is subject to any Transaction Security, unless that notice is withdrawn and evidence of the withdrawal satisfactory to the Facility Agent is provided to the Facility Agent, in each case, within two Business Days after the date of the notice.
  2. Other obligations
     + 1. An Obligor does not comply with any provision of the Finance Documents or the Warrant Instrument to which it is a party (other than those referred to in Clause ‎25.1 (*Non-payment*) and Clause ‎25.2 (*Financial covenants and other obligations*)).
       2. No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied to the reasonable satisfaction of the Facility Agent within 15 Business Days of the earlier of (i) the Facility Agent giving notice to the Borrower or relevant Obligor and (ii) the Borrower or an Obligor becoming aware of the failure to comply.
  3. Misrepresentation
     + 1. Any representation or statement made or deemed to be made by an Obligor in the Finance Documents or the Warrant Instrument to which it is a party or any other document delivered by or on behalf of any Obligor or member of the Group under or in connection with any Finance Document or the Warrant Instrument is or proves to have been incorrect or misleading when made or deemed to be made.
       2. No Event of Default under paragraph (b) above will occur if the failure to comply is capable of remedy (and, for his purpose, a breach of the representations and warranties contained in Clause 21.18 (*Sanctions*) and Clause 21.19 (*Anti-corruption law*) shall not be capable of remedy) and is remedied to the reasonable satisfaction of the Facility Agent within 15 Business Days of the earlier of (i) the Facility Agent giving notice to the Borrower or relevant Obligor and (ii) the Borrower or an Obligor becoming aware of the failure to comply.
  4. Cross default
     + 1. Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
       2. Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
       3. Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
       4. Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described) other than where the relevant event of default has been unconditionally and irrevocably waived in writing by the relevant creditor(s).
       5. No Event of Default will occur under this Clause if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within this Clause is:
          1. less than £200,000; or
          2. is in respect of Financial Indebtedness which is outstanding under an on-demand overdraft facility or an on-demand forward foreign exchange contract and currency options facility or an engagements facility (including bank guarantees) or other on-demand facility in respect of which demand is made, which is refinanced in full by any means available at all times during the relevant period to the relevant Obligor within 10 Business Days of the date of the relevant demand being made.
  5. Insolvency
     + 1. An Obligor or other Material Company:
          1. is unable or admits inability to pay its debts as they fall due;
          2. is declared to be unable to pay its debts under applicable law;
          3. suspends or threatens in writing to suspend making payments on any of its debts; or
          4. by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Finance Party in its capacity as such or a creditor which is a member of the Group) with a view to rescheduling any of its indebtedness.
       2. The value of the assets of any Obligor or other Material Company is less than its liabilities (taking into account contingent and prospective liabilities.)
       3. A moratorium is declared in respect of any indebtedness of any member of the Group. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.
  6. Insolvency proceedings
     + 1. Any corporate action, legal proceedings or other procedure or step is taken in relation to:
          1. the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, reconstruction or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of an Obligor or any Material Company;
          2. a composition, compromise, assignment or arrangement with any creditor of an Obligor or any Material Company;
          3. the appointment of a liquidator, receiver, administrative receiver, administrator, receiver and manager, compulsory manager, reconstruction officer or other similar officer in respect of an Obligor or any Material Company or any of its assets; or
          4. enforcement of any Security over any assets of an Obligor or any Material Company,

or any analogous procedure or step is taken in any jurisdiction.

* + - 1. Paragraph (a) above shall not apply to:
         1. any winding-up petition which is frivolous or vexatious and is discharged, stayed, sisted or dismissed within 14 days of commencement; or
         2. any step or procedure contemplated by paragraph (c) of the definition of Permitted Transaction.
  1. Creditors’ process

Any expropriation, attachment, sequestration, distress, diligence or execution or any analogous process in any jurisdiction affects any asset or assets an Obligor or other Material Company having an aggregate value of £200,000 and is not discharged within 14 days or, in the case of a Dutch executory attachment (*executoriaal beslag*), is not discharged within 5 days or, in the case of a Dutch conservatory attachment (*conservatoir beslag*) is not discharged within 10 days.

* 1. Unlawfulness and invalidity
     + 1. It is or becomes unlawful for a member of the Group to perform any of its obligations under the Finance Documents or the Warrant Instrument or any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective or any subordination created under the Subordination Deed is or becomes unlawful.
       2. Any obligation or obligations of any member of the Group under any Finance Documents or the Warrant Instrument are not (subject to the Legal Reservations) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lenders under the Finance Documents or the Warrantholder under the Warrant Instrument.
       3. Any Finance Document or the Warrant Instrument ceases to be in full force and effect or any Transaction Security or any subordination created under the Subordination Deed ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective.
  2. Subordination Deed
     + 1. Any party to the Subordination Deed (other than a Finance Party or a member of the Group) fails to comply with the provisions of, or does not perform any of its obligations under, the Subordination Deed; or
       2. a representation or warranty given by that party in the Subordination Deed is incorrect in any material respect,

and in respect of paragraphs (a) and (b) above if the non-compliance or circumstances giving rise to the misrepresentation are capable of remedy, it is not remedied within 10 Business Days of the earlier of the Facility Agent giving notice to that party or that party becoming aware of the non-compliance or misrepresentation.

* 1. Cessation of business

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

* 1. Change of ownership

After the Closing Date:

* + - 1. an Obligor (other than the Borrower) ceases to be a Subsidiary of (i) the Borrower and (ii) (other than RSK Environment Limited), in respect of an Obligor the subject of the Post-Closing Reorganisation and after the earlier of (A) completion of the Post-Closing Reorganisation, and (B) the date falling 30 days after the Closing Date, RSK Environment Limited; or
      2. an Obligor ceases to own at least the same percentage of shares in each Material Company, respectively, as on the Closing Date,

except, in either case, as a result of a disposal which is a Permitted Disposal or a Permitted Transaction or, in respect of paragraph (b) above, as a result of the transfer of such shares to the Security Agent (or its nominee) by way of security pursuant to a Scottish Share Pledge.

* 1. Change of management

Alan Ryder or Stefan Bangels ceases to be employed by the Borrower or to devote the time and attention to the business, trade and offices of the Group or perform the functions required under the terms of his Service Contract and a replacement person approved in writing by the Majority Lenders (such approval not to be unreasonably withheld or delayed) has not given a legally binding acceptance to an offer of employment and resigned from his existing employment within 120 days of that cessation. This Event of Default shall also apply to any replacement person as if references in this Clause to Alan Ryder or Stefan Bangels were references to that replacement person and references to “Service Contract” were references to the service contract of that person.

* 1. Audit qualification

The Borrower’s Auditors qualify the audited annual consolidated financial statements of the Borrower.

* 1. Expropriation

The authority or ability of any member of the Group to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to any member of the Group or any of its assets, to an extent which has or is reasonably likely to have a Material Adverse Effect.

* 1. Repudiation and rescission of agreements
  2. An Obligor (or any other relevant party) rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or the Warrant Instrument to which it is a party or any of the Transaction Security or evidences an intention to rescind or repudiate a Finance Document or the Warrant Instrument to which it is a party or any Transaction Security.
  3. Any party to the Transaction Documents, the PLC Shareholder Agreement or the Subordination Deed rescinds or purports to rescind or repudiates or purports to repudiate any of those agreements or instruments in whole or in part where to do so has or is, in the reasonable opinion of the Majority Lenders, likely to have a material adverse effect on the interests of the Lenders under the Finance Documents or the Warrant Instrument.
  4. Litigation

Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened in relation to the Transaction Documents or the transactions contemplated in the Transaction Documents or against any member of the Group or its assets which have or are reasonably likely to have a Material Adverse Effect.

* 1. Pensions

The Pensions Regulator issues a Financial Support Direction or a Contribution Notice to any member of the Group unless the aggregate liability of the Obligors under all Financial Support Directions and Contribution Notices is less than £100,000.

* 1. Warrants
     + 1. The board of directors of the Borrower is not authorised by the shareholders of the Borrower (including without limitation, by not taking any action as required by the Borrower’s constitutional documents) to (i) execute the Warrant Instrument, (ii) issue the Warrant Shares (as defined in the Warrant Instrument) or (iii) allot the Warrant Shares on exercise of the Warrants (each in accordance with the terms of the Warrant Instrument).
       2. The Warrants (as defined in the Warrant Instrument) that are issued by the Borrower pursuant to the terms of the Warrant Instrument are not exercisable in accordance with the terms of the Warrant Instrument.
  2. Material adverse change

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

* 1. Acceleration

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

* + - 1. cancel the Total Commitments at which time they shall immediately be cancelled;
      2. declare that all or part of a Loan, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, at which time they shall become immediately due and payable;
      3. declare that all or part of a Loan be payable on demand, at which time they shall immediately become payable on demand by the Facility Agent on the instructions of the Majority Lenders;
      4. exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents; and/or
      5. and by notice to the relevant Obligor incorporated under the laws of the Netherlands, require that Obligor to give a guarantee or grant security for the benefit of the Finance Parties and that Obligor must comply with such request.

1. Changes to the Lenders
   1. Assignments and transfers by the Lenders

Subject to this Clause 26 and to Clause ‎27 (*Restriction on Debt Purchase Transactions*), a Lender (the ***Existing Lender***) may:

* + - 1. assign any of its rights; or
      2. transfer by novation any of its rights and obligations,

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

* 1. Conditions of assignment or transfer
     + 1. An Existing Lender must obtain written consent from the Borrower (such consent not to be unreasonably withheld or delayed) and such consent shall be deemed given if no express objection is made in writing (together with an explanation) within ten Business Days of the Borrower receiving the written request for consent from the Facility Agent or the Existing Lender (as the case may be), before making an assignment or transfer in accordance with Clause 26.1 (*Assignments and transfers by the Lenders*) unless the assignment or transfer is:
          1. to another Lender or an Affiliate of a Lender;
          2. if the Existing Lender is a fund, to a fund which is a Related Fund of the Existing Lender; or
          3. made at a time when an Event of Default is continuing.
       2. An assignment will only be effective on:
          1. receipt by the Facility Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Facility Agent) that the New Lender will assume the same obligations to the other Finance Parties and the other Secured Parties as it would have been under if it was an Original Lender;
          2. the performance by the Facility Agent of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Facility Agent shall promptly notify to the Existing Lender and the New Lender; and
          3. payment of the transfer fee payable to the Facility Agent pursuant to Clause 26.3 (*Assignment or transfer fee*).
       3. A transfer will only be effective if the procedure set out in Clause 26.5 (*Procedure for transfer*) is complied with.
       4. If:
          1. a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
          2. as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 16 (*Increased Costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under that Clause to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

* + - 1. Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Facility Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.
  1. Assignment or transfer fee

Unless the Facility Agent otherwise agrees and excluding an assignment or transfer (i) to an Affiliate of a Lender or (ii) to a Related Fund, the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Facility Agent (for its own account) a fee of £2,000.

* 1. Limitation of responsibility of Existing Lenders
     + 1. Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
          1. the legality, validity, effectiveness, adequacy or enforceability of the Transaction Documents, the Transaction Security or any other documents;
          2. the financial condition of any Obligor;
          3. the performance and observance by any Obligor or any other member of the Group of its obligations under the Transaction Documents or any other documents; or
          4. the accuracy of any statements (whether written or oral) made in or in connection with any Transaction Document or any other document,

and any representations or warranties implied by law are excluded.

* + - 1. Each New Lender confirms to the Existing Lender, the other Finance Parties and the Secured Parties that it:
         1. has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender or any other Finance Party in connection with any Transaction Document or the Transaction Security; and
         2. will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
      2. Nothing in any Finance Document obliges an Existing Lender to:
         1. accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause ‎26; or
         2. support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Transaction Documents or otherwise.
  1. Procedure for transfer
     + 1. Subject to the conditions set out in Clause ‎26.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.
       2. The Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
       3. Subject to Clause 26.9 (*Pro rata interest settlement*), on the Transfer Date:
          1. to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents and in respect of the Transaction Security each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (being the ***Discharged Rights and Obligations***);
          2. each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor or other member of the Group and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;
          3. the Facility Agent, the Security Agent, the New Lender and the other Lenders shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Facility Agent, the Security Agent and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
          4. the New Lender shall become a Party as a “Lender”.
  2. Procedure for assignment
     + 1. Subject to the conditions set out in Clause 26.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.
       2. The Facility Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
       3. Subject to Clause 26.9 (*Pro rata interest settlement*), on the Transfer Date:
          1. the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents and in respect of the Transaction Security expressed to be the subject of the assignment in the Assignment Agreement;
          2. the Existing Lender will be released from the obligations (the ***Relevant Obligations***) expressed to be the subject of the release in the Assignment Agreement (and any corresponding obligations by which it is bound in respect of the Transaction Security); and
          3. the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations.
       4. Lenders may utilise procedures other than those set out in this Clause 26.6 to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with Clause 26.5 (*Procedure for transfer*), to obtain a release by that Obligor from the obligations owed to that Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender) **provided that** they comply with the conditions set out in Clause ‎26.2 (*Conditions of assignment or transfer*).
  3. Copy of Transfer Certificate or Assignment Agreement to Borrower

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

* 1. Security over Lenders’ rights

In addition to the other rights provided to Lenders under this Clause 26, each Lender may without consulting with or obtaining consent from any Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

* + - 1. any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
      2. in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

* + - * 1. release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or other Security for the Lender as a party to any of the Finance Documents; or
        2. require any payments to be made by an Obligor or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Finance Documents.
  1. *Pro rata* interest settlement
     + 1. If the Facility Agent has notified the Lenders that it is able to distribute interest payments on a “*pro rata* basis” to Existing Lenders and New Lenders then (in respect of any transfer pursuant to Clause 26.5 (*Procedure for transfer*) or any assignment pursuant to Clause ‎26.6 (*Procedure for assignment*) the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period):
          1. any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date (***Accrued Amounts***) and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer than six Months, on the next of the dates which falls at six Monthly intervals after the first day of that Interest Period); and
          2. the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts so that, for the avoidance of doubt:

when the Accrued Amounts become payable, those Accrued Amounts will be payable for the account of the Existing Lender; and

the amount payable to the New Lender on that date will be the amount which would, but for the application of this Clause 26.9, have been payable to it on that date, but after deduction of the Accrued Amounts.

* + - 1. In this Clause 26.9 references to ***Interest Period*** shall be construed to include a reference to any other period for accrual of fees.

1. Restriction on Debt Purchase Transactions
   1. Prohibition on Debt Purchase Transactions by the Group

The Borrower shall not, and shall procure that each other member of the Group shall not, enter into any Debt Purchase Transaction or beneficially own all or any part of the share capital of a company that is a Lender or a party to a Debt Purchase Transaction of the type referred to in paragraphs (b) or (c) of the definition of Debt Purchase Transaction.

* 1. Disenfranchisement on Debt Purchase Transactions entered into by Investor Affiliates
     + 1. Without affecting Clause 27.1 (*Prohibition on Debt Purchase Transactions by the Group*) above, for so long as an Investor Affiliate:
          1. beneficially owns a Commitment; or
          2. has entered into a sub-participation agreement relating to a Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated,

in ascertaining:

the Majority Lenders; or

whether any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents,

such Commitment shall be deemed to be zero and such Investor Affiliate or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Lender for the purposes of paragraphs (A) and (B) above (unless in the case of a person not being an Investor Affiliate it is a Lender by virtue otherwise than by beneficially owning the relevant Commitment).

* + - 1. Each Lender shall, unless such Debt Purchase Transaction is an assignment or transfer, promptly notify the Facility Agent in writing if it knowingly enters into a Debt Purchase Transaction with an Investor Affiliate (a ***Notifiable Debt Purchase Transaction***), such notification to be substantially in the form set out in Part A of Schedule 16 (*Forms of Notifiable Debt Purchase Transaction Notice*).
      2. A Lender shall promptly notify the Facility Agent if a Notifiable Debt Purchase Transaction to which it is a party:
         1. is terminated; or
         2. ceases to be with an Investor Affiliate,

such notification to be substantially in the form set out in Part B of Schedule 16 (*Forms of Notifiable Debt Purchase Transaction Notice*).

* + - 1. Each Investor Affiliate that is a Lender agrees that:
         1. in relation to any meeting or conference call to which all the Lenders are invited to attend or participate, it shall not attend or participate in the same if so requested by the Facility Agent or, unless the Facility Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and
         2. in its capacity as Lender, unless the Facility Agent otherwise agrees, it shall not be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Facility Agent or one or more of the Lenders.
  1. Investor Affiliates’ notification to other Lenders of Debt Purchase Transactions

Any Investor Affiliate which is or becomes a Lender and which enters into a Debt Purchase Transaction as a purchaser or a participant shall, by 5.00 p.m. on the Business Day following the day on which it entered into that Debt Purchase Transaction, notify the Facility Agent of the extent of the Commitment(s) or amount outstanding to which that Debt Purchase Transaction relates. The Facility Agent shall promptly disclose such information to the Lenders.

1. Changes to the Obligors
   1. Assignment and transfers by Obligors

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

* 1. Additional Guarantors
     + 1. Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 22.12 (*“Know your customer” checks*), the Borrower may request that any of its wholly owned Subsidiaries which is not a Dormant Subsidiary becomes a Guarantor.
       2. A member of the Group shall become an Additional Guarantor if:
          1. the Borrower and the proposed Additional Guarantor deliver to the Facility Agent a duly completed and executed Accession Deed; and
          2. the Facility Agent has received all of the documents and other evidence listed in Schedule 3 (*Additional Guarantor* *Conditions Precedent*) in relation to that Additional Guarantor, each in form and substance satisfactory to the Facility Agent.
       3. The Facility Agent shall notify the Borrower and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Schedule 2 (*Conditions Precedent*).
       4. Other than to the extent that the Majority Lenders notify the Facility Agent in writing to the contrary before the Facility Agent gives the notification described in paragraph (c) above, the Lenders authorise (but do not require) the Facility Agent to give that notification. The Facility Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.
  2. Resignation of a Guarantor
     + 1. In this Clause ‎28.3 and Clause 28.5 (*Resignation and release of Security on disposal*), ***Third Party Disposal*** means the disposal of an Obligor to a person which is not a member of the Group where that disposal is permitted under Clause ‎24.20 (*Disposals*) or made with the approval of the Majority Lenders (and the Borrower has confirmed this is the case).
       2. The Borrower may request that a Guarantor (other than the Borrower or Borrower) ceases to be a Guarantor by delivering to the Facility Agent a Resignation Letter if:
          1. that Guarantor is being disposed of by way of a Third Party Disposal (as defined above) and the Borrower has confirmed this is the case; or
          2. all the Lenders have consented to the resignation of that Guarantor.
       3. The Facility Agent shall accept a Resignation Letter and notify the Borrower and the Lenders of its acceptance if:
          1. the Borrower has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;
          2. no payment is due from the Guarantor under Clause ‎20.1 (*Guarantee and indemnity*); and
          3. the Borrower has confirmed that it shall ensure that the Relevant Disposal Proceeds will be applied in accordance with Clause 8.4 (*Disposal Proceeds*).
       4. The resignation of that Guarantor shall not be effective until the date of the relevant Third Party Disposal at which time that company shall cease to be a Guarantor and shall have no further rights or obligations under the Finance Documents as a Guarantor.
  3. Repetition of Representations

Delivery of an Accession Deed constitutes confirmation by the relevant Subsidiary that the representations and warranties referred to in paragraph (d) of Clause 21.36 (*Times when representations made*) are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

* 1. Resignation and release of Security on disposal

If a Guarantor is or is proposed to be the subject of a Third Party Disposal then:

* + - 1. where that Guarantor created Transaction Security over any of its assets or business in favour of the Security Agent, or Transaction Security in favour of the Security Agent was created over the shares (or equivalent) of that Guarantor, the Security Agent may, at the cost and request of the Borrower, release those assets, business or shares (or equivalent) and issue certificates of non-crystallisation; and
      2. any resignation of that Guarantor and related release of Transaction Security referred to in paragraph (a) above shall become effective only on the making of that disposal.
  1. Release of Security for Closing Reorganisation or Post Closing Reorganisation

The Security Agent shall, at the cost and request of the Borrower, release from the Transaction Security any shares in a member of the Group which is being transferred under the Closing Reorganisation or the Post-Closing Reorganisation provided such transfer is made in accordance with paragraph (b) of the definition of Permitted Disposal. Each Lender confirms their consent and authorisation to the Security Agent to make the releases referred to in this Clause.

1. Role of the Facility Agent and Others
   1. Appointment of the Facility Agent
      * 1. Each of the Lenders appoints the Facility Agent to act as its agent under and in connection with the Finance Documents.
        2. Each of the Lenders authorises the Facility Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.
   2. Instructions
      * 1. The Facility Agent shall:
           1. unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Facility Agent in accordance with any instructions given to it by:

all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and

in all other cases, the Majority Lenders; and

* + - * 1. not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
      1. The Facility Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Facility Agent may refrain from acting unless and until it receives those instructions or that clarification.
      2. Save in the case of decisions stipulated to be a matter for any other Lender or group of Lenders under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Facility Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties save for the Security Agent.
      3. The Facility Agent may refrain from acting in accordance with any instructions of any Lender or group of Lenders until it has received any indemnification, pre-funding and/or security that it may in its sole discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
      4. In the absence of instructions, the Facility Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
      5. The Facility Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document. This paragraph (f) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Transaction Security Documents or enforcement of the Transaction Security or Transaction Security Documents.
      6. If the Facility Agent or the Security Agent is requested to act by the Majority Lenders (or, if appropriate, the Lenders) on instructions or directions delivered by fax, email or other unsecured method of communication, the Facility Agent and the Security Agent shall have:
         1. no duty or obligation to verify or confirm that the person who sent such instruction or directions is, in fact a person authorised to give instructions or directions on behalf of the Majority Lenders (or, if appropriate, the Lenders); and
         2. no liability for any losses, liabilities, costs or expenses incurred or sustained by the Majority Lenders (or, if appropriate, the Lenders), as a result of such reliance upon compliance with such instructions or directions.
  1. Duties of the Facility Agent
     + 1. The Facility Agent’s duties under the Finance Documents are solely mechanical and administrative in nature.
       2. Subject to paragraph (c) below, the Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
       3. Without prejudice to Clause 26.7 (*Copy of Transfer Certificate or Assignment Agreement to Borrower*), paragraph (b) above shall not apply to any Transfer Certificate or any Assignment Agreement.
       4. Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
       5. If the Facility Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
       6. If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Facility Agent or the Security Agent) under this Agreement, it shall promptly notify the other Finance Parties.
       7. The Facility Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).
  2. No fiduciary duties
     + 1. Nothing in any Finance Document constitutes the Facility Agent as a trustee or fiduciary of any other person.
       2. The Facility Agent shall not be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.
  3. Business with the Group

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

* 1. Rights and discretions
     + 1. The Facility Agent may:
          1. rely on any representation, communication, notice or document (including, without limitation, any notice given by a Lender pursuant to paragraphs (b) or (c) of Clause 27.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Investor Affiliates*)) believed by it to be genuine, correct and appropriately authorised and shall have no duty or obligation to verify or confirm that the person who, as applicable, gave such representation or sent such communication, notice or document is in fact authorised to do so;
          2. assume that:

any instructions received by it from the Majority Lenders, any Lenders or any group of Lenders are duly given in accordance with the terms of the Finance Documents; and

unless it has received written notice of revocation, that those instructions have not been revoked and no revocation of any such instructions shall affect any action taken by the Facility Agent in reliance upon such instructions prior to its receipt of a written notice of revocation; and

* + - * 1. rely on a certificate from any person:

as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or

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

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

* + - 1. The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
         1. no Default has occurred (unless it has actual knowledge of a Default arising under Clause 25.1 (*Non-payment*));
         2. any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised;
         3. any notice or request made by the Borrower (other than a Utilisation Request or Selection Notice) is made on behalf of and with the consent and knowledge of all the Obligors; and
         4. no Notifiable Debt Purchase Transaction:

has been entered into;

has been terminated; or

has ceased to be with an Investor Affiliate.

* + - 1. The Facility Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
      2. Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Facility Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Facility Agent (and so separate from any lawyers instructed by the Lenders) if the Facility Agent in its reasonable opinion deems this to be desirable.
      3. The Facility Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Facility Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
      4. The Facility Agent may act in relation to the Finance Documents through its officers, employees, delegates and agents and the Facility Agent shall not:
         1. be liable for any error of judgment made by any such person; or
         2. 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 Facility Agent's gross negligence or wilful misconduct.

* + - 1. Unless a Finance Document expressly provides otherwise the Facility Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
      2. Notwithstanding any other provision of any Finance Document to the contrary, the Facility Agent is not obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
      3. Notwithstanding any provision of any Finance Document to the contrary, the Facility 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, or pre-funding for, such risk or liability is not reasonably assured to it.
  1. Responsibility for documentation

The Facility Agent is not responsible or liable for

* + - 1. the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Facility Agent, an Obligor or any other person in or in connection with any Finance Document or the Reports or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of under or in connection with any Finance Document;
      2. the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security; or
      3. any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.
  1. No duty to monitor

The Facility Agent shall not be bound to enquire:

* + - 1. whether or not any Default has occurred;
      2. as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
      3. whether any other event specified in any Finance Document has occurred.
  1. Exclusion of liability
     + 1. Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Facility Agent), the Facility Agent shall not be liable (including, without limitation, for negligence or any other category of liability whatsoever) for:
          1. any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Transaction Security, unless directly caused by its gross negligence or wilful misconduct;
          2. exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Transaction Security; or
          3. without prejudice to the generality of paragraphs (i) and (ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation, for negligence or any other category of liability whatsoever but not including any claim based on the fraud, wilful misconduct or gross negligence of the Facility Agent) arising as a result of:

any act, event or circumstance not reasonably within its control; or

the general risks of investment in, or the holding of assets in, any jurisdiction,

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

* + - 1. No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Transaction Document and any officer, employee or agent of the Facility Agent may rely on this Clause subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.
      2. The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.
      3. Nothing in this Agreement shall oblige the Facility Agent to carry out:
         1. any "know your customer" or other checks in relation to any person; or
         2. any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender,

on behalf of any Lender and each Lender confirms to the Facility 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 Facility Agent.

* + - 1. Without prejudice to any provision of any Finance Document excluding or limiting the Facility Agent's liability, any liability of the Facility Agent arising under or in connection with any Finance Document or the Transaction Security shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Facility Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Facility Agent at any time which increase the amount of that loss. In no event shall the Facility Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Facility Agent has been advised of the possibility of such loss or damages.
  1. Lenders’ indemnity to the Facility Agent
     + 1. Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever and including, without limitation, legal fees and expenses in third party suits and defence of claims (not including claims of fraud, wilful misconduct or gross negligence of the Facility Agent brought by the Finance Parties)) incurred by the Facility Agent (otherwise than by reason of the Facility Agent’s gross negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor pursuant to a Finance Document).
       2. Subject to paragraph (c) below, the Borrower shall immediately on demand reimburse any Lender for any payment that Lender makes to the Facility Agent pursuant to paragraph (a) above.
       3. Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Facility Agent to an Obligor.
       4. This Clause 29.10 shall survive in full force and effect notwithstanding the termination of this Agreement or the retirement or termination of the Facility Agent.
  2. Resignation of the Facility Agent
     + 1. The Facility Agent may resign and appoint one of its Affiliates acting through an office in the United Kingdom as successor by giving notice to the Lenders and the Borrower.
       2. Alternatively the Facility Agent may resign by giving 30 days’ notice to the Lenders and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Facility Agent. The Facility Agent shall not be obliged to provide any reason for any such resignation and will not be responsible for any liabilities incurred by any person as a result of such resignation.
       3. If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Facility Agent (after consultation with the Borrower) may appoint a successor Facility Agent. The existing Facility Agent is not bound to supervise or be responsible in any way for any loss incurred by any person as a result of the misconduct or default on the part of any successor Facility Agent.
       4. If the Facility Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Facility Agent is entitled to appoint a successor Facility Agent under paragraph (c) above, the Facility Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Facility Agent to become a party to this Agreement as Facility Agent) agree with the proposed successor Facility Agent amendments to this Clause 29.11 and any other term of this Agreement dealing with the rights or obligations of the Facility Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the agency fee payable under this Agreement which are consistent with the successor Facility Agent’s normal fee rates and those amendments will bind the Parties.
       5. The retiring Facility Agent shall make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
       6. The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.
       7. Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (e) above) but shall remain entitled to the benefit of Clause 17.3 (*Indemnity to the Facility Agent*) and this Clause 29.11 (and any agency fees for the account of the retiring Facility Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
       8. The Facility Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:
          1. the Facility Agent fails to respond to a request under Clause 15.8 (*FATCA Information*) and a Lender reasonably believes that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
          2. the information supplied by the Facility Agent pursuant to Clause 15.8 (*FATCA Information*) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
          3. the Facility Agent notifies the Borrower and the Lenders that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

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

* 1. Replacement of the Facility Agent
     + 1. After consultation with the Borrower, the Majority Lenders may, by giving 30 days’ notice to the Facility Agent (or, at any time the Facility Agent is an Impaired Agent, by giving any shorter notice determined by the Majority Lenders) replace the Facility Agent by appointing a successor Facility Agent (acting through an office in the United Kingdom). The retiring Facility Agent is not bound to supervise or be responsible in any way for any loss incurred by any person as a result of the misconduct or default on the part of any successor Facility Agent.
       2. The retiring Facility Agent shall (at its own cost if it is an Impaired Agent and otherwise at the expense of the Lenders) make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
       3. The appointment of the successor Facility Agent shall take effect on the date specified in the notice from the Majority Lenders to the retiring Facility Agent. As from this date, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) above) but shall remain entitled to the benefit of Clause 17.3 (*Indemnity to the Facility Agent*) and this Clause 29.12 (and any agency fees for the account of the retiring Facility Agent shall cease to accrue from (and shall be payable on) that date).
       4. Any successor Facility Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
  2. Confidentiality
     + 1. In acting as agent for the Finance Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
       2. If information is received by another division or department of the Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.
       3. Notwithstanding any other provision of any Finance Document to the contrary, the Facility Agent is not obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty.
  3. Relationship with the Lenders
     + 1. Subject to Clause 26.9 (*Pro rata interest settlement*), the Facility Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Facility Agent’s principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
          1. entitled to or liable for any payment due under any Finance Document on that day; and
          2. entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

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

* + - 1. Any Lender may by notice to the Facility Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 37.6 (*Electronic communication*)) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by that Lender for the purposes of Clause ‎37.2 (*Addresses*) and paragraph (a)(ii) of Clause ‎37.6 (*Electronic communication*) and the Facility Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.
  1. Credit appraisal by the Lenders

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

* + - 1. the financial condition, status and nature of each member of the Group;
      2. the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
      3. whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
      4. the adequacy, accuracy or completeness of the Information Package and any other information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
      5. 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.
  1. Facility Agent's management time
     + 1. Any amount payable to the Facility Agent under Clause 17.3 (*Indemnity to the Facility Agent*), Clause 19 (*Costs and expenses*) and Clause 29.10 (*Lenders' indemnity to the Facility Agent*) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Facility Agent may notify to the Borrower and the Lenders, and is in addition to any fee paid or payable to the Facility Agent under Clause ‎14 (*Fees*).
       2. Any cost of utilising the Facility Agent's management time or other resources shall include, without limitation, any such costs in connection with Clause ‎27.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Investor Affiliates*).
  2. Deduction from amounts payable by the Facility Agent

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

* 1. Reliance and engagement letters

Each Finance Party and Secured Party confirms that the Facility Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Facility Agent) the terms of any reliance letter or engagement letters relating to the Reports or any reports or letters provided by accountants in connection with the Finance Documents or the transactions contemplated in the Finance Documents and to bind it in respect of those Reports, reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

* 1. Role of Base Reference Banks
     + 1. No Base Reference Bank is under any obligation to provide a quotation or any other information to the Facility Agent.
       2. No Base Reference bank will be liable for any action taken by it under or in connection with the Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
       3. No Party (other than the relevant Base Reference Bank) may take any proceedings against any officer, employee or agent of any Base Reference Bank in respect of any claim it might have against that Base Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Base Reference Bank may rely on this Clause 29.19 subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Rights Act.
  2. Third party Base Reference Banks

A Base Reference Bank which is not a Party may rely on Clause 29.19 (*Role of Base Reference Banks*) and Clause 44 (*Confidentiality of Funding Rates and Reference Bank Quotations*) subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Rights Act.

1. The Security Agent
   1. Trust
      * 1. The Security Agent declares that it shall hold the Transaction Security on trust for the Secured Parties on the terms contained in the Finance Documents.
        2. Each of the parties to this Agreement agrees that the Security Agent shall have only those duties, obligations and responsibilities expressly specified in this Agreement or in the Transaction Security Documents or in the Subordination Deed to which the Security Agent is expressed to be a party (and no others shall be implied).
        3. The trust referred to in paragraph (a) above commences on the date of this Agreement and terminates on the day before the eightieth anniversary of the date of this Agreement, unless determined earlier.
        4. Each of the Secured Parties authorises the Security Agent to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.
   2. Parallel debt

For the purposes of taking and ensuring the continuing validity of security (***Parallel Debt Security***) under those Security Documents subject to the laws of (or to the extent affecting assets situated in) the Netherlands, Germany, Hungary and such other jurisdictions as the Original Lenders and the Borrower (each acting reasonably) agree, notwithstanding any contrary provision in the Finance Documents

* + - 1. each Obligor irrevocably and unconditionally undertakes (such undertakings, the ***Parallel Obligations***) to pay to the Security Agent amounts equal to all present and future amounts (the ***Original Obligations***) owing by it to a Finance Party under the Finance Documents under the same terms and conditions as those of the Original Obligations;
      2. the Security Agent shall have its own independent right to demand and receive payment of the Parallel Obligations;
      3. the Parallel Obligations shall not limit or affect the existence of the Original Obligations for which any Finance Party shall have an independent right to demand payment;
      4. notwithstanding sub-clauses (b) and (c), payment by any of the Obligors of its Parallel Obligations shall to the same extent decrease and be a good discharge of the corresponding Original Obligations owing to the relevant Finance Party and payment by an Obligor of its Original Obligations to the relevant Finance Party shall to the same extent decrease and be a good discharge of the Parallel Obligations owing by it to the Security Agent;
      5. the Parallel Obligations are owed to the Security Agent’s in its own name on behalf of itself and not as agent or representative of any other person nor as trustee and the Parallel Debt Security shall secure the Parallel Obligations so owing;
      6. without limiting or affecting the Security Agent’s right to protect, preserve or enforce its rights under any Transaction Security Document, the Security Agent undertakes to each Lender not to exercise its rights in respect of the Parallel Obligations without the consent of the relevant Finance Party; and
      7. the Security Agent undertakes to pay to the Finance Parties any amount collected or received by it in payment or partial payment of the Parallel Obligations and shall distribute any amount so received to the Finance Parties in accordance with the terms of the Finance Documents as if such amounts had been received in respect of the Original Obligations.
  1. No independent power

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 Transaction Security Documents except through the Security Agent.

* 1. Facilitation of non-distressed disposals
     + 1. If, in connection with a proposed disposal of an asset by an Obligor to a person which is not a member of the Group, the Facility Agent confirms that such disposal is not a Distressed Disposal and is permitted under the Finance Documents, the Security Agent is irrevocably authorised (at the cost of the Borrower and without any consent, sanction, authority or further confirmation from any Lender, other Secured Party, member of the Group) but subject to paragraph (b) below:
          1. to release the Transaction Security or any other claim (relating to a Finance Document) over that asset;
          2. where that asset consists of shares in the capital of a member of the Group, to release the Transaction Security or any other claim (relating to a Finance Document) over that member of the Group's Property; and
          3. to execute and deliver or enter into any release of the Transaction Security or any claim described in paragraphs (i) and (ii) above and issue any certificates of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable.
       2. Each release of Transaction Security or any claim described in paragraph (a) above shall become effective only on the making of the relevant disposal.
  2. Facilitation of distressed disposals
     + 1. If a Distressed Disposal or an Appropriation is being effected, the Security Agent is irrevocably authorised (at the cost of the Borrower and without any consent, sanction, authority or further confirmation from any Lender, other Secured Party, member of the Group):
          1. ***release of Transaction Security/non-crystallisation certificates***: to release the Transaction Security or any other claim over the asset subject to the Distressed Disposal or Appropriation 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;
          2. ***release of liabilities and Transaction Security on a share sale/Appropriation (Obligor)***: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of a Obligor, to release:

that Obligor and any Subsidiary of that Obligor from all or any part of:

its Borrowing Liabilities;

its Guarantee Liabilities; and

its Other Liabilities;

any Transaction Security granted by that Obligor or any Subsidiary of that Obligor over any of its assets; and

any other claim of a Junior Creditor, or another member of the Group over that Obligor's assets or over the assets of any Subsidiary of that Obligor,

on behalf of the relevant Lenders, other Secured Parties and, members of the Group;

* + - * 1. ***release of liabilities and Transaction Security on a share sale/Appropriation (Holding Company)***: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of any Holding Company of an Obligor, to release:

that Holding Company and any Subsidiary of that Holding Company from all or any part of:

its Borrowing Liabilities;

its Guarantee Liabilities; and

its Other Liabilities;

any Transaction Security granted by any Subsidiary of that Holding Company over any of its assets; and

any other claim of a Junior Creditor, or another member of the Group over the assets of any Subsidiary of that Holding Company,

on behalf of the relevant Lenders, other Secured Parties and, members of the Group;

* + - * 1. ***facilitative disposal of liabilities on a share sale/Appropriation***: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of an Obligor or the Holding Company of an Obligor and the Security Agent decides to dispose of all or any part of:

the Liabilities (other than Liabilities due to the Security Agent or Facility Agent); or

the Obligors’ Intra-Group Receivables,

owed by that Obligor or Holding Company or any Subsidiary of that Obligor or Holding Company on the basis that any transferee of those Liabilities or Obligors’ Intra-Group Receivables (the ***Transferee***) will not be treated as 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 Obligors’ Intra-Group Receivables on behalf of the relevant Lender, other Secured Party, member of the Group provided that notwithstanding any other provision of any Finance Document the Transferee shall not be treated as a Secured Party for the purposes of this Agreement;

* + - * 1. ***sale of liabilities on a share sale/Appropriation***: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of an Obligor or the Holding Company of an Obligor and the Security Agent decides to dispose of all or any part of:

the Liabilities (other than Liabilities due to the Security Agent or the Facility Agent); or

Obligors’ Intra-Group Receivables,

owed by that Obligor or Holding Company or any Subsidiary of that Obligor or Holding Company on the basis that any transferee of those Liabilities or Obligors’ Intra-Group Receivables will be treated as a Secured Party for the purposes of this Agreement, to execute and deliver or enter into any agreement to dispose of:

all (and not part only) of the Liabilities owed to the Secured Parties (other than to the Facility Agent or the Security Agent); and

all or part of any other Liabilities (other than Liabilities owed to the Facility Agent or the Security Agent) and the Obligors’ Intra-Group Receivables,

on behalf of, in each case, the relevant Lenders, other Secured Parties and members of the Group;

* + - * 1. ***transfer of obligations in respect of liabilities on a share sale/Appropriation***: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of an Obligor or the Holding Company of an Obligor (the ***Disposed Entity***) and the Security Agent decides to transfer to another Obligor (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:

the Junior Liabilities; or

the Obligors’ Intra-Group Receivables,

to execute and deliver or enter into any agreement to:

agree to the transfer of all or part of the obligations in respect of those Junior Liabilities or Obligors’ Intra-Group Receivables 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

to accept the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Obligors’ Intra-Group Receivables on behalf of the Receiving Entity or Receiving Entities to which the obligations in respect of those Intra-Group Liabilities or Obligors’ Intra-Group Receivables are to be transferred.

* + - 1. The Parties acknowledge the provisions contained in Clause 7 (*Facilitation of Distressed Disposals*) of the Subordination Deed.
  1. Proceeds of Distressed Disposals and Debt Disposals

The net proceeds of each Distressed Disposal and each Debt Disposal shall be paid, or distributed, to the Security Agent for application in accordance with the Finance Documents and, to the extent that:

(a) any Liabilities Sale has occurred; or

(b) any Appropriation has occurred,

as if that Liabilities Sale, or any reduction in the Secured Obligations resulting from that Appropriation, had not occurred.

* 1. Fair Value
     + 1. In the case of:
          1. a Distressed Disposal or;
          2. a Liabilities Sale,

effected by, or at the request of, the Security Agent, the Security Agent shall take reasonable care to obtain a fair market value having regard to the prevailing market conditions (though the Security Agent shall have no obligation to postpone (or request the postponement of) any Distressed Disposal or Liabilities Sale in order to achieve a higher value).

* + - 1. The requirement in paragraph (a) above shall be satisfied (and as between the Creditors and the Debtors shall be conclusively presumed to be satisfied) and the Security Agent will be taken to have discharged all its obligations in this respect under this Agreement, the other Debt Documents and generally at law if:
         1. that Distressed Disposal or Liabilities Sale is made pursuant to any process or proceedings approved or supervised by or on behalf of any court of law;
         2. that Distressed Disposal or Liabilities Sale is made by, at the direction of or under the control of, a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer (or any analogous officer in any jurisdiction) appointed in respect of a member of the Group or the assets of a member of the Group;
         3. that Distressed Disposal or Liabilities Sale is made pursuant to a Competitive Sales Process; or
         4. a Financial Adviser appointed by the Security Agent pursuant to Clause ‎30.8 (*Appointment of Financial Adviser*) has delivered a Fairness Opinion to the Security Agent in respect of that Distressed Disposal or Liabilities Sale.
  1. Appointment of Financial Adviser
     + 1. Without prejudice to Clause ‎29.6 (*Rights and discretions*), the Security Agent may engage, or approve the engagement of, (in each case on such terms as it may consider appropriate (including, without limitation, restrictions on that Financial Adviser's liability and the extent to which any advice, valuation or opinion may be relied on or disclosed)), pay for and rely on the services of a Financial Adviser to provide advice, a valuation or an opinion in connection with:
          1. a Distressed Disposal or a Debt Disposal; or
          2. the application or distribution of any proceeds of a Distressed Disposal or a Debt Disposal.
       2. For the purposes of paragraph (a) above, the Security Agent shall act in accordance with Clause ‎30.10 (*Security Agent's actions*).
  2. Instructions to Security Agent and exercise of discretion
     + 1. Subject to paragraph (d) below, the Security Agent shall act in accordance with any instructions given to it by the Majority Lenders or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Security Agent and shall be entitled to assume that (i) any instructions received by it from the Facility Agent or the Lenders are duly given in accordance with the terms of this Agreement and (ii) unless it has received actual notice of revocation, that those instructions or directions have not been revoked.
       2. The Security Agent shall be entitled to request instructions, or clarification of any direction, from the Majority Lenders 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.
       3. Any instructions given to the Security Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties.
       4. Paragraph (a) above shall not apply:
          1. where a contrary indication appears in this Agreement;
          2. where this Agreement requires the Security Agent to act in a specified manner or to take a specified action; or
          3. in respect of any provision which protects the Security Agent’s own position in its personal capacity as opposed to its role of Security Agent for the Secured Parties including, without limitation, the provisions set out in Clauses 30.11 (*Security Agent’s discretions*) to Clause 30.26 (*Disapplication*).
       5. In exercising any discretion to exercise a right, power or authority under this Agreement where it has not received any instructions from the Majority Lenders as to the exercise of that discretion, the Security Agent shall do so having regard to the interests of all the Secured Parties.
  3. Security Agent’s Actions

The Security Agent may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action in the exercise of any of its powers and duties under the Finance Documents as it considers in its discretion to be appropriate.

* 1. Security Agent’s discretions

The Security Agent may:

* + - 1. assume (unless it has received actual notice to the contrary from the Facility Agent) that (i) no Default has occurred and no Obligor is in breach of or default under its obligations under any of the Finance Documents and (ii) any right, power, authority or discretion vested by any Finance Document in any person has not been exercised;
      2. if it receives any instructions or directions to take any action in relation to the Transaction Security, assume that all applicable conditions under the Finance Documents for taking that action have been satisfied;
      3. engage, pay for and rely on the advice or services of any legal advisers, accountants, tax advisers, surveyors or other experts (whether obtained by the Security Agent or by any other Secured Party) whose advice or services may at any time seem necessary, expedient or desirable and shall not be liable for any damages, costs or losses to any person, any diminution in value or liability whatsoever arising as a result of so relying;
      4. rely upon any communication or document believed by it to be genuine and, as to any matters of fact which might reasonably be expected to be within the knowledge of a Secured Party, upon a certificate signed by or on behalf of that person;
      5. refrain from acting in accordance with the instructions of any Party (including bringing any legal action or proceeding arising out of or in connection with the Finance Documents) until it has received any indemnification and/or pre-funding and/or security that it may in its sole discretion require (whether by way of payment in advance or otherwise) for all costs, losses and liabilities which it may incur in so acting;
      6. accept without enquiry, and shall not be obliged to investigate, any right and title that the Obligor may have to any of the security rights granted under or pursuant to the Transaction Security Documents and shall not be liable for, or bound to require the Obligor to remedy, any defect in its title or right; and
      7. notwithstanding any provision of any Finance Document to the contrary, not be obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not assured to it.
  1. Security Agent’s obligations

The Security Agent shall promptly:

* + - 1. copy to the Facility Agent the contents of any notice or document received by it from any Obligor under any Finance Document;
      2. 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 Finance 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
      3. inform the Facility Agent of the occurrence of any Default or any default by an Obligor in the due performance of or compliance with its obligations under any Finance Document of which the Security Agent has received notice from any other party to this Agreement.
  1. Excluded obligations

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Agent shall not:

* + - 1. be bound to enquire as to (i) whether or not any Default has occurred; (ii) the performance, default or any breach by an Obligor of its obligations under any of the Finance Documents or (iii) whether any other event specified in any Finance Document has occurred;
      2. 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;
      3. be bound to disclose to any other person (including but not limited to any Secured Party) (i) any confidential information or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty;
      4. have or be deemed to have any relationship of trust or agency with, any Obligor.
  1. Exclusion of liability
     + 1. None of the Security Agent, any Receiver nor any Delegate shall accept responsibility or be liable for:
          1. 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 Finance Document or the transactions contemplated in the Finance Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
          2. the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
          3. any damages, costs, losses to any person, any diminution in value of the Transaction Security or any liability arising as a result of taking or refraining from taking any action in relation to any of the Finance Documents, the Transaction Security or otherwise, whether in accordance with an instruction from the Facility Agent or otherwise unless directly caused by its gross negligence or wilful misconduct;
          4. the exercise of, or the failure to exercise, any judgment, discretion or power given to it by or in connection with any of the Finance Documents, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, the Finance Documents or the Transaction Security;
          5. any shortfall which arises on the enforcement or realisation of the Transaction Security; or
          6. any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for any 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,

and each Secured Party warrants to the Security Agent that it has not relied on and will not at any time rely on the Security Agent in respect of any of these matters.

* + - 1. Any liability of the Facility Agent and the Security Agent shall be several and not joint.
  1. 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 Finance Document or any Transaction Security and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause 30.15 subject to Clause 1.4 (*Third party rights*)and the provisions of the Third Parties Rights Act.

* 1. Own responsibility

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

* + - 1. the financial condition, status and nature of each member of the Group;
      2. the legality, validity, effectiveness, adequacy and enforceability of any Finance Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
      3. whether that Secured Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
      4. 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 Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
      5. the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property,

and each Secured Party warrants to the Security Agent that it has not relied on and will not at any time rely on the Security Agent in respect of any of these matters.

* 1. No responsibility to perfect Transaction Security

The Security Agent shall not be liable for any failure to:

* + - 1. require the deposit with it of any deed or document certifying, representing or constituting the title of any Obligor to any of the Charged Property;
      2. obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Finance Documents or the Transaction Security;
      3. 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 Finance Documents or of the Transaction Security;
      4. take, or to require any of the Obligors 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
      5. require any further assurances in relation to any of the Transaction Security Documents.
  1. Insurance by Security Agent
     + 1. The Security Agent shall not be under any 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 Finance 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.
       2. Where the Security Agent is named on any insurance policy as an insured party, it 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 the Facility Agent shall have requested it to do so in writing and the Security Agent shall have failed to do so within fourteen days after receipt of that request.
  2. Custodians and nominees

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

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

* 1. Refrain from illegality

Notwithstanding anything to the contrary expressed or implied in the Finance 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.

* 1. Business with the Obligors

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 Obligors.

* 1. Winding up of trust

If the Security Agent, with the approval of the Facility Agent, determines that (a) all of the obligations secured by the Transaction Security Documents have been fully and finally discharged and (b) 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 Obligor pursuant to the Finance Documents:

* + - 1. the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Transaction Security Documents; and
      2. any Retiring Security Agent shall release, without recourse or warranty, all of its rights under each of the Transaction Security Documents.
  1. Powers supplemental

The rights, powers and discretions conferred upon the Security Agent by this Agreement shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by general law or otherwise.

* 1. Trustee division separate
     + 1. In acting as trustee for the Secured Parties, the Security Agent shall be regarded as acting through its trustee division which shall be treated as a separate entity from any of its other divisions or departments.
       2. 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.
  2. 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.

* 1. Lenders’ indemnity to the Security Agent

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Security Agent and every Receiver and every Delegate, within five Business Days of demand, against any cost, expense, loss or liability (including, without limitation, counsel’s fees and expenses in any third party suits and defence of claims (not including claims of fraud, wilful misconduct or gross negligence of the Security Agent brought by the Finance Parties)) incurred by the Security Agent (otherwise than by reason of the Security Agent’s gross negligence or wilful misconduct) in acting as Security Agent under the Finance Documents (unless the Security Agent has been reimbursed by an Obligor pursuant to a Finance Document).

1. Change of Security Agent and Delegation
   1. Resignation of the Security Agent
      * 1. The Security Agent may resign and appoint one of its affiliates as successor by giving notice to the Borrower, the Facility Agent and the Lenders.
        2. Alternatively the Security Agent may resign by giving notice to the other Parties in which case the Majority Lenders may appoint a successor Security Agent. The Security Agent shall not be obliged to provide any reason for any such resignation and will not be responsible for any liabilities incurred by any person as a result of such resignation.
        3. If the Majority Lenders have not appointed a successor Security Agent in accordance with paragraph (b) above within 30 days after the notice of resignation was given, the Security Agent may appoint a successor Security Agent. The existing Security Agent is not bound to supervise or be responsible in any way for any loss incurred by any person as a result of the misconduct or default on the part of any successor Security Agent.
        4. The retiring Security Agent (the ***Retiring Security Agent***) shall make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Finance Documents.
        5. 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 Transaction Security to that successor.
        6. Upon the appointment of a successor, the Retiring Security Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) of Clause 30.23 (*Winding up of trust*) and 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 this Clause and Clauses 30 (*The Security Agent*), Clause 17.4 (*Indemnity to the Security Agent*) and 30.27 (*Lenders’ indemnity to the Security Agent*). 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.
        7. The Obligors agree to make any changes to this Agreement that any successor Security Agent may reasonably request.
   2. Delegation
      * 1. 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 Finance Documents.
        2. 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.
   3. Additional Security Agents
      * 1. The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate trustee, agent or as a co-trustee jointly with it (i) if it considers that appointment to be in the interests of the Secured Parties or (ii) for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Agent deems to be relevant or (iii) for obtaining or enforcing any judgment in any jurisdiction, and the Security Agent shall give prior notice to the Borrower and the Facility Agent of that appointment.
        2. 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.
        3. The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.
2. Conduct of Business by the Finance Parties

No provision of this Agreement will:

* + - 1. interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
      2. oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
      3. oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

1. Sharing among the Finance Parties
   1. Payments to Finance Parties

If a Finance Party (a ***Recovering Finance Party***) receives or recovers any amount from an Obligor other than in accordance with Clause 34 (*Payment Mechanics*) (a ***Recovered Amount***) and applies that amount to a payment due under the Finance Documents then:

* + - 1. the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Facility Agent;
      2. the Facility Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with Clause 34 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
      3. the Recovering Finance Party shall, within three Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the ***Sharing Payment***) equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 34.6 (*Partial payments*).
  1. Redistribution of payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) (the ***Sharing Finance Parties***) in accordance with Clause 34.6 (*Partial payments*) towards the obligations of that Obligor to the Sharing Finance Parties.

* 1. Recovering Finance Party’s rights

On a distribution by the Facility Agent under Clause 33.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from an Obligor, as between the relevant Obligor and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Obligor.

* 1. Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

* + - 1. each Sharing Finance Party shall, upon request of the Facility Agent, pay to the Facility Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the ***Redistributed Amount***); and
      2. as between the relevant Obligor and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor.
  1. Exceptions
     + 1. This Clause ‎33 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.
       2. A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
          1. it notified the other Finance Party of the legal or arbitration proceedings; and
          2. the other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

1. Payment Mechanics
   1. Payments to the Facility Agent
      * 1. On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, that Obligor or Lender shall make the same available to the Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
        2. Payment shall be made to such account in London and with such bank as the Facility Agent specifies.
   2. Distributions by the Facility Agent

Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to Clause 34.3 (*Distributions to an Obligor*) and Clause 34.4 (*Clawback and pre‑funding*) be made available by the Facility Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent by not less than five Business Days’ notice with a bank specified by that Party in London.

* 1. Distributions to an Obligor

The Facility Agent may (with the consent of the Obligor or in accordance with Clause 36 (*Set-Off*)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

* 1. Clawback and pre‑funding
     + 1. Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
       2. Unless paragraph (c) below applies, if the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.
       3. If the Facility Agent has notified the Lenders that it is willing to make available amounts for the account of the Borrower before receiving funds from the Lenders then if and to the extent that the Facility Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrower:
          1. the Facility Agent shall notify the Borrower of that Lender's identity and the Borrower shall on demand refund it to the Facility Agent; and
          2. the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower shall on demand pay to the Facility Agent the amount (as certified by the Facility Agent) which will indemnify the Facility Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.
  2. Impaired Agent
     + 1. If, at any time, the Facility Agent becomes an Impaired Agent, an Obligor or a Lender which is required to make a payment under the Finance Documents to the Facility Agent in accordance with Clause 34.1 (*Payments to the Facility Agent*) may instead either:
          1. pay that amount direct to the required recipient(s); or
          2. if in its absolute discretion it considers that it is not reasonably practicable to pay that amount direct to the required recipient(s), pay that amount or the relevant part of that amount to an interest-bearing account held with an Acceptable Bank within the meaning of paragraph (a) of the definition of "Acceptable Bank" and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Obligor or the Lender making the payment (the ***Paying Party***) and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents (the ***Recipient Party*** or ***Recipient Parties***).

In each case such payments must be made on the due date for payment under the Finance Documents.

* + - 1. All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the Recipient Party or the Recipient Parties *pro rata* to their respective entitlements.
      2. A Party which has made a payment in accordance with this Clause 34.5 shall be discharged of the relevant payment obligation under the Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.
      3. Promptly upon the appointment of a successor Facility Agent in accordance with Clause 29.12 (*Replacement of the Facility Agent*), each Paying Party shall (other than to the extent that that Party has given an instruction pursuant to paragraph (e) below) give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Facility Agent for distribution to the relevant Recipient Party or Recipient Parties in accordance with Clause 34.2 (*Distributions by the Facility Agent*).
      4. A Paying Party shall, promptly upon request by a Recipient Party and to the extent:
         1. that it has not given an instruction pursuant to paragraph (d) above; and
         2. that it has been provided with the necessary information by that Recipient Party,

give all requisite instructions to the bank with whom the trust account is held to transfer the relevant amount (together with any accrued interest) to that Recipient Party.

* 1. Partial payments
     + 1. If the Facility Agent receives a payment for application against amounts due in respect of any Finance Documents that is insufficient to discharge all the amounts then due and payable by an Obligor under those Finance Documents, the Facility Agent shall apply that payment towards the obligations of that Obligor under those Finance Documents in the following order:
          1. *first*, in or towards payment *pro rata* of any unpaid amount (including (without limitation) any unpaid fees, costs, expenses or indemnity amount) owing to the Facility Agent or the Security Agent or any Receivers or Delegates under those Finance Documents;
          2. *secondly*, in or towards payment *pro rata* of any accrued interest, fee or commission due but unpaid under those Finance Documents;
          3. *thirdly*, in or towards payment *pro rata* of any principal due but unpaid under those Finance Documents and Clause 17 (*Other* *Indemnities*); and
          4. *fourthly*, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.
       2. The Facility Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.
       3. Paragraphs (a) and (b) above will override any appropriation made by an Obligor.
  2. Prospective Secured Liabilities

To the extent allowed by mandatory provisions of applicable law, the Security Agent may, in its discretion, hold any amount received under or pursuant to the Transaction Security Documents in an interest-bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) for later application under Clause 34.6 (*Partial payments*) in respect of:

* + - 1. any sum received by any Security Agent, any Receiver or any Delegate; and
      2. any part of the Secured Liabilities,

that the Security Agent reasonably considers, in each case, might become due or owing at any time in the future.

* 1. Investment of Proceeds

Prior to the application of the proceeds of the Charged Property in accordance with Clause 34.6 (*Partial payments*), the Security Agent may, in its discretion, hold all or part of those proceeds in an interest-bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) pending the application from time to time of those moneys in the Security Agent's discretion in accordance with the provisions of this Clause 34.

* 1. Permitted deductions

The Security Agent shall be entitled, in its discretion, (a) to set aside by way of reserve amounts required to meet and (b) to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement, and to pay all Taxes which may be assessed against it in respect of any of theassets subject to the Transaction Security, or as a consequence of performing its duties, or by virtue of its capacity as Security Agent under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

* 1. Good discharge
     + 1. Any payment to be made in respect of the Secured Obligations by the Security Agent may be made to the Facility Agent on behalf of the Finance Parties and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Agent.
       2. The Security Agent is under no obligation to make the payments to the Facility Agent under paragraph (a) above in the same currency as that in which the Secured Obligations owing to the relevant Finance Party are denominated.
  2. Set-off by Obligors

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

* 1. Business Days
     + 1. Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
       2. During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.
  2. Currency of account
     + 1. Subject to paragraphs (b) and (c) below, sterling is the currency of account and payment for any sum due from an Obligor under any Finance Document.
       2. Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
       3. Any amount expressed to be payable in a currency other than sterling shall be paid in that other currency.
  3. Change of currency
     + 1. Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
          1. any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (after consultation with the Borrower); and
          2. any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Facility Agent (acting reasonably).
       2. If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the London interbank market and otherwise to reflect the change in currency.

1. Enforcement of Transaction Security
   1. Enforcement instructions
      * 1. The Security Agent may refrain from enforcing the Transaction Security unless instructed otherwise by the Majority Lenders whereupon it will act in accordance with those instructions.
        2. Subject to the Transaction Security having become enforceable in accordance with its terms, the Majority Lenders may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security as they see fit.
        3. The Security Agent is entitled to rely on and comply with instructions given in accordance with this Clause.
        4. In the absence of instructions the Security Agent may act as it sees fit and in the interests of the Secured Parties.
   2. Application of proceeds
      * 1. Subject to Clause 34.7 (*Prospective Secured Liabilities*), all amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Finance Document or in connection with the realisation or enforcement of all or any part of the Transaction Security shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law, in payment for application in accordance with Clause ‎34.6 (*Partial payments*) to 34.10 (*Good discharge*).
        2. If the Security Agent or any other Secured Party receives a distribution out of the assets of a member of the Group in respect of any of the Liabilities owed to that Party in a form other than in cash, 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 in accordance with Clause 34.6 (*Partial payments*).
   3. Manner of enforcement

If the Transaction Security is being enforced pursuant to Clause 35.1 (*Enforcement instructions*), the Security Agent shall enforce the Transaction Security in such manner (including, without limitation, the selection of any administrator of any Obligor to be appointed by the Security Agent) as the Majority Lenders shall instruct or, in the absence of any such instructions, may act as it sees fit and in the interests of the Majority Lenders.

* 1. Waiver of rights

To the extent permitted under applicable law and subject to Clause 35.1 (*Enforcement instructions*), Clause 35.2 (*Manner of enforcement*) and Clause 34.6 (*Partial payments*) and except as may be agreed by any of the Secured Parties, each of the Secured Parties and each Obligor 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 Liabilities is so applied.

* 1. Duties owed

Each of the Secured Parties and Obligor acknowledges that, in the event that the Security Agent enforces or is instructed to enforce the Transaction Security, the duties of the Security Agent and of any Receiver or Delegate owed to them in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall be no different to or greater than the duty that is owed by the Security Agent, Receiver or Delegate to the Obligors under general law.

1. Set-Off

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

1. Notices
   1. Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

* 1. Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

* + - 1. in the case of the Borrower, that identified with its name below;
      2. in the case of each Lender or any other Obligor, that notified in writing to the Facility Agent on or prior to the date on which it becomes a Party;
      3. in the case of the Facility Agent, that identified with its name below; and
      4. in the case of the Security Agent, that identified with its name below,

or any substitute address, fax number or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five Business Days’ notice.

* 1. Delivery
     + 1. Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:
          1. if by way of fax, when received in legible form; or
          2. if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 37.2 (*Addresses*), if addressed to that department or officer.

* + - 1. Any communication or document to be made or delivered to the Facility Agent or the Security Agent will be effective only when actually received by the Facility Agent or the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Facility Agent’s or Security Agent’s signature below (or any substitute department or officer as the Facility Agent or Security Agent shall specify for this purpose).
      2. All notices from or to an Obligor shall be sent through the Facility Agent.
      3. Any communication or document made or delivered to the Borrower in accordance with this Clause 37.3 will be deemed to have been made or delivered to each of the Obligors.
      4. Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.
  1. Notification of address and fax number

Promptly upon changing its address or fax number, the Facility Agent shall notify the other Parties.

* 1. Communication when Facility Agent is Impaired Agent

If the Facility Agent is an Impaired Agent the Parties may, instead of communicating with each other through the Facility Agent, communicate with each other directly and (while the Facility Agent is an Impaired Agent) all the provisions of the Finance Documents which require communications to be made or notices to be given to or by the Facility Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Facility Agent has been appointed.

* 1. Electronic communication
     + 1. Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:
          1. notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
          2. notify each other of any change to their address or any other such information supplied by them, by not less than five Business Days’ notice.
       2. Any such electronic communication as specified in paragraph (a) above to be made between an Obligor and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
       3. Any such electronic communication as specified in paragraph (a) above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Facility Agent or the Security Agent only if it is addressed in such a manner as the Facility Agent or Security Agent shall specify for this purpose.
       4. Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5.00 pm in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
       5. Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 37.6.
  2. Use of websites
     + 1. The Borrower may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the ***Website Lenders***) who accept this method of communication by posting this information onto an electronic website designated by the Borrower and the Facility Agent (the ***Designated Website***) if:
          1. the Facility Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
          2. both the Borrower and the Facility Agent are aware of the address of and any relevant password specifications for the Designated Website; and
          3. the information is in a format previously agreed between the Borrower and the Facility Agent.

If any Lender (a ***Paper Form Lender***) does not agree to the delivery of information electronically then the Facility Agent shall notify the Borrower accordingly and the Borrower shall at its own cost supply the information to the Facility Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Borrower shall at its own cost supply the Facility Agent with at least one copy in paper form of any information required to be provided by it.

* + - 1. The Facility Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Borrower and the Facility Agent.
      2. The Borrower shall promptly upon becoming aware of its occurrence notify the Facility Agent if:
         1. the Designated Website cannot be accessed due to technical failure;
         2. the password specifications for the Designated Website change;
         3. any new information which is required to be provided under this Agreement is posted onto the Designated Website;
         4. any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or
         5. the Borrower becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Borrower notifies the Facility Agent under paragraph (c)(i) or paragraph (c)(v) above, all information to be provided by the Borrower under this Agreement after the date of that notice shall be supplied in paper form unless and until the Facility Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

* + - 1. Any Website Lender may request, through the Facility Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Borrower shall at its own cost comply with any such request within ten Business Days.
  1. English language
     + 1. Any notice given under or in connection with any Finance Document must be in English.
       2. All other documents provided under or in connection with any Finance Document must be:
          1. in English; or
          2. if not in English, and if so required by the Facility 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.

1. Calculations and Certificates
   1. Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

* 1. Certificates and determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

* 1. Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the London interbank market differs, in accordance with that market practice.

1. Partial Invalidity

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

1. Remedies and Waivers

No failure to exercise, nor any delay in exercising, on the part of any Finance Party or Secured Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Finance Document. No election to affirm any Finance Document on the part of any Finance Party or Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

1. Amendments and Waivers
   1. Required consents
      * 1. Subject to Clause 41.2 (*All Lender matters*) and Clause 41.3 (*Other exceptions*) any term of the Finance Documents (other than the Fee Letter referred to in Clause 14.1 (*Arrangement Fee*)) may be amended or waived only with the consent of the Majority Lenders and the Borrower and any such amendment or waiver will be binding on all Parties.
        2. The Facility Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 41.
        3. Without prejudice to the generality of paragraphs (c), (d) and (e) of Clause 29.6 (*Rights and discretions*), the Facility Agent may engage, pay for and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this Agreement.
        4. Each Obligor agrees to any such amendment or waiver permitted by this Clause ‎41 which is agreed to by the Borrower. This includes any amendment or waiver which would, but for this paragraph (d), require the consent of all of the Guarantors.
   2. All Lender matters

An amendment, waiver or (in the case of a Transaction Security Document) a consent of, or in relation to, any term of any Finance Document that has the effect of changing or which relates to:

* + - 1. the definition of "Majority Lenders" in Clause 1.1 (*Definitions*);
      2. an extension to the date of payment of any amount under the Finance Documents;
      3. a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
      4. a change in currency of payment of any amount under the Finance Documents;
      5. an increase in any Commitment or the Total Commitments, an extension of any Availability Period or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably under the relevant Facility;
      6. a change to the Borrowers or Guarantors other than in accordance with Clause 28 (*Changes to the Obligors*);
      7. any provision which expressly requires the consent of all the Lenders;
      8. Clause **Error! Reference source not found.** (*Finance Parties' rights and obligations*), Clause 8 (*Mandatory Prepayment*), Clause 9.7 (*Application of prepayments*), Clause 26 (*Changes to the Lenders*), Clause 30.1 (*Trust*), Clause 30.4 (*Facilitation of non-distressed disposals*) (notwithstanding paragraph (i) below), 30.5 (*Facilitation of distressed disposals*) (notwithstanding paragraph (i) below), this Clause 41, Clause 46 (*Governing Law*) or Clause 47.1 (*Jurisdiction of English courts*);
      9. (other than as expressly permitted by the provisions of any Finance Document) the nature or scope of:
         1. the guarantee and indemnity granted under Clause 20 (*Guarantee and Indemnity*);
         2. the Charged Property; or
         3. the manner in which the proceeds of enforcement of the Transaction Security are distributed

(except in the case of paragraphs (ii) and (iii) above, insofar as it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document);

* + - 1. the release of any guarantee and indemnity granted under Clause 20 (*Guarantee and Indemnity*) or of any Transaction Security unless permitted under this Agreement or any other Finance Document or relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document; or
      2. any amendment to the order of priority or subordination under the Subordination Deed,

shall not be made, or given, without the prior consent of all the Lenders.

* 1. Other exceptions

An amendment or waiver which relates to the rights or obligations of the Facility Agent or the Security Agent (each in their capacity as such) may not be effected without the consent of the Facility Agent or, as the case may be, the Security Agent.

* 1. Replacement of Lender
     + 1. If:
          1. any Lender becomes a Non-Consenting Lender (as defined in Clause 41.4(d); or
          2. an Obligor becomes obliged to repay any amount in accordance with Clause 7.1 (*Illegality*) or to pay additional amounts pursuant to Clause 16.1 (*Increased costs*), Clause 15.2 (*Tax gross-up*) or Clause 15.3 (*Tax indemnity*) to any Lender,

then the Borrower may, on 10 Business Days' prior written notice to the Facility Agent and such Lender, replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 26 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement to a Lender or other bank, financial institution, trust, fund or other entity (a ***Replacement Lender***) selected by the Borrower, which is acceptable to the Facility Agent and which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 26 (*Changes to the Lenders*) for a purchase price in cash payable at the time of transfer in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Loans and all accrued interest, Break Costs and other amounts payable in relation thereto under the Finance Documents.

* + - 1. The replacement of a Lender pursuant to this Clause 41.4 shall be subject to the following conditions:
         1. the Borrower shall have no right to replace the Facility Agent or the Security Agent;
         2. neither the Facility Agent nor the Lender shall have any obligation to the Borrower to find a Replacement Lender;
         3. in the event of a replacement of a Non-Consenting Lender such replacement must take place no later than 60 days after the date on which that Lender is deemed a Non-Consenting Lender;
         4. in no event shall the Lender replaced under this Clause 41.4 be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Finance Documents; and
         5. the Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer.
      2. A Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Facility Agent and the Borrower when it is satisfied that it has complied with those checks.
      3. In the event that:
         1. the Borrower or the Facility Agent (at the request of the Borrower) has requested the Lenders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Finance Documents;
         2. the consent, waiver or amendment in question requires the approval of all the Lenders; and
         3. Lenders whose Commitments aggregate more than 90 per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 90 per cent. of the Total Commitments prior to that reduction) have consented or agreed to, such waiver or amendment, then any Lender who does not and continues not to consent or agree to such waiver or amendment shall be deemed a ***Non-Consenting Lender***.

1. Confidentiality
   1. Confidential Information

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 42.2 (*Disclosure of Confidential Information*) and Clause 42.3 (*Disclosure to numbering service providers*), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

* 1. Disclosure of Confidential Information

Any Finance Party may disclose:

* + - 1. to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
      2. to any person:
         1. to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Facility Agent or Security Agent and, in each case, to any of that person’s Affiliates, Related Funds, Representatives and professional advisers;
         2. with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligors and to any of that person’s Affiliates, Related Funds, Representatives and professional advisers;
         3. appointed by any Finance Party or by a person to whom paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph ((b)) of Clause 29.14 (*Relationship with the Lenders*));
         4. who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
         5. to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
         6. to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
         7. to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 26.8 (*Security over Lenders’ rights*);
         8. who is a Party; or
         9. with the consent of the Borrower,

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

in relation to paragraphs (b)(i), (b)(ii) and (b)(iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;

in relation to paragraph (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information; and

in relation to paragraphs (b)(v), (b)(vi) and (b)(vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;

* + - 1. to any person appointed by that Finance Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Finance Party; and
      2. to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.
  1. Disclosure to numbering service providers
     + 1. Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, a Facility and/or one or more Obligors the following information:
          1. names of Obligors;
          2. country of domicile of Obligors;
          3. place of incorporation of Obligors;
          4. date of this Agreement;
          5. Clause 46 (*Governing Law*);
          6. the name of the Facility Agent;
          7. date of each amendment and restatement of this Agreement;
          8. amounts of a Facility;
          9. amount of Total Commitments;
          10. ranking of a Facility;
          11. Termination Date for a Facility;
          12. changes to any of the information previously supplied pursuant to paragraphs (i) to (xi) above; and
          13. such other information agreed between such Finance Party and the Borrower,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

* + - 1. The Parties acknowledge and agree that each identification number assigned to this Agreement, a Facility and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.
      2. The Borrower represents that none of the information set out in paragraphs (i) to (xiii) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.
      3. The Facility Agent shall notify the Borrower and the other Finance Parties of:
         1. the name of any numbering service provider appointed by the Facility Agent in respect of this Agreement, a Facility and/or one or more Obligors; and
         2. the number or, as the case may be, numbers assigned to this Agreement, a Facility and/or one or more Obligors by such numbering service provider.
  1. Entire agreement

This Clause 42 constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

* 1. Inside information

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

* 1. Notification of disclosure

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

* + - 1. of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(v) of Clause 42.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
      2. upon becoming aware that Confidential Information has been disclosed in breach of this Clause 42.
  1. Continuing obligations

The obligations in this Clause 42 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of twelve months from the earlier of:

* + - 1. the date on which all amounts payable by the Obligors under or in connection with the Finance Documents have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
      2. the date on which such Finance Party otherwise ceases to be a Finance Party.

1. Disclosure of Lender details by Facility Agent
   1. Supply of Lender details to Borrower

The Facility Agent shall provide to the Borrower within 5 Business Days of a request by the Borrower (but no more frequently than once per Month), a list (which may be in electronic form) setting out the names of the Lenders as at that Business Day, their respective Commitments, the address and fax number (and the department or officer, if any, for whose attention any communication is to be made) of each Lender for any communication to be made or document to be delivered under or in connection with the Finance Documents, the electronic mail address and/or any other information required to enable the sending and receipt of information by electronic mail or other electronic means to and by each Lender to whom any communication under or in connection with the Finance Documents may be made by that means and the account details of each Lender for any payment to be distributed by the Facility Agent to that Lender under the Finance Documents.

* 1. Supply of Lender details at Borrower's discretion
     + 1. The Facility Agent shall, at the request of the Borrower (but no more frequently than once per Month), disclose the identity of the Lenders and the details of the Lenders' Commitments to any:
          1. other Party or any other person if that disclosure is made to facilitate, in each case, a refinancing of the Financial Indebtedness arising under the Finance Documents or a material waiver or amendment of any term of any Finance Document; and
          2. member of the Group.
       2. Subject to paragraph (c) below, the Borrower shall procure that the recipient of information disclosed pursuant to paragraph ‎(a) above shall keep such information confidential and shall not disclose it to anyone and shall ensure that all such information is protected with security measures and a degree of care that would apply to the recipient's own confidential information.
       3. The recipient may disclose such information to any of its officers, directors, employees, professional advisers, auditors and partners as it shall consider appropriate if any such person is informed in writing of its confidential nature, except that there shall be no such requirement to so inform if that person is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by duties of confidentiality in relation to the information.
  2. Supply of Lender details to other Lenders
     + 1. If a Lender (a ***Disclosing Lender***) indicates to the Facility Agent that the Facility Agent may do so, the Facility Agent shall disclose that Lender's name and Commitment to any other Lender that is, or becomes, a Disclosing Lender.
       2. The Facility Agent shall, if so directed by the Majority Lenders, request each Lender to indicate to it whether it is a Disclosing Lender.

1. Confidentiality of Funding Rates and Reference Bank Quotations
   1. Confidentiality and disclosure
      * 1. The Facility Agent and each Obligor agree to keep each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b), (c) and (d) below.
        2. The Facility Agent may disclose:
           1. any Funding Rate (but not, for the avoidance of doubt, any Reference Bank Quotation) to the Borrower pursuant to Clause ‎10.4 (*Notification of rates of interest*); and
           2. any Funding Rate or any Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Facility Agent and the relevant Lender or Base Reference Bank, as the case may be.
        3. The Facility Agent may disclose any Funding Rate or any Reference Bank Quotation, and each Obligor may disclose any Funding Rate, to:
           1. any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;
           2. any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances;
           3. any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances; and
           4. any person with the consent of the relevant Lender or Base Reference Bank, as the case may be.
        4. The Facility Agent’s obligations in this Clause ‎‎44 relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under Clause 10.4‎ (*Notification of rates of interest*) **provided that** (other than pursuant to paragraph (b)(ii) above) the Facility Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.
   2. Related obligations
      * 1. The Facility Agent and each Obligor acknowledge that each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Facility Agent and each Obligor undertake not to use any Funding Rate or, in the case of the Facility Agent, any Reference Bank Quotation for any unlawful purpose.
        2. The Facility Agent and each Obligor agree (to the extent permitted by law and regulation) to inform the relevant Lender or Base Reference Bank, as the case may be:
           1. of the circumstances of any disclosure made pursuant to paragraph (c)(ii) of Clause 44.1 (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
           2. upon becoming aware that any information has been disclosed in breach of this Clause ‎44.
   3. No Event of Default

No Event of Default will occur under Clause ‎25.3 (*Other obligations*) by reason only of an Obligor's failure to comply with this Clause 44.

1. Counterparts

Each Finance Document, other than any Finance Document governed by Scots law and other than those Finance Documents governed by Hungarian law that are entered into in the form of a notarial deed, may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Agreement by e-mail attachment or telecopy shall be an effective mode of delivery.

1. Governing Law

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

1. Enforcement
   1. Jurisdiction of English courts
      * 1. Subject to Clause 47.2 (*Arbitration*) below, the courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a ***Dispute***).
        2. 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.
        3. This Clause 47.1 is for the benefit of the Finance Parties and Secured Parties only. As a result, no Finance Party or Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties and Secured Parties may take concurrent proceedings in any number of jurisdictions.
   2. Arbitration
      * 1. Notwithstanding Clause 47.1 (*Jurisdiction of English court*), to the extent any Dispute relates to an Obligor incorporated in the UAE any Finance Party may, individually or together with any other Finance Party, serve written notice on the Facility Agent (with a copy to the Borrower) requiring that a Dispute be resolved in accordance with this Clause 47.2, in which case that Dispute shall be referred to and finally resolved by arbitration under the Arbitration Rules of the DIFC-LCIA Arbitration Centre (the ***Rules***) by arbitrators appointed in accordance with the Rules.
        2. The Rules are deemed to be incorporated by reference into this Clause 47 and capitalised terms used in this Clause 47 which are not otherwise defined in this Agreement have the meaning given to them in the Rules.
        3. The seat, or legal place, of arbitration shall be the Dubai International Financial Centre (***DIFC***).
        4. The Tribunal shall consist of three arbitrators. The Claimant and the Respondent shall each nominate one arbitrator for appointment by the LCIA Court. If there is more than one Claimant or Respondent, then the Claimants or Respondents (as the case may be) shall jointly nominate one arbitrator. If either the Claimant(s) or the Respondent(s) fail to nominate an arbitrator within 30 days of the Request for Arbitration being sent to the DIFC-LCIA Registrar, the LCIA Court shall appoint such arbitrator. The chairman of the Tribunal shall be appointed by the LCIA Court.
        5. The Borrower and each other Party expressly agree and consent to this procedure for nominating and appointing the Tribunal.
        6. The language of the arbitration shall be English. All documents submitted in connection with the proceedings shall be in the English language or, if in another language, accompanied by a certified English translation.
        7. Service of any Request (as defined in the Rules) (an ***Arbitration Request***) for arbitration made pursuant to this Clause shall be made in accordance with Clause 37 (*Notices*).
   3. Service of process
      * 1. Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in England and Wales):
           1. irrevocably appoints the Borrower as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document (and the Borrower by its execution of this Agreement, accepts that appointment); and
           2. agrees that failure by an agent for service of process to notify the relevant Obligor of the process will not invalidate the proceedings concerned.
        2. If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower (on behalf of all the Obligors) must immediately (and in any event within 5 Business Days of such event taking place) appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.
        3. Borrower expressly agrees and consents to the provisions of this Clause 47 and Clause 46 (*Governing Law*).

**IN WITNESS** whereof this Agreement has been entered into on the date specified above and executed as a deed by each Party and is intended to be and is delivered by each of them as a deed on the date specified above.

1. The Original Parties
   1. The Original Obligors

|  |  |  |
| --- | --- | --- |
| **Name of Borrower** | **Registration number (or equivalent, if any)** | **Original Jurisdiction** |
| RSK Group plc | 03761340 | England and Wales |

|  |  |  |
| --- | --- | --- |
| **Name of Original Guarantor** | **Registration number (or equivalent, if any)** | **Original Jurisdiction** |
| RSK Group plc | 03761340 | England and Wales |
| Building Sciences Limited | 01992975 | England and Wales |
| Envirolab Limited | 04487136 | England and Wales |
| Remedx Limited | 05044531 | England and Wales |
| RSK (Ireland) Limited | 05857689 | England and Wales |
| RSK Project Services Limited | 02901671 | England and Wales |
| RSK Radiological Limited | 06367880 | England and Wales |
| RSK Stats Environment Health and Safety Limited | 04639175 | England and Wales |
| RSK Stats Geoconsult Limited | 02611785 | England and Wales |
| RSK Stats Limited | 02833839 | England and Wales |
| R.W. Management (Holdings) Limited | 03846486 | England and Wales |
| Structural Soils Limited | 00828694 | England and Wales |
| Technical Editing Services Limited | 02928662 | England and Wales |
| RSK Land and Development Engineering Limited | 04723837 | England and Wales |
| RSK Environment Limited | SC115530 | Scotland |
| Azerbaijan Environment and Technology Centre Limited | SC158836 | Scotland |
| RSK Environment LLC | 219692 | Abu Dhabi |
| Alenco Environmental Consult GmbH | HRB 13043 | Germany |

* 1. Subsidiaries to accede as Additional Guarantors as a condition subsequent to Utilisation

|  |  |  |
| --- | --- | --- |
| **Name of Additional Guarantor** | **Registration number (or equivalent, if any)** | **Original Jurisdiction** |
| BGT Hungaria Környezettechnológiai Korlátolt Felelősségű Társaság | Cg. 01-09-166361 | Hungary |
| Eerland Milieutechniek (Nederland) B.V. | 29037909 | Netherlands |

* 1. Subsidiaries to become Subsidiaries of RSK Environment Limited as a condition precedent to Utilisation

|  |  |  |
| --- | --- | --- |
| **Name of Subsidiary** | **Registration number (or equivalent, if any)** | **Original Jurisdiction** |
| Argus Environmental Limited | 02769631 | England and Wales |
| Building Sciences Limited | 01992975 | England and Wales |
| Envirolab Limited | 04487136 | England and Wales |
| Remedx Limited | 05044531 | England and Wales |
| RSK Carter Ecological Limited | 06138360 |  |
| RSK (Ireland) Limited | 05857689 | England and Wales |
| RSK Project Services Limited | 02901671 | England and Wales |
| RSK Stats Environment Health and Safety Limited | 04639175 | England and Wales |
| RSK Stats Geoconsult Limited | 02611785 | England and Wales |
| RSK Stats Limited | 02833839 | England and Wales |
| R.W. Management (Holdings) Limited | 03846486 | England and Wales |
| Structural Soils Limited | 00828694 | England and Wales |
| Technical Editing Service Limited | 02928662 | England and Wales |
| Azerbaijan Environment and Technology Centre Limited | SC158836 | Scotland |
| Alenco Environmental Consult GmbH | HRB 13043 | Germany |

* 1. Subsidiaries to become Subsidiaries of RSK Environment Limited as a condition subsequent to Utilisation

| **Name of Subsidiary** | **Registration number (or equivalent, if any)** | **Original Jurisdiction** |
| --- | --- | --- |
| Eerland Milieutechniek (Nederland) B.V. | 29037909 | Netherlands |
| RSK Environnement S.A.S. | 529 716 466 | France |
| RSK Cevre Hizmetleri A.S. | 263845 | Turkey |
| RSK Polska SP z.o.o. | 360981 | Poland |

* 1. The Original Lenders

Facility A1 Commitment

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of Original Lenders** | **Commitment** | **HMRC DT passport number (if applicable)** | **Jurisdiction of tax residence** |
| Permira Credit Solutions II Senior S.A. | **£23,132,086.00** | 48/P/365996/DTTP | Luxembourg |
| Permira Credit Solutions II L.S. S.A. | **£3,463,958.00** | 48/P/365994/DTTP | Luxembourg |
| Permira Credit Solutions II Master L.S. S.A. | **£6,403,956.00** | 48/P/365995/DTTP | Luxembourg |

Facility A2 Commitment

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of Original Lenders** | **Commitment** | **HMRC DT passport number (if applicable)** | **Jurisdiction of tax residence** |
| Permira Credit Solutions II Senior S.A. | **[•]** | 48/P/365996/DTTP | Luxembourg |
| Permira Credit Solutions II L.S. S.A. | **[•]** | 48/P/365994/DTTP | Luxembourg |
| Permira Credit Solutions II Master L.S. S.A. | **[•]** | 48/P/365995/DTTP | Luxembourg |

1. Conditions Precedent
   * 1. Obligors

A copy of the Constitutional Documents and of the constitutional documents of each Original Obligor, which shall include for each German Obligor an excerpt from the commercial register not older than 10 Business Days, a copy of the articles of association and a shareholder list (*Gesellschafterliste*).

If applicable, copy of a resolution of the board of each Original Obligor:

confirming that such Original Obligor:

is solvent; and

has positive net assets;

approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party and resolving that it execute, deliver and perform the Transaction Documents to which it is a party;

authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;

authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request or Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents and the Warrant Instrument to which it is a party;

in the case of an Original Obligor other than the Borrower, authorising the Borrower to act as its agent in connection with the Finance Documents;

that is incorporated under the laws of the Netherlands,

a confirmation of the board of directors of such Original Obligor that it does not have a works council (*ondernemingsraad*) nor is in the process of establishing a works council in the foreseeable future; and

a declaration in respect of each member of the board of directors on conflict of interest (*tegenstrijdig belang*) within the meaning of section 2:129(6)/2:239(6) of the Dutch Civil Code.

If applicable, a copy of a resolution of any other corporate body, in particular, the supervisory board (*Aufsichtsrat*) and/or advisory board (*Beirat*) of each German Obligor approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it executes, delivers and performs the Finance Documents to which it is a party.

A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above in relation to the Finance Documents and the Warrant Instrument and related documents.

A copy of a resolution signed by the holders of the issued shares in each Original Obligor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Original Obligor is a party.

Other than in relation to a German Obligor, a certificate of each Original Obligor (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on it to be exceeded.

A certificate of an authorised signatory of each Original Obligor certifying that each copy document relating to it specified in this Section 1 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement.

* + 1. Transaction Documents (other than the Finance Documents)

A copy of the Closing Reorganisation Documents.

The Warrant Instrument duly executed and delivered by the Borrower (together with each certificate expressed to be deliverable thereunder).

A certificate of the Borrower (signed by a director) certifying that, as at a date no earlier than the Closing Date:

the total net debt of the Group (calculated on the same basis as Total Net Debt) as at the Closing Date but prior to Utilisation was £36,280,000; and

EBITDA of the Group for the 12 months ending 31 March 2015 was not less than £9,500,000.

* + 1. Finance Documents

This Agreement executed by the members of the Group party to this Agreement.

The Subordination Deed executed by the parties thereto.

The Fee Letters executed by the Borrower.

* + 1. Transaction Security Documents

At least two originals of each Transaction Security Document set out in Part A of Schedule 4 (*Transaction Security Documents*), in each case executed by the parties thereto.

A copy of all notices required to be sent under the Transaction Security Documents up to and including 5 Business Days after the Closing Date executed by the relevant Original Obligors.

A copy of all share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant Original Obligor in blank in relation to the assets subject to or expressed to be subject to the Transaction Security (other than each Scottish Share Pledge) and other documents of title to be provided under the Transaction Security Documents.

In relation to each Scottish Share Pledge in respect of shares in any Original Obligor:

all stock transfer forms duly executed by the relevant Holding Company in favour of the Security Agent (or its nominee);

all share certificates in the name of the Security Agent (or its nominee) duly executed by the Original Obligor; and

a copy of the register of members of the Original Obligor showing the Security Agent (or its nominee) as the holder of all the shares in the Original Obligor.

* + 1. Insurance

A letter from Willis Limited dated on or prior to the date of this Agreement addressed to the Facility Agent, the Security Agent and the Original Lenders listing the insurance policies of the Group and confirming that they are on risk and that the insurance for the Group at the date of this Agreement is at a level acceptable to the Majority Lenders and covering appropriate risks for the business carried out by the Group.

A letter from R K Harrison Insurance Services Limited dated on or prior to the date of this Agreement addressed to the Facility Agent, the Security Agent and the Original Lenders listing the insurance policies of the Group and confirming that they are on risk and that the insurance for the Group at the date of this Agreement is at a level acceptable to the Majority Lenders and covering appropriate risks for the business carried out by the Group.

* + 1. Legal opinions

The following legal opinions, each addressed to the Facility Agent, the Security Agent and the Original Lenders:

a legal opinion of Freshfields Bruckhaus Deringer LLP, legal advisers to the Lenders as to English law in substance and form satisfactory to the Lenders;

a legal opinion of Shepherd and Wedderburn LLP, as to Scots law in substance and form satisfactory to the Lenders;

a legal opinion of Friedrich Graf von Westphalen, legal advisers to the Borrowers as to matters of German law (including the capacity of Alenco Environmental Consult GmbH to enter into the Finance Documents) in substance and form satisfactory to the Lenders; and

a legal opinion of Simmons and Simmons, legal advisers to the Borrower as to UAE law in substance and form satisfactory to the Lenders.

* + 1. Other documents and evidence

Evidence of payment of all fees (including legal fees), costs and expenses due under the Finance Documents on or before the Closing Date.

Evidence that any natural person who is a Subordinated Creditor (as defined in the Subordination Deed) has received a written summary of the transactions contemplated by the Transaction Documents and in particular the Subordination Deed and a written recommendation that that Subordinated Creditor seeks his or her own independent legal advice in respect of the transactions contemplated by the Transaction Documents, in each case at least two Business Days prior to the date of the Subordination Deed.

A copy of the letters or other documentation in the agreed form under which each of Alan Ryder and Stefan Bangels agree to be subject to customary non-compete provisions.

The Funds Flow Statement.

Evidence that contemporaneously with, or immediately following, utilisation of a Facility, the Existing Facilities will be discharged and the Existing Security Agreements will be released or terminated.

Subject to paragraph (e) above, evidence that:

contemporaneously with, or immediately following, utilisation of a Facility, all Financial Indebtedness of the Group (other than Permitted Financial Indebtedness) will be discharged; and

contemporaneously with, or immediately following, utilisation of a Facility, all guarantees, Security and Quasi-Security of the Group (other than Permitted Guarantees and Permitted Security) will be released or terminated.

The Original Financial Statements.

A copy of the Base Case Model (including the initial Budget).

A copy of each of the Existing Shareholder Agreements.

A copy of each of the Existing Loan Documents.

A copy of the EMN Loan Document.

A copy of the HSBC Ancillary Facilities Terms Letter.

A copy of the HSBC Pro-Forma Cash Collateral Agreement.

A copy of the HSBC Ancillary Facilities.

A copy of the HSBC Cash Collateral Agreement.

A copy of the ESA SPA.

A copy of the Benelux SPA.

A copy of the Commerzbank Facility Document.

A copy of the Commerzbank Security Document.

A copy of the document or documents relating to the HSBC credit card and BACs facilities referred to in paragraph (m) of the definition of Permitted Financial Indebtedness.

The Reports addressed to or capable of being relied upon by the Finance Parties.

A copy of the Q&A Document, the Group Sales Plan and the Pipeline Comments Document.

A copy of the agreed form report to be delivered by the Borrower’s Auditors or the Monitoring Accountants pursuant to paragraph (c) of Clause 22.3 (*Provision and contents of Compliance Certificate*) together with confirmation from the Borrower’s Auditors and/or the Monitoring Accountants that it can be relied upon by the Finance Parties.

A certificate signed by an authorised signatory of the Borrower specifying each member of the Group which is a Dormant Subsidiary as at the Closing Date together with certified copies (certified by such authorised signatory to be a true copy) of the last audited accounts of each such Dormant Subsidiary.

A letter of engagement with the Finance Parties and Secured Parties from each of:

the authors of the Accountant’s Report; and

the Borrower’s Auditors.

The Group Structure Chart certified as being true and complete by an authorised signatory of the Borrower, showing the ownership structure of the Group immediately following the Closing Date.

An executed Utilisation Request relating to a Loan to be made on the Closing Date.

Evidence required by the Lenders and the Facility Agent for the purposes of any “Know your Customer” requirements or similar procedures.

Evidence that any process agent referred to in Clause 47.3 (*Service of process*) or any equivalent provision in any other Finance Document executed on or before the Closing Date, if not an Original Obligor, has accepted its appointment.

A certificate of an authorised signatory of the Borrower certifying that each copy document specified in this Schedule 2 and delivered by it, or on its behalf, pursuant to Clause 4.1 (*Initial conditions precedent*) is correct, complete and in full force and effect and has not been amended or superseded since its delivery (other than as permitted by the Finance Documents and, if so amended or superseded, appending a copy of such amended or supplemented document) as at a date no earlier than the Closing Date.

A letter (as a Finance Document) addressed to the Facility Agent from the Borrower and agreed Investors (i) confirming that as far as the Company is aware, the Investors have no right, title or interest in and to the IP of the Group (including the RSK brand or trademark) (the ***RSK IP***) and that, to the extent they do, the relevant Investors agree to waive the same; (ii) under which the Borrower agrees to provide evidence in writing to the Facility Agent within 30 days of the Closing Date of the arm’s length terms on which RSK Orbital and RSK Water are given a revocable license of the RSK IP in form and substance satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders) (iii) under which the Borrower agrees the Group will not license any IP of the Group to an Affiliate, Investor, Investor Affiliate, associate, in which it holds an investment or a similar related party (other than a member of the Group) without the prior written consent of the Majority Lenders.

A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Transaction Document or for the validity and enforceability of any Transaction Document.

1. Additional Guarantor Conditions Precedent
   * + 1. An Accession Deed executed by the Additional Guarantor and the Borrower.
       2. A copy of the constitutional documents of the Additional Guarantor which shall include (i) for each German Obligor a certified (*öffentlich beglaubigt*) excerpt from the commercial register not older than ten (10) Business Days, in case of a GmbH a certified copy (*öffentlich beglaubigte Abschrift*) of the articles of association and a shareholder list (*Gesellschafterliste*) and in case of a KG a copy of its articles of association and (ii) for BGT Hungaria Környezettechnológiai Korlátolt Felelősségű Társaság a notarised excerpt from the company registry not older than ten (10) Business Days, a copy of the deed of foundation and the member’s list.
       3. If applicable, a copy of a resolution of the board or, if applicable, a committee of the board of directors of the Additional Guarantor:

confirming that such Additional Guarantor:

is solvent; and

has positive net assets;

approving the terms of, and the transactions contemplated by, the Accession Deed and the Finance Documents and resolving that it execute, deliver and perform the Accession Deed and any other Finance Document to which it is party;

authorising a specified person or persons to execute the Accession Deed and other Finance Documents on its behalf;

authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party;

authorising the Borrower to act as its agent in connection with the Finance Documents; and

that is incorporated under the laws of the Netherlands,

a confirmation of the board of directors of such Original Obligor that it does not have a works council (ondernemingsraad) nor is in the process of establishing a works council in the foreseeable future; and

a declaration in respect of each member of the board of directors on conflict of interest (tegenstrijdig belang) within the meaning of section 2:129(6)/2:239(6) of the Dutch Civil Code.

* + - 1. If applicable, a copy of a resolution of the board of directors or any other corporate body, in particular, the supervisory board (*Aufsichtsrat*) and/or advisory board (*Beirat*) of the Additional Obligor, establishing the committee referred to in paragraph 3 above.
      2. If applicable, a copy of a resolution of the board of directors of the Additional Guarantor, establishing the committee referred to in paragraph 3 above.
      3. A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.
      4. If applicable, a copy of a resolution signed by all the holders of the issued shares of the Additional Guarantor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Guarantor is a party.
      5. Other than in relation to a German Obligor, a certificate of an authorised signatory of the Additional Guarantor certifying that each copy document listed in this Schedule 3 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Deed.
      6. A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable in connection with the entry into and performance of the transactions contemplated by the Accession Letter or for the validity and enforceability of any Finance Document.
      7. If available, the latest audited financial statements of the Additional Guarantor.
      8. The following legal opinions, each addressed to the Facility Agent, the Security Agent and the Lenders:

A legal opinion of the legal advisers to the Facility Agent in England, as to English law in the form distributed to the Lenders prior to signing the Accession Deed.

If the Additional Guarantor is incorporated in a jurisdiction other than England and Wales or is executing a Finance Document which is governed by a law other than English law, a legal opinion of the legal advisers to the Facility Agent in its jurisdiction of incorporation or the jurisdiction of the governing law of that Finance Document (the ***Applicable Jurisdiction***) as to the law of the Applicable Jurisdiction and in the form distributed to the Lenders prior to signing the Accession Deed.

* + - 1. If the proposed Additional Guarantor is incorporated in a jurisdiction other than England and Wales, evidence that the process agent specified in Clause 47.3 (*Service of process*), if not an Obligor, has accepted its appointment in relation to the proposed Additional Guarantor.
      2. If the accession follows a Permitted Acquisition, the Group Structure Chart, certified as being true and complete by an authorised signatory of the Borrower, showing the ownership structure of the Group immediately following such accession.
      3. Any Transaction Security Documents which are required by the Facility Agent to be executed by the proposed Additional Guarantor.
      4. Any notices or documents required to be given or executed under the terms of those Transaction Security Documents.

If the Additional Guarantor is incorporated in England and Wales, Scotland or Northern Ireland, evidence that the Additional Guarantor has done all that is necessary (including, without limitation, by re-registering as a private company) to comply with sections 677 to 683 of the Companies Act 2006 in order to enable that Additional Guarantor to enter into the Finance Documents and perform its obligations under the Finance Documents.

If the Additional Guarantor is not incorporated in England and Wales, Scotland or Northern Ireland, such documentary evidence as legal counsel to the Facility Agent may require, that such Additional Guarantor has complied with any law in its jurisdiction relating to financial assistance or analogous process.

1. Transaction Security Documents
   1. To be delivered as conditions precedent to Utilisation

|  |  |  |
| --- | --- | --- |
| Obligor(s) | Transaction Security Document | Governing Law |
| All Obligors incorporated in England and Wales | English debenture | English Law |
| RSK Group plc | Scottish Share Pledge over shares in RSK Environment Limited | Scots law |
| RSK Environment Limited | Scottish Floating Charge | Scots law |
|  |  |  |
| Azerbaijan Environment and Technology Centre Limited | Scottish Floating Charge | Scots law |

* 1. To be delivered as conditions subsequent to Utilisation

|  |  |  |
| --- | --- | --- |
| Obligor(s) | Transaction Security Document | Governing Law |
| RSK Environment Limited | Pledge over shares in Eerland Milieutechniek (Nederland) B.V. | Netherlands |
| RSK Environment Limited | Scottish Share Pledge over shares in Azerbaijan Environment and Technology Centre Limited | Scots law |
| Alenco Environmental Consult GmbH | Pledge over shares in BGT Hungaria Környezettechnológiai Korlátolt Felelősségű Társaság | Hungary |
| Alenco Environmental Consult GmbH | Global assignment agreement and account pledge agreement | Germany |
| Eerland Milieutechniek (Nederland) B.V. | A Dutch law omnibus receivables pledge | Netherlands |
| BGT Hungaria Környezettechnológiai Korlátolt Felelősségű Társaság | Pledge over bank accounts of BGT Hungaria Környezettechnológiai Korlátolt Felelősségű Társaság | Hungary |
| BGT Hungaria Környezettechnológiai Korlátolt Felelősségű Társaság | Pledge over receivables of BGT Hungaria Környezettechnológiai Korlátolt Felelősségű Társaság | Hungary |

* 1. To be delivered as a condition subsequent to Utilisation

|  |  |  |
| --- | --- | --- |
| Obligor(s) | Transaction Security Document | Governing Law |
| RSK Environment Limited | Pledge over 100 per cent. of the ownership interests in RSK Environment LLC | UAE |

* 1. To be delivered as a condition subsequent to Utilisation

|  |  |  |
| --- | --- | --- |
| Obligor(s) | Transaction Security Document | Governing Law |
| RSK Environment Limited | Security over shares in RSK Benelux BVBA | Belgium |

1. Utilisation Request

From: RSK Group plc

To: Elavon Financial Services Limited

Dated:

Dear Sirs

RSK Group plc – £37,600,000 Senior Facilities Agreement originally dated 3 June 2015 as amended and restated on [●] 2016 (the *Facilities Agreement*)

* + - 1. We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
      2. We wish to borrow a Loan on the following terms:

Borrower: RSK Group plc

Proposed Utilisation Date: [●] (or, if that is not a Business Day, the next Business Day)

Amount: [●]

Interest Period: [●] and 12 Months for the PIK Margin

* + - 1. We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) is satisfied on the date of this Utilisation Request.
      2. The proceeds of this Loan should be credited to [*account*].
      3. This Utilisation Request is irrevocable.

Yours faithfully

…………………………………

authorised signatory for  
RSK Group plc

1. Selection Notice  
   Applicable to a Term Loan

From: [*Borrower*]\*

To: [*Facility Agent*]

Dated:

Dear Sirs

RSK Group plc – £37,600,000 Senior Facilities Agreement originally dated 3 June 2015 as amended and restated on [●] 2016 (the *Facilities Agreement*)

We refer to the Facilities Agreement. This is a Selection Notice. Terms defined in the Facilities Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.

We refer to the Facility with a Cash Interest Period ending on [●].

[We request that the next Cash Interest Period for the above Facility is [●]].

This Selection Notice is irrevocable.

Yours faithfully

.....................................

authorised signatory for

[the Borrower] \*

NOTES:

\* Amend as appropriate.

1. Form of Transfer Certificate

To: [●] as Facility Agent and [●] as Security Agent

From: [*The Existing Lender*] (the ***Existing Lender***) and [*The New Lender*] (the ***New Lender***)

Dated:

RSK Group plc – £37,600,000 Senior Facilities Agreement originally dated 3 June 2015 as amended and restated on [●] 2016 (the *Facilities Agreement*)

* + - 1. We refer to the Facilities Agreement. This agreement (the ***Agreement***) shall take effect as a Transfer Certificate for the purpose of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
      2. We refer to Clause 26.5 (*Procedure for transfer*) of the Facilities Agreement:

The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation and in accordance with Clause ‎26.5 (*Procedure for transfer*) all of the Existing Lender’s rights and obligations under the Facilities Agreement and the other Finance Documents which relate to that portion of the Existing Lender’s Commitment(s) and participations in the Loan under the Facilities Agreement as specified in the Schedule.

The proposed Transfer Date is [●].

The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 37.2 (*Addresses*) are set out in the Schedule.

* + - 1. The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in paragraph (c) of Clause ‎26.4 (*Limitation of responsibility of Existing Lenders*).
      2. [The New Lender confirms, for the benefit of the Facility Agent and without liability to any Obligor, that it is:

[a Qualifying Lender (other than a Treaty Lender);]

[a Treaty Lender;]

[not a Qualifying Lender].[[1]](#footnote-1)

* + - 1. [The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

a company resident in the United Kingdom for United Kingdom tax purposes;

a partnership each member of which is:

a company so resident in the United Kingdom; or

a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or

a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.][[2]](#footnote-2)]

* + - 1. The New Lender confirms that it [is]/[is not][[3]](#footnote-3) a Investor Affiliate.
      2. [The New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [•]) and is tax resident in [•][[4]](#footnote-4), so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Facility Agent notifies the Borrower and the Borrower; that it wishes that scheme to apply to the Facilities Agreement.][[5]](#footnote-5)
      3. The New Lender acknowledges the terms of the Subordination Deed to which the Facility Agent and the Security Agent are each a party.
      4. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
      5. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
      6. This Agreement has been entered into on the date stated at the beginning of this Agreement.
      7. The New Lender has paid the Facility Agent the £2,000 fee payable on such transfer, pursuant to Clause 26.3 (*Assignment or transfer fee*).

**Note: The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Lender’s interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender’s Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.**

**WARNING**: Please seek Dutch legal advice (i) until the interpretation of the term ‘public’(as referred to in Article 4.1 (1) of the Capital Requirements Regulation (EU/575/2013)) has been published by the competent authority, if the share of a Lender in any utilisation by a Dutch borrower is less than EUR 100,000 (or the equivalent in any other currency) and (ii) as soon as the interpretation of the term ‘public’ has been published by the competent authority, if the Lender is considered to be part of the public on the basis of such interpretation.

##### THE SCHEDULE

###### Commitment/rights and obligations to be transferred

[*insert relevant details*]

[*Facility Office address, fax number and attention details for notices and account details for payments,*]

[*Existing Lender*] [*New Lender*]

By: By:

This Agreement is accepted as a Transfer Certificate for the purposes of the Facilities Agreement by the Facility Agent, and the Transfer Date is confirmed as [●].

[*Facility Agent*]

By:

[*Security Agent*]

By:

1. Form of Assignment Agreement

To: [●] as Facility Agent and [●], [●] as Security Agent, [●] as Borrower, for and on behalf of each Obligor

From: [*the Existing Lender*] (the ***Existing Lender***) and [*the* *New Lender*] (the ***New Lender***)

Dated:

RSK Group plc - £37,600,000 Senior Facilities Agreement originally dated 3 June 2015 as amended and restated on [●] 2016 (the *Facilities Agreement*)

* + - 1. We refer to the Facilities Agreement. This is an Assignment Agreement. This agreement (the ***Agreement***) shall take effect as an Assignment Agreement for the purpose of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
      2. We refer to Clause 26.6 (*Procedure for assignment*) of the Facilities Agreement:

The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Facilities Agreement, the other Finance Documents and in respect of the Transaction Security which correspond to that portion of the Existing Lender’s Commitment(s) and participations in a Loan under the Facilities Agreement as specified in the Schedule.

The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender’s Commitment(s) and participations in the Loan under the Facilities Agreement specified in the Schedule.

The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.

* + - 1. The proposed Transfer Date is [●].
      2. On the Transfer Date the New Lender becomes Party to the relevant Finance Documents as a Lender.
      3. The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 37.2 (*Addresses*) are set out in the Schedule.
      4. The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in paragraph (c) of Clause ‎26.4 (*Limitation of responsibility of Existing Lenders*).
      5. [The New Lender confirms, for the benefit of the Facility Agent and without liability to any Obligor, that it is:

[a Qualifying Lender (other than a Treaty Lender);]

[a Treaty Lender;]

[not a Qualifying Lender].[[6]](#footnote-6)

* + - 1. [The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

a company resident in the United Kingdom for United Kingdom tax purposes;

a partnership each member of which is:

a company so resident in the United Kingdom; or

a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or

a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.][[7]](#footnote-7)]

* + - 1. The New Lender confirms that it [is]/[is not][[8]](#footnote-8) a Investor Affiliate.
      2. [The New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [•]) and is tax resident in [•][[9]](#footnote-9), so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Borrower notify the Borrower; that it wishes that scheme to apply to the Facilities Agreement.][[10]](#footnote-10)
      3. This Agreement acts as notice to the Facility Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 26.7 (*Copy of Transfer Certificate or Assignment Agreement to Borrower*), to the Borrower (on behalf of each Obligor) of the assignment referred to in this Agreement.
      4. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
      5. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
      6. The New Lender has paid the Facility Agent the £2,000 fee payable on such assignment, pursuant to Clause 26.3 (*Assignment or transfer fee*).

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

**Note: The execution of this Assignment Agreement may not transfer a proportionate share of the Existing Lender’s interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender’s Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.**

**WARNING**: Please seek Dutch legal advice (i) until the interpretation of the term ‘public’(as referred to in Article 4.1 (1) of the Capital Requirements Regulation (EU/575/2013)) has been published by the competent authority, if the share of a Lender in any utilisation by a Dutch borrower is less than EUR 100,000 (or the equivalent in any other currency) and (ii) as soon as the interpretation of the term ‘public’ has been published by the competent authority, if the Lender is considered to be part of the public on the basis of such interpretation.

##### THE SCHEDULE

###### Commitment/rights and obligations to be transferred by assignment, release and accession

[*insert relevant details*]

[*Facility office address, fax number and attention details for notices and account details for payments*]

[*Existing Lender*] [*New Lender*]

By: By:

This Agreement is accepted as an Assignment Agreement for the purposes of the Facility Agreement by the Facility Agent and the Transfer Date is confirmed as [●].

Signature of this Agreement by the Facility Agent constitutes confirmation by the Facility Agent of receipt of notice of the assignment referred to in this Agreement, which notice the Facility Agent receives on behalf of each Finance Party.

[*Facility Agent*]

By:

[*Security Agent*]

By:

1. Form of Accession Deed

To: [●] as Facility Agent and [●] as Security Agent for itself and each of the other parties to the Subordination Deed referred to below

From: [*Subsidiary*] and [*Borrower*]

Dated:

Dear Sirs

RSK Group plc – £37,600,000 Senior Facilities Agreement originally dated 3 June 2015 as amended and restated on [●] 2016 (the *Facilities Agreement*)

* + - 1. We refer to the Facilities Agreement and to the Subordination Deed. This deed (the ***Accession Deed***) shall take effect as an Accession Deed for the purposes of the Facilities Agreement and as a Debtor Accession Deed for the purposes of the Subordination Deed (and as defined in the Subordination Deed). Terms defined in the Facilities Agreement have the same meaning in paragraphs 1-[4]/[5] of this Accession Deed unless given a different meaning in this Accession Deed.
      2. [*Subsidiary*] agrees to become an Additional Guarantor and to be bound by the terms of the Facilities Agreement and the other Finance Documents (other than the Subordination Deed) as an Additional Guarantor pursuant to Clause 28.2 (*Additional Guarantors*) of the Facilities Agreement. [*Subsidiary*] is a company duly incorporated under the laws of [*name of relevant jurisdiction*] and is a limited liability company and registered number [●].
      3. [*Subsidiary*] confirms that its administrative details for the purposes of the Facilities Agreement and the Subordination Deed are as follows:

Address:

Fax No.:

Attention:

* + - 1. [*Subsidiary*] confirms the appointment of the Borrower as its agent on the terms provided for in the Facilities Agreement in relation to Obligors.
      2. [*Subsidiary*] (for the purposes of this paragraph [5] the ***Acceding Debtor***) intends to [incur Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]:

[*Insert details* (*date, parties and description*) *of relevant documents*]

the ***Relevant Documents***.

**IT IS AGREED** as follows:

Terms defined in the Subordination Deed shall, unless otherwise defined in this Accession Deed, bear the same meaning when used in this paragraph [5].

The Acceding Debtor and the Security Agent agree that the Security Agent shall hold:

[any Security in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents];

all proceeds of that Security; and

all obligations expressed to be undertaken by the Acceding Debtor to pay amounts in respect of the Liabilities to the Security Agent as trustee for the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding Debtor (in the Relevant Documents or otherwise) in favour of the Security Agent as trustee for the Secured Parties,

on trust for the Secured Parties on the terms and conditions contained in the Facilities Agreement.

The Acceding Debtor confirms that it intends to be party to the Subordination Deed as a Debtor, undertakes to perform all the obligations expressed to be assumed by a Debtor under the Subordination Deed and agrees that it shall be bound by all the provisions of the Subordination Deed as if it had been an original party to the Subordination Deed.

[In consideration of the Acceding Debtor being accepted as an Intra Group Lender for the purposes of the Subordination Deed, the Acceding Debtor also confirms that it intends to be party to the Subordination Deed as an Intra-Group Lender, and undertakes to perform all the obligations expressed in the Subordination Deed to be assumed by an Intra Group Lender and agrees that it shall be bound by all the provisions of the Subordination Deed, as if it had been an original party to the Subordination Deed].

* + - 1. This Accession Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

**THIS ACCESSION DEED** has been signed on behalf of the Security Agent (for the purposes of paragraph [5] above only), signed on behalf of the Borrower and executed as a deed by [*Subsidiary*] and is delivered on the date stated above.

[Subsidiary]

[**EXECUTED** as a **DEED]** )  
By: [**SUBSIDIARY**] )

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Director

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Director/Secretary

***OR***

[**EXECUTED** as a **DEED]** )  
By: [**SUBSIDIARY**] )

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature of Director

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name of Director

in the presence of

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature of witness

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name of witness

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Address of witness

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Occupation of witness

The Borrower

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Borrower]

By:

The Security Agent

[*Full Name of Current Security Agent*]

By:

Date:

1. Form of Resignation Letter

To: [●] as Facility Agent

From: [*resigning Obligor*] and [*Borrower*]

Dated:

Dear Sirs

RSK Group plc - £37,600,000 Senior Facilities Agreement originally dated 3 June 2015 as amended and restated on [●] 2016 (the *Facilities Agreement*)

* + - 1. We refer to the Facilities Agreement. This is a Resignation Letter. Terms defined in the Facilities Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.
      2. Pursuant to Clause ‎28.3 (*Resignation of a Guarantor*), we request that [*resigning Obligor*] be released from its obligations as a Guarantor under the Facilities Agreement and the Finance Documents (other than the Subordination Deed).
      3. We confirm that:

no Default is continuing or would result from the acceptance of this request; and

\*[[this request is given in relation to a Third Party Disposal of [*resigning Obligor*];]

[the Relevant Disposal Proceeds have been or will be applied in accordance with Clause ‎8.4 (*Disposal and Flotation Proceeds*);]\*\*]

[●]\*\*\*

* + - 1. This Resignation Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

|  |  |
| --- | --- |
| [*Borrower*] | [*resigning Obligor*] |
| By: | By: |

NOTES:

\* Insert where resignation only permitted in case of a Third Party Disposal.

\*\* Amend as appropriate, e.g. to reflect agreed procedure for payment of proceeds into a specified account.

\*\*\* Insert any other conditions required by the Facilities Agreement.

1. Form of Compliance Certificate

To: [●] as Facility Agent

From: [*Borrower*]

Dated:

Dear Sirs

RSK Group plc - £37,600,000 Senior Facilities Agreement originally dated 3 June 2015 as amended and restated on [●] 2016 (the *Facilities Agreement*)

* + - 1. We refer to the Facilities Agreement. This is a Compliance Certificate. Terms defined in the Facilities Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
      2. We confirm that:

in respect of the Relevant Period ended on [●] (the ***Test Date***) Total Net Debt on the Test Date was [●] and Adjusted EBITDA for such Relevant Period was [●]. Therefore Total Net Debt at such time was [●] times Adjusted EBITDA for the Test Date and the covenant contained in paragraph 23.2(a) (*Adjusted Net* *Leverage*) of Clause 23.2 (*Financial condition*) of the Facilities Agreement [has/has not] been complied with;

in respect of the Relevant Period ended on the Test Date, Adjusted EBITDA for such Relevant Period was [●] and Net Finance Charges for such Relevant Period were [●]. Therefore EBITDA was [●] times Net Finance Charges for the Test Date and the covenant contained in paragraph 23.2(b) (*Interest Cover Ratio*) of Clause 23.2 (*Financial condition*) of the Facilities Agreement [has/has not] been complied with;

in respect of the Relevant Period ended on the Test Date, Cashflow for such Relevant Period was [●] and Debt Service for such Relevant Period was [●]. Therefore Cashflow for the Test Date was [●] times Debt Service for the Test Date and the covenant contained in paragraph 23.2(c) (*Cashflow Cover*) of Clause 23.2 (*Financial condition*) of the Facilities Agreement [has/has not] been complied with; and

in respect of the Relevant Period ended on the Test Date, Capital Expenditure for such Relevant Period was [●], and the Capital Expenditure covenant contained in paragraph 23.2(d) (*Capital Expenditure*) of Clause 23.2 (*Financial condition*) of the Facilities Agreement [has/has not] been complied with.

* + - 1. We confirm that no Default is continuing. \*

|  |  |
| --- | --- |
| Signed ……………………………………. | ……………………………………. |
| Director | Director |
| Of | Of |
| [*Borrower*] | [*Borrower*] |

[insert applicable certification language][[11]](#footnote-11)

……………………..  
for and on behalf of  
[*name of [Borrower’s Auditors]/[Monitoring Accountants]*]\*\*

NOTES:

\* If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.

\*\* Only applicable if the Compliance Certificate accompanies the audited financial statements and is to be signed by the Borrower’s Auditors or the Monitoring Accountants. To be agreed with the Borrower’s Auditors and/or the Monitoring Accountants prior to signing the Agreement.

1. Form of Permitted Distribution Certificate

To: [●] as Facility Agent

From: [*Borrower*]

Dated:

Dear Sirs

RSK Group plc - £37,600,000 Senior Facilities Agreement originally dated 3 June 2015 as amended and restated on [●] 2016 (the *Facilities Agreement*)

* + - 1. We refer to the Facilities Agreement. This is a Permitted Distribution Certificate. Terms defined in the Facilities Agreement have the same meaning when used in this Permitted Distribution Certificate unless given a different meaning in this Permitted Distribution Certificate.
      2. The Borrower proposes to pay a dividend to the Investors. The Distribution Date of the dividend is [●].\*
      3. We confirm that:

Adjusted Net Leverage (calculated on the basis applicable to the Financial Covenant in paragraph (a) of Clause 23.2(a) (*Financial condition*) of the Facilities Agreement, and pro forma for the proposed dividend) is less than 1.75:1.00;

the Group will be compliant with the Financial Covenants set out in clause 23.2 (*Financial Condition*) during the remainder of the Relevant Period in which the Permitted Distribution Certificate is delivered, and during the Relevant Periods starting on the First Quarter Date after the date of the Permitted Distribution Certificate;

no Default is continuing or will occur following the payment of the proposed dividend; and

the Group (excluding the RSK Benelux Group) will have [Cash] in excess of £2,000,000 after payment of the proposed dividend.

|  |
| --- |
| Signed ……………………………………. |
| Director |
| Of |
| [*Borrower*] |

[insert applicable certification language][[12]](#footnote-12)

……………………..  
for and on behalf of  
[*name of [Borrower’s Auditors]/[Monitoring Accountants]*]\*\*

NOTES:

\* The Distribution Date must be a date not less than 10 Business Days after the date of the Permitted Distribution Certificate.

\*\* Only applicable if the Permitted Distribution Certificate accompanies the audited financial statements and is to be signed by the Borrower’s Auditors or the Monitoring Accountants. To be agreed with the Borrower’s Auditors and/or the Monitoring Accountants prior to signing the Agreement.

1. LMA Form of Confidentiality Undertaking

**[Letterhead of Seller]**

To: [●] [*insert name of Potential Purchaser*]

Re: The Agreement

Company: [●] (the Borrower)

Date: [●]

Amount: [●]

Facility Agent: [●]

Dear Sirs

We understand that you are considering acquiring an interest in the Agreement which, subject to the Agreement, may be by way of novation, assignment, the entering into, whether directly or indirectly, of a sub-participation or any other transaction under which payments are to be made or may be made by reference to one or more Finance Documents and/or one or more Obligors or by way of investing in or otherwise financing, directly or indirectly, any such novation, assignment, sub-participation or other transaction (the ***Acquisition***). In consideration of us agreeing to make available to you certain information, by your signature of a copy of this letter you agree as follows:

* + 1. Confidentiality Undertaking

You undertake (a) to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by paragraph 2 below and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information, and (b) until the Acquisition is completed to use the Confidential Information only for the Permitted Purpose.

* + 1. Permitted Disclosure

We agree that you may disclose:

to any of your Affiliates and any of your or their officers, directors, employees, professional advisers and auditors such Confidential Information as you shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph 2(a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information, except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

subject to the requirements of the Agreement, to any person:

to (or through) whom you assign or transfer (or may potentially assign or transfer) all or any of your rights and/or obligations which you may acquire under the Agreement such Confidential Information as you shall consider appropriate if the person to whom the Confidential Information is to be given pursuant to this sub-paragraph (i) of paragraph 2(b) has delivered a letter to you in equivalent form to this letter;

with (or through) whom you enter into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to the Agreement or any Obligor such Confidential Information as you shall consider appropriate if the person to whom the Confidential Information is to be given pursuant to this sub-paragraph (ii) of paragraph 2(b) has delivered a letter to you in equivalent form to this letter;

to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation such Confidential Information as you shall consider appropriate; and

notwithstanding paragraphs 2(a) and 2(b) above, Confidential Information to such persons to whom, and on the same terms as, a Finance Party is permitted to disclose Confidential Information under the Agreement, as if such permissions were set out in full in this letter and as if references in those permissions to Finance Party were references to you.

* + 1. Notification Of Disclosure

You agree (to the extent permitted by law and regulation) to inform us:

of the circumstances of any disclosure of Confidential Information made pursuant to sub-paragraph (iii) of paragraph 2(b) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

upon becoming aware that Confidential Information has been disclosed in breach of this letter.

* + 1. Return Of Copies

If you do not enter into the Acquisition and we so request in writing, you shall return all Confidential Information supplied to you by us and destroy or permanently erase (to the extent technically practicable) all copies of Confidential Information made by you and use your reasonable endeavours to ensure that anyone to whom you have supplied any Confidential Information destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy, or where the Confidential Information has been disclosed under sub-paragraph (iii) of paragraph 2(b) above.

* + 1. Continuing Obligations

The obligations in this letter are continuing and, in particular, shall survive and remain binding on you until (a) if you acquire an interest in the Agreement by way of novation, the date on which you acquire such an interest; (b) if you enter into the Acquisition other than by way of novation, the date falling [twelve] months after termination of that Acquisition; or (c) in any other case [twelve] months after the date of this letter.

* + 1. No Representation; Consequences Of Breach, Etc

You acknowledge and agree that:

neither we, nor any member of the Group nor any of our or their respective officers, employees or advisers (each a ***Relevant Person***) (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by us or the assumptions on which it is based or (ii) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or be otherwise liable to you or any other person in respect of the Confidential Information or any such information; and

we or members of the Group may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

* + 1. Entire Agreement: No Waiver; Amendments, Etc
       - 1. This letter constitutes the entire agreement between us in relation to your obligations regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.
         2. No failure or delay in exercising any right or remedy under this letter will operate as a waiver thereof nor will any single or partial exercise of any right or remedy preclude any further exercise thereof or the exercise of any other right or remedy under this letter.
         3. The terms of this letter and your obligations under this letter may only be amended or modified by written agreement between us.
    2. Inside Information

You acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and you undertake not to use any Confidential Information for any unlawful purpose.

* + 1. Nature Of Undertakings

The undertakings given by you under this letter are given to us and are also given for the benefit of the Borrower and each other member of the Group.

* + 1. Third Party Rights
       - 1. Subject to this paragraph 10 and to paragraphs 6 and 9, a person who is not a party to this letter has no right under the Contracts (Rights of Third Parties) Act 1999 (the ***Third Parties Act***) to enforce or to enjoy the benefit of any term of this letter.
         2. The Relevant Persons may enjoy the benefit of the terms of paragraphs 6 and 9 subject to and in accordance with this paragraph 10 and the provisions of the Third Parties Act.
         3. Notwithstanding any provisions of this letter, the parties to this letter do not require the consent of any Relevant Person to rescind or vary this letter at any time.
    2. Governing Law And Jurisdiction
       - 1. This letter (including the agreement constituted by your acknowledgement of its terms) (the ***Letter***) and any non-contractual obligations arising out of or in connection with it (including any non-contractual obligations arising out of the negotiation of the transaction contemplated by this Letter) are governed by English law.
         2. The courts of England have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Letter (including a dispute relating to any non-contractual obligation arising out of or in connection with either this Letter or the negotiation of the transaction contemplated by this Letter).
    3. Definitions

In this letter (including the acknowledgement set out below) terms defined in the Agreement shall, unless the context otherwise requires, have the same meaning and:

***Confidential Information*** means all information relating to the Borrower, any Obligor, the Group, the Finance Documents, [the/a] Facility and/or the Acquisition which is provided to you in relation to the Finance Documents or [the/a] Facility by us or any of our affiliates or advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

is or becomes public information other than as a direct or indirect result of any breach by you of this letter; or

is identified in writing at the time of delivery as non-confidential by us or our advisers; or

is known by you before the date the information is disclosed to you by us or any of our affiliates or advisers or is lawfully obtained by you after that date, from a source which is, as far as you are aware, unconnected with the Group and which, in either case, as far as you are aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

***Group*** means the Borrower and its subsidiaries for the time being (as such term is defined in the Companies Act 2006).

***Permitted Purpose*** means considering and evaluating whether to enter into the Acquisition.

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

…................................  
For and on behalf of  
[Seller]

To: [Seller]

The Borrower and each other member of the Group

We acknowledge and agree to the above:

…................................  
For and on behalf of

**[Potential Purchaser**]

1. Timetables

|  |  |
| --- | --- |
| Delivery of a duly completed Utilisation Request (Clause 5.1 (*Delivery of a Utilisation Request*)) or a Selection Notice (Clause 11.1 (*Selection of Interest Periods*) | U – 10  9:30 a.m. (or such shorter period to which the Lender and the Facility Agent may give their consent) |
| Agent notifies the Lenders of the Loan in accordance with Clause 5.4 (*Lenders’ participation and limitations on Loans*) | U – 1  noon |
| LIBOR is fixed | Quotation Day  11:00 a.m. |
| Base Reference Bank Rate calculated by reference to available quotations in accordance with Clause 12.2 ‎(*Calculation of Base Reference Bank Rate*) | Noon on the Quotation Day |

Where ***U – X*** means X Business Days prior to date of utilisation.

1. [[13]](#footnote-13)  
   Material Companies

|  |  |  |
| --- | --- | --- |
| **Name of Subsidiary** | **Registration number (or equivalent, if any)** | **Original Jurisdiction** |
| Envirolab Limited | 04487136 | England and Wales |
| RSK Benelux BVBA | 0480-230-370 | Belgium |
| RSK Environment Limited | SC115530 | Scotland |
| RSK Environment LLC (UAE) | 219692 | Abu Dhabi |
| RSK Land and Development Engineering Limited | 04723837 | England and Wales |
| RSK Stats Geoconsult Limited | 02611785 | England and Wales |
| Structural Soils Limited | 00828694 | England and Wales |

1. Forms of Notifiable Debt Purchase Transaction Notice
   1. Form of Notice on Entering into Notifiable Debt Purchase Transaction

To: [●] as Facility Agent

From: [*The Lender*]

Dated:

RSK Group plc – £37,600,000 Senior Facilities Agreement originally dated 3 June 2015 as amended and restated on [●] 2016 (the *Facilities Agreement*)

* + - 1. We refer to paragraph (b) of Clause ‎27.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Investor Affiliates*) of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this notice unless given a different meaning in this notice.
      2. We have entered into a Notifiable Debt Purchase Transaction.
      3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 relates to the amount of our Commitment(s) as set out below.

|  |  |
| --- | --- |
| Commitment | Amount of our Commitment to which Notifiable Debt Purchase Transaction relates |
|  |  |
|  |  |
|  |  |

[*Lender*]

By:

* 1. Form of Notice on Termination of Notifiable Debt Purchase Transaction/Notifiable Debt Purchase Transaction ceasing to be with Investor Affiliate

To: [●] as Facility Agent

From: [*The Lender*]

Dated:

RSK Group plc – £37,600,000 Senior Facilities Agreement originally dated 3 June 2015 as amended and restated on [●] 2016 (the *Facilities Agreement*)

* + - 1. We refer to paragraph (c) of Clause 27.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Investor Affiliates*) of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this notice unless given a different meaning in this notice.
      2. A Notifiable Debt Purchase Transaction which we entered into and which we notified you of in a notice dated [ ] has [terminated]/[ceased to be with an Investor Affiliate].[[14]](#footnote-14) \*
      3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 relates to the amount of our Commitment(s) as set out below.

|  |  |
| --- | --- |
| Commitment | Amount of our Commitment to which Notifiable Debt Purchase Transaction relates |
|  |  |
|  |  |
|  |  |

[*Lender*]

By:

SIGNATURES

THE FACILITY AGENT

**ELAVON FINANCIAL SERVICES LIMITED**

**…………………………………………………… (authorised signatory)**

By:

**…………………………………………………… (authorised signatory)**

By:

Address: 125 Old Broad Street, London, EC2N 1AR

Email: loan.agency.london@usbank.com

Fax: +44 20 7365 2577

Attention: Loan Agency (loan.agency.london@usbank.com)

THE SECURITY AGENT

**U.S. BANK TRUSTEES LIMITED**

**…………………………………………………… (authorised signatory)**

**By:**

**…………………………………………………… (authorised signatory)**

**By:**

Address: 125 Old Broad Street, London, EC2N 1AR

Email: loan.agency.london@usbank.com

Fax: +44 20 7365 2577

Attention: Loan Agency (loan.agency.london@usbank.com)

THE ORIGINAL LENDERS

For and on behalf of

**PERMIRA CREDIT SOLUTIONS II MASTER L.S. S.A.**

By: …………………….……………………..

         Authorised Signatory

Name:

Title:

Address: 282, route de Longwy

Luxembourg L-1940

Luxembourg

Fax: +352 26 868181

Email:

Attention:

For and on behalf of

**PERMIRA CREDIT SOLUTIONS II L.S. S.A.**

By:

…………………….……………………..

Name:

Title:

Address: 282, route de Longwy

Luxembourg L-1940

Luxembourg

Fax: +352 26 868181

Email:

Attention:

For and on behalf of

**PERMIRA CREDIT SOLUTIONS II SENIOR S.A.**

By:

…………………….……………………..

Name:

Title:

Address: 282, route de Longwy

Luxembourg L-1940

Luxembourg

Fax: +352 26 868181

Email:

Attention:

THE BORROWER

**EXECUTED** as a **DEED** )  
by **RSK GROUP PLC** )  
acting by: )

Director:

in the presence of: )  
 )

Name of witness:   
Witness address:

Address:

Fax:

Email:

Attention:

THE ORIGINAL GUARANTORS

**EXECUTED** as a **DEED** )  
by RSK Group plc )   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
by Building Sciences Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
byEnvirolab Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
by Remedx Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
by RSK (Ireland) Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
byRSK Project Services Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
by RSK Radiological Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
byRSK Stats Environment )  
Health and Safety Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
by RSK Stats Geoconsult Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
byRSK Stats Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
by R.W. Management (Holdings) Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
byStructural Soils Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
by Technical Editing Services Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
by RSK Land and Development )  
Engineering Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
byRSK Environment Limited)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
by Azerbaijan Environment and Technology )  
Centre Limited )   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
byRSK Environment LLC)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

**EXECUTED** as a **DEED** )  
byAlenco Environmental Consult GmbH)   
acting by: )

Director:

in the presence of: )  
 )

Name of witness:  
Address:

1. Delete as applicable - each New Lender is required to confirm which of these three categories it falls within. [↑](#footnote-ref-1)
2. Include if New Lender comes within paragraph (b) of the definition of Qualifying Lender in Clause 15.1 (*Definitions*). [↑](#footnote-ref-2)
3. Delete as applicable. [↑](#footnote-ref-3)
4. Insert jurisdiction of tax residence. [↑](#footnote-ref-4)
5. Include if the New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facility Agreement. [↑](#footnote-ref-5)
6. Delete as applicable - each New Lender is required to confirm which of these three categories it falls within. [↑](#footnote-ref-6)
7. Include only if New Lender is a UK Non-Bank Lender i.e. falls within paragraph (b) of the definition of Qualifying Lender in Clause 15.1 (*Definitions*). [↑](#footnote-ref-7)
8. Delete as applicable. [↑](#footnote-ref-8)
9. Insert jurisdiction of tax residence. [↑](#footnote-ref-9)
10. Include if the New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facility Agreement. [↑](#footnote-ref-10)
11. To be agreed with the Borrower’s Auditors and/or the Monitoring Accountants and the Lenders prior to signing the Agreement. [↑](#footnote-ref-11)
12. To be agreed with the Borrower’s Auditors and/or the Monitoring Accountants and the Lenders prior to signing the Agreement. [↑](#footnote-ref-12)
13. ***Note:*** RSK to provide information. [↑](#footnote-ref-13)
14. Delete as applicable. [↑](#footnote-ref-14)