

Dated 27 June 2022

SECURED SUBORDINATED NOTES FACILITY AGREEMENT

BETWEEN

(1) AMALFI MIDCO LIMITED
AS THE ISSUER

(2) THCP ADVISORY LTD AND ARES MANAGEMENT LIMITED
AS ARRANGERS

(3) GLOBAL LOAN AGENCY SERVICES LIMITED
AS AGENT

(4) GLAS TRUST CORPORATION LIMITED
AS SECURITY AGENT

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THIS AGREEMENT is dated 27 June 2022 and made between:

- (1) **AMALFI MIDCO LIMITED**, a company incorporated in England and Wales with registration number 14185820 (the “**Issuer**”);
- (2) **AMALFI TOPCO LIMITED**, a company incorporated in Jersey with registration number 143752 (“**Topco**”);
- (3) The **COMPANIES** listed in Part 1 of Schedule 1 (*The Original Parties*) as original guarantors (the “**Original Guarantors**”);
- (4) **THE FINANCIAL INSTITUTIONS** listed in Part 2 of Schedule 1 (*The Original Parties*) as original noteholders (the “**Original Committed Noteholders**” and, together with each Original Alternative Noteholder (if any) which becomes an Alternative Committed Noteholder in accordance with Clause 2.3 (*Alternative Noteholder*), the “**Original Noteholders**”);
- (5) **THE FINANCIAL INSTITUTIONS** listed in Part 3 of Schedule 1 (*The Original Parties*) as original alternative noteholders (the “**Original Alternative Noteholders**”);
- (6) **THCP ADVISORY LTD** and **ARES MANAGEMENT LIMITED** as arrangers (the “**Arrangers**”);
- (7) **GLOBAL LOAN AGENCY SERVICES LIMITED** as agent of the other Finance Parties (the “**Agent**”); and
- (8) **GLAS TRUST CORPORATION LIMITED** as security trustee for the Secured Parties (the “**Security Agent**”).

WHEREAS

- (A) Under and in accordance with the terms and subject to the conditions of this Agreement, the Issuer may request that the Original Noteholders subscribe the Original Facility Notes in an amount of up to the Total Original Facility Commitments.
- (B) The proceeds received by the Issuer as a result of the issuance and subscription of the Original Facility Notes under the Original Facility shall be applied in accordance with paragraph (a) of Clause 3.1 (*Purpose*).
- (C) The Parties have agreed that the Notes shall be the subject of an application to The International Stock Exchange Authority Limited (“**TISEA**”) for listing on the Official List of The International Stock Exchange (“**TISE**”).

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement the following terms have the following meanings:

“**Acceptable Bank**” means:

- (a) a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of BBB- or higher by Standard & Poor’s Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody’s Investors Service Limited or a comparable rating from an internationally recognised credit rating agency;

- (b) any Finance Party or any Affiliate of a Finance Party; or
- (c) any other bank or financial institution approved by the Agent or, if the Agent is an Impaired Agent, the Majority Noteholders.

“Accession Deed” means a document substantially in the form set out in Schedule 5 (*Form of Accession Deed*).

“Accounting Principles” means:

- (a) in relation to the consolidated financial statements of the Group, generally accepted accounting principles in the United Kingdom, including, for the avoidance of doubt, IFRS; and
- (b) in relation to any member of the Group, generally accepted accounting principles in its jurisdiction of incorporation.

“Accounting Reference Date” means the accounting reference date of the relevant company determined in accordance with the Companies Act 2006.

“Acquisition” means the acquisition or purchase by the Senior Borrower of the Target Shares, either:

- (a) where the Acquisition is being effected by way of a Scheme, pursuant to the Scheme; or
- (b) where the Acquisition is being effected by way of an Offer, pursuant to or in connection with the Offer and the operation of the Squeeze Out Procedures.

“Acquisition Costs” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Acquisition Documents” means the Scheme Documents and the Takeover Offer Documents and any other document designated as an **“Acquisition Document”** by the Agent and the Issuer.

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

“Acquisition Purpose” means any of the purposes set out in paragraph (a) of Clause 3.1 (*Purpose*).

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

“Adjusted EBITDA” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Adjusted Leverage” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

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

“Agent’s Spot Rate of Exchange” means:

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

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

“Alternative Original Facility Commitment” means in relation to an Original Alternative Noteholder, the amount in Sterling set opposite its name under the heading “Original Alternative Noteholders” in Part 3 of Schedule 1 (*The Original Parties*) and the amount in Sterling of any other Alternative Original Facility Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*) to the extent not cancelled, reduced or transferred by it under this Agreement.

“Alternative Noteholder” means:

- (a) an Original Alternative Noteholder; or
- (b) any other Noteholder designated as an Alternative Noteholder in the Transfer Certificate by which it became a Party as a Noteholder.

“Alternative Noteholder Proportion” means, in relation to an Alternative Noteholder, the proportion borne by its Alternative Original Facility Commitment to the aggregate of the Alternative Original Facility Commitments of all the Alternative Noteholders as at the date of this Agreement.

“Annual Financial Statements” has the meaning given to that term in Clause 23.2 (*Information Undertakings*).

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

“Audit Laws” means:

- (a) the Statutory Auditors and Third Country Auditors Regulations 2016 (SI 2016/649), the Statutory Auditors and Third Country Auditors Regulations 2017 (SI 2017/516) and the EU Regulation (537/2014) on specific requirements regarding statutory audit of public-interest entities as it forms part of domestic law of the United Kingdom by virtue of the European Union (Withdrawal) Act 2018; and
- (b) the 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 or derives from that EU Regulation (537/2014) or that EU Directive (2014/56/EU).

“Auditors” means any firm appointed by Topco or the Issuer to act as its statutory auditors.

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

“Ares Entity” means any Ares Investor together with any Ares Related Entity.

“Ares Investor” means Ares Management Limited, Ares Capital Europe V (E) Investments S.à r.l., Ares Capital Europe V (G) Investments S.à r.l., Ares Capital Europe V (E) (L) Investments S.à r.l. and Ares Capital Europe V (G) (L) Investments S.à r.l.

“Ares Noteholder” means a Noteholder who is an Ares Entity.

“Ares Related Entity” means funds or other accounts managed or advised by Ares Management Limited, Ares Management UK Limited and/or Ares Management Luxembourg and/or any affiliate of the foregoing.

“Ares Senior Lender” means an Ares Entity which is a Lender under and as defined in the Senior Facilities Agreement.

“Ares Subscription Agreement” means the letter of application for shares in Topco dated on or around the date of this Agreement and made between Ares Noteholders and/or Ares Related Entities, Topco, Kensington Capital Limited and Belgravia Investments Limited.

“Availability Period” means:

- (a) in relation to the Original Facility, the period from and including the date of this Agreement to and including the last day of the Certain Funds Period; and
- (b) in relation to any Incremental Facility, the period from the establishment of any Incremental Facility Commitments pursuant to Clause 6 (*Incremental Facility*) to and including the date falling one Month prior to the Termination Date or as otherwise agreed between the Issuer and the Incremental Facility Noteholders.

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

- (a) the Base Currency Amount of the Note(s) then held by such Noteholder under that Facility; and
- (b) in relation to any proposed Notes Subscription, the Base Currency Amount of any other Notes that are due to be issued under that Facility on or before the proposed Notes Subscription Date and held by such Noteholder.

“Available Facility” means, in relation to a Facility, the aggregate for the time being of each Noteholder’s Available Commitment in respect of that Facility.

“Base Case Model” means the financial model in agreed form relating to the Senior Group (for these purposes assuming completion of the Acquisition) and delivered to the Agent under Clause 4.1 (*Initial conditions precedent*).

“Base Currency” means Sterling.

“Base Currency Amount” means, in relation to a Note under a Facility, the amount specified in the Notes Subscription delivered by the Issuer as adjusted to reflect any redemption, repayment, prepayment, consolidation or division of any Notes.

“Borrowings” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Budget” means:

- (a) in relation to the period beginning on the date of this Agreement and ending on 1 October 2023, the Base Case Model delivered to the Agent under Clause 4.1 (*Initial conditions precedent*); and

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

“Business Day” means a day (other than a Saturday or Sunday) on which banks are open for general business in London and, for the purposes of Clause 5.1 (*Delivery of a Notes Subscription Request*) and Clause 5.2 (*Completion of a Notes Subscription Request*), Luxembourg.

“Call Option” has the meaning given to that expression in Clause 11 (*Mandatory Redemption and Cancellation*).

“Capital Expenditure” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Care Services Regulations” means any regulation of any governmental, intergovernmental or supranational body, agency or department of any regulatory or other authority or organisation, and in the case of any provision of law including any amendment or re-enactment and any subordinate legislation made under it, relating to the regulation of care services, education or specialist education in any Relevant Jurisdiction, or any jurisdiction where any member of the Group conducts its business, including but not limited to subordinate legislation made under the following statutes:

- (a) the Adoption and Children Act 2002;
- (b) the Care Standards Act 2000;
- (c) the Childcare Act 2006;
- (d) the Children Act 1989;
- (e) Children and Families (Wales) Measure 2010;
- (f) the Education Act 2002;
- (g) the Education and Skills Act 2008;
- (h) the Health and Social Care Act 2008;
- (i) the Health and Social Care Act 2012;
- (j) the Public Services Reform (Scotland) Act 2010;
- (k) Regulation and Inspection of Social Care (Wales) Act 2016; and
- (l) Social Services and Well-being (Wales) Act 2014.

“Cash” means, at any time, cash 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 a member of the Group is alone (or together with other members of the Group) beneficially entitled and for so long as:

- (a) that cash is repayable within 60 days after the relevant date of calculation but including any cash held on time deposit which is capable of being broken and the balance recovered on same day notice *provided that* any such cash shall only be taken into account net of any penalties or costs which would be incurred in breaking the relevant time deposit;
- (b) 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 other than any such condition imposed by the customary terms of a netting or set-

off arrangement entered into by members of the Group in the ordinary course of their banking arrangements;

- (c) there is no Security over that cash except for Transaction Security, the Senior Transaction Security or any Permitted Security constituted by Security in favour of account-holding banks arising under their general terms and conditions or by a netting or set-off arrangement entered into by members of the Group in the ordinary course of their banking arrangements; and
- (d) the cash is freely and (except as mentioned in paragraphs (a) and/or (b) above and for any required corporate action (if any)) immediately available to be applied in repayment or prepayment of the Facilities.

“Cash Equivalent Investments” means, at any time:

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

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

“Cash Pay Margin” means:

- (a) in relation to any Original Facility Notes, 2.00 per cent. per annum; and
- (b) in relation to any Incremental Facility Notes, such amount as may be agreed between the Incremental Facility Noteholder and the Issuer *provided that* the rate in respect of an Emergency Facility shall be determined by relevant THCP Entity (in their absolute discretion, acting reasonably).

“CEO” means the chief executive officer of the Group for the time being.

“Certain Funds Notes Subscription” means a Notes Subscription made or to be made during the Certain Funds Period where the amounts received by the Issuer as a result of the subscription of the Original Facility Notes pursuant to such Notes Subscription are to be applied solely for an Acquisition Purpose.

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

- (a) the End Date;
- (b)
 - (i) where the Acquisition is being effected by way of Scheme, the earlier of:
 - (A) 11.59 p.m. London time on the date on which the Scheme lapses in accordance with the Takeover Code (including, subject to exhausting any rights of appeal, if the Court refuses to sanction the Scheme) or is withdrawn with the consent of the Takeover Panel or by order of the Court; and
 - (B) 11.59 p.m. London time on the date on which the Target has become a wholly-owned subsidiary of the Senior Borrower and all of the consideration payable under the Acquisition in respect of the Target Shares has been paid in full; or
 - (ii) if the Acquisition is being effected by way of an Offer, the earlier of:
 - (A) 11.59 p.m. London time on the date on which the Offer lapses in accordance with the Takeover Code, terminates or is withdrawn in accordance with its terms and in compliance with the Takeover Code, the requirements of the Takeover Panel and all applicable laws and regulations; and
 - (B) 11.59 p.m. London time on the date on which the Target has become a wholly-owned subsidiary of the Senior Borrower and all of the consideration payable under the Acquisition in respect of the Target Shares has been paid in full including in respect of the acquisition of any Target Shares to be acquired after the Closing Date (including pursuant to a Squeeze Out Procedure),

provided that, for the avoidance of doubt, neither: the service of an Offer Conversion Notice and the subsequent occurrence of an Offer Conversion nor the service of a Scheme Conversion Notice and the subsequent occurrence of a Scheme Conversion, (or, for the avoidance of

doubt, any amendments to the terms or conditions of a Scheme or an Offer as a consequence of either of these events occurring) shall constitute a “lapse”, “termination” or “withdrawal” for the purposes of this definition.

“**CFO**” means the chief financial officer of the Group for the time being (which at the date of this Agreement is Christopher Dickinson).

“**Change of Control**” has the meaning given to that expression in Clause 11 (*Mandatory Redemption and Cancellation*).

“**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.

“**Clean-Up Period**” means the Initial Clean-Up Period or a Permitted Acquisition Clean-Up Period.

“**Closing Date**” means the date on which the first Certain Funds Notes Subscription occurs.

“**Code**” means the US Internal Revenue Code of 1986.

“**Committed Noteholder**” means:

- (a) an Original Committed Noteholder; or
- (b) any other Noteholder designated as a Committed Noteholder in the Transfer Certificate by which it became a Party as a Noteholder.

“**Commercial Due Diligence Report**” means the commercial due diligence report prepared by Candesic Limited and dated 12 May 2022 relating to the Acquisition and capable of being relied upon by the Reliance Parties.

“**Commitment**” means an Original Facility Commitment or an Incremental Facility Commitment.

“**Competitor**” means any person or entity:

- (a) which is a competitor of the Group in any of the material current activities of the Group within the United Kingdom (a “**Principal Competitor**”);
- (b) that is acting on behalf of a Principal Competitor; or
- (c) that is an Affiliate of a Principal Competitor, unless such Affiliate is a financial institution or an investment fund or an institutional investor (or a wholly owned subsidiary of a financial institution, investment fund or institutional investor) which has been established for at least six months and, during that period, regularly engaged in making, purchasing or investing in loans or debt securities, which is managed and controlled independently from the Principal Competitor, which does not hold (directly or indirectly) any equity interest in a Principal Competitor and which is administered by persons operating behind appropriate information barriers implemented or maintained as required by law, regulation and internal policy and, in any event, to the extent required to ensure that such administration is independent from such person’s interests under the Finance Documents and any information provided under the Finance Documents is not (and is not capable of being) disclosed or otherwise made available to any person operating behind such information barrier.

“**Compliance Certificate**” means a certificate substantially in the form set out in Schedule 7 (*Form of Compliance Certificate*).

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

- (a) the Consortium, any member of the Group, the Target Group or any of its or their advisers, or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group or the Target Group or any of its or their advisers,

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

- (i) information that:
 - (A) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 40 (*Confidential Information*); or
 - (B) is identified in writing at the time of delivery as non-confidential by any member of the Group or the Target Group or any of its advisers; or
 - (C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraph (A) or (B) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Consortium, the Group or the Target Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

“Confidentiality Undertaking” means a confidentiality undertaking substantially in a recommended form of the LMA from time to time or in any other form agreed between the Issuer and the Agent (or between the Issuer and a Noteholder).

“Consortium” means:

- (a) any THCP Entity; and/or
- (b) the Sheikh Group.

“Contribution Notice” means a contribution notice issued by the Pensions Regulator under section 38 or section 47 of the Pensions Act 2004.

“Corresponding Prepayment Proceeds” has the meaning given to that term in Clause 11.2 (*Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds*).

“Covenant Deferred Consideration” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Court” means the High Court of Justice in England and Wales.

“Court Order” means the order of the Court sanctioning the Scheme as required by section 899 of the Companies Act.

“CTA” the Corporation Tax Act 2009.

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

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

any Commitment or amount outstanding under this Agreement.

“**Default**” means an Event of Default or any event or circumstance specified in Clause 26 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

“**Defaulting Noteholder**” means any Noteholder:

- (a) which has failed to subscribe for Notes or has notified the Agent or the Issuer (which has notified the Agent) that it will not subscribe for Notes by the Notes Subscription Date for those Notes in accordance with Clause 5.5 (*Noteholders’ subscription*);
- (b) which has otherwise rescinded or repudiated a Finance Document; or
- (c) with respect to which an Insolvency Event has occurred and is continuing,

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

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

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

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

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

“**Disruption Event**” means either or both of:

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

Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or

- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
 - (i) from performing its payment obligations under the Finance Documents; or
 - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

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

“Drag-Along Right” means the drag-along rights described in part B of schedule 4 of the Shareholders’ Agreement.

“EBITDA” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Effective Date” means the date on which the Court Order is filed with the Registrar of Companies as required by section 899 of the Companies Act.

“Eligible Institution” means any Noteholder or other bank, financial institution, trust, fund or other entity selected by the Issuer and which, in each case, is not a member of the Group.

“Emergency Facility” means an Incremental Facility including as new or existing facility commitment(s) and/or as an additional tranche made available under this Agreement following the occurrence of a Funding Event.

“End Date” means 28 February 2023.

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

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

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

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

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

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

“Equity Interests” means, with respect to any person, the shares, interests, rights, participations or other equivalents (however designated) of capital stock of (or other ownership or profit interests or units in) such person and the warrants, options or other rights for the purchase, acquisition or exchange from such person of any of the foregoing (including through convertible securities).

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

“Exceptional Items” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Excluded Acquisition Proceeds” has the meaning given to that term in Clause 11.2 (*Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds*).

“Excluded Disposal Proceeds” has the meaning given to that term in Clause 11.2 (*Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds*).

“Excluded Entity” means any member of the Group that is incorporated in an Excluded Jurisdiction.

“Excluded Insurance Proceeds” has the meaning given to that term in Clause 11.2 (*Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds*).

“Excluded Jurisdiction” means the United Arab Emirates.

“Existing Facilities Agreement” means the term and revolving facilities agreement originally dated 16 August 2018 entered into between, amongst others, the Target and National Westminster Bank PLC (as agent and security trustee) as amended and/or restated from time to time (including, as amended on 24 August 2018 and on 23 October 2018 and as amended and restated on 8 June 2021).

“Facility” means the Original Facility or the Incremental Facility.

“Facility Office” means:

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

“FATCA” means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or

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

“FATCA Application Date” means:

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

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

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

“Fee Letter” means:

- (a) any letter or letters dated on or about the date of this Agreement between the Arrangers and the Issuer (the Agent and the Issuer or the Security Agent and the Issuer) setting out any of the fees referred to in Clause 15 (*Fees*);
- (b) any agreement setting out fees payable to a Finance Party referred to in paragraph (f) of Clause 2.2 (*Increase*) or under any other Finance Document; and
- (c) any agreement setting out fees payable to a Finance Party in respect of an Incremental Facility referred to in Clause 6 (*Incremental Facility*) or under any other Finance Document *provided that* fees payable in respect of an Emergency Facility shall be determined by relevant THCP Entity (in their absolute discretion, acting reasonably).

“Final Closing Date” means the first date on which the Senior Parent or the Senior Borrower (or any of its Subsidiaries) acquires all of the Target Shares.

“Finance Document” means this Agreement, the Subordination Agreement, the Senior Intercreditor Agreement, any Compliance Certificate, any Fee Letter, any Selection Notice, the Project Amalfi Side Letter, any Incremental Facility Noteholder Certificate, any Notes Certificate, any Incremental Facility Notice, any Resignation Letter, any Accession Deed, any Transaction Security Document, any Notes Subscription Request, and any other document designated as a **“Finance Document”** by the Agent and the Issuer.

“Finance Lease” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Finance Party” means the Agent, the Security Agent, the Arrangers or a Noteholder.

“Financial and Tax Due Diligence Report” means the financial and tax due diligence report prepared by PricewaterhouseCoopers LLP dated on or around the date of this Agreement relating to the Target and its Subsidiaries.

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

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

- (b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
- (c) any note purchase facility or the issue of bonds (but not Trade Instruments), notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of Finance Leases;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of:
 - (i) an underlying liability (but not, in any case, Trade Instruments) of an entity which is not a 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;
- (h) any amount raised by the issue of shares to a person who is not a member of the Group, which shares are redeemable (other than at the option of the issuer) before the Termination Date for the Original Facility or a term facility under the Senior Facilities Agreement or are otherwise classified as borrowings under the Accounting Principles;
- (i) any amount of any liability under an advance or deferred purchase agreement if:
 - (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question; or
 - (ii) the agreement is in respect of the supply of assets or services and payment is due more than 120 days after the date of supply;
- (j) 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 (other than any amount which is expressly excluded under any other paragraph of this definition of Financial Indebtedness, any Treasury Transactions or any trade credit given to any member of the Group in the ordinary course of trade);
- (k) deferred consideration (excluding any contingent deferred consideration or any contingent earn-out payment) in relation to a Senior Permitted Bolt-on Acquisition; and
- (l) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (k) above,

excluding:

- (i) any liability under any lease which is or would be treated as a real estate or operating lease in accordance with the Accounting Principles as applied by the members of the Group as at 31 December 2018 but which would be treated as a finance or capital

lease in accordance with the Accounting Principles as applied by members of the Group at any subsequent relevant time;

- (ii) pension liabilities which are treated as borrowings or financial debt under IFRS.

“Financial Quarter” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Financial Support Direction” means a financial support direction issued by the Pensions Regulator under section 43 of the Pensions Act 2004.

“Financial Year” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Funding Event” means:

- (a) any requirement of Clause 26.2 (*Financial condition*) of the Senior Facilities Agreement is not satisfied (prior to the application of Clause 26.4 (*Equity Cure*) of the Senior Facilities Agreement), or any such requirement is projected to be breached within the next 6 months;
- (b) a Senior Obligor does not pay on the due date any amount due and payable pursuant to a Senior Finance Document, or a Senior Obligor provides notice that it will not, or it is projected that a Senior Obligor will not within the next 6 months, pay on the due date any amount due and payable pursuant to a Senior Finance Document;
- (c) an Event of Default under clause 28.6 (*Insolvency*), clause 28.7 (*Insolvency proceedings*) or clause 28.8 (*Creditors’ process*) of the Senior Facilities Agreement has occurred (or is reasonably likely to occur), or such Event of Default is projected to occur within the next 60 days; or
- (d) a member of the Senior Group has a material cash requirement (that it is not able to meet by utilising the Revolving Facility (as defined in the Senior Facilities Agreement) or from other committed and available resources) which is required in order to satisfy creditor demands or to meet on-going trading terms in the ordinary course of business, or an anticipated liquidity deficit, in each case within the next 6 months, which is designated as a “Funding Event” by a THCP Entity (*provided that* there shall be no Funding Event under this paragraph (d) if the board of directors of Topco (acting reasonably and in good faith) has advised the Agent that there are other mitigating factors in respect of the material requirement for cash or anticipated liquidity deficit which will resolve these issues).

“Group” means Topco and each of its respective Subsidiaries for the time being, including following the Acquisition, the Target Group.

“Group Initiative” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Group Relief” means the surrender of losses or other amounts eligible for surrender under part 5 or part 5A of the Corporation Taxes Act 2010.

“Group Structure Chart” means the group structure chart in the agreed form.

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

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

“**IFRS**” means UK adopted international accounting standards within the meaning of section 474(1) of the Companies Act 2006 to the extent applicable to the relevant financial statements.

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

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

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

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

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

“**Increase Noteholder**” has the meaning given to that term in Clause 2.2 (*Increase*) below.

“**Incremental Facility**” means the uncommitted term loan facility made available under this Agreement as described in Clause 6 (*Incremental Facility*) (including any Emergency Facility).

“**Incremental Facility Commitment**” means, in relation to any Incremental Facility Noteholder, the aggregate amount in the Base Currency of any commitments in respect of the Incremental Facility assumed by it in accordance with Clause 6 (*Incremental Facility*) to the extent not cancelled, reduced or transferred by it under this Agreement.

“**Incremental Facility Commitment Commencement Date**” means the date (which must be a Business Day) upon which an Incremental Facility is to become available for subscription.

“**Incremental Facility Noteholder**” means:

- (a) each Noteholder identified in the Incremental Facility Notice and which makes an Incremental Facility Commitment available under Clause 6 (*Incremental Facility*); or
- (b) each Noteholder to whom any Incremental Facility Notes issued under an Incremental Facility are transferred under this Agreement.

“**Incremental Facility Noteholder Certificate**” means a document substantially in the form set out in Schedule 11 (*Form of Incremental Facility Noteholder Certificate*).

“Incremental Facility Note” means an interest bearing note issued or to be issued under any Incremental Facility or the principal amount outstanding for the time being of that note.

“Incremental Facility Notice” means a notice to the Agent (setting out the information required pursuant to Clause 6 (*Incremental Facility*)) by the relevant Noteholders and the Issuer (including a notice signed and delivered by a THCP Entity on behalf of the Issuer in accordance with Clause 6 (*Incremental Facility*) to establish commitments under an Emergency Facility), substantially in the form set out in Schedule 10 (*Form of Incremental Facility Notice*).

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

“Initial Clean-Up Period” means the period beginning on the date of this Agreement and ending on the date falling 90 days after the Closing Date.

“Initial Valuation” means the desktop valuation of the Real Property owned by the Target Group prepared by Knight Frank LLP and prepared on the basis of the market value as that term is defined in the then current Statements of Asset Valuation Practice and Guidance Notes issued by the Royal Institution of Chartered Surveyors, delivered as a condition precedent under this Agreement on or before the date of this Agreement.

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

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;
- (e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (d) above and:
 - (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
 - (ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
- (f) has exercised in respect of it one or more of the stabilisation powers pursuant to part 1 of the Banking Act 2009 and/or has instituted against it a bank insolvency proceeding pursuant to part 2 of the Banking Act 2009 or a bank administration proceeding pursuant to part 3 of the Banking Act 2009;

- (g) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (h) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets (other than, for so long as it is required by law or regulation not to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in paragraph (d) above);
- (i) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;
- (j) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (i) above; or
- (k) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

“Institutional Associate” has the meaning given to that term in the Shareholders’ Agreement.

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

“Intellectual Property” means:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets of each Obligor (which may now or in the future subsist).

“Interest Period” means, in relation to a Note, each period determined in accordance with Clause 14 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 13.6 (*Default Interest*).

“Investor-Entity” means an Ares Entity or a THCP Entity.

“Investor-Noteholder” means an Ares Noteholder or a THCP Noteholder.

“ITA” means the Income Tax Act 2007.

“Jersey Guarantor” means any Guarantor incorporated in Jersey.

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

“Lease” means any present or future lease, underlease, sub-lease, licence, tenancy or right to occupy all or part of a property and any agreement for the grant of any of the foregoing.

“Legal Due Diligence Report” means the legal due diligence report dated 13 June 2022 prepared by Ashurst LLP relating to the Acquisition and the Target Group and addressed to, and/or capable of being relied upon by, the Reliance Parties.

“Legal Opinion” means any legal opinion delivered to the Agent under Clause 4.1 (*Initial conditions precedent*) or Clause 29 (*Changes to the Obligors*).

“Legal Reservations” means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;
- (c) the principle that in certain circumstances Security granted by way of fixed charge may be recharacterised as a floating charge or that Security purported to be constituted by an assignment may be recharacterised as a charge;
- (d) the principle that any provision for the payment of compensation or additional interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty and thus void;
- (e) the principle that an English court may not give effect to a provision dealing with the cost of litigation where the litigation is unsuccessful or the court itself has made an order for costs;
- (f) the principle that the creation or purported creation of Security over any contract or agreement which is subject to a prohibition on transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach of the contract or agreement over which such security has been granted;
- (g) the principle that the legality, validity, binding nature or enforceability of any Transaction Security which is not governed by the laws of the jurisdiction where the asset or assets purported to be secured under the relevant Transaction Security Document is situated may be flawed;
- (h) the uncertainty as to the continued application in the UK of EU derived laws after the end of the implementation period referred to in the European Union (Withdrawal Agreement) Act 2020;
- (i) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and
- (j) any other matters which are set out as qualifications or reservations as to matters of law of general application in the Legal Opinions.

“Limitation Acts” means the Limitation Act 1980, the Foreign Limitation Periods Act 1984 and the Prescription and Limitations (Scotland) Act 1973.

“Listing” means:

- (a) 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 (other than an Topco Shareholders (or a member of the Consortium))) to the Official List maintained by the Financial

Conduct Authority (acting in accordance with Part 6 of the Financial Services and Markets Act 2000) 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 (other than an Topco Shareholders (or a member of the Consortium))) to trading on the London Stock Exchange plc; or

- (b) 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 (other than an Topco Shareholders (or a member of the Consortium))) on the Alternative Investment 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.

“**LMA**” means the Loan Market Association.

“**Loan to Own Investor**” means any person or entity:

- (a) whose principal business or material activity is in investment strategies the primary purpose of which is the purchase of loans or other debt securities with the intention of (or view to) owning the equity or gaining control of a business (directly or indirectly) (a “loan to own strategy”) (a “**Principal Loan to Own Investor**”);
- (b) whose principal business or material activity is in investment strategies primarily in distressed credits or opportunistic or special situations (an “**credit opportunities strategy**”) (a “**Principal Credit Opportunities Investor**”); or
- (c) that is an Affiliate or Related Entity of a Principal Loan to Own Investor or a Principal Credit Opportunities Investor, unless such Affiliate or Related Entity is a financial institution which has been established for at least six months and, during that period, regularly engaged in making, purchasing or investing in loans or debt securities, which does not have a loan-to-own strategy or a credit opportunities strategy as one of its investment strategies, which is managed and controlled independently from such person and which is administered by persons operating behind appropriate information barriers implemented or maintained as required by law, regulation and internal policy and, in any event, to the extent required to ensure that such administration is independent from such person’s interests under the Finance Documents and any information provided under the Finance Documents is not (and is not capable of being) disclosed or otherwise made available to any person operating behind such information barrier.

“**Lock-up Period**” has the meaning given to that term in the Shareholders’ Agreement as at the date of this Agreement.

“**Majority Noteholders**” means a Noteholder or Noteholders whose Commitments aggregate more than 50.1 per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 50.1 per cent. of the Total Commitments immediately prior to that reduction).

“**Mandatory Valuation**” has the meaning given to that term in Clause 23.5 (*Requirements as to financial statements*)

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

- (a) the business, property or financial condition of the Group taken as a whole (but for this purpose any effect on the ability of the Issuer to comply with its obligations under Clause 24.3 (*Financial condition*) shall not, for that reason alone, be a Material Adverse Effect);

- (b) the ability of the Obligors (taken as a whole) to perform their payment obligations under the Finance Documents (taking into account the financial resources available within or to the Group); or
- (c) subject to the Legal Reservations and any Perfection Requirements, the validity or enforceability of any Finance Document, or the effectiveness or ranking of any Security granted or purporting to be granted pursuant to any of the Finance Documents in a way that is materially adverse to the Finance Parties as a whole and which, if capable of remedy, is not remedied within 20 Business Days of the earlier of the Issuer becoming aware of the event or the Agent giving notice to the Issuer of the same.

“Material Company” means, at any time:

- (a) an Obligor; or
- (b) a wholly-owned member of the Group that holds shares in an Obligor (and a wholly-owned member of the Group (which is not itself an Excluded Entity) that holds shares, directly or indirectly, in an Excluded Entity which is a Material Company under paragraph (c) below); or
- (c) a Subsidiary (direct or indirect) of the Senior Parent which has earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) representing five per cent or more of EBITDA of the Senior Group (excluding goodwill, intragroup items and investments in Subsidiaries of any member of the Senior Group) calculated on a consolidated basis, *provided that* in determining whether a Subsidiary of the Senior Parent satisfies the criteria for being a Material Company under this paragraph (c):
 - (i) any Subsidiary of the Senior Parent which has negative EBITDA shall be treated as if its EBITDA were zero; and
 - (ii) the EBITDA of any member of the Senior Group which cannot become a Guarantor due to legal prohibitions or under the terms of the Senior Agreed Security Principles (including any member of the Senior Group incorporated in an Excluded Jurisdiction (as defined in the Senior Facilities Agreement)) shall be excluded from the denominator, unless such entity has nonetheless become a Guarantor.

Compliance with the conditions set out in paragraph (c) above shall be determined by reference to the most recent Compliance Certificate supplied by the Issuer to accompany the audited consolidated financial statements of the Senior Group, the latest audited financial statements of that Subsidiary of the Senior Parent (consolidated in the case of a Subsidiary of the Senior Parent which itself has Subsidiaries) and the latest audited consolidated financial statements of the Senior Group.

A report by Topco’s Auditors that a Subsidiary of the Senior Parent is or is not a Material Company shall, in the absence of manifest error, and *provided that* the Topco’s Auditors were (prior to making delivery of the report) made aware of the fact that such report is to be disclosed to the Finance Parties (on a non-reliance basis), be conclusive and binding on all Parties.

“Minimum Secured Property Condition” has the meaning given to that term in paragraph (c) of Clause 25.39 (*Conditions subsequent*).

“Minimum Secured Property Value” means £425,000,000.

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

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period. “**Monthly**” shall be construed accordingly.

“**Net Proceeds**” has the meaning given to that term in Clause 11.2 (*Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds*).

“**New Noteholder**” has the meaning given to that term in Clause 27.1 (*Transfers by the Noteholders*).

“**New Shareholder Injections**” means the aggregate amount subscribed for by Topco (net of any arrangement fee permitted pursuant to paragraph (a) of the definition of Permitted Payment) for:

- (a) new Equity Interests (excluding, for the avoidance of doubt, Equity Interests owned by Topco at the Closing Date) in the Issuer issued pursuant to a Permitted Share Issue; or
- (b) Subordinated Debt,

in each case received in cash by the Issuer after the Closing Date.

“**Non Clean-up Default**” means an Event of Default occurring under Clause 26.1 (*Non-payment*), Clause 26.6 (*Insolvency*), Clause 26.7 (*Insolvency proceedings*) or Clause 26.8 (*Creditors’ process*).

“**Non-Consenting Noteholder**” has the meaning given to that term in Clause 39.7 (*Replacement of Noteholder*).

“**Non-Midco Group Entity**” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“**Note**” means an Original Facility Note, a PIK Note and/or an Incremental Facility Note.

“**Noteholder**” means:

- (a) any Original Noteholder; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party as a “Noteholder” in accordance with Clause 2.2 (*Increase*), Clause 6 (*Incremental Facility*) or Clause 27 (*Changes to the Noteholders*),

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

“**Note Certificate**” means a notes certificate in the form set out in Schedule 12 (*Form of Notes Certificate*) or in any other form agreed between the Agent and the Issuer (each acting reasonably).

“**Notes Subscription**” means a subscription by the relevant Noteholders (acting through the Agent) for Notes issued by the Issuer under a Facility made in accordance with the terms of this Agreement.

“Notes Subscription Date” means the date of a Notes Subscription, being the date on which the relevant Notes Subscription is to be made.

“Notes Subscription Request” means a notice substantially in the relevant form set out in Part 1 of Schedule 3 (*Requests and Notices*).

“Notifiable Event” means any event notifiable under:

- (a) regulation 16, 17 and 18 of the Care Quality Commission (Regulated Activities) Regulations 2009;
- (b) regulations 40-42 of the Children's Homes (England) Regulations 2015;
- (c) regulation 38 of the Care Homes (Wales) Regulations 2002;
- (d) regulation 21 of the Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002; or
- (e) regulations 30 and 31 of the Independent Health Care (Wales) Regulations 2011.

“Offer” means a contractual offer made by the Senior Borrower to effect the Acquisition on the terms contained in the Offer Document (as such offer may from time to time be amended, extended, revised, renewed or waived with the consent of the Majority Noteholders where required under this Agreement).

“Offer Conversion” means the Senior Borrower procuring the withdrawal or termination of a Scheme and issuing an Offer Press Announcement in accordance with Clause 3.3 (*Conversion between a Scheme and Offer*).

“Offer Conversion Notice” has the meaning given to that term in Clause 3.3 (*Conversion between a Scheme and Offer*).

“Offer Document” means the offer document to be sent by the Senior Borrower to the Target Shareholders in respect of the Offer.

“Offer Press Announcement” means the formal press announcement of the Offer required to be issued in compliance with section 8(c) of Appendix 7 of the Takeover Code in relation to the Offer.

“Obligor” means the Issuer or a Guarantor.

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

“Opco Senior Creditor” has the meaning given to the term “Primary Creditor” in the Senior Intercreditor Agreement.

“Original Facility” means the facility made available under this Agreement as described in paragraph (a) of Clause 2.1 (*The Facilities*).

“Original Facility Commitment” means:

- (a) in relation to an Original Noteholder, the amount in the Base Currency set opposite its name under the heading “Original Facility Commitment” in Schedule 1 (*The Original Parties*) and the amount of any other Original Facility Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*), less the amount of any Original

Facility Commitment of that Original Committed Noteholder as is attributed to an Alternative Noteholder which has become a Alternative Committed Noteholder in accordance with Clause 2.3 (*Alternative Noteholder*);

- (b) in relation to an Alternative Noteholder, the amount of any Original Facility Commitment as is attributed to that Alternative Noteholder which has become an Alternative Committed Noteholder in accordance with Clause 2.3 (*Alternative Noteholder*); and
- (c) in relation to any other Noteholder, the amount in the Base Currency of any Original Facility Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*),

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

“Original Facility Noteholder” means any Noteholder who makes available an Original Facility Commitment or subscribes for Original Facility Notes.

“Original Facility Note” means an interest bearing note issued or to be issued under the Original Facility or the principal amount outstanding for the time being of that note.

“Original Financial Statements” means:

- (a) in relation to the Target, its consolidated audited financial statements for its Financial Year ended 30 September 2021; and
- (b) in relation to any Additional Guarantor, its audited financial statements delivered to the Agent as required by Clause 29 (*Changes to the Obligors*).

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

“Original Obligor” means the Issuer or an Original Guarantor.

“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.

“Participation Agreement” has the meaning given to that term in Clause 27.4 (*Sub-participations*).

“Party” means a party to this Agreement.

“Pension Items” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Pensions Regulator” means the body corporate called the Pensions Regulator established under part I of the Pensions Act 2004.

“Perfection Requirements” means any and all registrations, filings, notices and other actions and steps required to be made in any jurisdiction in order to perfect security created by the Transaction Security Documents or in order to achieve the relevant priority for such Security;

“Permitted Acquisition” means:

- (a) the Acquisition;

- (b) an acquisition of securities which are Cash Equivalent Investments *provided that*, those Cash Equivalent Investments become subject to the Transaction Security as soon as is reasonably practicable;
- (c) in the case of Topco, the acquisition of shares in the Issuer and/or, in the case of the Issuer, the acquisition of the shares in the Senior Parent;
- (d) in the case of any member of the Senior Group only, an acquisition or transaction which constitutes a Senior Permitted Acquisition *provided that* any acquisition or transaction which constitutes a Senior Permitted Acquisition on the basis of having been approved by all or some of the Senior Finance Parties shall not be deemed a “Senior Permitted Acquisition” or a “Permitted Acquisition” for the purposes of this Agreement; and
- (e) any acquisition to which the Majority Noteholders have given their prior written consent.

“Permitted Acquisition Clean-Up Period” means, in relation to a Senior Permitted Bolt-on Acquisition, the period beginning on the closing date for that acquisition and ending on the date falling 90 days after that closing date or on such other date agreed by the Majority Noteholders.

“Permitted Disposal” means any sale, lease, licence, transfer or other disposal which is on arm’s length terms:

- (a) of Cash or Cash Equivalent Investments;
- (b) arising as a result of a Permitted Transaction, Permitted Payment, Permitted Surrender or any Permitted Security;
- (c) in the case of any member of the Senior Group only, any disposal which constitutes a Senior Permitted Disposal *provided that* any disposal which constitutes a Senior Permitted Disposal on the basis of having been approved by all or some of the Senior Finance Parties shall not be deemed a “Senior Permitted Disposal” or a “Permitted Disposal” for the purposes of this Agreement; and
- (d) any disposal to which the Majority Noteholders have given their prior written consent.

“Permitted Financial Indebtedness” means Financial Indebtedness:

- (a) under the Finance Documents;
- (b) arising under any New Shareholder Injections;
- (c) any Subordinated Debt;
- (d) arising under a Permitted Loan, a Permitted Guarantee, a Permitted Transaction;
- (e) in the case of any member of the Senior Group only and subject to Clause 25.37 (*Anti-layering*), any Financial Indebtedness which constitutes a Senior Permitted Financial Indebtedness *provided that*:
 - (i) any such additional Financial Indebtedness under the Senior Facilities Agreement committed or utilised after the Closing Date (other than the Revolving Facility (as defined in the Senior Facilities Agreement)) shall only be permitted to the extent that the proceeds (net of any reasonably and properly incurred fees, costs and expenses or original issue discount relating to such Financial Indebtedness) are applied in prepayment of the Facilities; and

- (ii) any Financial Indebtedness which constitutes Senior Permitted Financial Indebtedness on the basis of having been approved by all or some of the Senior Finance Parties shall not be deemed a “Senior Permitted Financial Indebtedness” or a “Permitted Financial Indebtedness” for the purposes of this Agreement; and
- (f) any other Financial Indebtedness to which the Majority Noteholders have given their prior written consent.

“Permitted Guarantee” means:

- (a) any indemnity given in the ordinary course of the documentation of an acquisition or disposal transaction which is a Permitted Disposal or a Permitted Acquisition which indemnity is in a customary form and subject to customary limitation;
- (b) any guarantee given under the Finance Documents;
- (c) guarantees arising under a Permitted Transaction;
- (d) in the case of any member of the Senior Group only, any guarantee and indemnity which constitutes a Senior Permitted Guarantee *provided that* any guarantee and indemnity which constitutes a Senior Permitted Guarantee on the basis of having been approved by all or some of the Senior Finance Parties shall not be deemed a “Senior Permitted Guarantee” or a “Permitted Guarantee” for the purposes of this Agreement;
- (e) customary guarantees and indemnities in favour of directors and officers of Topco and the Issuer in their capacity as such;
- (f) customary indemnities to professional advisers and consultants under their standard terms of business; and
- (g) any guarantee to which the Majority Noteholders have given their consent.

“Permitted Loan” means:

- (a) any loan by the Issuer to the Senior Parent with either the proceeds received from (1) a subscription of an Incremental Facility Note or (2) New Shareholder Injections;
- (b) any loan by the Topco to the Issuer with the proceeds of New Shareholder Injections;
- (c) any loan arising under or required to complete a Permitted Transaction;
- (d) any loan by the Issuer which is a Permitted Payment;
- (e) in the case of any member of the Senior Group only, any loans which constitutes a Senior Permitted Loan *provided that* any loans which constitutes a Senior Permitted Loan on the basis of having been approved by all or some of the Senior Finance Parties shall not be deemed a “Senior Permitted Loan” or a “Permitted Loan” for the purposes of this Agreement; and
- (f) any loan to which the Majority Noteholders have given their consent,

provided that if the amount of the relevant Financial Indebtedness owed to a member of the Group by one or more members of the Senior Group exceeds £1,000,000, the creditor and (if the debtor is a member of the Senior Group which owes relevant Financial Indebtedness to one or more members of the Group in an amount which exceeds £1,000,000) the debtor of such Financial Indebtedness are or become party to the Subordination Agreement as an Intra-Group Lender and a Debtor (as defined,

each case, in the Subordination Agreement) respectively *provided further that* any Financial Indebtedness owed to or by a prospective Obligor shall be deemed to satisfy the requirements of this paragraph *if* such prospective Obligor becomes a party to the Subordination Agreement in the appropriate capacity at the same time it becomes an Obligor.

“Permitted Payment” means:

- (a) payments to fund the payment, prepayment or repayment of Tax and regulatory costs to the extent it solely relates to or is attributable to an Obligor or the Senior Group;
- (b) a payment by the Issuer or by the Issuer to Topco to fund:
 - (i) payments (by way of an approved payment) to enable the Issuer, Topco or any of Topco Shareholders (and their Affiliates or any vehicle through which a THCP Entity or its Affiliate holds its investment in the Topco) to meet any reasonable administrative costs, tax, insurance premiums, costs to maintain corporate existence, professional fees, audit fees, legal fees, regulatory and governmental costs and costs and expenses in connection with the registration, offering and exchange listing of shares or securities (and any similar expenses) incurred in the ordinary course of its business in each case to the extent directly referable to the ownership and management of the Group; and
 - (ii) so long as the Agent has not exercised any of the rights set out in Clause 26.19 (*Acceleration*), remuneration, fees or costs payable to chairpersons, directors, non-executive directors, observers, consultants or employees with service contracts or agreements with the Issuer or any of its Holding Companies which are solely attributable to acting as a chairperson, director, consultant or employee of the Issuer or any of its Holding Companies (other than the Consortium) in each case in the ordinary course of its business, and provided that such remuneration, fees or costs are reasonably and properly incurred,

provided that the aggregate amount of such payments does not exceed £2,000,000 (or its equivalent in any other currency) in any Financial Year (plus VAT if appropriate);

- (c) so long as no Relevant Event of Default is continuing, the payment (by way of dividends, repayments of loans and interest, the making of new loans or any other payment or distribution) by the Issuer to Topco and by Topco to members of the Sheikh Group of ongoing fees up to an aggregate amount of £5,000,000 payable on or prior to the first anniversary of the Closing Date and a further aggregate amount of up to £5,000,000 payable after the first anniversary of the Closing Date but on or prior to the second anniversary of the Closing Date;
- (d) a payment (i) for the surrender of tax losses to any member of the Group or (ii) in respect of the reallocation of any taxable credit, profit or gain of any member of the Group to any other person *provided that* such payment does not exceed the amount of tax which is actually saved by that member of the Group as a result of the relevant surrender or reallocation;
- (e) so long as no Event of Default is continuing or would occur as a result, in the form of any payment made to a Holding Company of the Issuer or a member of the Consortium to enable the relevant Holding Company or a member of the Consortium to make payment of any underwriting, commitment, arrangement or other fees, costs or expenses incurred in connection with a Listing;
- (f) the payment (by way of dividends, repayments of loans and interest, the making of new loans or any other payment or distribution) from a member of the Senior Group to the Issuer; and

- (g) any other payment to which the:
 - (i) Majority Noteholders (if the Ares Senior Lenders comprise the Majority Lenders (as defined in the Senior Facilities Agreement) at that time); or
 - (ii) Original Noteholders and, to the extent they are Noteholders, their Related Entities (if the Ares Senior Lenders do not comprise the Majority Lenders (as defined in the Senior Facilities Agreement) at that time) but only to the extent that such Original Noteholders and Related Entities hold 50% or more of the Commitments held by the Original Noteholders and Related Entities as at the Closing Date,

have given their prior written consent,

provided that in each case, any such payment is not made in breach of the Subordination Agreement.

“Permitted Real Estate Transaction” means any arrangement entered into on or after the Closing Date with any person that is not a member of the Group whereby a member of the Senior Group sells, transfers or disposes of any real property and thereafter rents or leases such real property (or any other arrangement achieving a substantially similar commercial effect) but excluding assets which are subject to the Project Amalfi Real Estate Transaction *provided that*:

- (a) the aggregate net proceeds raised pursuant to such transactions do not exceed £200,000,000 (or its equivalent in any other currency) between the date of this Agreement and the latest Termination Date; and
- (b) immediately following the completion of any such transaction, the aggregate value of all the Sites owned by the Group (as calculated by reference to the most recent Valuation) exceeds 120 per cent of Total Net Debt as at the most recently ended Quarter Date (but pro forma for the application of any proceeds of such transaction which the Issuer has notified the Agent will be applied in prepayment of the Senior Facilities Agreement or the Facilities and provided such proceeds are so applied).

“Permitted Security” means:

- (a) any Security entered into pursuant to any Finance Document;
- (b) in the case of any member of the Senior Group, a Senior Permitted Security;
- (c) in the case of any member of the Senior Group only, any Security or Quasi-Security which constitutes a Senior Permitted Security *provided that* any Security or Quasi-Security which constitutes a Senior Permitted Security on the basis of having been approved by all or some of the Senior Finance Parties shall not be deemed a “Senior Permitted Security” or a “Permitted Security” for the purposes of this Agreement;
- (d) in respect of each Obligor, any Security or Quasi-Security in favour of a bank or financial institution in respect of a bank account and in accordance with the standard terms and conditions of such bank or financial institution or arising pursuant to applicable law; and
- (e) any Security to which the Majority Noteholders have given their prior written consent.

“Permitted Share Issue” means:

- (a) the issue of shares by Topco to any person paid for in full in cash upon issue and which by their terms are not redeemable prior to the Termination Date and where such issue does not

lead to a Change of Control *provided that* any such issuance is made in accordance with Topco's articles of association and the Shareholders' Agreement;

- (b) the issue of shares by (1) the Issuer to Topco only or (2) the Senior Parent to the Issuer only, *provided that* in each case any newly issued shares held by Topco or the Issuer (as applicable) become subject to Transaction Security;
- (c) in the case of any member of the Senior Group only, any issue of shares which constitutes a Senior Permitted Share Issue *provided that* (1) such issue does not lead to a Change of Control and (2) any issuance of shares which constitutes a Senior Permitted Share Issue on the basis of having been approved by all or some of the Senior Finance Parties shall not be deemed a Senior Permitted Share Issue or a Permitted Share Issue for the purposes of this Agreement; and
- (d) any issue of shares to which the Majority Noteholders have given their prior written consent.

"Permitted Surrender" means any surrender by any member of the Group of Group Relief provided that if the surrender is to an entity (the **"recipient"**) that is not a member of the Group:

- (a) no member of the Group may utilise such Group Relief; and
- (b) the recipient pays an amount in cash equal to the rate of corporation tax applicable to the relevant member of the Group for the period multiplied by the amount of Group Relief surrendered to the recipient not later than ten Business Days after such relief is surrendered.

"Permitted Synergies" has the meaning given to that term in Clause 24.2 (*Financial definitions*).

"Permitted Transaction" means:

- (a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the Finance Documents;
- (b) in the case of any member of the Senior Group only, any transaction which constitutes a Senior Permitted Transaction *provided that* any transaction which constitutes a Senior Permitted Transaction on the basis of having been approved by all or some of the Senior Finance Parties shall not be deemed a Senior Permitted Transaction or a Permitted Transaction for the purposes of this Agreement; and
- (c) any payments or other transactions expressly contemplated by the Structure Memorandum (other than (1) any exit steps, or (2) any cash repatriation steps out of the Group) and/or the Sources and Uses Statement but excluding such payments or transactions to the extent that they are made, effected or occur following the Closing Date.

"PIK Interest" has the meaning given to that term in paragraph (a) of Clause 13.4 (*PIK Interest*).

"PIK Margin" means:

- (a) in relation to any Original Facility Note, 9 per cent. per annum but if on or before the date which is 12 months after the Closing Date (the **"Project Amalfi S&LB Long Stop Date"**) the outstanding Financial Indebtedness under the Senior Facilities Agreement has not been prepaid in an aggregate amount equal to the lower of:
 - (i) the amount that would reduce the Total Net Debt (excluding for this purposes only Financial Indebtedness under the Finance Documents) such that Adjusted Leverage

for the Relevant Period ending on the most recent Quarter Date as at the date of calculation (pro forma for such prepayment) is not higher than 5.75:1; and

- (ii) £350,000,000 (or its equivalent in any other currency), or such lesser amount as may be required to be prepaid pursuant to paragraph (ii) of the definition of “Specified Real Estate Proceeds” in the Senior Facilities Agreement,

then from the day after the Project Amalfi S&B Long Stop Date, the PIK Margin for any Original Facility Note will increase by 1 per cent. per annum; and

- (b) in relation to any Incremental Facility Note, such rate as may be agreed between the Incremental Facility Noteholder and the Issuer pursuant to Clause 6 (*Incremental Facility*) *provided that* the rate in respect of an Emergency Facility shall be determined by relevant THCP Entity (in their absolute discretion, acting reasonably).

For the purpose of determining the PIK Margin, Adjusted Leverage and Relevant Period shall be determined in accordance with Clause 24.2 (*Financial definitions*).

“PIK Note” means an interest bearing note to be constituted on the same terms as this Agreement which may be issued from time to time by the Issuer in accordance with Clause 13.5 (*PIK Notes*) to satisfy all or part of its PIK Interest or Blocked PIK Interest obligations under this Agreement in respect of the Notes.

“Project Amalfi Leases” means the leases entered into pursuant to the Project Amalfi Real Estate Transactions.

“Project Amalfi Real Estate Committee” means the committee established to monitor the progress of the Project Amalfi Real Estate Transaction as set out in the Project Amalfi Real Estate Go to Market Proposal.

“Project Amalfi Real Estate Go to Market Proposal” means the go to market proposal in connection with the Project Amalfi Real Estate Transactions.

“Project Amalfi Real Estate Transactions” means any arrangement with any person that is not a member of the Group whereby a member of the Senior Group sells, transfers or disposes of any real property and thereafter rents or leases such real property (or any other arrangement achieving a substantially similar commercial effect), *provided that* the aggregate amount of Net Proceeds received in respect of the disposals may not exceed £350,000,000.

“Project Amalfi Side Letter” means the letter from the Senior Parent to Ares Management Limited (in its capacity as arranger under the Senior Facilities Agreement) and THCP Advisory Ltd (in its capacity as Arranger under this Agreement) dated on or around the date of this Agreement in relation to, among other things, the establishment of the Project Amalfi Real Estate Committee to monitor the progress of the Project Amalfi Real Estate Transactions.

“Property Valuation Report” means the valuation and property transaction due diligence report prepared by Cushman & Wakefield and dated 27 May 2022 and capable of being relied upon by the Reliance Parties.

“Quarter Date” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Quasi-Security” has the meaning given to that term in Clause 25.14 (*Negative pledge*).

“Real Property” means:

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

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

“Receiving Agent” means the receiving agent in respect of the Offer.

“Regulatory Authority” means any body responsible for regulating care services or related services in the Relevant Jurisdiction, or any jurisdiction where any member of the Group conducts its business, which at the date of this agreement includes in England, the Care Quality Commission and the Office for Standards in Education, Children's Services and Skills, in Scotland, Social Care and Social Work Improvement Scotland, in Northern Ireland, the Regulation and Quality Improvement Authority, and in Wales, the Healthcare Inspectorate Wales and the Care Inspectorate Wales and in each case includes any successor or replacement body.

“Related Entity” in relation to an entity (the **“first entity”**), means an entity which is managed or advised by the same investment manager or investment adviser as the first entity (or its Affiliates) or, if it is managed by a different investment manager or investment adviser, an entity whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first entity (or its Affiliates) and, in the case of any THCP Investor, any Institutional Associate of a THCP Investor.

“Relevant Date” means, either:

- (a) if the Acquisition is being effected by way of a Scheme, the Effective Date; or
- (b) if the Acquisition is being effected by way of an Offer, the Unconditional Date.

“Relevant Event of Default” means an Event of Default pursuant to:

- (a) Clause 26.1 (*Non-payment*);
- (b) Clause 26.2 (*Financial covenant and other obligations*) in relation to a breach of:
 - (i) paragraphs (a) and (b) of Clause 23.3 (*Financial statements*);
 - (ii) Clause 23.4 (*Provision and contents of Compliance Certificate*); or
 - (iii) Clause 24.3 (*Financial condition*);
- (c) Clause 26.6 (*Insolvency*);
- (d) Clause 26.7 (*Insolvency proceedings*); and/or
- (e) Clause 26.8 (*Creditors' process*).

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

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

- (a) its Original Jurisdiction;

- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated but only where that Obligor has granted Transaction Security governed by the laws of that jurisdiction; and
- (c) any jurisdiction where it conducts its business but only where that Obligor has granted Transaction Security governed by the laws of that jurisdiction.

“Relevant Period” has the meaning given to that term in Clause 24 (*Financial Covenants*).

“Reliance Parties” means the Agent, the Security Agent, the Arrangers and each Original Noteholder.

“Rent” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Repeating Representations” each of the representations set out in Clauses 22.2 (*Status*) to 22.7 (*Governing law and enforcement*), paragraph (a) of Clause 22.11 (*No default*), paragraph (g) of Clause 22.12 (*No misleading information*), paragraph (c) of Clause 22.13 (*Financial statements*), Clause 22.18 (*Anti-corruption law*), Clause 22.20 (*Ranking*) to paragraph (a) of Clause 22.22 (*Legal and beneficial ownership*), Clause 22.26 (*Centre of main interests*) and Clause 22.30 (*Sanctions*).

“Reports” means the Commercial Due Diligence Report, the Legal Due Diligence Report, the Financial and Tax Due Diligence Report, the Property Valuation Report, the Structure Memorandum and the Initial Valuation.

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

“Resignation Letter” means a letter substantially in the form set out in Schedule 6 (*Form of Resignation Letter*);

“Restricted Jurisdiction” means any jurisdiction, country or territory listed on any Sanctions List or which is, or whose government is, otherwise the subject of Sanctions.

“Restricted Person” means any person listed:

- (a) listed on, or owned or controlled by a person listed on any Sanctions List, or a person acting on behalf of such person; or
- (b) located in, incorporated under the laws of, or owned or controlled by, or acting on behalf of, a person located in or organised under the laws of a Restricted Jurisdiction; or
- (c) otherwise the target of Sanctions.

“Restructuring” means any step or series of coordinated steps being taken to implement a material refinancing or restructuring of the capital structure of the Group which has been precipitated by financial distress affecting the Group as a whole including, without limitation, a breach of financial covenant (including Senior Leverage) or a payment default (other than (a) any breach of financial covenant (including Senior Leverage) or payment default which is remedied and (b) any covenant reset, in each case in the ordinary course and not as part of a formal restructuring process) under the Senior Facilities Agreement.

“Sanctioned Country” means a country or territory which is or whose government is at any time subject to Sanctions, which countries and territories, as at the date of this Agreement, includes, without limitation, the Crimea, Donetsk and Luhansk regions of Ukraine, Cuba, Iran, Myanmar, North Korea, South Sudan, Sudan and Syria.

“Sanctions” means the economic or financial sanctions laws, regulations, sectoral or trade embargoes or other restrictive measures enacted, administered, implemented and/or enforced from time to time by any of the following (and including through any relevant Sanctions Authority):

- (a) the United Nations;
- (b) the European Union;
- (c) the government of the United States of America;
- (d) the government of the United Kingdom; and
- (e) the government of Canada.

“Sanctions Authorities” means any agency or person which is duly appointed, empowered or authorised to enact, administer, implement and/or enforce Sanctions, including (without limitation):

- (a) the United Nations;
- (b) the European Union;
- (c) OFAC;
- (d) the United States Department of State or the United States Department of Commerce;
- (e) Her Majesty's Treasury of the United Kingdom; and
- (f) the Governor in Council of Canada.

“Sanctions List” means any of the lists of designated sanctions targets maintained by a Sanctions Authority from time to time, including (without limitation) as at the date of this Agreement:

- (a) in the case of OFAC, the Specially Designated Nationals and Blocked Persons List and the Consolidated Sanctions List;
- (b) in the case of the United States Department of State or the United States Department of Commerce, the Denied Persons List, the List of Statutorily Debarred Parties, the Entity List and the Terrorist Exclusion List;
- (c) in the case of Her Majesty's Treasury of the United Kingdom, the Consolidated List of Financial Sanctions Targets and the List of Persons Subject to Restrictive Measures in View of Russia's Actions Destabilising the Situation in Ukraine;
- (d) in the case of the European Union, the Consolidated List of Persons, Groups and Entities Subject to EU Financial Sanctions; and
- (e) in the case of the Governor in Council of Canada, the Consolidated Canadian Autonomous Sanctions List, the Freezing Assets of Corrupt Foreign Officials lists and the List of Terrorist Entities.

“Scheme” means a scheme of arrangement under section 899 of the Companies Act, to be proposed by the Target to its shareholders to effect the Acquisition.

“Scheme Circular” means the circular to the Target Shareholders, to be issued by the Target, setting out the proposals for the Scheme.

“Scheme Conversion” means the Senior Borrower procuring the withdrawal or termination of an Offer and the Senior Borrower and/or the Target issuing a Scheme Press Announcement in accordance with Clause 3.3 (*Conversion between a Scheme and Offer*).

“Scheme Conversion Notice” has the meaning given to that term in Clause 3.3 (*Conversion between a Scheme and Offer*).

“Scheme Documents” means together the Scheme Press Announcement, the Scheme Circular, the Scheme Resolution, the Shareholder Resolution and any other document designated as forming part of the **“Scheme Documents”** by the Issuer and the Agent.

“Scheme Press Announcement” means a press announcement in the agreed form to be released by the Senior Borrower and/or the Target to announce the terms of the Scheme pursuant to Rule 2.7 of the Takeover Code.

“Scheme Resolution” means the resolution(s) referred to and in the form set out in the Scheme Circular.

“Secured Parties” has the meaning given to that term in the Subordination Agreement.

“Secured Subordinated Certain Funds Default” means any circumstances constituting an Event of Default under any of:

- (a) Clause 26.1 (*Non-payment*) in so far as it relates to non-payment of principal or interest or the fee payable pursuant to Clause 15.1 (*Arrangement fee*);
- (b) Clause 26.3 (*Other obligations*) insofar as it relates to a breach of a Secured Subordinated Certain Funds Undertaking;
- (c) Clause 26.4 (*Misrepresentation*) insofar as it relates to a breach of a Secured Subordinated Certain Funds Representation;
- (d) Clause 26.6 (*Insolvency*) provided that in respect of paragraph (a)(iv) of that Clause 26.6 (*Insolvency*) the words “one or more of its creditors” be deemed replaced with “its creditors generally (or any class of them)”;
- (e) Clause 26.7 (*Insolvency proceedings*), other than paragraph (a)(iv) of that Clause 26.7 (*Insolvency proceedings*) but only (in respect of paragraphs (a)(i) to (a)(iii) of that Clause 26.7 (*Insolvency proceedings*) inclusive) to the extent of formal legal proceedings (other than in relation to a suspension of payment of debts or a moratorium of any indebtedness);
- (f) Clause 26.9 (*Unlawfulness and invalidity*) other than, paragraph (c) of that Clause 26.9 (*Unlawfulness and invalidity*); or
- (g) Clause 26.15 (*Repudiation and rescission of agreements*) other than paragraph (b) of that Clause 26.15 (*Repudiation and rescission of agreements*), save that references to “purports” and “evidences as intention” in that Clause 26.15 (*Repudiation and rescission of agreements*) shall be deemed to be deleted for the purposes of this definition,

in each case as it relates to an Original Obligor only (and not, for the avoidance of doubt, to any other member of the Group or any member of the Target Group).

“Secured Subordinated Certain Funds Representation” means a representation or warranty with respect to an Original Obligor only (and not for the avoidance of doubt any representation or warranty

made by an Original Obligor in respect of matters relating to any other member of the Group or the Target Group) under any of:

- (a) Clause 22.2 (*Status*) excluding paragraph (b) of Clause 22.2 (*Status*);
- (b) Clause 22.3 (*Binding obligations*);
- (c) Clause 22.4 (*Non-conflict with other obligations*) excluding paragraph (c) of that Clause 22.4 (*Non-conflict with other obligations*), and save that references to “Transaction Documents” in that Clause 22.4 (*Non-conflict with other obligations*) shall be deemed to be references to “Finance Documents” for the purposes of this definition;
- (d) Clause 22.5 (*Power and authority*), save that references to “Transaction Documents” in that Clause 22.5 (*Power and authority*) shall be deemed to be references to “Finance Documents” for the purposes of this definition; or
- (e) Clause 22.6 (*Validity and admissibility in evidence*) other than paragraph (b) of that Clause 22.6 (*Validity and admissibility in evidence*).

“Secured Subordinated Certain Funds Undertaking” means an undertaking under any of:

- (a) Clause 25.7 (*Merger*);
- (b) Clause 25.9 (*Acquisitions*);
- (c) Clause 25.10 (*Joint ventures*);
- (d) Clause 25.11 (*Holding Companies*);
- (e) Clause 25.14 (*Negative pledge*);
- (f) Clause 25.15 (*Disposals*);
- (g) Clause 25.17 (*Loans or credit*);
- (h) paragraph (a) of Clause 25.19 (*Dividends and share redemption*);
- (i) Clause 25.18 (*No guarantees or indemnities*);
- (j) Clause 25.20 (*Subordinated Debt*);
- (k) Clause 25.21 (*Financial Indebtedness*);
- (l) paragraph (e) (*Terms of the Scheme*) of Clause 25.23 (*Scheme undertakings*); or
- (m) paragraph (d) (*Terms of the Offer*) of Clause 25.24 (*Offer undertakings*),

in each case as it relates to an Original Obligor only (and not, for the avoidance of doubt, any covenant or undertaking to procure that any other member of the Group or any member of the Target Group takes any action).

“Security” means a mortgage, standard security, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

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

“Senior Agent” means Global Loan Agency Services Limited or any other entity named as “Facility Agent” under the Senior Facilities Agreement from time to time.

“Senior Agreed Security Principles” has the meaning to the term “Senior Agreed Security Principles” in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).

“Senior Ancillary Facility” means “Ancillary Facility” as defined in the Senior Facilities Agreement.

“Senior Borrower” has the meaning to the term “Company” in the Senior Facilities Agreement.

“Senior Compliance Certificate” has the meaning to the term “Compliance Certificate” in the Senior Facilities Agreement.

“Senior Covenant Breach” means actual or anticipated breach (as determined by the Issuer) of the Senior Leverage.

“Senior Debt Purchase Transaction” means, in relation to a member of the Group, a transaction where such person:

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

any Commitment (as defined in the Senior Facilities Agreement) or amount outstanding under this Agreement.

“Senior Facilities Agreement” means the senior facilities agreement entered into on the date of this Agreement between, amongst others, the Senior Parent, the Senior Borrower and the original Senior Finance Parties.

“Senior Finance Document” means the “Finance Document” as defined in the Senior Facilities Agreement.

“Senior Finance Party” means the “Finance Party” as defined in the Senior Facilities Agreement.

“Senior Group” means the Senior Parent, the Senior Borrower and each of their respective Subsidiaries for the time being, including following the Acquisition, the Target Group.

“Senior Guarantor” means any member of the Senior Group who is a Guarantor.

“Senior Intercreditor Agreement” means the “Intercreditor Agreement” as defined in the Senior Facilities Agreement.

“Senior Leverage” mean any of the financial covenants set out in paragraph (a) (*Adjusted Leverage*) and paragraph (b) (*Super Senior Adjusted Leverage*) of clause 26.2 (*Financial condition*) of the Senior Facilities Agreement.

“Senior Loans” means “Loans” as defined in the Senior Facilities Agreement.

“Senior Management” means each and all of the CEO and the CFO.

“Senior New Shareholder Injections” has the meaning to the term “New Shareholder Injections” in the Senior Facilities Agreement.

“Senior Obligor” means “Obligor” as defined in the Senior Facilities Agreement.

“Senior Parent” has the meaning to the term “Parent” in the Senior Facilities Agreement.

“Senior Permitted Acquisition” has the meaning given to the term “Permitted Acquisition” in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).

“Senior Permitted Bolt-on Acquisition” means a Permitted Acquisition under paragraph (g) and/or (i) of the definition “Permitted Acquisition” in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).

“Senior Permitted Disposal” has the meaning given to the term “Permitted Disposal” in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).

“Senior Permitted Financial Indebtedness” has the meaning given to the term “Permitted Financial Indebtedness” in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).

“Senior Permitted Guarantee” has the meaning given to the term “Permitted Guarantee” in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).

“Senior Permitted Joint Venture” has the meaning given to the term “Permitted Joint Venture” in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).

“Senior Permitted Loan” means has the meaning given to the term “Permitted Loan” in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).

“Senior Permitted Security” has the meaning given to the term “Permitted Security” in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).

“Senior Permitted Share Issue” has the meaning given to the term “Permitted Share Issue” in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).

“Senior Permitted Transaction” has the meaning given to the term “Permitted Transaction” in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).

“Senior Relevant Event of Default” has the meaning given to the term “Relevant Event of Default” in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).

“Senior Security Agent” means GLAS Trust Corporation Limited or any other entity named as “Security Agent” under the Senior Facilities Agreement from time to time.

“Senior Transaction Security” has the meaning given to the term “Transaction Security Documents” in the Senior Facilities Agreement.

“Shareholders’ Agreement” means the subscription and shareholders’ agreement entered into on or about the date of this Agreement between, among others, the Issuer, the Senior Parent, the Senior Borrower, Sheik Ventures Limited and TH Pathways S. à r. l.

“Shareholder Meeting” means the general meeting of the Target Shareholders (and any adjournment thereof) to be convened in connection with the Scheme.

“Shareholder Resolution” means the resolution to be proposed at the Shareholder Meeting for the purposes of, amongst other things, approving and implementing the Scheme, as set out in the Scheme Circular.

“Sheikh Group” means Sheikh Ventures Limited, Sheikh Holdings Group (Investments) Limited, Belgravia Investments Limited and Kensington Capital Limited.

“Site” means any Real Property owned or to be owned by a member of the Group that is, or is to be used, substantially as a residential care home, specialist school or fostering office and, for as long as the same are owned by a member of the Group.

“Sources and Uses Statement” means the excel document illustrating the sources and uses of funding required for the Acquisition, delivered as a condition precedent under paragraph 4.10 of Part 1 of Schedule 2 (*Conditions Precedent*).

“Specified Amalfi Real Estate Proceeds” has the meaning given to that term in Clause 11.2 (*Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds*).

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

“Squeeze Out Notice” means a notice given under section 979 of the Companies Act given by the Senior Borrower to a Target Shareholder who has not accepted the Offer where the Senior Borrower is implementing the Squeeze Out Procedures.

“Squeeze Out Procedures” means the procedures set out in Chapter 3 of Part 28 of the Companies Act for the compulsory acquisition of minority shareholders in an English company.

“Subordinated Debt” means the net proceeds of any loans, loan notes or other debt instruments made by Topco to or in the Issuer, which in each case by its terms:

- (a) do not require any principal, interest or other amount to be paid in cash prior to the final Termination Date;
- (b) do not have a termination or repayment date earlier than six months after the final Termination Date;
- (c) no Security or guarantee or other credit support has been granted by a member of the Group in respect of such indebtedness and
- (d) do not attract interest or premiums payable in cash (or, to the extent expressed as payable in cash, are restricted from being paid in cash pursuant to the Subordination Agreement).

“Subordination Agreement” means the subordination agreement made between the Issuer, Topco, the Original Noteholders, the Arrangers, the Agent and the Security Agent dated on or about the date of this Agreement.

“Subsidiary” means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006 but in addition as if that section *provided that* its members are deemed to include any other undertaking whose rights in relation to it are held by way of security by another person but are treated for the purposes of that section as held by that other undertaking, and, in respect of any entity incorporated or established in Jersey, a subsidiary within the meaning of articles 2 and 2A of the Companies (Jersey) Law 1991).

“Super Majority Noteholders” means a Noteholder or Noteholders whose Commitments aggregate more than 80 per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 80 per cent. of the Total Commitments immediately prior to that reduction).

“Sterling” or **“£”** means the lawful currency for the time being of the United Kingdom.

“Structural Adjustment” means, otherwise than as contemplated in Clause 2.2 (*Increase*), Clause 6 (*Incremental Facility*):

- (a) the introduction of any additional tranche or facility under the Finance Documents, with such ranking as the relevant Noteholders and the Majority Noteholders may approve;
- (b) any increase in or addition to any Commitment, any extension of a Commitment's availability, the redenomination of a Commitment into another currency, the re-tranching of any Commitment and any extension of the date for, or maturity of, or redenomination of, or a re-tranching or reduction (other than as set out under paragraph (c) below) of, any amount owing under the Finance Documents (in each case not arising as a result of any change to any mandatory prepayment provision or related definitions); and
- (c) changes to any Finance Documents (including changes to, the taking of, or the release coupled with the immediate retaking of Transaction Security) that are consequential on or required by reason of applicable law to implement effectively or reflect any of the foregoing,

in each case, *provided that* such tranche or Notes may not rank senior to the Original Facility Notes.

“Structure Memorandum” means the final form structure paper dated 26 June 2022 describing the Group and the Acquisition and prepared by PricewaterhouseCoopers LLP in the agreed form and addressed to, and/or capable of being relied upon by, the Reliance Parties.

“Tag-Along Right” means the tag-along rights described in part A of schedule 4 of the Shareholders' Agreement.

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

“Takeover Offer Documents” means the Offer Press Announcement, the Offer Document and any other document designated as forming part of the **“Takeover Offer Documents”** by the Issuer and the Agent.

“Takeover Panel” means the UK Panel on Takeovers and Mergers.

“Target” means CareTech Holdings Plc, a company incorporated under the laws of England and Wales with registered number 04457287.

“Target Group” means the Target and its Subsidiaries.

“Target Shareholders” means the holders of the Target Shares.

“Target Shares” means all of the shares in the Target and all warrants and options in respect of the share capital of Target.

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

“Termination Date” means the date falling 6 years from the Closing Date.

“THCP Entity” means any THCP Investor together with any THCP Related Entity.

“THCP Investor” means THCP Advisory Limited, THCS IV GP S.à r.l., Three Hills Capital Solutions IV SCSp, TH Manager S. à r. l. and TH Pathways S. à r. l.

“THCP Noteholder” means a Noteholder who is a THCP Entity.

“THCP Related Entity” means (1) any THCP Investor and each of their Affiliates and Related Entities and direct and indirect Subsidiaries, (2) any sponsor, limited partnerships, co-investors or entities managed or advised or controlled by any THCP Investor or any of their Affiliates or Related Entities or any of their direct or indirect Subsidiaries, (3) any partnership or co-investor of any THCP Investor or any of their Affiliates or Related Entities or any of their direct or indirect Subsidiaries or in respect of which any such persons are a partner or a co-investor and (4) any trust, fund or other entity which is managed or advised by, or is under the control of, any THCP Investor or any of their Affiliates or Related Entities or any of their direct or indirect Subsidiaries, but excluding, in each case, any member of the Group.

“TISE Listing” means the listing of the Notes on TISE as contemplated by this Agreement.

“Topco Shareholder” has the meaning given to the term “Shareholder” in the Shareholders’ Agreement.

“Total Commitments” means the aggregate of the Total Original Facility Commitments and the Total Incremental Facility Commitments.

“Total Incremental Facility Commitments” means the aggregate of the Incremental Facility Commitments, being zero at the date of this Agreement.

“Total Net Debt” has the meaning given to that term in Clause 24.2 (*Financial definitions*).

“Total Original Facility Commitments” means the aggregate of the Original Facility Commitments, being £258,000,000 at the date of this Agreement.

“Total Purchase Price” means, in respect of the target of an acquisition by a member of the Group, the consideration (including associated costs and expenses and deferred consideration (other than consideration payable on a contingent basis)) for such acquisition and any Financial Indebtedness discharged by members of the Group in connection with that acquisition or (save in the case paragraph (i) of the definition “Permitted Acquisition” in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and

restated)) remaining in such target at the date of completion of such acquisition (other than Financial Indebtedness owed to other members of the Group).

“Trade Instruments” means any performance bonds, advance payment bonds or documentary letters of credit issued in respect of the obligations of any member of the Group arising in the ordinary course of trading of that member of the Group and including, for the avoidance of doubt any such bonds or letters of credit issued under a Senior Ancillary Facility.

“Transaction Documents” means the Finance Documents and the Acquisition Documents.

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

“Transaction Security Documents” means each of the documents listed as being a Transaction Security Document in Part 2 of Schedule 2 (*Conditions Precedent*) and any document required to be delivered to the Agent under paragraph 3.2 of Part 3 of Schedule 2 (*Conditions Precedent*), together with any other document entered into by any Obligor creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents.

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

“Transfer Date” means, in relation to a transfer, the later of:

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

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

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

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

“US” means the United States of America.

“Valuation” means a valuation of all the Sites by a Valuer, verified on a sampling process basis consistent with previous valuations carried out by the Group, prepared on the basis of the market value as that term is defined in the then current Statements of Asset Valuation Practice and Guidance Notes issued by the Royal Institution of Chartered Surveyors.

“Valuer” means Knight Frank, Cushman & Wakefield or any other independent reputable surveyor or valuer qualified to carry out a Valuation and which is regularly engaged in providing valuations of real property.

“VAT” means:

- (a) any value added tax imposed by the Value Added Tax Act 1994;
- (b) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and

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

“Warning” means a warning notice issued by a Regulatory Authority in response to a major concern raised by that Regulatory Authority that requires a member of the Group to make immediate changes to comply with the Care Services Regulations

“Withdrawal Act” means the European Union (Withdrawal) Act 2018.

1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Agreement to:
 - (i) the **“Agent”**, any **“Alternative Noteholder”**, the **“Arranger”**, any **“Finance Party”**, any **“Noteholder”**, any **“Obligor”**, any **“Party”**, any **“Secured Party”**, the **“Security Agent”** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;
 - (ii) **“amendment”** includes any amendment, supplement, variation, novation, modification, replacement or restatement and **“amend”**, **“amending”** and **“amended”** shall be construed accordingly;
 - (iii) a document in **“agreed form”** is a document which is previously agreed in writing by or on behalf of the Issuer and the Agent (acting on instructions of the Majority Noteholders);
 - (iv) **“assets”** includes present and future properties, revenues and rights of every description;
 - (v) a Noteholder’s **“cost of funds”** in relation to its Notes is a reference to the average cost (determined either on an actual or a notional basis) which that Noteholder would incur if it were to subscribe, from whatever source(s) it may reasonably select, an amount equal to the amount of that Note for a period equal in length to the Interest Period of that Note;
 - (vi) 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, assigned, supplemented, extended or restated from time to time, whether or not as a result of any of the same:
 - (A) there is an increase or decrease in any facility made available under it or in the period for which it is available or in which it is repayable;
 - (B) any additional, further or substituted facility to or for such facility is provided;
 - (C) any rate of interest, commission or fees or relevant purpose is changed;
 - (D) the identity of the parties is changed;
 - (E) the identity of the providers of any Security is changed;

- (F) there is an increased or additional liability on the part of any person; or
- (G) a new agreement is effectively created or deemed to be created;
- (vii) a “**group of Noteholders**” includes all the Noteholders;
- (viii) “**guarantee**” means (other than in Clause 21 (*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;
- (ix) “**including**” means including without limitation and “**includes**” and “**included**” shall be construed accordingly;
- (x) “**indebtedness**” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (xi) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership or other entity (whether or not having separate legal personality);
- (xii) a “**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law being of a type with which the person to whom it applies customarily complies) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- (xiii) a provision of law is a reference to that provision as amended or re-enacted from time to time; and
- (xiv) a time of day is a reference to London time.
- (b) Any references in this Agreement to:
 - (i) the Acquisition being “**effected by way of a Scheme**” means that the Senior Borrower and/or the Target has issued a Scheme Press Announcement (and, if the Senior Borrower has subsequently issued an Offer Press Announcement, the Senior Borrower and/or the Target has subsequently issued a Scheme Press Announcement); and
 - (ii) the Acquisition being “**effected by way of an Offer**” means that the Senior Borrower has issued an Offer Press Announcement (and, if the Senior Borrower and/or the Target has subsequently issued a Scheme Press Announcement, the Senior Borrower has subsequently issued an Offer Press Announcement).
- (c) 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.
- (d) Section, Clause and schedule headings are for ease of reference only.

- (e) 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.
- (f) A Default (including an Event of Default) is “**continuing**” if it has not been remedied or waived.

1.3 Third Party Rights

- (a) Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.
- (c) Any Receiver or Delegate may, subject to this Clause and the Third Parties Act, rely on any provision of the Finance Documents that expressly confer rights on it.

1.4 Subordination Agreement

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

1.5 Exchange Rate

For the purposes of Clause 22 (*Representations*), Clause 25 (*General Undertakings*) or Clause 26 (*Events of Default*) (and, in each case, the related definitions) but excluding any Event of Default resulting from a breach of Clause 24 (*Financial Covenants*), a reference to an amount (or its equivalent in another currency or currencies) shall be determined by reference to the Agent’s Spot Rate of Exchange on the date of incurrence of making of a particular disposal, acquisition, investment, lease, loan, debt or guarantee or taking any other relevant action and any subsequent exchange rate fluctuation shall not cause an Event of Default or the breach of any provision of Clause 25 (*General Undertakings*) or misrepresentation in respect of any provision of Clause 22 (*Representations*).

1.6 Agent and Security Agent

- (a) Where the Agent or the Security Agent is referred to 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), or acting or exercising any discretion (or refraining from acting or exercising any discretion) this shall mean that the Agent and the Security Agent shall be acting or coming to an opinion or determination on the instructions of the Noteholders, the Majority Noteholders or the Super Majority Noteholders (as the case may be) acting reasonably or in a reasonable manner and the Agent and the Security Agent shall be under no obligation to determine the reasonableness of such instructions or whether in giving such instructions the Noteholders, the Majority Noteholders or Super Majority Noteholders (as the case may be) are acting reasonably or in a reasonable manner.
- (b) Where acceptability to or satisfaction of the Agent or the Security Agent is referred to in relation to a matter not affecting the personal interests of the Agent or Security Agent (including, for the avoidance of doubt, any satisfaction or determination in relation to conditions precedent) this shall mean the acceptability to or satisfaction of the Noteholders, the Majority Noteholders as notified by it to the Agent or Security Agent.

- (c) In respect of paragraphs (a) and (b) above, the Agent and the Security Agent shall not be responsible for any liability occasioned or by any delay or failure on the part of the Noteholders, the Majority Noteholders to give any such instructions or direction or to form any such opinion.

1.7 Treatment of leases

For all purposes under the Finance Documents (including the definition of Permitted Financial Indebtedness and when calculating any financial definitions and/or calculations (including for the purposes of calculating any covenant (including the financial conditions in Clause 24.3 (*Financial condition*), basket, ratio, threshold, compliance, usage, incurrence, ratchet or permission), no lease, hire purchase contract, concession, license or other arrangement (or any guarantee of any of the foregoing) shall be treated as a finance lease or capital lease if that lease, hire purchase contract, concession, license or (as the case may be) other arrangement (or guarantee) was treated (or would have been permitted to be treated) as an operating lease in accordance with the Accounting Principles as applied by members of the Group prior to 1 January 2019 (and the applicable effects of IFRS 16 on and from 1 January 2019 will be disregarded in respect of such leases (including for the avoidance of doubt for all purposes under this Agreement and including with respect to the calculation of EBITDA)).

1.8 Jersey Terms

In each Finance Document, where it relates to a person: (i) incorporated; (ii) established; (iii) constituted; (iv) formed; (v) which carries on, or has carried on, business; or (vi) that has immovable property, in each case, in Jersey, a reference to:

- (a) a composition, compromise, assignment or arrangement with any creditor, winding up, liquidation, administration, dissolution, insolvency event or insolvency includes, without limitation, bankruptcy (as that term is interpreted pursuant to Article 8 of the Interpretation (Jersey) Law 1954), a compromise or arrangement of the type referred to in Article 125 of the Companies (Jersey) Law 1991 and any procedure or process referred to in Part 21 of the Companies (Jersey) Law 1991;
- (b) a liquidator, receiver, administrative receiver, administrator or the like includes, without limitation, the Viscount of the Royal Court of Jersey, Autorisés or any other person performing the same function of each of the foregoing;
- (c) Security or a security interest includes, without limitation, any hypothèque whether conventional, judicial or arising by operation of law and any security interest created pursuant to the Security Interests (Jersey) Law 1983 or Security Interests (Jersey) Law 2012 and any related legislation; and
- (d) any equivalent or analogous procedure or step being taken in connection with insolvency includes any corporate action, legal proceedings or other formal procedure or step being taken in connection with an application for a declaration of en désastre being made in respect of any assets of such person (or the making of such declaration).

1.9 Baskets

The calculation, construction, application and interpretation of any basket in the Senior Facilities Agreement shall be applied equally and in the same manner as the corresponding basket in this Agreement, whether that basket in this Agreement is expressly set out is otherwise permitted by reference to the Senior Facilities Agreement.

1.10 Deemed consent

If, while no Event of Default is continuing, in relation to a consent, approval, release or waiver or agreement to any amendment requested to the Noteholders in connection with this Agreement or any Finance Document or any transaction undertaken by any member of the Group that would otherwise require a consent, approval, release or waiver or agreement to any amendment under any Finance Document (the “**Relevant Transaction**”):

- (a) all Ares Senior Lenders give their consent, approval or waiver (as applicable) in respect of that Relevant Transaction under the Senior Finance Documents (and that Relevant Transaction is approved under the Senior Finance Documents in accordance with the requisite majorities thereunder); and
- (b) an Investor-Entity in its capacity as a Topco Shareholder gives its consent, approval or waiver (as applicable) in respect of such Relevant Transaction under the Shareholders’ Agreement (and that Relevant Transaction is approved under the Shareholders’ Agreement in accordance with the requisite majorities thereunder) and such Investor-Entity expressly states in writing when giving such consent, approval or waiver (as applicable) under the Shareholders’ Agreement that it applies to (1) this Agreement, and (2) the Shareholders’ Agreement,

to the fullest extent permitted by law, it shall be deemed that each Noteholder that is or whose Investor-Entity is either an Ares Senior Lender or a Topco Shareholder has given a corresponding consent, approval or waiver (as applicable) in respect of that Relevant Transaction under the Finance Documents.

1.11 No Default or Event of Default

During the period from and including the date of this Agreement to immediately prior to Completion (as defined in the Shareholders’ Agreement), no Default or Event of Default will arise under the Finance Documents directly and solely as result of any action taken or not taken by a THCP Noteholder in its capacity as Topco Shareholder.

2. THE FACILITIES

2.1 The Facilities

- (a) Subject to the terms of this Agreement, the Original Facility Noteholders irrevocably agree to subscribe for notes issued by the Issuer under a sterling facility in an aggregate amount equal to the Total Original Facility Commitments.
- (b) Subject to the terms of this Agreement, in particular Clause 6 (*Incremental Facility*), the Incremental Facility Noteholders may subscribe for notes issued by the Issuer under a sterling facility in an aggregate amount equal to the Incremental Facility Commitments.

2.2 Increase

- (a) The Issuer may by giving prior notice to the Agent after the effective date of a cancellation of:
 - (i) the Available Commitments of a Defaulting Noteholder in accordance with Clause 10.4 (*Right of cancellation in relation to a Defaulting Noteholder*); or
 - (ii) the Commitments of a Noteholder in accordance with:
 - (A) Clause 10.1 (*Illegality*); or

(B) Clause 10.3 (*Right of cancellation and redemption in relation to a single Noteholder*),

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

- (iii) the increased Commitments will be assumed by one or more Eligible Institutions (each an “**Increase Noteholder**”) selected by the Issuer each of which confirms in writing (whether in the relevant Increase Confirmation or otherwise) its willingness to assume and does assume all the obligations of a Noteholder corresponding to that part of the increased Commitments which it is to assume, as if it had been an Original Noteholder in respect of those Commitments;
 - (iv) each of the Obligors and any Increase Noteholder shall assume obligations towards one another and/or acquire rights against one another as the Obligors and the Increase Noteholder would have assumed and/or acquired had the Increase Noteholder been an Original Noteholder in respect of that part of the increased Commitments which it is to assume;
 - (v) each Increase Noteholder shall, if it is not already a Noteholder, become a Party as a “Noteholder” and any Increase Noteholder and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as that Increase Noteholder and those Finance Parties would have assumed and/or acquired had the Increase Noteholder been an Original Noteholder in respect of that part of the increased Commitments which it is to assume;
 - (vi) the Commitments of the other Noteholders shall continue in full force and effect; and
 - (vii) any increase in the Commitments relating to a Facility shall, subject to the condition set out in paragraph (d) below, take effect on the date specified by the Issuer in the notice referred to above or any later date on which the Agent executes an otherwise duly completed Increase Confirmation delivered to it by the relevant Increase Noteholder.
- (b) The Agent shall, subject to paragraph (c) below, as soon as reasonably practicable after receipt by it of a duly completed Increase Confirmation appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Increase Confirmation.
- (c) The Agent shall only be obliged to execute an Increase Confirmation delivered to it by an Increase Noteholder once it is satisfied (acting reasonably) it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assumption of the increased Commitments by that Increase Noteholder.
- (d) An increase in the Commitments relating to a Facility will only be effective if the Increase Noteholder enters into the documentation required for it to accede as a party to the Subordination Agreement.
- (e) Each Increase Noteholder, by executing the Increase Confirmation, confirms (for the avoidance of doubt) that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Noteholder or Noteholders in accordance with this Agreement on or prior to the date on which the increase becomes

effective in accordance with this Agreement and that it is bound by that decision to the same extent as it would have been had it been an Original Noteholder.

- (f) The Increase Noteholder shall, on the date upon which the increase takes effect, pay to the Agent (for its own account) a fee in an amount equal to the fee which would be payable under paragraph (a) of Clause 27.6 (*Transfer fee*) if the increase was a transfer pursuant to Clause 27.8 (*Procedure for transfer*) and if the Increase Noteholder was a New Noteholder.
- (g) The Issuer may pay (or may procure that another Obligor pays) to the Increase Noteholder a fee in the amount and at the times agreed between the Issuer and the Increase Noteholder in a Fee Letter.
- (h) Neither the Agent nor any Noteholder shall have any obligation to find an Increase Noteholder and in no event shall any Noteholder whose Commitment is replaced by an Increase Noteholder be required to pay or surrender any of the fees received by such Noteholder pursuant to the Finance Documents.
- (i) Clause 27.7 (*Limitation of responsibility of Existing Noteholders*) shall apply *mutatis mutandis* in this Clause in relation to an Increase Noteholder as if references in that Clause to:
 - (i) an “**Existing Noteholder**” were references to all the Noteholders immediately prior to the relevant increase;
 - (ii) the “**New Noteholder**” were references to that “**Increase Noteholder**”; and
 - (iii) a “**re-transfer**” were references to respectively a “**transfer**”.

2.3 Alternative Noteholder

- (a) If the Relevant Date has occurred:
 - (i) each Alternative Noteholder may elect (in its sole discretion), by making available to the Agent (and the Agent may accept) an amount in cash in immediately available cleared funds equal to its Alternative Noteholder Proportion under the Original Facility Notes which the Original Committed Noteholders are required to subscribe pursuant to Clause 5.5 (*Noteholders’ subscription*) (an “**Alternative Noteholder Funded Amount**”), to assume an Original Facility Commitment in an amount equal to that Alternative Noteholder Funded Amount (an “**Alternative Noteholder Assumed Commitment**”) and to subscribe the Original Facility Notes in an amount in cash in immediately available cleared funds equal to that Alternative Noteholder Funded Amount (an “**Alternative Noteholder Note Amount**”), in each case in place of the relevant Original Committed Noteholders;
 - (ii) the Agent shall apply the proceeds of each Alternative Noteholder Funded Amount received from an Alternative Noteholder which has made an election under subparagraph (i) above (an “**Electing Alternative Noteholder**”) as if they had been amounts received from the relevant Original Committed Noteholders pursuant to paragraph (a) of Clause 5.5 (*Noteholders’ subscription*); and
 - (iii) immediately upon receipt of the proceeds for the subscription of Original Facility Notes pursuant to sub-paragraph (i) above in cash in immediately available cleared funds in the account so designated by the Issuer for this purpose in the relevant Notes Subscription Request:

- (A) each Alternative Noteholder Assumed Commitment shall be attributed to the relevant Electing Alternative Noteholder as if it had been an Original Committed Noteholder in respect of that Alternative Noteholder Assumed Commitment (and shall no longer be an Original Facility Commitment of the relevant Original Committed Noteholder) and such Electing Alternative Noteholders shall constitute an “**Alternative Committed Noteholder**”); and
 - (B) each Alternative Committed Noteholder shall assume all of the rights and obligations as an Original Committed Noteholder in respect of the relevant Alternative Noteholder Note Amount.
- (b) For the avoidance of doubt, if an Alternative Noteholder has not elected to fund an Alternative Noteholder Funded Amount (and no Original Facility Commitment has been attributed to it in accordance with this Clause 2.3), the Parties agree that such Alternative Noteholder shall:
 - (i) not be a Defaulting Noteholder; and
 - (ii) have no rights under this Agreement or any other Finance Document save for those expressed in paragraph (a) above unless and until such time as such Alternative Noteholder becomes an Alternative Committed Noteholder in accordance with this Clause 2.3.
- (c) If (and to the extent that):
 - (i) any Original Facility Commitment is attributed to an Electing Alternative Noteholder which becomes an Alternative Committed Noteholder in accordance with paragraph (a)(iii)(A) above, each Original Committed Noteholder (pro rata in accordance with the respective Original Facility Commitments of the Committed Noteholders) shall not be required to subscribe Original Facility Notes (in an amount equal to the Alternative Noteholder Funded Amount) in respect of its Original Facility Commitments; or
 - (ii) any Original Facility Commitment is not attributed to an Alternative Noteholder in accordance with paragraph (a) above or funds have not been received from any Electing Alternative Noteholder which becomes an Alternative Committed Noteholder in accordance with paragraph (a)(iii)(A) above, each Original Committed Noteholder (on a several basis pro rata in accordance with the respective Original Facility Commitments of the Original Committed Noteholders) shall be required to subscribe Original Facility Notes in an amount equal to its Original Facility Commitments.

2.4 Finance Parties’ rights and obligations

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any amounts in respect of the Notes or any other amount owed by an Obligor which relates to a Finance Party’s Commitments or its role under

a Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Finance Party by that Obligor.

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

2.5 Obligor's Agent

- (a) Each Obligor (other than the Issuer) by its execution of this Agreement or an Accession Deed irrevocably appoints the Issuer (acting through one or more authorised signatories) to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
 - (i) the Issuer 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 agree the terms of any Incremental Facility and to deliver any Incremental Facility Notice, to make such agreements and to effect the relevant amendments, supplements and variations (in each case, however fundamental) capable of being given, made or effected by any Obligor (notwithstanding that they may increase the Obligor's obligations or otherwise affect the Obligor) and to give confirmation as to continuation of surety obligations, without further reference to or the consent of that Obligor; and
 - (ii) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Issuer,

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

- (b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligor's Agent or given to the Obligor's 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 Obligor's Agent and any other Obligor, those of the Obligor's Agent shall prevail.

3. PURPOSE

3.1 Purpose

- (a) The Issuer shall apply all amounts received by it as a result of the issuance of the Original Facility Notes under the Original Facility towards (directly or indirectly):
 - (i) payment to the Target Shareholders of the purchase price for the Target Shares either:
 - (A) under the Scheme or as otherwise described in the Scheme Circular; or
 - (B) if an Offer Conversion occurs, pursuant to the Offer and pursuant to the operation of the Squeeze Out Procedures;
 - (ii) payment of the Acquisition Costs (other than periodic fees);

- (iii) payment of amounts payable in relation to outstanding options and awards granted by the Target pursuant to share option schemes, share plans or awards in consideration for the acquisition and/or cancellation of such options or awards; or
 - (iv) refinancing the Financial Indebtedness incurred under the Existing Facilities Agreement and certain Financial Indebtedness of the Target and its Subsidiaries to third parties (including, without limitation, any breakage costs, prepayment fees, hedging close-out costs and other related fees costs and expenses).
- (b) The Issuer shall apply all amounts received by it as a result of the issuance of the Incremental Facility Notes under an Incremental Facility towards:
- (i) financing the payment of any amounts due under the Senior Facilities Agreement;
 - (ii) financing the payment of any amounts due under a Senior Ancillary Facility;
 - (iii) financing a Senior Debt Purchase Transaction;
 - (iv) funding a financial covenant cure in accordance with clause 26.4 (*Equity Cure*) of the Senior Facilities Agreement;
 - (v) financing all or part of the consideration of any Senior Permitted Bolt-on Acquisition; or
 - (vi) the general corporate or working capital purposes of the Group,
- in each case as approved in advance by the participating Incremental Facility Noteholder in that Facility.

3.2 Monitoring

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

3.3 Conversion between a Scheme and Offer

- (a) Where the Acquisition is being effected by way of a Scheme, at any time before the Effective Date, the Senior Borrower may give written notice to the Agent (an “**Offer Conversion Notice**”) that it intends to withdraw the Scheme and to issue an Offer instead.
- (b) Following the issue of an Offer Conversion Notice, within:
 - (i) 10 Business Days of the date of the Offer Conversion Notice, the Senior Borrower shall withdraw the Scheme; and
 - (ii) 30 Business Days of the date of the Offer Conversion Notice, the Senior Borrower shall request the consent of the Takeover Panel to issue an Offer Press Announcement and, subject to receipt of such consent and to the Scheme having been withdrawn, procure that an Offer Press Announcement is issued.
- (c) Where the Acquisition is being effected by way of an Offer, at any time before the Unconditional Date, the Senior Borrower may give written notice to the Agent (a “**Scheme Conversion Notice**”) that it intends to withdraw the Offer and to proceed by way of a Scheme instead.

- (d) Following the issue of a Scheme Conversion Notice, within:
 - (i) 10 Business Days of the date of the Scheme Conversion Notice, the Senior Borrower shall withdraw the Offer; and
 - (ii) 30 Business Days of the date of the Scheme Conversion Notice, the Senior Borrower and/or the Target shall request the consent of the Takeover Panel to issue a Scheme Press Announcement and, subject to receipt of such consent and to the Offer having been withdrawn, the Senior Borrower shall procure that a Scheme Press Announcement is issued.
- (e) For the avoidance of doubt, there shall be no limit to the number of times that the Senior Borrower may issue an Offer Conversion Notice or a Scheme Conversion Notice.

4. CONDITIONS OF NOTES SUBSCRIPTION

4.1 Initial conditions precedent

- (a) The Noteholders will only be obliged to comply with Clause 5.5 (*Noteholders' subscription*) in relation to the first Notes Subscription if on or before the Notes Subscription Date for that Notes Subscription, the Agent has received:
 - (i) all of the documents and other evidence listed in Part 1 of Schedule 2 (*Conditions Precedent*); and
 - (ii) all of the documents and other evidence listed in Part 2 of Schedule 2 (*Conditions Precedent*),

in each case (unless otherwise stated) in form and substance satisfactory to the Agent (acting on the instructions of all of the Noteholders (acting reasonably)) and the Agent shall notify the Issuer and all of the Noteholders promptly upon being so satisfied.
- (b) Other than to the extent that the Noteholders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (a) above, the Noteholders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

4.2 Further Conditions Precedent

Subject to Clause 4.1 (*Initial conditions precedent*), the Noteholders will only be obliged to comply with Clause 5.5 (*Noteholders'*) in relation to a Notes Subscription other than one to which Clause 4.4 (*Notes Subscriptions during the Certain Funds Period*) apply, if on the date of the Notes Subscription Request and on the proposed Notes Subscription Date:

- (a) no Default is continuing or would result from the proposed Notes Subscription;
- (b) in relation to any Notes Subscription on the Closing Date (other than a Certain Funds Notes Subscription), all the representations and warranties in Clause 22 (*Representations*) or, in relation to any other Notes Subscription, the Repeating Representations to be made by each Obligor are true in all material respects; and
- (c) in relation to any Notes Subscription in respect of an Incremental Facility the Agent has received (or waived in writing the requirement to receive) all of the documents and other evidence listed in the Incremental Facility Notice (if any) in form and substance satisfactory

to the Agent (acting on the instructions of the Incremental Facility Noteholders (acting reasonably)).

4.3 Maximum number of Notes Subscriptions

- (a) The Issuer may not deliver a Notes Subscription Request if as a result of the proposed Notes Subscription:
 - (i) more than 1 issuance under the Original Facility would occur; or
 - (ii) 10 or more issuance under the Incremental Facility would occur.
- (b) The Issuer may not request that an Original Facility Note be divided.
- (c) The Issuer may not request that an Incremental Facility Note be divided if, as a result of the proposed division, 10 or more Incremental Facility Notes would be outstanding.

4.4 Notes Subscriptions during the Certain Funds Period

- (a) Subject to Clause 4.1 (*Initial conditions precedent*), during the Certain Funds Period, the Noteholders will only be obliged to comply with Clause 5.5 (*Noteholders'*) in relation to a Certain Funds Notes Subscription, if on the date of the Notes Subscription Request and on the proposed Notes Subscription Date:
 - (i) no Secured Subordinated Certain Funds Default is continuing or would result from the proposed Notes Subscription; and
 - (ii) all the Secured Subordinated Certain Funds Representations are true in all respects (or, to the extent they are not qualified by materiality, in all material respects);
 - (iii) no Change of Control has occurred (provided that for the purposes of this paragraph (a)(iii), THCP Advisory Limited shall not be a THCP Entity for the purposes of the definition of "Change of Control"); and
 - (iv) in any applicable jurisdiction, it has not become unlawful for a Noteholder to perform any of its obligations as contemplated by this Agreement or to subscribe, fund, issue or hold any of the Notes. For the avoidance of doubt, any unlawfulness for a Noteholder shall not limit any other Noteholders' obligations to subscribe.
- (b) Notwithstanding any other provision in the Finance Documents, during the Certain Funds Period (save in circumstances where, pursuant to paragraph (a) above, a Noteholder is not obliged to comply with Clause 5.5 (*Noteholders' subscription*)), none of the Finance Parties shall be entitled to:
 - (i) cancel any of its Commitments to the extent to do so would prevent or limit the making of a Certain Funds Notes Subscription;
 - (ii) rescind, terminate or cancel this Agreement or any of the Facilities or exercise any similar right or remedy or make or enforce any claim under the Finance Documents it may have to the extent to do so would prevent or limit the making of a Certain Funds Notes Subscription;
 - (iii) refuse to participate in the making of a Certain Funds Notes Subscription;

- (iv) exercise any right of set-off or counterclaim in respect of a Notes Subscription to the extent to do so would prevent or limit the making of a Certain Funds Notes Subscription; or
- (v) cancel, accelerate or cause redemption, repayment or prepayment of any amounts owing under this Agreement or under any other Finance Document or enforce any security under any Transaction Security Documents,

provided that immediately upon the expiry of the Certain Funds Period all such rights, remedies and entitlements shall, subject to Clause 26.20 (*Clean-up Period*), be available to the Finance Parties notwithstanding that they may not have been used or been available for use during the Certain Funds Period.

5. NOTES SUBSCRIPTIONS

5.1 Delivery of a Notes Subscription Request

The Issuer may issue Notes under a Facility by delivery to the Agent of a duly completed Notes Subscription Request not later than the Specified Time (or such later time agreed by the Agent (acting on the instructions of the Noteholders)).

5.2 Completion of a Notes Subscription Request

- (a) Each Notes Subscription Request is irrevocable and will not be regarded as having been duly completed unless:
 - (i) it identifies the Facility under which the relevant Notes are to be issued;
 - (ii) the proposed Notes Subscription Date is a Business Day within the Availability Period applicable to that Facility;
 - (iii) the currency and amount of the Notes Subscription comply with Clause 5.3 (*Currency and amount*); and
 - (iv) the proposed Interest Period complies with Clause 14 (*Interest Periods*).
- (b) Only one Subscription may be requested in each Notes Subscription Request.

5.3 Currency and amount

- (a) The currency specified in a Notes Subscription Request must be:
 - (i) in relation to the Original Facility, the Base Currency; and
 - (ii) in relation to an Incremental Facility, the Base Currency or otherwise as agreed by the relevant Incremental Facility Noteholders and specified in the applicable Incremental Facility Notice.
- (b) The amount of the proposed Notes Subscription must be:
 - (i) in the case of the Original Facility, the Total Original Facility Commitments; or
 - (ii) for any Incremental Facility, at least £500,0000 or otherwise as specified (if any) in the relevant Incremental Facility Notice in respect of the relevant Incremental Facility.

5.4 Cancellation of Commitment

- (a) The Original Facility Commitments in respect of which no subscription has been made shall be immediately cancelled at the end of the Availability Period for the Original Facility.
- (b) The Incremental Facility Commitments in respect of which no subscription has been made shall be immediately cancelled at the end of the Availability Period for that Incremental Facility.

5.5 Noteholders' subscription

- (a) If the conditions set out in this Agreement have been met, each Noteholder shall subscribe for the relevant Notes on the Notes Subscription Date through its Facility Office.
- (b) The amount to be funded by the relevant Noteholders in respect of their subscription for the Original Facility Note shall be reduced by an original issue discount of £246,551.72 (which arises in connection with the subscription of the C ordinary shares in Topco), which shall be retained by each Noteholder in an amount equal to the proportion borne by its Available Commitment to the Available Facility (in each case, in relation to the Original Facility) immediately prior to subscribing for the Original Facility Note.
- (c) The amount of each Noteholder's subscription in each Notes Subscription will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to the subscribing for the relevant Notes.

5.6 Limitations on Notes Subscription

- (a) The Original Facility Notes may only be issued on the Closing Date.
- (b) The Incremental Facility Notes shall not be issued unless one or more Original Facility Notes have been issued.

6. INCREMENTAL FACILITY

6.1 Incremental Facility

- (a) Any THCP Entity (or, subject to paragraph (c) below, an Ares Noteholder) may in its absolute discretion, agree to make Incremental Facility Commitments available to the Issuer pursuant to this Clause from time to time if:
 - (i) the availability of such Incremental Facility Commitments has been agreed between the relevant THCP Entity and the Issuer; or
 - (ii) subject to Clause 6.2 (*Emergency Facility*), if a THCP Entity has determined that a Funding Event has occurred it may provide an Emergency Facility to the Issuer in accordance with Clause 6.2 (*Emergency Facility*),

provided that the Majority Noteholders have provided their prior written consent.

- (b) If, pursuant to paragraph (a) above, a THCP Entity has decided to make Incremental Facility Commitments available to the Issuer under an Incremental Facility, it shall provide each Ares Noteholder with notice of such determination (in the case of an Emergency Facility, on the Emergency Facility Notification Date) (the "**Ares Notification Date**") together with the details specified in paragraph (e) below in relation to that Incremental Facility, and each Ares Noteholder will benefit from a right of first refusal pursuant to which the Ares Noteholder will

be offered a right to participate in the Incremental Facility in an aggregate amount equal to the proportion borne by its Commitments to the Total Commitments (the “**Ares Proportion**”) for:

- (i) in respect of an Incremental Facility referred to in paragraph (a)(i) of this Clause, a period of 10 Business Days from the Ares Notification Date; and
- (ii) in respect of an Incremental Facility referred to in paragraph (a)(ii) of this Clause, a period of 5 Business Days from the Ares Notification Date,

and, in the event an Ares Noteholder (or any Ares Noteholders together) do not agree to make available the Ares Proportion by the end of such period, the Incremental Facility shall be provided by the relevant THCP Entity in full.

- (c) The Issuer and the relevant Noteholders that agree to make Incremental Facility Commitments available to the Issuer under an Incremental Facility pursuant to paragraph (a)(i) above shall deliver an Incremental Facility Notice to the Agent.
- (d) The relevant Noteholders that agree to make Incremental Facility Commitments available to the Issuer under an Incremental Facility pursuant to paragraph (a)(ii) above shall deliver an Incremental Facility Notice to the Agent, which may be signed on behalf of the Issuer by the relevant THCP Entity acting under the power of attorney to be delivered pursuant to Clause 4.1 (*Initial conditions precedent*). A copy of the Incremental Facility Notice shall be provided to the Issuer.
- (e) Each Incremental Facility Notice should specify in relation to the Incremental Facility:
 - (i) the amount of the Incremental Facility Commitments;
 - (ii) the Incremental Facility Commitment Commencement Date;
 - (iii) the Availability Period of the Incremental Facility;
 - (iv) the proposed Cash Pay Margin, PIK Margin, commitment fee and other fees payable under this Agreement in respect of the Incremental Facility and/or Notes issued under the Incremental Facility *provided that* any arrangement or upfront fees payable in respect of an Emergency Facility shall be determined by relevant THCP Entity (in their absolute discretion, acting reasonably);
 - (v) the purpose for which the proceeds received by the Issuer as a result of the issuance of Notes under the Incremental Facility shall be used; and
 - (vi) any conditions precedent to the Notes Subscription of Notes under the Incremental Facility.
- (f) Upon delivery of the Incremental Facility Notice to the Agent, and without prejudice to paragraph (n) below, the Incremental Facility will be deemed to be established immediately, automatically and without any further requirement for action on behalf of the Issuer on the terms set out in the Incremental Facility Notice and subject otherwise to the terms and conditions of this Agreement.
- (g) If the proposed Incremental Facility Noteholder is not already a Noteholder under this Agreement, it shall be required to:

- (i) deliver an Incremental Facility Noteholder Certificate duly completed and signed on behalf of that Incremental Facility Noteholder to the Agent together with the Incremental Facility Notice; and
- (ii) accede to the Subordination Agreement in accordance with the terms of the Subordination Agreement,

in each case, on or before the Incremental Facility Commitment Commencement Date.

- (h) Each Incremental Facility Noteholder shall become a party to this Agreement (and be entitled to share in the Security pursuant to the Transaction Security Documents) if the Agent executes the relevant Incremental Facility Noteholder Certificate and if the new Incremental Facility Noteholder accedes to the Subordination Agreement in accordance with the Subordination Agreement.
- (i) Each Party (other than the relevant proposed Incremental Facility Noteholder (save where such proposed Incremental Facility Noteholder is already a Noteholder under this Agreement)) irrevocably authorises and instructs the Agent to execute on its behalf any Incremental Facility Noteholder Certificate which has been duly completed and signed on behalf of that proposed Incremental Facility Noteholder. Each Obligor agrees to be bound by such accession.
- (j) The Agent shall be obliged to execute an Incremental Facility Noteholder Certificate delivered to it by an Incremental Facility Noteholder 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 the accession of such Incremental Facility Noteholder.
- (k) On the date that the Agent executes each Incremental Facility Noteholder Certificate:
 - (i) the Incremental Facility Noteholder party to that Incremental Facility Noteholder Certificate, each other Finance Party and the Obligors shall acquire the same rights and assume the same obligations among themselves as they would have acquired and assumed had that Incremental Facility Noteholder been an Original Noteholder with the rights and/or obligations acquired or assumed by it as a result of that accession and with the Commitments specified by it as its proposed Incremental Facility Commitments save to the extent the underlying terms of the Incremental Facility differ from the terms hereof; and
 - (ii) that Incremental Facility Noteholder shall become a Party as an “**Incremental Facility Noteholder**”.
- (l) Subject to paragraph (n) below, an Incremental Facility Note may be subscribed in accordance with Clause 3 (*Purpose*) to Clause 5 (*Notes Subscriptions*) of this Agreement.
- (m) The Issuer and each other Obligor appoint TH Pathways S. à r. l. and THCP Advisory Limited to be its attorney pursuant to the power of attorney to be delivered pursuant to Clause 4.1 (*Initial conditions precedent*) to take any action which they may be required to take in order to (i) establish or confirm any Emergency Facility, and (ii) apply all amounts received by it from the proceeds of any Emergency Facility in order to remedy the allocated Funding Event. Each Issuer and the other Obligors ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this paragraph. Each of the Agent and Security Agent hereby acknowledges the rights of the Incremental Facility Noteholder pursuant to this paragraph.

- (n) Notwithstanding the other provisions in this Agreement, the Incremental Facility Noteholder is authorised to apply any of its Available Commitments under an Emergency Facility directly in payment to any person to remedy a Funding Event, without further instructions from the Issuer and without being required to observe Clause 4 (*Conditions of Notes Subscription*) and Clause 5 (*Notes Subscriptions*) of this Agreement. Each of the Obligors, the Agent and Security Agent hereby acknowledges the rights of the Incremental Facility Noteholder pursuant to this paragraph.
- (o) Each Obligor hereby confirms its intention that:
 - (i) the guarantee and indemnity contained in Clause 21 (*Guarantee and Indemnity*); and
 - (ii) the Security constituted by the Transaction Security Documents executed by it shall:
 - (A) continue in full force and effect and extend to, and in the case of the Transaction Security shall continue to secure, the obligations of the Obligors under the Finance Documents, as varied, amended or supplemented by any Incremental Facility;
 - (B) not be released, reduced or impaired by:
 - (1) any Incremental Facility; or
 - (2) any Transaction Security provided to the Security Agent by any Obligor being avoided or released or not being effective Security for the variation in the liabilities of the Obligors or any of them effected by the addition of an Incremental Facility or such Transaction Security being limited or restricted in any way; and
 - (C) continue to secure the payment of liabilities and obligations of the Obligors under the Finance Documents and that the definition of “**Finance Documents**” extends to any amendment, supplementation, extension, novation, replacement, restatement and/or variation of any of them (however fundamental) and accordingly that such guarantee and indemnity, and any Transaction Security granted by it, is intended to apply to and secure any variation or increase in the liabilities or obligations of the Obligors at any time whether pursuant to an Incremental Facility or otherwise.
- (p) For the avoidance of doubt, no Noteholder is required or committed in any way to agree to provide or underwrite the Incremental Facility.
- (q) Clause 27.7 (*Limitation of responsibility of Existing Noteholders*) shall apply *mutatis mutandis* in this Clause in relation to any Incremental Facility Noteholder as if references in that Clause to:
 - (i) an “**Existing Noteholder**” were references to all the Noteholders immediately prior to the Incremental Facility Commitment Commencement Date;
 - (ii) the “**New Noteholder**” were references to an “**Incremental Facility Noteholder**”; and
 - (iii) a “**re-transfer**” were references respectively to a “**transfer**”.

6.2 Emergency Facility

- (a) If at any time a Funding Event is identified, a THCP Entity may within 5 Business Days of becoming aware that a Funding Event has occurred (the “**Emergency Facility Notification Date**”) notify Topco in writing that it intends to provide an Emergency Facility to cure the Funding Event.
- (b) Subject to paragraph (c) below, Topco and the Topco Shareholders shall have 10 Business Days from the Emergency Facility Notification Date to cure the Funding Event by the receipt in cash of a New Shareholder Injection in the required amount by the Issuer (provided that such period may not extend beyond, in the case of a Funding Event arising under paragraph (a) of the definition thereof, the date falling 5 Business Days after delivery of a compliance certificate evidencing such breach) (the “**Topco Emergency Cure Period**”), following which date, the THCP Entity may exercise its right to provide an Emergency Facility within 5 Business Days.
- (c) Topco shall not be entitled to the Topco Emergency Cure Period where a Funding Event has arisen as a result of an Event of Default under clause 28.1 (*Non-payment*), clause 28.6 (*Insolvency*), clause 28.7 (*Insolvency proceedings*) or clause 28.8 (*Creditors’ process*) of the Senior Facilities Agreement, or a projected default under any of those provisions is anticipated to occur within the 20 Business Days following the Emergency Facility Notification Date.

6.3 Notice periods

The notice periods under this Clause 6 may run co-terminously.

7. NOTES REGISTER AND CERTIFICATES

7.1 Agent to maintain Notes Register

The Issuer authorises the Agent to maintain at its address referred to in Clause 35.2 (*Addresses*) a register of the Notes (a “**Notes Register**”), which may be kept in electronic form.

7.2 Maintenance of Notes Register

- (a) The Agent shall record in the Notes Register details of the issue of the Notes.
- (b) The Agent shall maintain the Notes Register, which, for each relevant Note, shall show:
 - (i) that the issuer of the Note is the Issuer;
 - (ii) the date of issue of the Note;
 - (iii) the name and address of each relevant Noteholder;
 - (iv) the Commitment of each relevant Noteholder;
 - (v) the initial principal amount of the Note;
 - (vi) the amounts and dates of redemptions of principal;
 - (vii) amounts and dates of payments of interest;
 - (viii) the principal amount outstanding;

- (ix) the Termination Date; and
- (x) all subsequent transfers and changes of ownership of each Note,

and the Agent shall promptly following receipt of such information amend and update the Notes Register as necessary in order to accurately record the foregoing information. The Agent will deliver to each of the Issuer and Noteholders (as applicable) a copy of the Notes Register within two Business Days of demand.

- (c) The entries in the Notes Register shall be conclusive and binding for all purposes absent manifest error, and the Issuer and the Agent and the Noteholders shall treat each person whose name is recorded in the Notes Register as a Noteholder hereunder for all purposes under the Finance Documents.
- (d) Each Party to this Agreement irrevocably authorises and instructs the Agent to make the relevant entry in the Notes Register (and which the Agent shall do promptly) on its behalf for the purposes of this this Clause 7.2 without any further consent of, or consultation with, such Party.
- (e) The Agent shall, upon request by an Existing Noteholder or a New Noteholder, confirm to that Existing Noteholder or New Noteholder whether a transfer from that Existing Noteholder or (as the case may be) to that New Noteholder has been recorded on the Notes Register (including details of the Commitment and Notes of that Existing Noteholder or New Noteholder).
- (f) Title to the Notes shall pass upon the execution and delivery to the Agent of a Transfer Certificate in relation thereto in accordance with Clause 27 (*Changes to the Noteholders*).
- (g) Joint holdings of a Note shall not be permitted and the entries in the Notes Register shall identify a single person as the registered holder of each Note.
- (h) The Agent shall update the Notes Register promptly following:
 - (i) its execution of a Transfer Certificate or an Increase Confirmation;
 - (ii) any capitalisation of interest pursuant to Clause 13.4 (*PIK Interest*); and
 - (iii) the subscription for Notes under an Incremental Facility.

7.3 Registered form

The Notes shall be in registered form in a minimum denomination of GBP1.00 (and multiples in excess of GBP0.01 in excess thereof).

8. NOTES CERTIFICATES

8.1 Issue of Note Certificates

- (a) The Issuer shall execute a Note Certificate following a Notes Subscription, the issuance of PIK Notes in accordance with Clause 13.5 (*PIK Notes*) and following a transfer in accordance with Clause 27 (*Changes to the Noteholders*), and shall deliver such Note Certificate to the Agent.

- (b) Subject to having received a Note Certificate duly executed by the Issuer, the Agent shall execute and deliver such Note Certificate to the relevant Noteholders in respect of the Notes held by that Noteholder.

8.2 Signing and authenticating Note Certificates

A Notes Certificate shall not be considered to have been issued unless and until it has been signed by the Issuer and authenticated by the Agent.

8.3 Status of Notes Certificate

A Notes Certificate shall serve as evidence of the relevant records in the Notes Register and shall not represent title to the Notes. In the event of a conflict between information in a Notes Certificate and information in the Notes Register, the information in the Notes Register will prevail.

8.4 Stocks of blank Notes Certificates

The Issuer shall execute and deliver to the Agent such number of blank Notes Certificates, duly signed by it, as the Agent may from time to time reasonably require. The Agent shall maintain in safe custody all blank forms of Notes Certificate delivered to it.

8.5 Delivery of replacements

Subject to receipt of sufficient blank Notes Certificates, the Agent shall, upon and in accordance with the instructions of the Issuer (which instructions may, without limitation, include terms as to the payment of expenses and as to evidence, security and indemnity), complete, authenticate and deliver replacement Notes Certificates.

8.6 Replacement Notes Certificates

The Agent shall not deliver or issue any replacement Notes Certificate:

- (a) if the Notes Certificate being replaced has been mutilated or defaced otherwise than against the surrender of the same; and
- (b) until the claimant of the Notes Certificate has:
 - (i) provided to the Agent such evidence, security and indemnity as the Agent may reasonably require; and
 - (ii) paid such costs and expenses as may be incurred in connection with such replacement.

8.7 Replacements to be numbered

Each replacement Notes Certificate shall bear a unique serial number.

8.8 Cancellation, destruction and notification

- (a) The Agent shall cancel and destroy each mutilated or defaced Notes Certificate surrendered to it in respect of which a replacement Notes Certificate has been delivered.
- (b) Any Notes Certificates in respect of Notes which mature and are paid in full or are transferred in whole or in part shall be cancelled forthwith by the Agent.

- (c) Any Notes Certificates in respect of Notes which are paid in part in accordance with Clause 10 (Mandatory Redemption and Cancellation) or interest in respect of which has been capitalised pursuant to Clause 13.4 (*PIK Interest*) shall at the option, request and joint instructions from the Issuer and the applicable Noteholder, be cancelled forthwith by the Agent. The Agent shall, as soon as reasonably practicable after each such maturity date, transfer date, redemption date or capitalisation (as applicable), notify the Issuer:
 - (i) that the Notes Certificates in its possession in respect of such maturity, transfer, redemption or capitalisation have been destroyed (unless otherwise previously instructed by the Issuer); and
 - (ii) in respect of Notes that have been partially paid or transferred or in respect of which interest has been capitalised, and if a Note Purchaser and Issuer so jointly requests and instructs, issue a new Notes Certificate in respect of its registered holding reflecting such payment, transfer or capitalisation (as applicable).
- (d) The Agent shall promptly update the Notes Register by cancelling any Notes Certificates which have been replaced.

8.9 Notification

The Agent shall notify the Issuer of the delivery by it of any replacement Notes Certificate surrendered to it in respect of which a replacement Notes Certificate has been delivered

9. REDEMPTION

9.1 Redemption of Notes

- (a) The Issuer shall redeem the outstanding Original Facility Notes in full on the Termination Date.
- (b) The Issuer shall redeem the outstanding Incremental Facility Notes in full on the Termination Date.
- (c) The Issuer may not reissue any part of a Facility which is redeemed.

10. ILLEGALITY, OPTIONAL REDEMPTION AND CANCELLATION

10.1 Illegality

- (a) If, in any applicable jurisdiction, it becomes unlawful for a Noteholder to perform any of its obligations as contemplated by this Agreement or to subscribe for or continue to hold any Notes (or it becomes unlawful for any Affiliate of a Noteholder for that Noteholder to do so):
 - (i) that Noteholder shall promptly notify the Agent upon becoming aware of that event;
 - (ii) save where such Noteholder is to be replaced pursuant to Clause 39.7 (*Replacement of Noteholder*):
 - (A) upon the Agent notifying the Issuer, each Commitment of that Noteholder will be immediately cancelled; and
 - (B) to the extent that the Notes held by that Noteholder have not been transferred pursuant to Clause 39.7 (*Replacement of Noteholder*), the Issuer shall redeem that Noteholders' Notes on the last day of the Interest Period for each Note

occurring after the Agent has notified the Issuer or, if earlier, the date specified by the Noteholder in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Noteholder's corresponding Commitment(s) shall be immediately cancelled in the amount of the portion of Notes redeemed.

10.2 Optional redemption of the Notes

- (a) Subject to Clause 12.10 (*Application of prepayments*) and Clause 15.6 (*Redemption fees*), the Issuer may, if it gives the Agent not less than five Business Days' (or such shorter period as the Majority Noteholders and the Agent may agree) prior notice redeem the whole or any part of a Note (but, if in part, being an amount that reduces the Base Currency Amount of that Note by a minimum amount of £500,000).
- (b) A Note may only be redeemed after the last day of the Availability Period for the applicable Facility (or, if earlier, the day on which the applicable Available Facility is zero).
- (c) The Original Facility Note shall only be redeemed if all the Incremental Facility Notes have been redeemed in full at the same time.

10.3 Right of cancellation and redemption in relation to a single Noteholder

- (a) If:
 - (i) any sum payable to any Noteholder by an Obligor is required to be increased under paragraph (c) of Clause 16.2 (*Tax gross-up*);
 - (ii) any Noteholder claims indemnification from the Issuer or an Obligor under Clause 16.3 (*Tax indemnity*) or Clause 17.1 (*Increased Costs*) below;
 - (iii) an Obligor becomes obliged to pay additional amounts pursuant to Clause 17.1 (*Increased Costs*) below; or
 - (iv) any Noteholder becomes a Defaulting Noteholder or a Non-Consenting Noteholder,the Issuer may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Agent notice of cancellation of the Commitment of that Noteholder and its intention to procure the redemption of the Notes held by such Noteholder.
- (b) On receipt of a notice referred to in paragraph (a) above in relation to a Noteholder, the Commitment(s) of that Noteholder shall be immediately reduced to zero.
- (c) On the last day of each Interest Period which ends after the Issuer has given notice under paragraph (a) above in relation to a Noteholder (or, if earlier, the date specified by the Issuer in that notice), the Issuer shall redeem the Notes held by such Noteholder, together with all interest and other amounts accrued in relation to such redemption amount under the Finance Documents.

10.4 Right of cancellation in relation to a Defaulting Noteholder

- (a) If any Noteholder becomes a Defaulting Noteholder, the Issuer may, at any time whilst the Noteholder continues to be a Defaulting Noteholder, give the Agent not less than three Business Days' notice of the cancellation of each Available Commitment of that Noteholder.

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

11. MANDATORY REDEMPTION AND CANCELLATION

11.1 Exit

- (a) For the purpose of this Clause 11 the following terms have the following meanings:

“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 Topco by any of them, either directly or indirectly, to obtain or consolidate control of Topco.

“Call Option” has the meaning given to this term in the Shareholders’ Agreement.

“Change of Control” means:

- (i) the Consortium ceases (directly or indirectly) to have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (A) cast, or control the casting of, more than 50 per cent. of the maximum number of votes that might be cast at a general meeting of Topco; or
 - (B) appoint or remove all, or the majority, of the directors or other equivalent officers of Topco; or
 - (C) give directions with respect to the operating and financial policies of Topco with which the directors or other equivalent officers of Topco are obliged to comply; or
- (ii) the Consortium ceases (directly or indirectly) to hold beneficially more than 50 per cent. of the issued share capital of Topco (in each case, 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); or
- (iii) the THCP Entities (taken together) cease to have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to cast, or control the casting of, more than five per cent of the maximum number of votes that might be cast at a general meeting of Topco; or
- (iv) the aggregate issued share capital of the Topco held by any THCP Entity is (directly or indirectly) legally and beneficially transferred to (1) one or more Topco Shareholders (including, pursuant to the exercise of the Call Option) or (2) to one or more third parties following the exercise of the Drag-Along Right; or
- (v) any person or group of persons acting in concert gains directly or indirectly a greater percentage of voting shares in Topco than the Consortium or gains the power to direct the management and policies (whether by contract or otherwise) of Topco; or
- (vi) Topco ceases, directly, to legally and beneficially own and control 100 per cent. of the issued share capital of the Issuer; or

- (vii) the Issuer ceases, directly, to legally and beneficially own and control 100 per cent. of the issued share capital of the Senior Parent; or
- (viii) the Senior Parent ceases, directly, to legally and beneficially own and control 100 per cent. of the issued share capital of the Senior Borrower,

other than, in the case of (vi) to (viii) above, as contemplated in connection with any rollover of consideration shares on or about the Closing Date as contemplated in any Scheme Document or Offer Document; or

(ix)

- (A) following the Closing Date, the Senior Borrower ceases, directly, to legally and beneficially own and control more than 90 per cent. of the issued share capital of the Target; or
- (B) following the Final Closing Date, the Senior Borrower ceases, directly, to legally and beneficially own and control 100 per cent. of the issued share capital of the Target.

(b) Upon the occurrence of:

- (i) (following the expiry of the Certain Funds Period only) a Change of Control;
- (ii) 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
- (iii) any Listing,

all of the Noteholders' Commitments, and the Facilities, will be cancelled and the Noteholders will not be obliged to purchase any Notes and the Issuer shall be required to immediately redeem the Notes in full and with any accrued interest, and all other amounts accrued under the Finance Documents shall become immediately due and payable.

11.2 Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds

(a) For the purposes of this Clause 11.2 and Clause 11.3 (*Application of Mandatory Redemption and Cancellations*), the following terms have the following meanings:

"Acquisition Proceeds" means the Net Proceeds of a claim (a **"Recovery Claim"**) against the vendor in relation to the relevant acquisition documents relating to a Senior Permitted Bolt-on Acquisition or against the provider of a Report or any report delivered to the Finance Parties or the Senior Finance Parties in respect of a Senior Permitted Bolt-on Acquisition, except for Excluded Acquisition Proceeds.

"Corresponding Prepayment Proceeds" means the Net Proceeds of any Permitted Real Estate Transaction which are required to be applied in prepayment of indebtedness under the Senior Facilities Agreement.

"Disposal" means a sale, lease, licence, transfer, loan or other disposal (other than, for the avoidance of doubt, a loan of cash) by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions).

“Disposal Proceeds” means the Net Proceeds received by any member of the Group (including any amount received in repayment of intercompany debt) for any Disposal made by any member of the Group except for Excluded Disposal Proceeds).

“Excluded Acquisition Proceeds” means any Net Proceeds of a Recovery Claim which:

- (i) are working capital adjustments, or are to be, applied:
 - (A) in payment of amounts payable to any vendor pursuant to the relevant acquisition agreement by way of adjustment to the purchase price in respect of the relevant Senior Permitted Bolt-on Acquisition (except to the extent relating to a working capital adjustment);
 - (B) to satisfy (or reimburse a member of the Group which has discharged) any liability of or, charge or claim upon a member of the Group by a person which is not a member of the Group;
 - (C) in the replacement, reinstatement and/or repair of assets of members of the Group which have been lost, destroyed or damaged or in the amelioration of any other loss or defect affecting a member of the Group (or in reimbursing a member of the Group for its expenditure on the replacement, reinstatement and/or repairing of such assets or in such amelioration of loss or defect); or
 - (D) otherwise in the business of the Group (including to fund Permitted Acquisitions or Capital Expenditure),in each case as a result of the events or circumstances giving rise to that Recovery Claim, if those proceeds are committed by a member of the Group to be so applied as soon as possible (but in any event within 12 Months, or such longer period as the Majority Noteholders may agree) and are so applied within 18 Months, or such longer period as the Majority Noteholders may agree, in each case, after receipt;
- (ii) are less than the greater of £2,500,000 (or its equivalent in any other currency) and 2.5 per cent. of Adjusted EBITDA; or
- (iii) when aggregated with any other such proceeds received by members of the Group (other than proceeds referred to in paragraphs (i) or (ii) above) in any Financial Year, are less than the greater of £5,000,000 (or its equivalent in any other currency) and five per cent. of Adjusted EBITDA.

“Excluded Disposal Proceeds” means any Net Proceeds for a Disposal which:

- (i) are reinvested in assets of a comparable type and comparable or superior quality to the assets disposed of (or in reimbursing a member of the Group for its expenditure on such assets) or otherwise reinvested in the business of the Group (including to fund Permitted Acquisitions or Capital Expenditure) if those proceeds are committed by a member of the Group to be so applied as soon as possible (but in any event within 12 Months (or, in the case of any Net Proceeds arising as a result of a Project Amalfi Real Estate Transaction, not applied pursuant to paragraph (ii) below, 18 Months), or such longer period as the Majority Noteholders may agree) and are so applied within 18 Months (or, in the case of any Net Proceeds arising as a result of a Project Amalfi Real Estate Transaction, not applied pursuant to paragraph (ii) below, 24 Months), or such longer period as the Majority Noteholders may agree, in each case, after receipt;

- (ii) is a Permitted Disposal arising as a result of any Project Amalfi Real Estate Transactions or any Permitted Real Estate Transaction to the extent that such proceeds are applied in prepayment of the Senior Facilities Agreement;
- (iii) constitute otherwise “Excluded Disposal Proceeds” under and as defined in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated) (without double counting);
- (iv) are received in a form other than cash until such proceeds are converted into cash;
- (v) are less than the greater of £2,500,000 (or its equivalent in any other currency) and 2.5 per cent. of Adjusted EBITDA; or
- (vi) when aggregated with any other such proceeds received by members of the Group (other than proceeds referred to in paragraphs (i) to (v) above) in any Financial Year, are less than the greater of £10,000,000 (or its equivalent in any other currency) and ten per cent. of Adjusted EBITDA.

“Excluded Insurance Proceeds” means any Net Proceeds of an insurance claim which:

- (i) are committed by a member of the Group to be applied:
 - (A) to meet a third party claim;
 - (B) to cover operating losses in respect of which the relevant insurance claim was made;
 - (C) 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 (or in reimbursing a member of the Group for its expenditure or the replacement, reinstatement and/or repairing of such assets or in such amelioration of loss);
 - (D) to cover business interruption and similar claims in respect of which the relevant insurance claim was made; or
 - (E) otherwise in the business of the Group (including to fund Permitted Acquisitions or Capital Expenditure),

in each case as soon as possible (but in any event within 12 Months, or such longer period as the Majority Noteholders may agree) and are so applied within 18 Months, or such longer period as the Majority Noteholders may agree, in each case, after receipt;

- (ii) are less than the greater of £2,500,000 (or its equivalent in any other currency) and 2.5 per cent. of Adjusted EBITDA; or
- (iii) when aggregated with any other such proceeds received by members of the Group (other than proceeds referred to in paragraphs (i) or (ii) above) in any Financial Year, are less than the greater of £5,000,000 (or its equivalent in any other currency) and five per cent. of Adjusted EBITDA.

“Insurance Proceeds” means the Net Proceeds of any insurance claim under any insurance maintained by any member of the Group except for Excluded Insurance Proceeds.

“Net Proceeds” means the cash proceeds received by any member of the Group (and, if the recipient is not a wholly-owned Subsidiary, the proceeds proportionate to the interest owned by members of the Group in the recipient) of any Disposal, insurance claim or Recovery Claim (as the case may be) after deducting:

- (i) reasonably and properly incurred fees, costs and expenses incurred by any member of the Group with respect to that Disposal or claim to persons who are not members of the Group (including, without limitation, bonus payments to, or any other payments in connection with management incentive schemes for, management of a disposed business or entity; agent's fees or costs);
- (ii) any Tax incurred and required to be paid (or reserved for by the recipient of such proceeds in accordance with the relevant Accounting Principles) in connection with that Disposal or claim (as reasonably determined by the relevant recipient) or the transfer of such proceeds intra-Group;
- (iii) amounts required to be applied in repayment of any Financial Indebtedness secured over the relevant disposed asset (other than Financial Indebtedness under the Facilities);
- (iv) amounts retained to cover liabilities in connection with a Disposal reasonably anticipated to be paid within 12 Months after completion of such Disposal; and
- (v) to the extent not included in any of the foregoing paragraphs, related reasonably anticipated costs of redundancy, closure, relocation, reorganisation, restructuring and of making good any dilapidations including costs incurred in preparing the relevant asset for disposal (as evidenced in reasonable detail to the Agent on request).

“Specified Amalfi Real Estate Proceeds” means the Net Proceeds arising from any Project Amalfi Real Estate Transactions or any Permitted Real Estate Transaction up to an amount equal to the lower of:

- (i) such amount of the Specified Amalfi Real Estate Proceeds (if any) as would reduce Total Net Debt (excluding for this purposes only Financial Indebtedness under the Finance Documents) to an amount such that Adjusted Leverage for the Relevant Period ending on the most recent Quarter Date as at the date of calculation (pro forma for such prepayment and any other prepayments made after the most recent Quarter Date prior to the proposed date of prepayment) is not higher than 5.75:1; and
 - (ii) £350,000,000 (or its equivalent in any other currency).
- (b) To the extent that any amount is by the terms of this Agreement required to be applied pursuant to paragraph (c) below, such amount shall only be so applied, and shall only be required to be so applied, if and to the extent such amount is not required to be applied (or if the relevant Senior Finance Parties as required under Senior Facilities Agreement have waived such requirement to apply) in making payments to the Senior Finance Parties under the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated) and in any event such prepayment and/or the required distribution or payment from the Senior Group to the Issuer is permitted by the terms of the Senior Intercreditor Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).
- (c) Subject to paragraph (b) above, the Issuer shall redeem the Notes in amounts equal to the following amounts at the times and in the order of application contemplated by Clause 11.3 (*Application of Mandatory Redemption and Cancellations*):

- (A) the amount of Acquisition Proceeds;
- (B) the amount of Disposal Proceeds;
- (C) the amount of Insurance Proceeds;
- (D) the amount of Specified Amalfi Real Estate Proceeds; and
- (E) the amount of Corresponding Prepayment Proceeds.

11.3 Application of Mandatory Redemption and Cancellations

- (a) A redemption of Notes or cancellation of Available Commitments made under paragraph (c) of Clause 11.2 (*Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds*) shall be applied in the following order:

- (i) first, in redemption of Notes subscribed under an Emergency Facility on a pro rata basis; and
- (ii) second, in redemption of Notes subscribed under the Facilities (other than an Emergency Facility) on a pro rata basis;

provided that no Issuer shall be required to redeem the Notes in the amount pursuant to paragraph (c) of Clause 11.2 (*Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds*) if, as a result of such prepayment, the Commitments of the THCP Entities (when aggregated with the Commitments of their Affiliates and Related Entities) would be less than 50.1 per cent. of the Total Commitments immediately after that prepayment.

- (b) Unless the Issuer makes an election under paragraph (c) below, the Issuer shall redeem the Notes in the amount of the Acquisition Proceeds, Disposal Proceeds, Specified Amalfi Real Estate Proceeds or Insurance Proceeds promptly upon the later of receipt of those proceeds and such amounts ceasing to be Excluded Acquisition Proceeds, Excluded Disposal Proceeds or Excluded Insurance Proceeds.
- (c) Subject to paragraph (d) below, the Issuer may elect that any prepayment under paragraph (c) of Clause 11.2 (*Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds*) above be applied in redemption of the Notes on the last day of the Interest Period relating to that Note. If the Issuer makes that election then an amount under the Notes equal to the amount of the relevant redemption will be due and payable on the last day of its Interest Period.
- (d) If the Issuer has made an election under paragraph (c) above but an Event of Default has occurred and is continuing, that election shall no longer apply and an amount under the Notes in respect of which the election was made equal to the amount of the relevant redemption shall be immediately due and payable (unless the Majority Noteholders otherwise agree in writing).

12. RESTRICTIONS

12.1 Notices of cancellation or optional redemption

Any notice of cancellation, optional redemption, authorisation or other election given by any Party under Clause 10 (*Illegality, Optional Redemption and Cancellation*) or paragraph (c) of Clause 11.3 (*Application of Mandatory Redemption and Cancellations*) above shall (subject to the terms of such Clause) be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the

date or dates upon which the relevant cancellation or redemption is to be made and the amount of that cancellation or redemption.

12.2 Interest and other amounts

Any redemption under this Agreement shall be made together with accrued interest on the amount redeemed and, subject to Clause 15.6 (*Redemption fees*), without premium or penalty.

12.3 No re-issuance of Notes

The Issuer may not re-issue any part of a Note which is redeemed.

12.4 Redemption in accordance with this Agreement

The Issuer shall not redeem all or any part of the Notes or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

12.5 No reinstatement of Commitments

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

12.6 Agent's Receipt of Notices

If the Agent receives a notice under Clause 10 (*Illegality, Optional Redemption and Cancellation*) or an election under paragraph (c) of Clause 11.3 (*Application of Mandatory Redemption and Cancellations*) above it shall promptly forward a copy of that notice or election to either the Issuer or the affected Noteholders, as appropriate.

12.7 Redemption elections

The Agent shall notify the Noteholders as soon as possible of any proposed redemption of any Note under Clause 10.2 (*Optional redemption of the Notes*) or Clause 11.2 (*Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds*). A Noteholder may, if it gives the Agent not less than 2 Business Days' prior notice, elect to waive all or a specified part of its share of such a redemption.

12.8 Effect of redemption on Commitments

If all or part of the holding of a Noteholder in a Note is redeemed and is not available for reissuance, an amount of that Noteholder's Commitment (equal to the Base Currency Amount of the amount which is redeemed) in respect of that Facility will be deemed to be cancelled on the date of redemption.

12.9 Effect of cancellation on Commitments on Alternative Commitments

If any Original Facility Commitment is cancelled pursuant to this Agreement, the Alternative Original Facility Commitments shall be reduced in an amount equal to that cancelled Original Facility Commitment (such reduction of Alternative Original Facility Commitments to be applied pro rata to the Alternative Original Facility Commitments of all the Alternative Noteholders at that time).

12.10 Application of prepayments

Any redemption of Notes (other than a prepayment pursuant to Clause 10.1 (*Illegality*) or Clause 10.3 (*Right of cancellation and redemption in relation to a single Noteholder*)) shall be applied on a pro rata basis in redemption of Notes.

12.11 Redemption not required

Redemptions of Notes shall not be required pursuant to Clause 11.2 (*Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds*) to the extent that it would be unlawful for the recipient of the relevant payment to make or fund such redemption or such prepayment or such prepayment or the funding of such redemption or prepayment would be reasonably likely to result in the directors or other officers of that recipient incurring personal liability or a member of the Group incurring Tax liability or transmission or foreign exchange cost which exceeds an amount equal to five per cent of such prepayment. The Issuer shall procure that the members of the Group shall use all reasonable endeavours to overcome such unlawfulness and/or avoid such personal liability, Tax liability or transmission or foreign exchange costs.

13. INTEREST

13.1 Calculation of interest

- (a) The rate of interest on each Note for any day during an Interest Period is the percentage rate per annum which is the aggregate of the applicable:
 - (i) Cash Pay Margin; and
 - (ii) PIK Margin.

13.2 Payment of cash pay interest

Subject to Clause 13.3 (*Blocked cash pay interest*), the Issuer shall pay accrued Cash Pay Margin on each Note on the last day of each Interest Period.

13.3 Blocked cash pay interest

- (a) To the extent a member of the Senior Group is prohibited from making a Permitted Payment under (and as defined in) the Senior Facilities Agreement as at the date of this Agreement (or as amended with the consent of the Majority Noteholders) that would otherwise enable the Issuer to pay the Cash Pay Margin on a Note pursuant to Clause 13.2 (*Payment of cash pay interest*) (a “**Senior Blocking Event**”) in whole or in part (such percentage of the Cash Pay Margin, the “**Blocked PIK Percentage**”), then the accrued interest on that Note in respect of the Cash Pay Margin shall be the aggregate of:
 - (i) the Cash Pay Margin (as reduced by the Blocked PIK Percentage), which shall be paid in cash; and
 - (ii) the Blocked PIK Percentage plus 0.25 per cent premium for each 1.00 per cent of Blocked PIK Percentage, which shall be capitalised and treated as increasing the principal amount of the relevant Note on which it accrues (the “**Blocked PIK Interest**”) (unless satisfied by the issue of PIK Notes pursuant to Clause 13.5 (*PIK Notes*)),

in each case, on the last day of the applicable Interest Period for that Note (and, if the Interest Period is longer than six Months, on the dates falling at six Monthly intervals after the first day of the Interest Period).

- (b) Upon a Senior Blocking Event ceasing, and notwithstanding any other provision of this Agreement, the Blocked PIK Percentage shall:
 - (i) to the extent comprising PIK Notes, be redeemed; and

(ii) otherwise, be payable by the Issuer in cash,

within 5 Business Days.

- (c) Subject to paragraph (b) above, all Blocked PIK Interest must be redeemed in full (in cash) on the Termination Date applicable to the Facility under which the relevant Note was issued.
- (d) Any interest shall after being capitalised, be treated for all purposes of this Agreement as part of the principal amount outstanding under the Note to which it relates and shall be payable in accordance with Clause 9 (*Redemption*), Clause 10 (*Illegality, Optional Redemption and Cancellation*), Clause 11 (*Mandatory Redemption and Cancellation*) and Clause 26.19 (*Acceleration*).

13.4 PIK Interest

- (a) In addition to the interest payable under Clause 13.2 (*Payment of cash pay interest*) and Clause 13.3 (*Blocked cash pay interest*), interest shall accrue on a daily basis on each Note at a percentage rate per annum equal to the applicable PIK Margin and will capitalise on the last day of each Interest Period and be added to the outstanding principal amount of the relevant Note (the “**PIK Interest**”) unless satisfied by the issue of PIK Notes pursuant to Clause 13.5 (*PIK Notes*). Any interest shall after being capitalised, be treated for all purposes of this Agreement as part of the principal amount outstanding under the Note to which it relates and shall be payable in accordance with Clause 9 (*Redemption*), Clause 10 (*Illegality, Optional Redemption and Cancellation*), Clause 11 (*Mandatory Redemption and Cancellation*) and Clause 26.19 (*Acceleration*).
- (b) Any interest accruing but not yet capitalised shall become immediately payable if, during the relevant Interest Period, all amounts due in respect of each Note become immediately due and payable under Clause 26.19 (*Acceleration*), or a Note is redeemed in full in accordance with Clause 10 (*Illegality, Optional Redemption and Cancellation*) or Clause 11 (*Mandatory Redemption and Cancellation*) in which case such interest shall be paid at the same time as the redemption.

13.5 PIK Notes

- (a) The Issuer may satisfy any payment of PIK Interest or Blocked PIK Interest on the Notes by the creation and issue of PIK Notes. PIK Interest and Blocked PIK Interest payments satisfied by the creation and issue of PIK Notes shall be made on each six months of the date of issue of the relevant Notes (subject to, in the case of Blocked PIK Interest, Clause 13.3 (*Blocked cash pay interest*)) and any PIK Notes shall be issued to the Noteholders on a pro rata basis to the amounts of PIK Interest and Blocked PIK Interest owed to them. If the principal amount of any PIK Notes to be issued in respect of accrued and unpaid PIK Interest and Blocked PIK Interest is not a whole number, such amount shall be rounded downwards to the nearest pound.
- (b) Any PIK Notes issued by the Issuer pursuant to paragraph (a) above shall be issued on identical terms *mutatis mutandis* to the Notes issued pursuant to, and constituted by, this Agreement (including, without limitation, in relation to the payment of interest, redemption and Clause 15.6 (*Redemption fees*)).

13.6 Default Interest

- (a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is two 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 Note in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause shall be immediately payable by the Obligor on demand by the Agent.

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

13.7 Notification of rates of interest

- (a) The Agent shall promptly notify the Noteholders and the Issuer of the determination of a rate of interest under this Agreement.
- (b) Paragraph (a) above shall not require the Agent to make any notification to any Party on a day which is not a Business Day.

14. INTEREST PERIODS

14.1 Selection of Interest Periods and Terms

- (a) The Issuer may select an Interest Period for a Note in the Notes Subscription Request for that Note or (if the Note has already been issued) in a Selection Notice.
- (b) Each Selection Notice for a Note is irrevocable and must be delivered to the Agent by the Issuer not later than the Specified Time.
- (c) If the Issuer fails to deliver a Selection Notice to the Agent in accordance with paragraph (b) above, the relevant Interest Period will be six Months.
- (d) Subject to this Clause 14.1, the Issuer may select an Interest Period of six Months or such other period agreed between the Issuer and the Agent (acting on the instructions of all affected Noteholders (acting reasonably) in relation to the relevant Note)
- (e) An Interest Period for a Note shall not extend beyond the Termination Date applicable to its Facility.
- (f) Each Interest Period for a Note shall start on the Notes Subscription Date or (if already made) on the last day of its preceding Interest Period.
- (g) The last day of the first Interest Period following the Closing Date shall be (i) 8 January 2023 or, (ii) if the Original Facility Notes have not been listed on TISE in accordance with Clause 25.40 (*Listing*), 8 April 2023 unless (in each case) otherwise agreed by the Agent (acting on the instructions of the Noteholders).

14.2 Non-Business Days

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

14.3 Consolidation and division of Notes

- (a) Subject to paragraph (b) below, if two or more Interest Periods:

- (i) relate to Note under the same Facility, in the same currency; and
 - (ii) end on the same date,

those Note will, unless the Issuer specifies to the contrary in the Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Notes Subscription on the last day of the Interest Period.

- (b) Subject to Clause 4.3 (*Maximum number of Notes Subscriptions*) and Clause 5.3 (*Currency and amount*), if the Issuer requests in a Selection Notice that a Notes Subscription be divided into two or more Notes, that Note will, on the last day of its Interest Period, be so divided with Base Currency Amounts specified in that Selection Notice, being an aggregate Base Currency Amount equal to the Base Currency Amount of the Note immediately before its division.

15. FEES

15.1 Arrangement fee

The Issuer shall pay to the Arrangers (or the Original Noteholders) an arrangement fee in the amount and at the times agreed in a Fee Letter.

15.2 Incremental Facility fee

The Issuer shall pay to any Incremental Facility Noteholder (for its own account) a fee in the amount and at the times agreed with such an Incremental Facility Noteholder.

15.3 Agency fee

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

15.4 Security Agent fee

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

15.5 Non-completion

Notwithstanding the other provisions of this Clause 15 or any Fee Letter, if the Certain Funds Notes Subscription does not occur then none of the fees referred to in this Clause 15 shall be payable.

15.6 Redemption fees

- (a) Subject to paragraph (d) below, if on or prior to the date falling 36 Months after the Closing Date, all or any part of an Original Facility Notes is redeemed, repaid, prepaid or discharged

(the “**Relevant Redemption**”) (the amount of such redemption, prepayment or repayment being the “**Relevant Redemption Amount**”) then the Relevant Redemption may only be made if, in addition to all other sums required to be paid under the Finance Documents in connection with the Relevant Redemption (and including the Relevant Redemption), the Issuer pays to the Agent (for the account of the Original Facility Noteholders pro rata to their Original Facility Commitments on the date of the Relevant Redemption) on or before the date of the Relevant Redemption, the Redemption Premium.

- (b) In this Clause 15.5:

“**Make Whole Amount**” means an amount equal to the aggregate of all interest costs (including the Cash Pay Margin and, in the case of the PIK Margin to the extent not already capitalised and added to the principal amount when calculating the Relevant Redemption Amount After Capitalisation) that, but for the Relevant Redemption, would have become payable on the Relevant Redemption Amount After Capitalisation during the Redemption Period, calculated in accordance with Clause 13 (*Interest*) and assuming rolling interest periods of six months commencing on the date of such redemption.

“**Redemption Period**” means the period commencing on the date of the Relevant Redemption until (and including) the date falling 36 Months after the Closing Date

“**Redemption Premium**” means in respect of a Relevant Redemption made in the period from the Closing Date until (and including) the date falling 36 Months after the Closing Date, a prepayment fee equal to the Make Whole Amount and except that, for the purpose of calculating interest that would have become payable:

- (i) any references to a Note in Clause 13 (*Interest*) shall instead be construed as references to the Relevant Redemption Amount.

“**Relevant Redemption Amount After Capitalisation**” means the Relevant Redemption Amount plus (i) any PIK Margin accrued but not yet capitalised on the Relevant Redemption at the date of such redemption and (ii) the PIK Margin that, but for the Relevant Redemption, would have capitalised on the Relevant Redemption Amount (after given effect to the limb (i) of this definition) during the Redemption Period) calculated in accordance with Clause 13 (*Interest*) and assuming rolling interest periods of six months commencing on the date of such prepayment.

- (c) The calculations and records of the Agent in determining the Redemption Premium shall, in the absence of manifest error, be conclusive evidence of such amounts pursuant to Clause 36.2 (*Certificates and determinations*) but the Agent shall, promptly following the Issuer’s request, provide copies of such calculations to the Issuer.
- (d) No Redemption Premium or fee shall be payable under paragraphs (a) above in relation to any redemption made pursuant to:
- (i) Clause 10.1 (*Illegality*);
 - (ii) Clause 10.3 (*Right of cancellation and redemption in relation to a single Noteholder*);
 - (iii) Clause 10.4 (*Right of cancellation in relation to a Defaulting Noteholder*);
 - (iv) Clause 39.7 (*Replacement of Noteholder*); or
 - (v) Clause 39.9 (*Replacement of a Defaulting Noteholder*).

16. TAX GROSS-UP AND INDEMNITIES

16.1 Definitions

In this Agreement the following terms have the following meanings:

“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.

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

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

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

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

16.2 Tax gross-up

- (a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) The Issuer shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Noteholder shall notify the Agent on becoming so aware in respect of a payment payable to that Noteholder. If the Agent receives such notification from a Noteholder it shall notify the Issuer and that Obligor.
- (c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

16.3 Tax indemnity

- (a) The Issuer shall (within three Business Days of demand by the Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on a Finance Party:
 - (A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which that Finance Party’s Facility Office is located in respect of amounts received or receivable in that jurisdiction,

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

- (ii) to the extent a loss, liability or cost:
 - (A) is compensated for by an increased payment under Clause 16.2 (*Tax gross-up*); or
 - (B) relates to a FATCA Deduction required to be made by a Party; or
 - (C) relates to stamp taxes covered by Clause 16.5 (*Stamp taxes*); or
 - (D) relates to VAT covered by Clause 16.6 (*VAT*).
- (c) A Protected Party making, or intending to make, a claim under paragraph (a) above shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Issuer.
- (d) A Protected Party shall, on receiving a payment from an Obligor under paragraph (a) above, notify the Agent.

16.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Finance Party has obtained, utilised and retained that Tax Credit,

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

16.5 Stamp taxes

The Issuer 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. This Clause shall not apply to any cost, loss or liability any Secured Party incurs in relation to stamp duty, registration and other similar Taxes payable in respect of a Transfer Certificate (other than a transfer made pursuant to 19 (*Mitigation by the Noteholders*)).

16.6 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).

- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the “**Supplier**”) to any other Finance Party (the “**Recipient**”) under a Finance Document, and any Party other than the Recipient (the “**Relevant Party**”) is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
 - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this sub-paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) Any reference in this Clause above to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term “**representative member**” to have the same meaning as in the Value Added Tax Act 1994).
- (e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party’s VAT registration and such other information as is reasonably requested in connection with such Finance Party’s VAT reporting requirements in relation to such supply.

16.7 FATCA information

- (a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
 - (i) confirm to that other Party whether it is:
 - (A) a FATCA Exempt Party; or
 - (B) not a FATCA Exempt Party;
 - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party’s compliance with FATCA; and

- (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Finance Party to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraphs (a)(i) or (a)(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.

16.8 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Issuer and the Agent and the Agent shall notify the other Finance Parties.

17. INCREASED COSTS

17.1 Increased Costs

- (a) Subject to Clause 17.3 (*Exceptions*), the Issuer shall (or procure that another Obligor will), within three Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:
 - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation after the date of this Agreement;
 - (ii) compliance with any law or regulation made after the date of this Agreement;
 - (iii) the implementation or application of or compliance with Basel III or CRD IV or any other law or regulation which implements Basel III or CRD IV (whether such implementation, application or compliance is by a government, regulator, that Finance Party or any of its Affiliates).

(b) In this Agreement the following terms have the following meanings:

“Basel III” means:

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

“CRD IV” means EU CRD IV and UK CRD IV.

“EU CRD IV” means together:

- (a) the Capital Requirements Regulation (Regulation (EU) no. 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending regulation (EU) No. 648/2012); and
- (b) the Capital Requirements Directive (Directive 2013/36/EU of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directive 2006/48/EC and 2006/49/EC) of the European Parliament and the Council,

as either of the same may be amended, supplemented or restated from time to time.

“Increased Costs” means:

- (a) a reduction in the rate of return from a Facility or on a Finance Party’s (or its Affiliate’s) overall capital;
- (b) an additional or increased cost; or
- (c) a reduction of any amount due and payable under any Finance Document,

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

“UK CRD IV” means:

- (a) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 as it forms part of domestic law of the United Kingdom by virtue of the European Union (Withdrawal) Act 2018 (the **“Withdrawal Act”**);

- (b) the law of the United Kingdom or any part of it, which immediately before IP completion day (as defined in the European Union (Withdrawal Agreement) Act 2020) implemented Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC and its implementing measures; and
- (c) direct EU legislation (as defined in the Withdrawal Act), which immediately before IP completion day (as defined in the European Union (Withdrawal Agreement) Act 2020) implemented EU CRD IV as it forms part of domestic law of the United Kingdom by virtue of the Withdrawal Act.

17.2 Increased Cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 17 above shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Issuer.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Agent (which the Agent shall make as soon as practicable after the Issuer's request), provide a certificate confirming the amount and the method of calculation of its Increased Costs.

17.3 Exceptions

- (a) Clause 17.1 (*Increased Costs*) above does not apply to the extent any Increased Cost:
 - (i) is attributable to a Tax Deduction required by law to be made by an Obligor;
 - (ii) is attributable to a FATCA Deduction required to be made by a Party;
 - (iii) is compensated for by Clause 16.3 (*Tax indemnity*);
 - (iv) in respect of an amount of:
 - (A) stamp duty, registration or other similar Tax (dealt with in accordance with Clause 16.5 (*Stamp taxes*)); or
 - (B) VAT (dealt with in accordance with Clause 16.6 (*VAT*));
 - (v) is attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation;
 - (vi) is attributable to the implementation or application of or compliance with the "International Convergence of Capital Measurement and Capital Standards, a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement (but excluding any amendment arising out of Basel III) ("**Basel II**") or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates); or
 - (vii) arising as a result of any transfer or sub-participation pursuant to Clause 27 (*Changes to the Noteholders*).
- (b) In paragraph (a) above, reference to a "**Tax Deduction**" has the same meaning given to the term in Clause 16.1 (*Definitions*).

18. OTHER INDEMNITIES

18.1 Currency indemnity

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

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Secured Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between:

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

18.2 Other indemnities

- (a) The Issuer shall (or shall procure that an Obligor will), within three Business Days of demand, indemnify the Arrangers and each other Secured Party against any cost, loss or liability incurred by it as a result of:
 - (i) the occurrence of any Event of Default;
 - (ii) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 32 (*Sharing among the Finance Parties*);
 - (iii) subscribing, or making arrangements to subscribe, for the Notes in a Notes Subscription requested by the Issuer but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or
 - (iv) any redemption payable by the Issuer under the Finance Document not being paid in accordance with a notice of redemption or payment given by the Issuer.
- (b) The Issuer (or an Obligor) shall within three Business Days of written demand, indemnify each other Secured Party against any reasonable administrative and legal costs and expenses as a result of any Secured Party funding, or making arrangements to subscribe an Incremental Facility Note by reason of the Topco Shareholders (other than any THCP Entity) having notified an intention not to cure a Senior Covenant Breach, but actually making a Senior New Shareholder Injections to cure the relevant Senior Covenant Breach in full.

- (c) The Issuer (or an Obligor) shall promptly after demand indemnify each Finance Party, each Affiliate of a Finance Party and each officer or employee of a Finance Party or its Affiliate against any third party cost, loss or liability reasonably incurred by that Finance Party or its Affiliate (or officer or employee of that Finance Party or Affiliate) in connection with or arising out of the Acquisition or the funding of the Acquisition (including but not limited to those incurred in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry concerning the Acquisition), unless such loss or liability is caused by the gross negligence or wilful misconduct of, or wilful breach of contract by that Finance Party or its Affiliate (or employee or officer of that Finance Party or its Affiliate). Any Affiliate or any officer or employee of a Finance Party or its Affiliate may rely on this Clause subject to Clause 1.3 (*Third Party Rights*) and the provisions of the Third Parties Act.

18.3 Indemnity to the Agent

The Issuer (or shall procure that an Obligor will) shall promptly after demand indemnify the Agent against:

- (a) any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:
 - (i) (after the Agent has given prior notice to the Issuer) investigating any event which it reasonably believes is a Default;
 - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
 - (iii) subject to prior consultation with the Issuer (to the extent reasonably practicable), instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and
- (b) any cost, loss or liability incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct or wilful breach of contract) (or, in the case of any cost, loss or liability pursuant to Clause 33.11 (*Disruption to payment systems etc.*)) notwithstanding the Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent in acting as Agent under the Finance Documents.

19. MITIGATION BY THE NOTEHOLDERS

19.1 Mitigation

- (a) Each Finance Party shall, in consultation with the Issuer, take all reasonable steps to mitigate any circumstances which arise and which would result in any Facility ceasing to be available or any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 10.1 (*Illegality*), Clause 16 (*Tax Gross-Up and Indemnities*) or Clause 17 (*Increased Costs*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.
- (b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

19.2 Limitation of liability

- (a) The Issuer shall (or shall procure that an Obligor will) promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 19.1 (*Mitigation*) above.

- (b) A Finance Party is not obliged to take any steps under Clause 19.1 (*Mitigation*) above if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

20. COSTS AND EXPENSES

20.1 Transaction expenses

- (a) The Issuer shall (or shall procure that another Obligor will), promptly after demand, pay the Agent, the Arranger, each Noteholder and the Security Agent the amount of all reasonable costs and expenses (including legal fees) reasonably incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution and perfection of:
 - (i) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and
 - (ii) any other Finance Documents executed after the date of this Agreement.
- (b) No costs or expenses shall be payable under this Agreement, other than agreed legal fees, until the Closing Date.
- (c) The Agent and the Security Agent shall in relation to the granting and perfecting of any security, consult with the Issuer before incurring any material legal fees, costs and expenses.

20.2 Amendment costs

If:

- (i) an Obligor requests an amendment, waiver or consent in relation to the Finance Document (including, in respect of the establishment of any Incremental Facility); or
- (ii) an amendment is required pursuant to Clause 33.10 (*Change of currency*),

the Issuer shall (or shall procure that another Obligor will), within three Business Days after demand, reimburse each Finance Party for the amount of all reasonable costs and expenses (including legal fees) reasonably incurred by that Finance Party (and, in the case of the Security Agent, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

20.3 Security Agent's additional remuneration

In the event of:

- (a) a Default which is continuing;
- (b) the Security Agent being requested by an Obligor or the Majority Noteholders to undertake duties which the Security Agent and the Issuer agree to be of an exceptional nature or outside the scope of the normal duties of the Security Agent under the Finance Documents; or
- (c) the Security Agent and the Issuer agreeing that it is otherwise appropriate in the circumstances,

the Issuer shall pay to the Security Agent any additional remuneration that may be agreed between them.

20.4 Enforcement and preservation costs

The Issuer shall (or shall procure that another Obligor will), within three Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including legal fees) 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 save for any proceedings arising from the Security Agent's gross negligence or wilful misconduct.

21. GUARANTEE AND INDEMNITY

21.1 Guarantee and indemnity

- (a) Each Guarantor irrevocably and unconditionally jointly and severally:
- (i) guarantees to each Finance Party punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents;
 - (ii) undertakes with each Finance Party that whenever another Obligor does not pay any amount when due and payable 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
 - (iii) 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 and payable. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 21 if the amount claimed had been recoverable on the basis of a guarantee.

21.2 Continuing guarantee

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

21.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Finance Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 21 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

21.4 Waiver of defences

The obligations of each Guarantor under this Clause 21 will not be affected by an act, omission, matter or thing which, but for this Clause 21, would reduce, release or prejudice any of its obligations under this Clause 21 (without limitation and whether or not known to it or any Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;

- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor (other than an express release of the relevant Senior Guarantor itself) or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

21.5 Guarantor intent

Without prejudice to the generality of Clause 21.4 (*Waiver of defences*), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers or issuers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

21.6 Immediate recourse

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Clause 21. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

21.7 Appropriations

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

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under this Clause 21.

21.8 Deferral of Guarantors' rights

- (a) Until all amounts which may be or become payable by the Obligor under or in connection with the Finance Documents have been irrevocably paid in full and unless the Agent otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 21:
 - (i) to be indemnified by an Obligor;
 - (ii) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
 - (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of 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;
 - (iv) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 21.1 (*Guarantee and indemnity*);
 - (v) to exercise any right of set-off against any Obligor; and/or
 - (vi) to claim or prove as a creditor of any Obligor in competition with any Finance Party.
- (b) If a Guarantor receives any benefit, payment or distribution in relation to any rights referred to in paragraph (a) above, 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 Obligor under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and shall promptly pay or transfer the same to the Agent or as the Agent may direct for application in accordance with Clause 33 (*Payment Mechanics*).

21.9 Release of Guarantors' right of contribution

If any Senior Guarantor (a “**Retiring Guarantor**”) ceases to be a Senior Guarantor in accordance with the terms of the Finance Documents then on the date such Retiring Guarantor ceases to be a Guarantor:

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

21.10 Additional security

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

21.11 Guarantee limitations

This guarantee does not apply to any liability to the extent that it would result in this guarantee constituting unlawful financial assistance within the meaning of sections 678 or 679 of the Companies Act 2006 or any equivalent and applicable provisions under the laws of the 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.

21.12 Waiver of Jersey law customary rights

- (a) Any right which at any time any Jersey Guarantor may have under the existing or future laws of Jersey whether by virtue of the *droit de discussion* or otherwise to require that recourse be had to the assets of any other person before any claim is enforced against such Jersey Guarantor in respect of the obligations assumed by such Jersey Guarantor under or in connection with any Finance Document is hereby waived.
- (b) Any right which at any time any Jersey Guarantor may have under the existing or future laws of Jersey whether by virtue of the *droit de division* or otherwise to require that any liability under any guarantee or indemnity given in or in connection with any Finance Document be divided or apportioned with any other person or reduced in any manner whatsoever is hereby waived.

22. REPRESENTATIONS

22.1 General

Each Obligor makes the representations and warranties set out in this Clause 22 to each Finance Party.

22.2 Status

- (a) It is a limited liability corporation, duly incorporated, duly established and validly existing under the law of its Original Jurisdiction.
- (b) Each of its Subsidiaries is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (c) It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.

22.3 Binding obligations

Subject to the Legal Reservations and the Perfection Requirements:

- (a) the obligations expressed to be assumed by it in each Finance Document to which it is a party are legal, valid, binding and enforceable obligations; and
- (b) (without limiting the generality of paragraph (a) above), each Transaction Security Document to which it is a party creates (or will create upon its execution and delivery) the security interests which that Transaction Security Document purports to create and those security interests are (or will be upon execution and delivery) valid and effective.

22.4 Non-conflict with other obligations

Save as disclosed in writing to the Noteholders prior to the date of this Agreement, 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 conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) 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 each case to the extent such conflict has or is reasonably likely to have a Material Adverse Effect.

22.5 Power and authority

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

22.6 Validity and admissibility in evidence

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

have been obtained or effected and are in full force and effect except any Authorisation referred to in Clause 22.9 (*No filing or stamp taxes*) below, which Authorisation will be promptly obtained or effected after the later of the date of this Agreement and, in the case of any Additional Guarantor, the date on which such Additional Guarantor accedes to this Agreement as an Obligor or, subject to the Perfection Requirements, will have been obtained or effected or will be in full force and effect when required.

- (b) All Authorisations necessary for the conduct of the business, trade and ordinary activities (as currently being conducted) 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.

22.7 Governing law and enforcement

Subject to the Legal Reservations and the Perfection Requirements:

- (a) the choice of governing law of the Finance Documents to which is a party will be recognised and enforced in its Relevant Jurisdictions; and

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

22.8 Insolvency

- (a) No:
 - (i) corporate action, legal proceeding or other formal procedure or step described in paragraph (a) Clause 26.7 (*Insolvency proceedings*) below; or
 - (ii) creditors' process described in Clause 26.8 (*Creditors' process*),has been taken or, to the knowledge of the Issuer, threatened in writing (and is, in each case, outstanding) in relation to any Material Company; and none of the circumstances described in Clause 26.6 (*Insolvency*) applies to any any Material Company.

22.9 No filing or stamp taxes

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 or similar Taxes be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except for:

- (a) the Perfection Requirements and payment of associated fees;
- (b) any stamp duty payable on the transfer of any shares in respect of the Acquisition or as contemplated by any Transaction Security Document; and
- (c) any Taxes payable in connection with entering into a Transfer Certificate or pursuant to any other transfer by a Noteholder of any of its rights or obligations under any Finance Document,

which will, in the case of the Perfection Requirements (other than any Perfection Requirements which the Noteholders or their counsel have agreed are not required to be effected) and related fees, be made and paid promptly after the date of the relevant Finance Document.

22.10 Deduction of Tax

It is required to make a deduction for or on account of Tax payable in the United Kingdom from interest payable to an Original Committed Noteholder unless the relevant loan note has been listed on a recognised stock exchange or admitted to trading on a multilateral trading facility operated by a regulated recognised stock exchange (in each case as defined in section 987 of the Income Tax Act 2007) prior to the date on which interest is paid.

22.11 No default

- (a) No Event of Default and, on the date of this Agreement and the Closing Date, no Default is continuing or is reasonably likely to result from subscribing the Notes or the entry into, the performance of, or any transaction contemplated by, any Finance Document.
- (b) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (however described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its

(or any of its Subsidiaries') assets are subject which, in each case, has or is reasonably likely to have a Material Adverse Effect.

22.12 No misleading information

Save as disclosed in writing to the Agent and the Arrangers prior to the date of this Agreement, to the best of the knowledge and belief of the Senior Management (having made due and careful enquiry):

- (a) any material factual information contained in the Information Package was true and accurate in all material respects as at the date of the relevant report or document containing the information or (as the case may be) as at the date the information is expressed to be given;
- (b) the Base Case Model has been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements and has been approved by the board of directors of the Senior Parent;
- (c) any financial projection or forecast contained in the Information Package has been prepared on the basis of recent historical information and on the basis of reasonable assumptions and was fair (in each case as at the date of the relevant report or document containing the projection or forecast) and arrived at after careful consideration;
- (d) the expressions of opinion or intention provided in writing by or on behalf of an Obligor for the purposes of the Information Package were made after careful consideration and (in each case as at the date of the relevant report or document containing the expression of opinion or intention) were fair and based on reasonable grounds;
- (e) no event or circumstance has occurred or arisen and no information has been omitted from the Information Package and no information has been given or withheld that results in the material information, opinions, intentions, forecasts or projections contained in the Information Package being untrue or misleading in any material respect;
- (f) all material written information provided to a Finance Party by or on behalf of the Issuer, the Senior Parent or the Senior Borrower in connection with the Acquisition, the Project Amalfi Real Estate Transaction and/or the Target Group on or before the date of this Agreement and not superseded before that date is accurate and not misleading in any material respect; and
- (g) all other material written information provided under or in connection with the Finance Documents by any member of the Group to a Finance Party or the provider of any Report was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any material respect as at such date.

22.13 Financial Statements

- (a) The Original Financial Statements were prepared in accordance with the Accounting Principles applicable at the date as of which such statements were prepared consistently applied unless expressly disclosed to the Agent in writing to the contrary. However, in the case of monthly statements, normal year end adjustments were not made.
- (b) In the case of each Additional Guarantor, its Original Financial Statements referred to in paragraph (b) of the definition of Original Financial Statements in Clause 1.1 (*Definitions*) fairly present its financial condition and its results of operations during the relevant financial year unless expressly disclosed to the Agent in writing to the contrary prior to the date of this Agreement.

- (c) Its most recent financial statements delivered pursuant Clause 23.3 (*Financial statements*) (taking into account any reconciliation delivered together with such statements in accordance with such clause):
 - (i) have, save where such financial statements can be prepared on the basis of different Accounting Principles in accordance with Clause 23.5 (*Requirements as to financial statements*), been prepared in accordance with the Accounting Principles as applied to the Base Case Model or are accompanied by a reconciliation to reflect the Accounting Principles upon which the Base Case Model was prepared; or
 - (ii) have, where it has been agreed that such financial statements can be prepared on the basis of different Accounting Principles in accordance with Clause 23.5 (*Requirements as to financial statements*), been prepared in accordance with the Accounting Principles which prompted such change; and
 - (iii) fairly present its consolidated (or unconsolidated, as applicable) financial condition as at the end of, and its consolidated (or unconsolidated, as applicable) results of operations for, the period to which they relate.
- (d) 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 or supplied.

22.14 No proceedings

- (a) 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 adversely determined, are reasonably likely to have a Material Adverse Effect (taking, into account reserves made or the benefit of warranties, indemnities or insurance cover in respect thereof) have (to the best of its knowledge and belief (having made due and careful enquiry)) been started and are ongoing or threatened in writing against it or any Obligor.
- (b) No judgment or order of a court, arbitral body or agency or sanction of any government or other regulatory body which is reasonably likely to have a Material Adverse Effect has (to the best of its knowledge and belief (having made due and careful enquiry)) been made against it or any of its Subsidiaries.

22.15 No breach of laws

- (a) It has not (and none of its Subsidiaries has) breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.
- (b) No labour disputes are current or, to the best of its knowledge and belief (having made due and careful enquiry), threatened in writing against any member of the Group which have or are reasonably likely to have a Material Adverse Effect (taking into account reserves made or the benefit of warranties, indemnities or insurance cover in respect thereof).

22.16 Environmental laws

- (a) Each member of the Group is in compliance with Clause 25.3 (*Environmental compliance*) and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.

- (b) No Environmental Claim has been commenced or (to the best of its knowledge and belief (having made due and careful enquiry)) is threatened in writing against any member of the Group where that claim is reasonably likely to be determined against a member of the Group and, if determined against that member of the Group, has or is reasonably likely to have a Material Adverse Effect (taking into account reserves made or the benefit of warranties, indemnities or insurance cover in respect thereof).

22.17 Taxation

- (a) It is not (and none of its Subsidiaries is) materially overdue in the filing of any Tax returns and it is not (and none of its Subsidiaries is) overdue in the payment of any amount in respect of Tax of £500,000 (or its equivalent in any other currency) or more unless such non-payment would not constitute a breach of Clause 25.6 (*Taxation*).
- (b) No claims or investigations are being, or, so far as the Issuer 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, any member of the Group of £500,000 (or its equivalent in any other currency) or more is reasonably likely to arise unless such non-payment would not constitute a breach of Clause 25.6 (*Taxation*).
- (c) It is resident for Tax purposes only in its Original Jurisdiction.

22.18 Anti-corruption law

- (a) To the best of the knowledge and belief of Senior Management having made due and careful enquiry, each member of the Group is conducting its businesses in compliance with applicable Anti-Corruption Laws.
- (b) The Group has instituted and maintained policies and procedures designed to promote compliance with such laws.

22.19 Security and Financial Indebtedness

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

22.20 Ranking

- (a) The Transaction Security granted by Topco and the Issuer has or will have the ranking in priority which it is expressed to have in the Transaction Security Documents, the Subordination Agreement or the Senior Intercreditor Agreement (as appropriate) and it is not subject to any prior ranking or *pari passu* ranking Security which is not Permitted Security.
- (b) Subject to the Legal Reservations and the Perfection Requirements, the Transaction Security granted by any member of the Senior Group has or will have the ranking in priority which it is expressed to have in the Transaction Security Documents, the Senior Intercreditor Agreement or the Subordination Agreement and it is not subject to any prior ranking or *pari passu* ranking Security which is not Permitted Security.

22.21 Good title to assets

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

22.22 Legal and beneficial ownership

- (a) Subject to any Permitted Security, it and each of its Subsidiaries is the legal and/or beneficial owner of the respective assets over which it purports to grant Security.
- (b) Subject to paragraph (c) below, all the Target Shares are or will be on the Closing Date owned by the Senior Borrower.
- (c) The Target Shares are beneficially but not legally owned by the purchaser until those shares are registered in the register of shareholders of Target, which registration will be made as soon as reasonably practicable after the Closing Date.

22.23 Shares

The shares of any Obligor 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 the Obligors whose shares are subject to the Transaction Security do not restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security. Except as provided in the relevant constitutional documents, the Shareholders' Agreement, any put and call option agreement referred to in the Structure Memorandum or employee share option scheme relating to any member of the Group which is not wholly-owned, 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).

22.24 Intellectual Property

Each Obligor:

- (a) is the sole legal and beneficial owner of or has licensed to it, or it is otherwise entitled to use, 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, in each case save where failure to be such a legal and beneficial owner or be entitled to use any Intellectual Property does not have and is not reasonably likely to have a Material Adverse Effect;
- (b) 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; and
- (c) has to the extent commercially appropriate taken all formal or procedural actions (including payment of fees) required to maintain any material Intellectual Property owned by it save where the failure to maintain such Intellectual Property does not and is reasonably likely to have a Material Adverse Effect.

22.25 Group Structure Chart

Assuming the Closing Date has occurred, the Group Structure Chart delivered to the Agent pursuant to Part 1 of Schedule 2 (*Conditions Precedent*) is true, complete and accurate in all material respects.

22.26 Centre of main interests

Each Obligor's "centre of main interest" is situated in England and Wales or its Original Jurisdiction, or in the case of an Additional Guarantor, such other jurisdiction notified to the Agent on or before its accession as an Additional Guarantor, and it has no "establishment" in any other jurisdiction. The terms "**centre of main interest**" and "**establishment**" have the meanings given to them:

- (a) in article 3(1) and article 2(10) respectively of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the Regulation); and
- (b) in the Regulation as it forms part of English law by virtue of the European Union (Withdrawal) Act 2018.

22.27 Pensions

Neither it nor any of its Subsidiaries as at the date or dates on which this representation is made or repeated is or, to the best of the Issuer's knowledge (after due and careful enquiry) has at any time after 27 April 2004 been:

- (a) an employer (for the purposes of sections 38 to 47 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pensions Schemes Act 1993); or
- (b) "connected" with or an "associate" (as those terms are used in sections 38 and 43 of the Pensions Act 2004) of such an employer unless there is no reasonable prospect of a Contribution Notice or Financial Support Direction being served on it or any of its Subsidiaries on account of it or any of its Subsidiaries being such an associate or so connected.

22.28 Acquisition

- (a) Where the Acquisition is being effected by way of a Scheme:
 - (i) the Scheme Press Announcement and the Scheme Circular:
 - (A) do not (or will not) contain any untrue statement by the Senior Borrower or omit any information which makes any statement for which the Senior Borrower or its directors are responsible misleading in any material respect;
 - (B) all expressions of expectation, intention, belief and opinion of the Senior Borrower and/or its directors contained in the Scheme Circular have been honestly made on reasonable grounds after due and careful consideration by the Senior Borrower and the Issuer; and
 - (C) taken as a whole, contain all the material terms of the Scheme; and
 - (ii) the Scheme Documents comply in all material respects with the Companies Act, the Takeover Code and all other relevant laws and the requirements, rules and regulations of the Court and all applicable regulatory authorities and bodies.
- (b) Where the Acquisition is being effected by way of an Offer:
 - (i) the Offer Document:

- (A) does not (or will not) contain any untrue statement by the Senior Borrower or omit any information which makes any statement for which the Senior Borrower or its directors are responsible misleading in any material respect;
 - (B) all expressions of expectation, intention, belief and opinion of the Senior Borrower and/or its directors contained in the Offer Document have been honestly made on reasonable grounds after due and careful consideration by the Senior Borrower and the Issuer; and
 - (C) taken as a whole, contain all the material terms of the Offer; and
- (ii) the Offer Press Announcement and the offer Document comply in all material respects with the Companies Act, the Takeover Code and all other relevant laws and the requirements, rules and regulations of the Court and all applicable regulatory authorities and bodies.

22.29 Holding companies

Except as permitted by Clause 25.11 (*Holding Companies*), before the Closing Date neither Topco, the Issuer, the Senior Parent nor the Senior Borrower have traded or incurred any material liabilities or commitments (actual or contingent, present or future).

22.30 Sanctions

- (a) No member of the Group nor any of its directors, employees or officers is a Restricted Person.
- (b) No member of the Group is owned or controlled (directly or indirectly) by a Restricted Person.
- (c) No member of the Group is a governmental agency, authority or body or state-owned enterprise of any country which is the subject of Sanctions.
- (d) Each member of the Group conducts its businesses in compliance with Sanctions.
- (e) Each member of the Group has not knowingly (having made due and careful enquiry) engaged in, and is not to its knowledge (having made due and careful enquiry) engaged in:
 - (i) any dealings or transactions with any person that at the time of the dealing or transaction is or was the target of Sanctions; or
 - (ii) any dealings or transactions that evade or avoid or have the purpose of evading or avoiding or breaching or attempting to breach, directly or indirectly, any Sanctions applicable to it.
- (f) No member of the Group is located, organised or domiciled in a country which is the subject of Sanctions by any Sanctions Authority if such location, organisation or domicile causes, or is reasonably likely to cause, any member of the Group or any Finance Party to be in breach of Sanctions.
- (g) No member of the Group is subject to any formal claim or proceeding with respect to Sanctions.
- (h) No member of the Group has received notice or is otherwise aware of any claim, proceeding or investigation involving it with respect to a breach of applicable Sanctions.

- (i) No proceeds received from the subscription of the Notes, has been used, directly or indirectly, to lend, contribute, provide or has otherwise been made available to fund any activity or business in any Sanctions Authority or to fund any activity of or business with any Restricted Person, or in any other manner that resulted in any violation by any person of Sanctions.

22.31 Times when representations made

- (a) All the representations and warranties in this Clause 22 are made by each Original Obligor on the date of this Agreement except the representations and warranties set out in Clause 22.28 (*Acquisition*) .
- (b) All the representations and warranties in this Clause 22 are deemed to be made by each Original Obligor on the Closing Date.
- (c)
 - (i) If and to the extent that they relate to the Scheme, the representations and warranties set out in Clause 22.28 (*Acquisition*) are deemed to be made by each Obligor on the date of the Scheme Press Announcement (if and to the extent that they relate to the Scheme Press Announcement) and on the date the Scheme Circular is published (if and to the extent that they relate to the Scheme Circular);
 - (ii) If and to the extent that they relate to an Offer, the representations and warranties set out in Clause 22.28 (*Acquisition*), if and to the extent that they relate to the Offer, are deemed to be made by each Obligor on the date of the Offer Press Announcement (if and to the extent that they relate to the Offer Press Announcement) and on the date the Offer Document is published (if and to the extent that they relate to the Takeover Offer Documents).
- (d) The Repeating Representations are deemed to be made by each Obligor:
 - (i) on the date of each Notes Subscription Request;
 - (ii) on each Notes Subscription Date;
 - (iii) on the first day of each Interest Period;
 - (iv) on the date of each Incremental Facility Notice; and
 - (v) on each Incremental Facility Commitment Commencement Date.
- (e) All the representations and warranties in this Clause 22 except Clause 22.9 (*No filing or stamp taxes*), Clause 22.10 (*Deduction of Tax*), Clause 22.12 (*No misleading information*), paragraphs (a) and (c) of Clause 22.13 (*Financial Statements*), Clause 22.25 (*Group Structure Chart*) and Clause 22.29 (*Holding 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 *provided that*:
 - (i) any such representation and warranty shall be deemed to refer solely to such Additional Guarantor and any of its Subsidiaries;
 - (ii) there shall be no misrepresentation under any such representation and warranty on account of any matter which a member of the Group has disclosed to the Agent on or before the date on which such Additional Guarantor becomes (or on which it is proposed to become) an Additional Guarantor; and

- (iii) there shall be no misrepresentation under Clause 22.11 (*No default*) on account of any Event of Default which will be remedied by the accession of the Additional Guarantor(s).
- (f) Each representation or warranty deemed to be made after the date of this Agreement shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

23. INFORMATION UNDERTAKINGS

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

23.2 In this Clause 23 the following terms have the following meanings:

“Annual Financial Statements” means the financial statements for a Financial Year delivered pursuant to paragraph (a)(i) Clause 23.3 (*Financial statements*) below (together with any reconciliation delivered pursuant to that paragraph).

“Monthly Financial Statements” means the financial statements delivered pursuant to paragraph (c) of Clause 23.3 (*Financial statements*) below (together with any reconciliation delivered pursuant to that paragraph).

“Quarterly Financial Statements” means the Monthly Financial Statements for a management accounting period ending on a Quarter Date (together with any reconciliation delivered pursuant to that paragraph).

23.3 Financial statements

The Issuer shall supply to the Agent in sufficient copies for all the Noteholders:

- (a)
 - (i) as soon as they are available, but in any event within 180 days after the end of the first Financial Year to end after the Closing Date and 120 days after the end of each subsequent Financial Years:
 - (A) the audited consolidated financial statements for that Financial Year of Topco; and
 - (B) a reconciliation of the above financial statements removing any results, assets and liabilities attributable to Topco; and
 - (ii) if requested by the Agent and if available, within any statutory time period allowed for the preparation thereof, the annual financial statements (consolidated if appropriate and audited, if required by the jurisdiction of incorporation of that Obligor) of each Obligor for that Financial Year;
- (b) as soon as they are available, but in any event within 60 days after the end of each of the first two complete Financial Quarters after the Closing Date and 45 days after the end of each subsequent Financial Quarter:
 - (i) the Quarterly Financial Statements of Topco; and

- (ii) a reconciliation of the above financial statements removing any results, assets and liabilities attributable to Topco,

for that Financial Quarter

- (c) commencing with respect to the third complete monthly management accounting period ending after the Closing Date (unless such period ends on a Quarter Date, in which case the obligations pursuant to this paragraph will commence with respect to the next monthly management accounting period), as soon as they are available, but in any event within 30 days after the end of each monthly management accounting period (other than any management accounting period ending on or around a Quarter Date):
 - (i) the financial statements on a consolidated basis for that management accounting period (to include cumulative management accounts for the Financial Year to date) of Topco; and
 - (ii) a reconciliation of the above financial statements removing any results, assets and liabilities attributable to Topco.

23.4 Provision and contents of Compliance Certificate

- (a) The Issuer shall supply a Compliance Certificate to the Agent with each set of Topco's Annual Financial Statements and each set of Topco's Quarterly Financial Statements deliverable on or after the Financial Quarter ending on 30 September 2022.
- (b) The Compliance Certificate shall, amongst other things:
 - (i) set out all matters and information that are required to be certified in the Senior Compliance Certificate; and
 - (ii) set out (in reasonable detail) computations as to compliance with Clause 24.3 (*Financial condition*).
- (c) Each Compliance Certificate required to be delivered with each set of Quarterly Financial Statements shall confirm the amount of any Equity Cure Amount applied during the relevant Financial Quarter in connection with a Senior Permitted Bolt-on Acquisitions.
- (d) Each Compliance Certificate required to be delivered with each set of Annual Financial Statements shall (with supporting calculations in reasonable detail):
 - (i) confirm which members of the Senior Group are Material Companies; and
 - (ii) confirm compliance or otherwise with Clause 25.34 (*Guarantors*).
- (e) Each Compliance Certificate shall be signed by two directors of the Issuer, one of whom shall be the CFO, and, if required to be delivered with the Annual Financial Statements of Topco, shall be reported on by the Auditors in the form agreed by the Issuer and the Majority Noteholders.

23.5 Requirements as to financial statements

- (a) The Issuer 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 a cashflow statement (*provided that* no cashflow statement need be included in the Annual Financial Statements for a Subsidiary of the Senior Parent, where a cashflow statement is not

required to be included in such statements by law in the jurisdiction of incorporation of that Subsidiary) in each case both for the Relevant Period and, to the extent that such information is provided to the Consortium for such Relevant Period, for the Financial Year to date. In addition, the Issuer shall procure that:

- (i) each set of Topco's Annual Financial Statements shall be audited by Topco's Auditors;
 - (ii) each set of Monthly Financial Statements and Quarterly Financial Statements is accompanied by a statement by the directors of the Issuer commenting on the performance of the Group for the management accounting period to which the financial statements relate and the Financial Year to date and any material developments or proposals affecting the Group or its business;
 - (iii) each set of Quarterly Financial Statements is accompanied by:
 - (A) a copy of the report prepared for the board of directors of Topco by the Group's 'Quality & Performance Department' reporting on the Group's performance on quality assurance, regulatory matters, health & safety and complaints including a table listing the name and post code of any service inspected by a Regulatory Authority in the most recent calendar month, together with a brief summary of the outcomes of that inspection (including, without limitation, compliant outcomes, minor concerns, moderate concerns and major concerns); and
 - (B) details of all care homes or agencies which are categorised or otherwise deemed to "require improvement" by a Regulatory Authority;
 - (iv) each set of Monthly Financial Statements delivered from the date falling six Months after the Closing Date shall include the aggregate amount of Capital Expenditure spend in that Month and any other key performance indicators included in the regular monthly reporting delivered by the Group to the Consortium for that month; and
 - (v) on the date of delivery of Topco's Annual Financial Statements following the third anniversary of the Closing Date and on the date of delivery of Topco's Annual Financial Statements on each subsequent three years thereafter, such Annual Financial Statements shall be accompanied by a Valuation that is dated within the Financial Year to which those Annual Financial Statements relate (the "**Mandatory Valuation**").
- (b) Each set of financial statements delivered pursuant to Clause 23.3 (*Financial statements*) (together, if relevant, with any reconciliation delivered pursuant to that clause):
- (i) shall be certified by a director of the relevant company as fairly representing, or giving a true and fair view of, its (or if appropriate, its consolidated) financial condition and operations as at the date as at which those financial statements were drawn up (*provided that* if such financial statements contain such a statement no such additional certification is required to be made) and, in the case of the Annual Financial Statements, shall be accompanied by any letter addressed to the management of the relevant company by the auditors of those Annual Financial Statements and accompanying those Annual Financial Statements;
 - (ii) shall be accompanied by a statement by the directors of the Issuer comparing actual performance for the period to which the financial statements relate to:

- (A) the projected performance for that period set out in the Budget; and
- (B) the actual performance for the corresponding period in the preceding Financial Year of the Group (or the Target Group before the first Financial Year of the Group has ended); and
- (iii) shall, in the case of Topco, be prepared using the Accounting Principles and financial reference periods consistent with those applied in the preparation of the Base Case Model (*provided that* there shall be no breach of this requirement on account of any differences between Annual Financial Statements and Quarterly Financial Statements and Monthly Financial Statements attributable to customary year-end adjustments), unless, in relation to any set of financial statements, the Issuer notifies the Agent that there has been a change in the Accounting Principles and the Issuer and the Majority Noteholders agree to the change applying for the purpose of the Finance Documents.
- (c) If an Event of Default has occurred and is continuing and the Agent wishes to discuss the financial position of any member of the Group with the auditors of that member of the Group, the Agent may notify the Issuer, stating the questions or issues which the Agent wishes to discuss with those auditors. In this event, the Issuer must ensure that those auditors are authorised (at the expense of the Issuer):
 - (i) to discuss the financial position of the relevant member of the Group with the Agent on request from the Agent; and
 - (ii) to disclose to the Agent for the Finance Parties any information which the Agent may reasonably request request regarding the financial condition and operations of the Group.
- (d) Notwithstanding any other term of this Agreement no Default shall occur, or be deemed to occur, as a result of any restriction on the identity of the Topco's Auditors contained in this Agreement being prohibited, unlawful, ineffective, invalid or unenforceable pursuant to the Audit Laws.

23.6 Budget

- (a) The Issuer shall supply to the Agent in sufficient copies for all the Noteholders, as soon as the same become available but in any event no later than 30 days after the start of each of its Financial Years beginning with the Financial Year starting on 1 October 2023, an annual Budget for that financial year.
- (b) The Issuer shall ensure that each Budget for a financial year:
 - (i) is in a format reasonably acceptable to the Agent and includes:
 - (A) a projected consolidated profit and loss, balance sheet and cashflow statement for the Group; and
 - (B) projections as to whether Clause 24.3 (*Financial condition*) will be complied with in each Relevant Period ending in that Financial Year,
 for that financial year and for each Financial Quarter of that financial year;
 - (ii) is prepared in accordance with the Accounting Principles and the accounting practices and financial reference periods applied to Topco's financial statements under Clause 23.3 (*Financial statements*); and

- (iii) has been approved by the board of directors of the Issuer or Topco.
- (c) If the Issuer or Topco (as applicable) updates or changes the Budget to any material extent, it shall promptly deliver to the Agent, in sufficient copies for each of the Noteholders, such updated or changed Budget together with a written explanation of the main changes in that Budget.
- (d) The Agent and the Noteholders shall have no right of approval over the form or substance of any Budget.

23.7 Group companies

- (a) The Issuer shall, if there is any dispute between the Issuer and the Agent in respect of the identity of the Material Companies or as to whether the Issuer is in breach of Clause 25.34 (*Guarantors*), at the request of the Agent, supply to the Agent a report issued by Topco's Auditors stating which of its Subsidiaries are Material Companies and confirming whether or not it is complying with Clause 25.34 (*Guarantors*).

23.8 Presentations

Once in every Financial Year (commencing with the Financial Year beginning 1 October 2022), or more frequently if requested to do so by the Agent if an Event of Default is continuing, on not less than ten Business Days' notice by the Agent to the Issuer, at least two senior representatives of the Group (one of whom shall be the finance director) must give a presentation (within three Months of delivery of the Budget for that Financial Year) to the Finance Parties at a time and venue agreed by the Issuer and the Agent (each acting reasonably) about the on-going business and financial performance of the Group.

23.9 Year end

The Issuer shall not change its Accounting Reference Date save so as to match the accounting reference date of the Target, if different.

23.10 Information: miscellaneous

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

- (a) promptly after they are dispatched, copies of all documents dispatched by the Issuer or any Obligors to its creditors generally (or any class of them) (including to the Senior Finance Parties under the Senior Facilities Agreement (or a refinancing thereof));
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened in writing or pending against any member of the Group, and which are reasonably likely to be adversely determined and if adversely determined are reasonably likely to result in a liability of £20,000,000 or more;
- (c) promptly upon becoming aware of them, the details of any judgement or order of a court, arbitral tribunal or other tribunal or any order or sanction of any government or other regulatory body which is made against any member of the Group and which the Issuer believes is reasonably likely to have a Material Adverse Effect;
- (d) promptly upon becoming aware that a prepayment will be required, details of any Disposal, insurance claim or Recovery Claim which will give rise to an obligation to apply Disposal

Proceeds, Insurance Proceeds or Acquisition Proceeds in prepayment under Clause 11.2 (*Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds*);

- (e) 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;
- (f) promptly 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 Agent may reasonably request *provided that* the Issuer shall be under no obligation to provide, or procure the provision of, any information the supply of which would be contrary to any confidentiality obligation binding on any member of the Group or where the supply of such information could prejudice the retention of legal privilege in such information;
- (g) promptly upon becoming aware of the same;
 - (i) the outcome of any investigation by any Regulatory Authority against or relating to any member of the Group that would, if adversely determined, be reasonably likely to have a Material Adverse Effect;
 - (ii) a notification received by any member of the Group from a local authority or Regulatory Authority that it intends to suspend new placements of service users with the Group or withdrawing of existing service users from any establishment operated by the Group, where such suspension or withdrawal would be reasonably likely to have a Material Adverse Effect;
 - (iii) any grounds that could reasonably require any member of the Group to make a notification of a Notifiable Event, provided the grounds for such notification would be reasonably likely to have a Material Adverse Effect;
 - (iv) any notice of prosecution received by a member of the Group for a breach of the Care Services Regulation; and
 - (v) the details of any Warning issued by any relevant Regulatory Authority,

and, in each case, the Issuer shall also supply details of any action plan and/or remediation work to be implemented by any member of the group in connection with the same; and

(h)

from the Closing Date until the first anniversary of the Closing Date, a monthly care and governance safeguarding committee report and details of any incidents (in the form agreed between the Issuer and the Agent, acting reasonably); and

- (i) following the first anniversary of the Closing Date, a quarterly care and governance safeguarding committee report and details of any incidents (in the form agreed between the Issuer and the Agent, acting reasonably).

23.11 Notification of default

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

23.12 Group commissioned information and reports

- (a) Each Obligor undertakes for the benefit of the Finance Parties that in the context of a Restructuring or the occurrence of an event of default or a material event of default (in each case, however described) under the Senior Facilities Agreement (a “**Senior Event of Default**”), if any member of the Group, any member of the Consortium, the Senior Parent or the Senior Borrower or any entity acting as Opco Senior Creditor under the Senior Finance Documents (as amended, restated, increased, extended, refinanced, replaced or otherwise restructured from time to time):

- (i) commissions a valuation report, strategic options report, restructuring report, any independent business review or any other similar report and discloses such report to any of the Opco Senior Creditors; or
- (ii) discloses information to (1) the provider of any such report to enable that provider to prepare the relevant report or (2) in respect of written information only, the provider of any report commissioned by any such Opco Senior Creditor,

and the Obligors, the Senior Parent, the Senior Borrower, any member of the Consortium or any member of the Group or their respective employees, agents, advisors or Affiliates or Related Entities (or such Affiliates’ and Related Entities directors or other offices) receives a copy of any such information or reports (and to the extent such information or reports have not been received by such entities, the Obligors shall (and Topco shall procure that each member of the Group shall) use all reasonable endeavours to obtain copies of such information or reports), and disclose, or procure the disclosure of, such report or other information to the Finance Parties at the same time as such report or other information is made available to an Opco Senior Creditor or their advisors under the Senior Finance Documents.

- (b) The Obligors shall (and Topco shall procure that each member of the Group shall) use reasonable endeavours to ensure that no member of the Group shall enter into any confidentiality restrictions in respect of such reports or information which would prevent disclosure of those reports or information by any member of the Consortium or the Obligors (as the case may be) to the Finance Parties.
- (c) Upon the occurrence of a Restructuring or the occurrence of a Relevant Event of Default:
 - (i) the Finance Parties shall have the right to request that the Group commissions an independent valuation report, strategic options report, restructuring report or other similar report of the Group at the expense of the Group (and the Obligors shall procure that the members of the Group gives effect to such right); and
 - (ii) the Obligors shall ensure that the members of the Group will permit the provider of any reports commissioned under paragraph (a) above free access within normal business hours and on reasonable notice at the risk and cost of the Group to (1) the

premises, assets, books, accounts and records of each Group company and (2) meet and discuss matters with Senior Management and, in each case, to the extent necessary to prepare such reports.

- (d) The Obligors and the Issuer will only be required to comply with the requirements of paragraph (c) above provided that:
 - (i) the Agent or the Security Agent (as the case may be) has first communicated its concerns and its request for information or explanation to the Issuer;
 - (ii) the Issuer and the Agent or the Security Agent (as the case may be) have discussed in good faith the Restructuring or Relevant Event of Default and the Issuer has supplied such further information and explanation as it is reasonably able to; and
 - (iii) having taken the steps in paragraphs (i) and (ii) above, the Agent or the Security Agent (as the case may be) acting reasonably is not satisfied with the information and/or explanations provided.
- (e) If the Agent or the Security Agent exercise its rights under paragraph (a) above, it will use reasonable endeavours to minimise the scope and nature of the enquiry undertaken and the costs to the Group of that enquiry.

23.13 “Know your customer” checks

- (a) If:
 - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
 - (ii) any change in the status of an Obligor (or a Holding Company of an Obligor) or the composition of the shareholders of an Obligor (or a Holding Company of an Obligor) after the date of this Agreement; or
 - (iii) a proposed transfer by a Noteholder of any of its rights and/or obligations under this Agreement to a party that is not a Noteholder prior to such transfer,

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

- (b) Each Noteholder shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (c) The Issuer shall, by not less than ten Business Days' prior written notice to the Agent, notify the Agent (which shall promptly notify the Noteholders) of its intention to request that one of its Subsidiaries becomes an Additional Guarantor pursuant to Clause 29 (*Changes to the Obligors*) provided that no such notification is required in respect of any Subsidiary which is required to become an Obligor under Clause 25.39 (*Conditions subsequent*).
- (d) Following the giving of any notice pursuant to paragraph (c) above, if the accession of such Additional Guarantor obliges the Agent or any Noteholder to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, the Issuer shall promptly upon the request of the Agent or any Noteholder supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Noteholder) or any Noteholder (for itself or on behalf of any prospective new Noteholder) in order for the Agent or such Noteholder or any prospective new Noteholder 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.

24. FINANCIAL COVENANTS

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

24.2 Financial definitions

(a) In this Agreement the following terms have the following meanings:

“**Acquisition Costs**” means all fees, costs and expenses, stamp, registration and other Taxes incurred by any member of the Midco Group in connection with the Acquisition, the Senior Finance Documents or the Transaction Documents or any other actual or aborted Permitted Bolt-on Acquisition or their financing.

“**Adjusted EBITDA**” means (without double counting), in relation to a Relevant Period, EBITDA for that Relevant Period adjusted by:

- (i) including the operating profit before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of a member of the Midco Group (or attributable to a business) acquired during the Relevant Period for that part of the Relevant Period prior to it becoming a member of the Midco Group or (as the case may be) prior to the acquisition of the business;
- (ii) including the annualised impact of Permitted Synergies in relation to any Permitted Bolt-on Acquisition, Permitted Disposal, Senior Permitted Joint Venture, Group Initiative, new contract won (and any lost contract) or any redundancies (net of implementation costs) by any member of the Midco Group which is implemented, won or lost during the Relevant Period;
- (iii) adding back losses incurred, and expenses committed to be incurred, in respect of each new site opened for the period of 12 months from the opening of the relevant site;
- (iv) including the annualised impact of positive operating profit before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) for the applicable Relevant Period to date in relation to each site opened within 18 months of the last day of that Relevant Period;

- (v) including the run rate operating profit before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) (“**run-rate EBITDA**”) in relation to each site which was acquired by the Midco Group as a property acquisition (and not as a going concern or business acquisition) for the applicable Relevant Period in which such acquisition completed and each successive Relevant Period thereafter, ending with the first Relevant Period which ends later than the date which is the earlier of (i) the date falling 18 months after the opening of that relevant site and (y) the first day on which 80 per cent or more occupancy of that site is achieved, provided that run-rate EBITDA shall be calculated:
 - (A) with respect to occupancy rates, by reference to the average occupancy rates for mature sites within the relevant division and service type and size (such sites being “**Comparable Sites**”) for a period of 12 months prior to the date of calculation; and
 - (B) by reference to the mature operating profit before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of Comparable Sites determined by reference to a period no longer than 24 months from the opening date of such Comparable Sites; and
- (vi) excluding the operating profit before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) attributable to any member of the Midco Group (or to any business) disposed of during the Relevant Period for the part of the Relevant Period before such disposal; and

provided that:

- (A) no adjustments in respect of revenue related adjustments or add-backs (in respect of revenue that has not been generated or otherwise) shall be permitted as a result of any Exceptional Items or Permitted Synergies;
- (B) any losses added back pursuant to paragraph (iii) above and any annualised impact of positive operating profit included pursuant to paragraph (iv) above and any run rate operating profit included pursuant to paragraph (v) above shall only be taken into account to the extent certified by the finance director or chief executive officer of the Issuer (including calculations/explanations in reasonable detail);
- (C) no adjustments may be made pursuant to paragraph (v) above at any time prior to the earlier of:
 - (1) the first Quarter Date on which that Senior Leverage for the applicable Relevant Period (prior to including any adjustments pursuant to paragraph (v) above) is equal to or less than 5.75:1 (and for the avoidance of doubt if Senior Leverage is equal to or less than 5.75:1 as required pursuant to this paragraph such adjustments may be included with respect to that applicable Relevant Period); and
 - (2) the date on which the aggregate Senior Term Facility B Commitments (as defined in the Senior Facilities Agreement) are zero,

provided that after the date on which either paragraph (1) or paragraph (2) above occurs adjustments may be made pursuant to paragraph (v) for all

applicable Relevant Periods thereafter (notwithstanding that Senior Leverage may subsequently be higher than 5.75:1);

- (D) adjustments may not be made pursuant to both paragraph (iv) and (v) with respect to the same site in the same Relevant Period; and
- (E) the aggregate amount of pro forma adjustments which may be taken into account in any Relevant Period pursuant to paragraphs (iii), (iv) and (v) above, when aggregated with Permitted Synergies taken into account in that Relevant Period pursuant to paragraph (ii) above, shall not exceed 20 per cent. of EBITDA for that Relevant Period.

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

“Borrowings” means at any time, the aggregate outstanding principal, capital or nominal amount of any indebtedness of members of the Midco Group for or in respect of:

- (i) any indebtedness under the Finance Documents;
- (ii) any indebtedness under the Senior Finance Documents (or any indebtedness incurred pursuant to a refinancing thereof);
- (iii) moneys borrowed and debit balances at banks or other financial institutions;
- (iv) any acceptances under any acceptance credit or bill discount facility (or dematerialised equivalent);
- (v) any note purchase facility or the issue of bonds (but not Trade Instruments), notes, debentures, loan stock or any similar instrument;
- (vi) any Finance Lease;
- (vii) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (viii) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument (but not, in any case, Trade Instruments) issued by a bank or financial institution in respect of an underlying liability of an entity which is not a member of the Midco Group which liability would fall within one of the other paragraphs of this definition;
- (ix) any amount raised by the issue of shares to a person who is not a member of the Midco Group which are redeemable (other than at the option of the issuer) before the Termination Date for the Original Facility Notes or a term facility under the Senior Facilities Agreement or are otherwise classified as borrowings under the Accounting Principles;
- (x) any amount of any liability under an advance or deferred purchase agreement if:
 - (A) one of the primary reasons behind the entry into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question; or

- (B) the agreement is in respect of the supply of assets or services and payment is due more than 120 days after the date of supply;
- (xi) 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 (other than any amount which is expressly excluded under any other paragraph of this definition of Borrowings, any Treasury Transactions or any trade credit given to any member of the Midco Group in the ordinary course of trade);
- (xii) deferred consideration (excluding any contingent deferred consideration or any contingent earn-out payment) in relation to a Senior Permitted Bolt-on Acquisition to the extent such deferred consideration constitutes Covenant Deferred Consideration; and
- (xiii) (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (i) to (xii) above,

and excluding any liability under any lease which is a real estate or operating lease (as determined in accordance with Accounting Principles in effect on 31 December 2018) and any lease arising as a result of any Permitted Real Estate Transaction and Project Amalfi Real Estate Transaction.

“Business Acquisition” means the acquisition of a company or any shares or securities or a business or undertaking (and including any existing care facilities) (or, in each case, any interest in any of them) or the incorporation of a company.

“Capital Expenditure” means any expenditure or obligation in respect of expenditure (other than expenditure or obligations in respect of Business Acquisitions) which, in accordance with the applicable Accounting Principles as applied under the Original Financial Statements, is treated as capital expenditure including the capital element of any expenditure or obligation incurred in connection with a Finance Lease).

“Covenant Deferred Consideration” means deferred consideration (excluding any contingent deferred consideration or any contingent earn-out payment) in relation to a Senior Permitted Bolt-on Acquisition to the extent that such deferred consideration constitutes more than 30 per cent. of the Total Purchase Price of that Senior Permitted Bolt-on Acquisition.

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

- (i) **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 Midco Group (calculated on a consolidated basis) in respect of that Relevant Period;
- (ii) **not including** any accrued interest owing to any member of the Midco Group;
- (iii) **after adding back** any amount attributable to the amortisation, depreciation or impairment of assets of members of the Midco Group (and taking no account of the reversal of any previous impairment charge made in that Relevant Period);
- (iv) **before taking into account** any Exceptional Items;
- (v) **before deducting** any Acquisition Costs;

- (vi) **before deducting** any chairman, Consortium director fees or Consortium costs and expenses;
- (vii) **including** the amount of any profit (and any loss) of any member of the Midco Group which is attributable to minority interests provided that the maximum amount of profit which may be taken into account pursuant to this paragraph (vii) which is attributable to minority interests shall not exceed 12.50 per cent of EBITDA for that Relevant Period, and to the extent that any further amounts are attributable to minority interests, these shall be deducted as applicable;
- (viii) **plus or minus** the Midco Group's share of the profits or losses (after finance costs and tax) of Non-Midco Group Entities;
- (ix) **before taking** into account any unrealised gains or losses on any financial instrument (other than any derivative instrument which is accounted for on a hedge accounting basis);
- (x) **before taking into account** any gain or loss arising from an upward or downward revaluation of any asset;
- (xi) **before taking into account** any Pension Items;
- (xii) **excluding** the charge to profit represented by the expensing of stock options; and
- (xiii) **after deducting** any Rent paid or payable in respect of the Project Amalfi Real Estate Transaction or any lease entered into in connection with any Permitted Real Estate Transaction in respect of the Relevant Period (*provided that* where such Rent paid or payable relates to only part of a Relevant Period then the Rent paid or payable shall be annualised for the purpose of this definition as if it was paid or payable for the whole of such Relevant Period),

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 Midco Group before taxation and adding proceeds received pursuant to any business interruption or discontinuation insurance (or its equivalent) and so that no amount shall be included or excluded (as applicable) more than once.

“Exceptional Items” means any items of an unusual or non-recurring or exceptional nature which represent gains or losses, in each case without double counting, including but not limited to those arising on:

- (i) the restructuring of the activities of an entity and reversals of any provisions for the cost of restructuring;
- (ii) disposals, revaluations, write downs or impairment of non-current assets or any reversal of any write down or impairment;
- (iii) redundancy costs (*provided that* there shall be no double counting with any Permitted Synergies arising in connection with such costs); and
- (iv) disposals of assets associated with discontinued operations.

“Finance Lease” means any lease or hire purchase contract, a liability under which would, in accordance with the Accounting Principles, be treated as a balance sheet liability (other than a lease or hire purchase contract which would, in accordance with the Accounting Principles

in force prior to 1 January 2019 have been treated as an operating lease) (and which, for the avoidance of doubt, excludes the Project Amalfi Leases and any lease entered into in connection with any Permitted Real Estate Transaction).

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

“Financial Year” means the annual accounting period of the Midco Group ending on or about 30 September in each year.

“Group Initiative” means for any Relevant Period, any restructuring, reorganisation or other cost saving initiative, net of the cost of implementation, undertaken by a member of the Midco Group and which is intended to increase EBITDA on a sustainable basis.

“Midco Group” means Amalfi Midco Limited and each of its respective Subsidiaries for the time being, including following the Acquisition, the Target Group.

“Non-Midco Group Entity” means any investment or entity (which is not itself a member of the Midco Group (including associates and Joint Ventures)) in which any member of the Midco Group has an ownership interest.

“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.

“Permitted Synergies” means any cost savings or cost synergies (without double counting) as a result of:

- (i) any Senior Permitted Bolt-on Acquisition;
- (ii) any Permitted Disposal;
- (iii) any Senior Permitted Joint Venture;
- (iv) any Group Initiative;
- (v) any new contract (and any lost contract); and
- (vi) the implementation of any redundancies by any member of the Midco Group;

in each case reasonably anticipated to be achieved with 18 months of such event, save that such cost savings and cost synergies shall only be taken into account to the extent certified by the finance director or chief executive officer of the Issuer as being reasonably likely to be obtained (including calculations/explanations in reasonable detail and taking into account the estimated cost of achieving them), save that:

- (A) if exceeding 15 per cent. of EBITDA (as at the end of the immediately preceding Relevant Period before the relevant event) such cost savings and cost synergies shall only be taken into account to the extent such cost savings and cost synergies are reported on, or commented on, by an independent third party report provider being a reputable accounting firm; and
- (B) the aggregate amount of all cost savings and cost synergies in any Relevant Period may not exceed 20 per cent. of EBITDA.

“**Quarter Date**” means each of 31 March, 30 June, 30 September and 31 December.

“**Relevant Period**” means each period of 12 months ending on a Quarter Date.

“**Rent**” means the aggregate of all amounts payable to or for the benefit or account of any landlord or superior landlord or any other third party by any member of the Midco Group in connection with any letting or licensing of any property or any part of it, including (without limitation):

- (i) rent and/or licence fees (or any amount equivalent to it) payable whether variable or not and however or whenever described, reserved or made payable;
- (ii) sums paid or payable as tenant from any deposit security in respect of any performance obligations;
- (iii) any other moneys payable in respect of occupation and/or usage of any property and every fixture and fitting in it; and
- (iv) any sum payable by any guarantor of any tenant or licensee under any lease.

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

- (i) **excluding** any Borrowings owing to any other member of the Midco Group;
- (ii) **including**, in the case of Finance Leases only, their capitalised value;
- (iii) **excluding** any Subordinated Debt and to the extent they constitute Borrowings, any New Shareholder Injections; and
- (iv) **deducting** the aggregate amount of Cash and Cash Equivalent Investments held by any member of the Midco Group at that time.

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

- (b) For the purposes of paragraph (a) above, no item shall be deducted or credited, and no amount shall be included or excluded, more than once in any calculation.

24.3 Financial condition

The Issuer shall ensure that:

- (a) **Adjusted Leverage:** Adjusted Leverage in respect of any Relevant Period specified in Column 1 below (provided such Relevant Period expires on or after the end of the second complete Financial Quarter after the Closing Date) shall not exceed the ratio set out in Column 2 below opposite that Relevant Period:

Column 1 Relevant Period	Column 2 Ratio
Relevant Period expiring 31 March 2023 (if applicable)	10.50:1

Relevant Period expiring 30 June 2023 (if applicable)	10.50:1
Relevant Period expiring 30 September 2023	10.50:1
Relevant Period expiring 31 December 2023	10.50:1
Relevant Period expiring 31 March 2024	10.50:1
Relevant Period expiring 30 June 2024	10.50:1
Relevant Period expiring 30 September 2024	10.50:1
Relevant Period expiring 31 December 2024	10.50:1
Relevant Period expiring 31 March 2025	10.50:1
Relevant Period expiring 30 June 2025	10.50:1
Relevant Period expiring 30 September 2025	10.50:1
Relevant Period expiring 31 December 2025	10.50:1
Relevant Period expiring 31 March 2026	10.00:1
Relevant Period expiring 30 June 2026	10.00:1
Relevant Period expiring 30 September 2026	10.00:1
Relevant Period expiring 31 December 2026	10.00:1
Relevant Period expiring 31 March 2027	9.50:1
Relevant Period expiring 30 June 2027	9.50:1
Relevant Period expiring 30 September 2027	9.50:1
Relevant Period expiring 31 December 2027	9.50:1
Relevant Period expiring 31 March 2028	9.00:1
Relevant Period expiring 30 June 2028 and each Relevant Period thereafter	9.00:1

24.4 Financial testing

- (a) Subject to paragraph (b) below, the financial covenant set out in Clause 24.3 (*Financial condition*) shall be calculated in accordance with the Accounting Principles used in the Base Case Model (with such amendments as are agreed with the Majority Noteholders) and tested by reference to each of the financial statements delivered pursuant to paragraphs (a)(i) and (b) of Clause 23.3 (*Financial statements*) above and/or each Compliance Certificate delivered pursuant to Clause 23.4 (*Provision and contents of Compliance Certificate*).

- (b) So long as any cost savings or cost synergies included as Permitted Synergies are projected as being realisable at any time during the Relevant Period, it may be assumed that such cost savings or cost synergies will be realisable during the entire such period, *provided that* any such pro forma increase to EBITDA shall be without duplication for cost savings or cost synergies actually realised during such period and already included in EBITDA.
- (c) Any component of EBITDA denominated in a currency other than the Base Currency shall be converted into the Base Currency for the purpose of calculating EBITDA on the basis of the exchange rate used in the relevant financial statements (consistently applied) and any Borrowings denominated in a currency other than the Base Currency shall be converted into the Base Currency for the purpose of calculating Total Net Debt on the basis of:
 - (i) where a member of the Midco Group has entered into a foreign exchange rate hedging arrangement in respect of any Financial Indebtedness, the relevant fixed exchange rate under such hedging arrangement to the extent of the amount of Financial Indebtedness which is so hedged; or
 - (ii) in respect of other Financial Indebtedness, the weighted average exchange rates used in determining EBITDA for the Relevant Period in the relevant financial statements (consistently applied).
- (d) For the purpose of the financial covenant in Clause 24.3 (*Financial condition*) (and any other calculation of Adjusted Leverage under this Agreement) for each of the Relevant Periods ending on a date which is less than 12 months after the Closing Date, EBITDA shall be calculated by reference to the period of 12 months ending on the last day of such Relevant Period (and, where such 12 month period includes a period before the Closing Date, EBITDA shall be determined by reference to the Target Group before such date).

24.5 Equity Cure

- (a) Subject to paragraphs (b) to (e) below, if an Event of Default occurs or the Issuer is concerned that it would otherwise occur under Clause 26.2 (*Financial covenant and other obligations*) in respect of a breach of Clause 24.3 (*Financial condition*) (a “**Curable Default**”), no Event of Default will occur if:
 - (i) by no later than the date falling ten Business Days after the earlier of the date of the Compliance Certificate evidencing the Curable Default and the date upon which such Compliance Certificate should have been delivered under Clause 23 (*Information Undertakings*), the Issuer has notified the Agent that it intends to effect a cure pursuant to this Clause 24.5; and
 - (ii) by no later than the date falling 20 Business Days after the earlier of the date of the Compliance Certificate evidencing the Curable Default and the date upon which such Compliance Certificate should have been delivered under Clause 23 (*Information Undertakings*), the Issuer has received the proceeds of a New Shareholder Injection to be applied under this Clause 24.5 which are of a sufficient amount to remedy the Curable Default (the amount of such received funds being the “**Equity Cure Amount**”) in accordance with paragraph (b) below.
- (b) Once the Equity Cure Amount has been received by the Issuer the financial covenant set out in Clause 24.3 (*Financial condition*) shall be retested, at the Issuer’s election by either:
 - (i) deeming Borrowings under the Facilities to be decreased by such Equity Cure Amount (pro rata across the Facilities) as of the first day of the Relevant Period in which the Curable Default occurred, or the Issuer anticipated it would have occurred if this

Clause 24.5 was not invoked, and, if and only to the extent that the Equity Cure Amount remains on the Midco Group's balance sheet as Cash or is invested as a Cash Equivalent Investment, the next three Relevant Periods; or

- (ii) subject to paragraph (e)(viii) below, once during the life of the Facilities only, deeming EBITDA to be increased by an amount equal to (but, for the avoidance of doubt, no greater than) the amount required to cure the Curable Default (such amount being, the "**Minimum Equity Cure Amount**") as of the first day of the Relevant Period in which the Curable Default occurred, or the Issuer anticipated it would have occurred if this Clause 24.5 was not invoked, and the next three Relevant Periods.
- (c) If, after Borrowings are deemed decreased, or (as applicable) EBITDA is increased under paragraph (b) above, the financial covenant is complied with, and the Issuer shall be deemed to have satisfied the requirements of the financial covenant as of the relevant testing dates with the same effect as if there had been no breach of that financial covenant and, if applicable, that Curable Default shall be deemed remedied for all purposes under the Finance Documents.
- (d) The Midco Group may only exercise its rights under paragraph (a) above:
 - (i) four times before the Termination Date; and
 - (ii) (without prejudice to the deemed application of an Equity Cure Amount in respect of three further Relevant Periods referred to in paragraph (b) above in respect of any Curable Default pursuant to Clause 24.3 (*Financial condition*)) not in respect of two consecutive Relevant Periods.
- (e) For the avoidance of doubt:
 - (i) if within 20 Business Days of the earlier of the date of the Compliance Certificate evidencing the Curable Default or the date upon which such Compliance Certificate should have been delivered under Clause 23 (*Information Undertakings*), the Issuer has not received sufficient of the funds referred to in paragraph (a) above to remedy the relevant Curable Default in accordance with this Clause 24.5, the Finance Parties will be permitted to take any action available to them specified in Clause 26.19 (*Acceleration*) immediately upon the expiry of that period;
 - (ii) this Clause 24.5 shall not restrict the ability of any Finance Party to take action under Clause 26.19 (*Acceleration*) in respect of any other Event of Default which is not a Curable Default being remedied in accordance with paragraph (a) above;
 - (iii) save as contemplated in paragraph (vi) below, no part of the Equity Cure Amount shall be required to be applied in redemption of the Notes;
 - (iv) where the Issuer has elected to apply the Equity Cure Amount as contemplated by paragraph (b)(i) above, there shall be no limit on the amount of the Equity Cure Amount;
 - (v) where the Issuer has elected to apply the Minimum Equity Cure Amount as contemplated by paragraph (b)(ii) above but the relevant Equity Cure Amount is greater than the Minimum Equity Cure Amount, EBITDA shall only be increased by an amount equal to the Minimum Equity Cure Amount, and the difference between the Equity Cure Amount and the Minimum Equity Cure Amount shall be deemed to reduce Borrowings in accordance with paragraph (b)(i) above;

- (vi) any recalculation of the financial covenant in Clause 24.3 (*Financial condition*) made under this Clause 24.5 will be solely for the purpose of curing a relevant breach of that paragraph and not for any other purpose, including (without limitation) the calculation of PIK Margin, in the definitions of Permitted Payment or Permitted Acquisition;
- (vii) there shall be no double counting under this Clause 24.5 in respect of any Equity Cure Amount received by the Midco Group (including, without limitation, in respect of any voluntary prepayment of some or all of the Equity Cure Amount or any Equity Cure Amount that remains on balance sheet as Cash or which has been invested as a Cash Equivalent Investment);
- (viii) no Default or Material Event of Default shall arise in relation to the financial covenants in Clause 24.3 (*Financial condition*) between the date of delivery of the relevant Compliance Certificate and the end of the period referred to in paragraph (a) above; and
- (ix) an exercise by a member of the Midco Group of its rights under clause 26.4 (*Equity Cure*) of the Senior Facilities Agreement shall count as an exercise of its rights under paragraph (a) of this Clause 24.5.

24.6 Deemed Remedy

- (a) If the Issuer is in breach of any of its obligations under Clause 24.3 (*Financial condition*) in respect of a Relevant Period (the “**First Period**”) but the Issuer is in compliance with all its obligations under Clause 24.3 (*Financial condition*) in respect of the next Relevant Period (the “**Second Period**”) (ignoring for this purpose any applications of Clause 24.5 (*Equity Cure*) to that Second Period) and the Agent (acting on behalf of the Noteholders) has not exercised any of the rights set out in Clause 26.19 (*Acceleration*), then the breach of such obligations in respect of the First Period shall be deemed remedied for the purposes of Clause 24.3 (*Financial condition*).
- (b) For the avoidance of doubt, subject to Clause 24.5 (*Equity Cure*), any breach referred to in paragraph (a) above shall be a breach of Clause 24.3 (*Financial condition*) until the date the Compliance Certificate in respect of the Second Period is delivered to the Agent and nothing in this Clause shall prohibit any exercise by the Agent (acting on behalf of the Noteholders) of the rights set out in Clause 26.19 (*Acceleration*), in respect of such breach prior to that date.
- (c) An exercise by the Issuer of its rights under this Clause 24.6 shall, for the avoidance of doubt not count as an exercise of its rights under paragraph (a) of Clause 24.5 (*Equity Cure*).

25. GENERAL UNDERTAKINGS

The undertakings in this Clause 25 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

Authorisations and compliance with laws

25.1 Authorisations

Each Obligor shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) after the Agent’s request, supply certified copies to the Agent of,

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

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

25.2 Compliance with laws

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

25.3 Environmental compliance

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

- (a) comply with all Environmental Law;
- (b) obtain, maintain and ensure compliance with all requisite Environmental Permits,

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

25.4 Environmental claims

Each Obligor shall (through the Issuer) promptly upon becoming aware of the same, inform the Agent in writing of any Environmental Claim against any member of the Group which is current, pending or threatened where the claim, if adversely determined against any member of the Group, is reasonably likely to have a Material Adverse Effect.

25.5 Anti-Corruption Law

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

25.6 Taxation

- (a) Each Obligor shall (and Topco 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:

- (i) such payment is being contested in good faith;
 - (ii) either adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements delivered to the Agent under Clause 23.3 (*Financial statements*) or will be, and are, disclosed in the financial statements to be delivered under Clause 23.3 (*Financial statements*) immediately following the non-payment of such Taxes; and
 - (iii) such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.
- (b) No member of the Group may change its jurisdiction of residence for Tax purposes.

Restrictions on business focus

25.7 Merger

No Obligor shall (and Topco shall ensure that no other member of the Group will) enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction other than a Permitted Disposal, Permitted Acquisition or Permitted Transaction.

25.8 Change of business

The Issuer shall procure that no substantial change is made to the general nature of the business of the Issuer, the Senior Obligors or the Group taken as a whole from that carried on by the Target Group at the Closing Date.

25.9 Acquisitions

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

25.10 Joint ventures

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and Topco shall ensure that no other member of the Group will):
 - (i) enter into, invest in or acquire any shares, stocks, securities or other interest in any Joint Venture; or

- (ii) transfer any assets or lend to or guarantee or give an indemnity for or give Security for the obligations of a Joint Venture or maintain the solvency of or provide working capital to any Joint Venture.
- (b) Paragraph (a) above does not apply to any acquisition of any interest in a Joint Venture or transfer of assets to a Joint Venture or loan made to or guarantee, indemnity or Security given in respect of the obligations of a Joint Venture if such transaction is a Permitted Acquisition, a Permitted Disposal, a Permitted Guarantee, a Permitted Loan, Permitted Security or a Senior Permitted Joint Venture.

25.11 Holding Companies

No Original Obligor shall trade, carry on any business, acquire any assets or incur any liabilities except for:

- (a) the provision of management and administrative services to other members of the Group of a type customarily provided by a holding company to its Subsidiaries;
- (b) (1) in the case of Topco, ownership of interests in the Issuer and (2) in the case of the Issuer, ownership of shares in the Senior Parent and
- (c) (1) in the case of Topco, intra-Group credit balances with the Issuer only and (2) in the case of the Issuer intra-Group credit balances and intra-Group debit balances and other credit balances in bank accounts, cash and Cash Equivalent Investments and any other assets customarily owned or operated by a holding company but only if those shares, credit balances, cash and Cash Equivalent Investments and other assets are, or on the Closing Date will be, subject to the Transaction Security;
- (d) in the case of the Senior Parent and the Senior Borrower only, the provision of management and administrative services to other members of the Group of a type customarily provided by a holding company to its Subsidiaries;
- (e) in the case of the Senior Parent and the Senior Borrower only, ownership of shares in its Subsidiaries, intra-Group debit balances, intra-Group credit balances and other credit balances in bank accounts, cash and Cash Equivalent Investments but only if those shares, credit balances, cash and Cash Equivalent Investments are subject to the Transaction Security;
- (f) any rights or liabilities under or in connection with the Transaction Documents, the Senior Finance Documents to which it is a party, any Permitted Financial Indebtedness and professional fees and administration costs and any assets or liabilities owned or incurred in the ordinary course of business as a holding company (including liabilities in respect of Taxes, customary insurance policies and liabilities arising by operation of law);
- (g) any rights or liabilities under service agreements with any of its directors, executives or consultants customarily agreed by a holding company and any arrangements in connection with an employee share scheme;
- (h) any arrangement in respect of (or which is permitted to be satisfied by) a Permitted Payment;
- (i) any rights or liabilities in relation to Subordinated Debt and New Shareholder Injections;
- (j) in respect of the Senior Borrower only, any rights or liabilities under any hedging transaction permitted under Clause 25.33 (*Treasury Transactions*);
- (k) the payment of any Acquisition Costs;

- (l) any rights or liabilities in relation to any litigation or court or other similar proceedings that are being contested in good faith;
- (m) any Permitted Transaction, Permitted Guarantee, Permitted Surrender or Permitted Security; and
- (n) any rights or liabilities expressly contemplated as being acquired or incurred in the Structure Memorandum (other than (1) any exit steps, or (2) any cash repatriation steps out of the Group).

Restrictions on dealing with assets and Security

25.12 Preservation of assets

Each Obligor shall (and Topco 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 or desirable in the conduct of its business where the failure to maintain such assets to such standard has or is reasonably likely to have a Material Adverse Effect.

25.13 Pari passu ranking

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

25.14 Negative pledge

In this Clause, “**Quasi-Security**” means an arrangement or transaction described in paragraph (a)(ii) below.

- (a) Except as permitted under paragraph (b) below:
 - (i) no Obligor shall (and Topco shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets.
 - (ii) no Obligor shall (and Topco shall ensure that no other member of the Group will):
 - (A) 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;
 - (B) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
 - (C) 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
 - (D) 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.
- (b) Paragraph (a) above does not apply to any Security or (as the case may be) Quasi-Security, which is:

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

25.15 Disposals

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and Topco shall ensure that no other member of the Group will) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal which is:
 - (i) a Permitted Disposal;
 - (ii) a Permitted Transaction; or
 - (iii) any agreement for a sale, lease, transfer or other disposal which will when completed be a Permitted Disposal or a Permitted Transaction.

25.16 Arm's length basis

- (a) Except as permitted by paragraph (b) below, no Obligor shall (and Topco shall ensure that no other member of the Group will) enter into any transaction with any person except on arm's length terms or better than arm's length terms from the perspective of the relevant Obligor or other Group member.
- (b) The following transactions shall not be a breach of paragraph (a) above:
 - (i) intra-Group transactions permitted under this Agreement;
 - (ii) fees, costs and expenses payable under the Transaction Documents in the amounts set out in the Transaction Documents delivered to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*) (as amended in accordance with this Agreement) or agreed by the Agent;
 - (iii) any Permitted Transaction, Permitted Payment, Permitted Surrender or New Shareholder Injection;
 - (iv) any transaction expressly contemplated by the Transaction Documents delivered to the Agent under Clause 4.1 (*Initial conditions precedent*) (or as amended in accordance with this Agreement);
 - (v) any bona fide charitable or pro bono activities where the beneficiary of such activities is not a member of the Group, an Affiliate of a member of the Group, a director of a member of the Group, any member of Senior Management or the Consortium or any of their Affiliates; and
 - (vi) transactions with employees, directors or consultants of members of the Group in relation to staff discounts, loans, bonuses, incentive schemes, accommodation or the payment of reasonable costs and expenses.

Restrictions on movement of cash – cash out

25.17 Loans or credit

- (a) Subject to Clause 25.37 (*Anti-layering*) and except as permitted under paragraph (b) below, no Obligor shall (and Topco shall ensure that no other member of the Group will) be a creditor in respect of any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
 - (i) a Permitted Loan; or
 - (ii) a Permitted Transaction.

25.18 No guarantees or indemnities

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

25.19 Dividends and share redemption

- (a) Except as permitted under paragraph (b) below, the Issuer shall not (and Topco shall ensure that no other member of the Senior Group will):
 - (i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital); or
 - (ii) repay or distribute any dividend or share premium reserve;
 - (iii) pay or allow any member of the Group to pay any management, advisory or other fee to or to the order of any of (1) the direct or indirect shareholders of the Issuer (in their capacity as such) or (2) an Affiliate of the Consortium (other than any shareholder of Topco which is also Finance Party (in their capacity as such)); or
 - (iv) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.
- (b) Paragraph (a) above does not apply to:
 - (i) a Permitted Payment; or
 - (ii) a Permitted Transaction.
- (c) The Issuer shall not (and Topco shall ensure that no other member of the Senior Group will) create or otherwise cause or permit to exist or become effective any consensual restriction or encumbrance of any kind on the ability of any member of the Senior Group to pay dividends or make any other distributions or payments to the Issuer or any member of the Senior Group

which is otherwise more restrictive on the ability of the Senior Group to pay dividends or make any other distributions or payments to the Issuer than as permitted under the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated).

25.20 Subordinated Debt

- (a) Except as permitted under paragraph (b) below, the Issuer shall not (and Topco shall ensure that no other member of the Senior Group will):
 - (i) repay or prepay any principal amount (or capitalised interest) outstanding under the Subordinated Debt;
 - (ii) pay any interest, fee, charge or any other amounts payable in connection with the Subordinated Debt; or
 - (iii) purchase, redeem, defease or discharge (including by way of set-off) any amount outstanding with respect to the Subordinated Debt.
- (b) Paragraph (a) above does not apply to a payment, repayment, prepayment, purchase, redemption, defeasance or discharge which is:
 - (i) a repayment, prepayment or payment in order to enable the recipient of such payment to make a Permitted Payment; or
 - (ii) otherwise permitted under the Subordination Agreement.

Restrictions on Movement of Cash – Cash In

25.21 Financial Indebtedness

- (a) Subject to Clause 25.37 (*Anti-layering*) and except as permitted under paragraph (b) below, no Obligor shall (and Topco shall ensure that no other member of the Group will) incur or allow to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to Financial Indebtedness which is:
 - (i) Permitted Financial Indebtedness; or
 - (ii) a Permitted Transaction.

25.22 Share capital

Subject to Clause 25.37 (*Anti-layering*), no Obligor shall (and Topco shall ensure that no other member of the Group will) issue any shares except pursuant to:

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

Acquisition undertakings

25.23 Scheme undertakings

The undertakings in this Clause 25.23 shall apply only where the Acquisition is being effected by way of a Scheme.

(a) Issue of Scheme Press Announcement

The Senior Borrower will procure the issue of the initial Scheme Press Announcement within five Business Days of the date of this Agreement.

(b) Scheme Press Announcement

The Senior Borrower will use reasonable endeavours to procure that the form and terms of the Scheme Press Announcement is not materially inconsistent with the terms and conditions of the Scheme as contained in the form and terms of the draft Scheme Press Announcement delivered as a condition precedent under Part 1 of Schedule 2 (*Conditions Precedent*) unless any changes, waiver, amendments or other variations or modifications:

- (i) are permitted pursuant to paragraph (e)(iii) of this Clause 25.23 below;
- (ii) do not materially and adversely affect the interests of the Noteholders; or
- (iii) are required by the Takeover Code, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority.

(c) Scheme Circular

The Senior Borrower will use reasonable endeavours to procure that the form and terms of the Scheme Circular do not vary in any respect which is material to the interests of the Noteholders from the form and terms of the draft Scheme Press Announcement delivered as a condition precedent under Part 1 of Schedule 2 (*Conditions Precedent*) unless:

- (i) the Agent (acting on the instructions of the Majority Noteholders) has consented in writing to such change in advance (such consent not to be unreasonably withheld or delayed), it being acknowledged that such consent shall not be withheld or delayed in respect solely of an increase in the aggregate amount of cash payable for the Target Shares from that stated in the draft Scheme Press Announcement delivered as a condition precedent under Part 1 of Schedule 2 (*Conditions Precedent*) where it is demonstrated that such increase will be funded entirely (directly or indirectly) by New Shareholder Injections; or
- (ii) the variation is required by the Takeover Code, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority.

(d) Progress of the Scheme

The Senior Borrower shall keep the Agent informed as to any material developments in relation to the progress of the Scheme (including any information which is material to any decision about whether to waive any conditions that the Senior Borrower reasonably believes it is able to invoke under Rule 13.5(a) of the Code so as to lapse the Scheme) and will notify the Agent promptly following it becoming aware that the Court Order has been issued.

(e) **Terms of the Scheme**

The Senior Borrower shall:

- (i) not take any action (and procure, so far as they are legally able to do so, that no person acting in concert with it takes any action) which would compel it (or any person acting in concert with it) to make a mandatory offer to shareholders in the Target under Rule 9 of the Takeover Code;
- (ii) not increase, and ensure there is no increase in, the aggregate amount of cash payable for the Target Shares pursuant to the Scheme, except to the extent that such increase is funded entirely (directly or indirectly) by New Shareholder Injections to the Issuer by Topco, the Issuer shall then on-lend proceeds of such New Shareholder Injections to the Senior Parent and the Senior Parent shall on-lend the proceeds of such intra-group loan to the Senior Borrower;
- (iii) not waive or amend (and use reasonable endeavours to ensure there is no waiver or amendment to) or declare or treat as satisfied any condition of the Scheme where such waiver or consent would be materially prejudicial to the interests of the Finance Parties except:
 - (A) where the Agent (acting on the instructions of the Majority Noteholders) has given its consent (such consent not to be unreasonably withheld or delayed);
 - (B) that relates to a condition which the Issuer reasonably considers that the Senior Borrower would not be entitled, in accordance with Rule 13.5(a) of the Takeover Code, to invoke so as to cause the Scheme not to proceed; or
 - (C) to the extent required by the Takeover Code, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority or the Court; and
- (iv) comply in all material respects with its obligations under the Companies Act and the Takeover Code as each applies to the Scheme, subject to any applicable waivers by the Takeover Panel or the requirements of the Court, save where non-compliance would not be materially prejudicial to the interests of the Noteholders (taken as a whole) under this Agreement.

25.24 Offer undertakings

The undertakings in this Clause 25.24 shall apply only where the Acquisition is being effected by way of an Offer.

(a) **Issue of Offer Document**

The Senior Borrower shall despatch the Offer Document as soon as practicable and in any event within 28 days (or such longer period permitted by the Takeover Panel) of the date of issuing the Offer Press Announcement.

(b) **Offer Document**

The Senior Borrower will use reasonable endeavours to procure that the form and terms of the Offer Document do not vary in any respect which is material to the interests of the Noteholders from the form and terms of the draft Scheme Press Announcement delivered as a condition precedent under in Part 1 of Schedule 2 (*Conditions Precedent*) except for the acceptance

condition (which shall be in the usual form for an Offer and which shall facilitate the completion of the Squeeze Out Procedures), unless:

- (i) any changes, waiver, amendments or other variations or modifications reflect any change in the structure or form of the Acquisition as contemplated by Clause 3.3 (*Conversion between a Scheme and Offer*)
- (ii) any changes, waiver, amendments or other variations or modifications are permitted pursuant to paragraph (d)(i)(D) of this Clause 25.24;
- (iii) the Agent (acting on the instructions of the Majority Noteholders) has consented in writing to such change in advance (such consent not to be unreasonably withheld or delayed), it being acknowledged that such consent shall not be withheld or delayed in respect solely of an increase in the aggregate amount of cash payable for the Target Shares from that stated in the Scheme Press Announcement delivered as a condition precedent under Part 1 of Schedule 2 (*Conditions Precedent*) where it is demonstrated that such an increase will be funded entirely (directly or indirectly) by New Shareholder Injections; or
- (iv) the variation is required by the Takeover Code, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority.

(c) **Progress of Offer**

The Senior Borrower shall keep the Agent informed as to any material developments in relation to the progress of the Offer (including any information which is material to any decision about whether to waive any conditions that the Senior Borrower reasonably believes it is able to invoke under Rule 13.5(a) of the Code so as to lapse the Offer) and any market purchases of Target Shares made and provide the Agent with such information received in respect of the Offer as the Agent may reasonably request.

(d) **Terms of the Offer**

- (i) Without the prior written consent of the Agent, the Senior Borrower shall not:
 - (A) take any action (and procure, so far as they are legally able to do so, that no person acting in concert with it takes any action) which would compel it (or any person acting in concert with it) to make a mandatory offer to shareholders in the Target under Rule 9 of the Takeover Code;
 - (B) declare the Offer unconditional unless (i) it has achieved an acceptance level of at least 90 per cent. of each class of Target Shares to which the Offer relates and (ii) the Senior Borrower has become entitled under the Squeeze Out Procedures to issue a Squeeze Out Notice;
 - (C) without prejudice to paragraph (b) above, not increase, and ensure there is no increase in, the aggregate amount of cash payable for the Target Shares pursuant to the Offer, except to the extent that such increase is funded entirely (directly or indirectly) by New Shareholder Injections to the Issuer by Topco, the Issuer shall then on-lend proceeds of such New Shareholder Injections to the Senior Parent and the Senior Parent shall on-lend the proceeds of such intra-group loan to the Senior Borrower; or

(D) waive or amend (and use reasonable endeavours to ensure there is no waiver or amendment to) or declare or treat as satisfied any condition of the Offer where such waiver or consent would be materially prejudicial to the interests of the Finance Parties, except:

- (1) where the Agent (acting on the instructions of the Majority Noteholders) has given its consent (such consent not to be unreasonably withheld or delayed);
- (2) that relates to a condition which the Senior Borrower reasonably considers that it would not be entitled, in accordance with Rule 13.5(a) of the Takeover Code, to invoke so as to cause the Offer not to proceed; or
- (3) to the extent required by the Takeover Code, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority or the Court.

(ii) The Senior Borrower shall comply in all material respects with its obligations under the Companies Act and the Takeover Code as each applies to the Offer, subject to any applicable waivers by the Takeover Panel and save where non-compliance would not be materially prejudicial to the interests of the Noteholders (taken as a whole) under this Agreement.

(e) **Completion of purchase of remaining shares in the Target**

Within 5 Business Days of the date on which the Senior Borrower has (i) by virtue of the Offer acquired, or unconditionally contracted to acquire, not less than 90 per cent in value of the Target Shares and (in a case where the shares of any class of the Target Shares are voting shares) not less than 90 per cent of the voting rights carried by those shares and (ii) become entitled under the Squeeze Out Procedures to issue a Squeeze Out Notice, the Senior Borrower shall:

- (i) give notice to all the remaining Target Shareholders that it intends to acquire their shares pursuant to the Squeeze Out Procedures;
- (ii) subsequently purchase such shares as soon as legally possible; and
- (iii) comply with the provisions of the Squeeze Out Procedures.

25.25 General Acquisition Undertakings

(a) **Announcements**

The Obligors agree that:

- (i) they will deliver to the Agent copies of all publicity material, press releases and announcements intended to be published in relation to the Acquisition or the Facilities as soon as practicable prior to their publication; and
- (ii) where any publicity material, press releases and announcements intended to be published in relation to the Acquisition or the Facilities refers to any Finance Party, it must be approved in writing by such party prior to its publication. No such approval shall be necessary where such announcement is required in order to comply with any relevant Authorisation, law or regulation or the requirements, rules and regulations of

any court, applicable regulatory authority or body relating to the Acquisition, or (for the avoidance of doubt), the Scheme, the Scheme Documents, the Offer or the Takeover Offer Documents.

(b) Regulatory clearances and authorisations

Except to the extent necessary to comply with any obligations of confidentiality to any regulatory authority, the Obligors shall keep the Agent reasonably informed as to:

- (i) the terms and conditions of any assurance or undertaking proposed to be given by or on behalf of any member of the Group (or, so far as the Senior Borrower is aware, any member of the Target Group) to any person for the purpose of obtaining any authorisation or clearance necessary in connection with the Acquisition; and
- (i) any terms or conditions proposed in connection with any Authorisation necessary in connection with the Acquisition.

(c) Take Private Procedure

The Obligors shall submit all required documents to the Registrar of Companies to procure the re-registration of the Target as a private company pursuant to part 7 of the Companies Act by no later than the date falling:

- (i) where the Acquisition has been effected by way of a Scheme, 30 days after the Closing Date; and
- (ii) where the Acquisition has been effected by way of an Offer, 55 days after the Closing Date.

Miscellaneous

25.26 Insurance

- (a) Each Obligor shall (and Topco shall ensure that each other member of the Group (other than any non-trading 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.
- (b) All insurances must be with reputable independent insurance companies or underwriters.

25.27 Pensions

Topco shall ensure that no member of the Group is:

- (a) 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
- (b) "connected" with or an "associate" of (as those terms are used in sections 38 or 43 of the Pensions Act 2004) such an employer unless there is no reasonable prospect of a Contribution Notice or Financial Support Direction being served on it or any of its Subsidiaries on account of it or any of its Subsidiaries being such an associate or so connected.

25.28 People with Significant Control regime

Each Obligor shall:

- (a) within the relevant timeframe, comply with any notice it receives pursuant to Part 21A of the Companies Act 2006 from any company incorporated in the United Kingdom whose shares are the subject of the Transaction Security; and
- (b) promptly provide the Security Agent with a copy of that notice.

25.29 Access

- (a) If an Event of Default is continuing, each Obligor shall, and the Issuer shall ensure that each member of the Group will, permit the Agent and/or the Security Agent and/or accountants or other professional advisers and contractors of the Agent or Security Agent free access at all reasonable times and on reasonable notice at the risk and cost of the Obligor or the Issuer to (a) the premises, assets, books, accounts and records of each member of the Group and (b) meet and discuss matters with Senior Management or their successors.
- (b) The Obligors and the Issuer will only be required to comply with the requirements of paragraph (a) above if, where reasonable and practicable:
 - (i) the Agent or the Security Agent (as the case may be) has first communicated its concerns and its request for information or explanation to the Issuer;
 - (ii) the Issuer and the Agent or the Security Agent (as the case may be) have discussed in good faith the issues arising and the Issuer has supplied such further information and explanation as it is reasonably able to; and
 - (iii) having taken the steps in paragraphs (i) and (ii) above, the Agent or the Security Agent (as the case may be) acting reasonably is not satisfied with the information and/or explanations provided.
- (c) If the Agent or the Security Agent exercise its rights under paragraph (a) above, it will use reasonable endeavours to minimise the scope and nature of the enquiry undertaken and the costs to the Group of that enquiry.

25.30 Intellectual Property

- (a) Each Obligor shall (and Topco shall procure that any other member of the Group will):
 - (i) preserve and maintain the subsistence and validity of the Intellectual Property necessary for the business of the relevant member of the Group;
 - (ii) use reasonable endeavours to prevent any infringement in any material respect of the Intellectual Property;
 - (iii) make registrations and pay all registration fees and taxes necessary to maintain the Intellectual Property in full force and effect and record its interest in that Intellectual Property;
 - (iv) not use or permit the Intellectual Property to be used in a way or take any step or omit to take any step in respect of that Intellectual Property which may materially and adversely affect the existence or value of the Intellectual Property or imperil the right of any member of the Group to use such property; and

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

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

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

25.31 Amendments

- (a) No Obligor shall (and the Topco shall ensure that no other member of the Group will) amend, vary, novate, supplement, supersede, waive or terminate any term of a Finance Document except in writing:
 - (i) in accordance with the provisions of Clause 39 (*Amendments and Waivers*);
 - (ii) to the extent that that amendment, variation, novation, supplement, superseding, waiver or termination is permitted by the Subordination Agreement; or
 - (iii) in a way which could not be reasonably expected materially and adversely to affect the interests of the Finance Parties.
- (b) The Issuer shall promptly on request supply to the Agent a copy of any document relating to any of the matters referred to in paragraph (a) above.

25.32 Financial assistance

Each Obligor shall (and Topco shall procure each other member of the Group will) comply in all respects with sections 678 and 679 of the Companies Act 2006 (to the extent applicable to it) and any equivalent legislation in other jurisdictions including in relation to the execution of the Transaction Security Documents and payments of amounts due under this Agreement.

25.33 Treasury Transactions

- (a) No Obligor shall (and Topco will procure that no other member of the Group will) enter into any Treasury Transaction, other than:
 - (i) any hedging transaction, entered into for the purpose of hedging interest rate or exchange rate risks in relation to the Senior Facilities;
 - (ii) spot and forward delivery foreign exchange contracts entered into in the ordinary course of business and not for speculative purposes; and
 - (iii) any Treasury Transaction entered into for the hedging of actual or projected real exposures arising in the ordinary course of trading activities of a member of the Group and not for speculative purposes.

25.34 Guarantors

- (a) The Issuer shall ensure that at all times referred to in paragraph (c) below, the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of the Senior Guarantors (calculated on an unconsolidated basis and excluding goodwill, intragroup items and investments in Subsidiaries of any member of the Senior

Group) represents not less than 80 per cent of the EBITDA of the Senior Group. Any member of the Senior Group generating negative earnings before interest, tax, depreciation and amortisation shall be treated as having earnings before interest, tax, depreciation and amortisation of zero for the purposes of determining compliance with this paragraph (a).

- (b) The Issuer shall not be in breach of paragraph (a) above if, within 30 days (or 60 days in relation to any acceding entity not incorporated in England and Wales) of becoming aware that it would be in breach of paragraph (a) above in the absence of this paragraph (b), it procures that one or more members of the Senior Group accede as Guarantors under Clause 29.2 (*Additional Guarantors*) and after such accession it complies with paragraph (a) above.
- (c) The Guarantor coverage requirement in paragraph (a) above will be tested on the date falling 120 days after the Closing Date, on each date on which a Compliance Certificate is delivered with the Annual Financial Statements under clause Clause 23.4 (*Provision and contents of Compliance Certificate*) and on the date of any Senior Permitted Bolt-on Acquisition.

25.35 Further assurance

- (a) Each Obligor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
 - (i) to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law and which are exercisable in accordance with their terms;
 - (ii) to confer on the Security Agent or confer on the Finance Parties Security over any property and assets of that Obligor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents; and/or
 - (iii) (after the Transaction Security has become enforceable) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.
- (b) Each Obligor shall 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, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents.
- (c) The Issuer shall use all reasonable endeavours to procure that, within 60 days after the delivery of a Mandatory Valuation, legal mortgages or standard securities in favour of the Security Agent are perfected by registration at HM Land Registry or Registers of Scotland (as applicable) over Sites to the extent required to comply with the Minimum Secured Property Condition (as determined in accordance with that Mandatory Valuation), *provided that* no Event of Default will occur if at the relevant time:
 - (i) legal mortgages or standard securities in favour of the Security Agent have been perfected by registration at HM Land Registry or Registers of Scotland (as applicable) over all Sites where no third party consents are required to be obtained to perfect such legal mortgages; and

- (ii) in relation to Sites where third party consents are required to be obtained to perfect legal mortgages in order to comply with the Minimum Secured Property Condition, the Issuer has used all reasonable endeavours to obtain such consents.

25.36 Sanctions

- (a) No Obligor shall (and the Topco shall ensure that no member of the Group will):
 - (i) contribute or otherwise make available (directly or indirectly) all or any part of the Facilities to, or (to the best of its knowledge and belief) for the benefit of any person or entity (whether or not related to any member of the Group) for the purpose of financing the activities of, or business or transactions with, any Restricted Person (or any person or entity owned or controlled, directly or indirectly, by any Restricted Person), to the extent such action is prohibited by, or would itself cause any Finance Party or a member of the Group to be in breach of, any applicable Sanctions;
 - (ii) directly or (to the best of its knowledge and belief) indirectly fund all or part of any repayment or prepayment of the Facilities out of proceeds derived from any action or status which is prohibited by, or would itself cause any Finance Party or a member of the Group to be in breach of, any Sanctions;
 - (iii) permit any Restricted Person to have (to the best of its knowledge and belief) any direct or indirect interest in any Obligor where such interest would itself cause any Finance Party or a member of the Group to be in breach of any Sanctions;
 - (iv) to fund any activities or business of or with any person or in any Sanctioned Country or any country or territory that, at the time of such funding, is or whose government is, the subject to country-wide Sanctions by a Sanctions Authority and listed on a Sanctions List;
 - (v) engage in any conduct which might reasonably be expected to cause it to become a subject of Sanctions;
 - (vi) engage in any transaction that evades or avoids, directly or indirectly, any Sanctions; or
 - (vii) make any payment under the Finance Documents with funds or assets obtained directly from transactions with, or that are the property of, or are beneficially owned by, any Restricted Person or any person located in or operating from a Sanctioned Country, or knowingly obtained in any other manner that could reasonably be expected to result in a violation of applicable Sanctions by any person participating in the transactions contemplated in the Finance Documents (including, without limitation, the other parties to this Agreement and the other Finance Documents),

provided that no Obligor (or the Issuer) will be required to comply with this Clause 25.36 to the extent that if to do so would breach English law.

25.37 Anti-layering

Notwithstanding any provision in this Agreement to the contrary, the Issuer and Topco shall procure that no indebtedness is incurred to, or Equity Interests are issued by, the Senior Parent or the Senior Borrower from time to time, other than:

- (a) any issuance of Equity Interests to, the immediate Holding Company of such entity *provided that* such issuance does not lead to a Change of Control; and

- (b) in the case of the Senior Borrower, any indebtedness under the Senior Facilities Agreement or which constitutes Senior Permitted Financial Indebtedness or is owed to the Senior Parent, and in the case of the Senior Parent, any indebtedness owed to the Issuer.

25.38 Limitation on short-circuit payments

- (a) Notwithstanding any provision in this Agreement to the contrary, the Issuer and Topco shall procure that:
 - (i) no member of the Group (other than Topco) shall incur or allow to remain outstanding any indebtedness owing to any (direct or indirect) Topco Shareholder (other than an Investor-Entity) or any of their Affiliates or Related Entities (in each case, other than an Investor-Entity) and that no equity contribution (including by way of subscription of shares or capital contribution) and any quasi-equity or debt contribution in the form of a shareholder loan or other debt or hybrid instrument or any other investment (including, without limitation, by way of asset purchase) (an “**Investment**”) is made at any time in any member of the Group (other than Topco) by any direct or indirect Topco Shareholder (other than an Investor-Entity) or any of their Affiliates or Related Entities (in each case, other than an Investor-Entity) (directly or indirectly), save to the extent that such Investment is made first in Topco and is subsequently made in the Issuer, then the Senior Parent, then in the Senior Borrower, then in the Target and then in the relevant member of the Target Group, and
 - (ii) no member of the Group (other than Topco) shall make any payment, distribution dividend, repayment of equity, other return of value, reduction of capital, loan, fee, charge or the payment of interest on, or repayment or prepayment of principal in respect of any Financial Indebtedness, or the redemption, set-off, acquisition of liabilities or other discharge to, or carry out any other transaction of the type described in paragraphs (a)(i) to (a)(iv) of Clause 25.19 (*Dividends and share redemption*) with regard to, any direct or indirect Topco Shareholder (other than an Investor-Entity) or any of their Affiliates or Related Entities (in each case, other than an Investor-Entity) *provided that* such transaction constitutes a Permitted Payment under this Agreement and is made first to the Issuer and is subsequently paid to Topco, and then to any direct or indirect Topco Shareholder or any of their Affiliates.
- (b) Each of Topco and the Issuer shall ensure that the Group does not enter into any disposition or transaction in respect of any assets of the Group, the purpose of which is to circumvent the provisions set out in paragraph (a) above.

25.39 Conditions subsequent

- (a) The Issuer shall procure that:
 - (i) no later than one Business Day after the Closing Date, any Financial Indebtedness incurred under the Existing Facilities Agreement is prepaid in full and all commitments thereunder cancelled and any guarantee or indemnity given under the Existing Facilities Agreement is released in full; and
 - (ii) no later than three Business Days after the Closing Date, any Security or Quasi-Security given under the Existing Facilities Agreement is released in full.
- (b) The Issuer shall procure that the Target accedes as an Additional Guarantor and grants Transaction Security as soon as reasonably practicable following the Closing Date but:

- (i) where the Acquisition has been effected by way of a Scheme, in any event within 60 days after the Closing Date; and
 - (ii) where the Acquisition has been effected by way of an Offer, in any event within 90 days after the Closing Date.
- (c) The Issuer shall procure that, within 30 days after the date that the Target accedes as an Additional Guarantor, legal mortgages or standard securities in favour of the Security Agent are perfected by registration at HM Land Registry or Registers of Scotland (as applicable) over Sites taken as a whole that have an aggregate value that is at least equal to the Minimum Secured Property Value (the "**Minimum Secured Property Condition**"), as determined in accordance with the Initial Valuation provided that no Event of Default will occur if at the relevant time:
 - (i) legal mortgages or standard securities in favour of the Security Agent have been perfected by registration at HM Land Registry or Registers of Scotland (as applicable) over all Sites where no third party consents are required to be obtained to perfect such legal mortgages; and
 - (ii) in relation to Sites where third party consents are required to be obtained to perfect legal mortgages in order to comply with the Minimum Secured Property Condition, the Issuer has used all reasonable endeavours to obtain such consents.
- (d) The Issuer shall:
 - (i) (1) open a bank account located in England in its own name by no later than the Closing Date (the "**Issuer Bank Account**"), (2) maintain the Issuer Bank Account during the life of the Facilities and (3) take steps as it is required under the Transaction Security to perfect Security over such account (in accordance with the Transaction Security Documents entered by the Issuer);
 - (ii) procure that all amounts received by it are credited into the Issuer Bank Account; and
 - (iii) ensure that if any amount to which the Issuer is entitled (including, without limitation, by virtue of Clause 25.38 (*Limitation on short-circuit payments*)) is paid into an account other than the Issuer Bank Account, that payment must be paid immediately into the Issuer Bank Account or any another account bank located in England opened in the Issuer's own name which is subject to Transaction Security.
- (e) The Issuer shall not, without the prior consent of the Agent, maintain any bank account which is not subject to Transaction Security.
- (f) The Issuer shall procure that no member of the Senior Group give or provide any Security or any guarantee, indemnity or other assurance against loss in respect of the Primary Creditor Liabilities (as defined in the Senior Intercreditor Agreement) unless if and to the extent legally possible, at the same time it is also granted to the Secured Parties (subject to the terms of the Senior Intercreditor Agreement).
- (g) The Issuer shall procure that within 1 Business Day of the Closing Date the following are delivered to the Agent:
 - (i) Notes Certificates duly executed by the Issuer and validated by the Agent as representing Notes in an aggregate amount equal to the Total Commitments; and

- (ii) the Notes Register signed by the Issuer showing the Original Noteholders as registered holders of the Notes.
- (h) The following legal opinions, each addressed to the Agent, the Security Agent and the Original Noteholders shall be delivered to the Agent within 1 Business Day of the Closing Date:
 - (i) A legal opinion of Proskauer Rose (UK) LLP, legal advisers to certain Arrangers and Original Noteholders as to English law; and
 - (ii) A legal opinion of Ogier (Jersey) LLP as legal advisers to certain Arrangers and Original Noteholders, as to Jersey law,

each substantially in the form distributed to the Original Noteholders prior to signing this Agreement, together with a certificate from a director of Topco addressed to Ogier (Jersey) LLP for the purposes of Ogier (Jersey) LLP's legal opinion mentioned in paragraph (h)(ii) above.

25.40 Listing

- (a) The Issuer shall:
 - (i) promptly after the Closing Date but in any event no later than 3 Business Days after the Closing Date, instruct Carey Olsen Corporate Finance Limited of 47 Esplanade, St Helier, Jersey (the “**Listing Agent**”) to make or cause to be made an initial application on its behalf for the Original Facility Notes to be listed on TISE; and
 - (ii) promptly after the Closing Date but in any event no later than 20 Business Days after the Closing Date, file a final listing application in respect of the Original Facility Notes with TISEA.
- (b) Following the Closing Date, the Issuer shall (and Topco will procure that each relevant member of the Group will), agree to, and promptly enter into, such amendments to any Senior Notes Finance Document:
 - (i) as the Agent (acting on the instructions of the Majority Noteholders) considers necessary to facilitate and/or implement the TISE Listing and/or which are required under any applicable law in order to give effect to the TISE Listing; and/or
 - (ii) as may be required by TISEA.
- (c) Following the Closing Date, the Issuer agrees to use all reasonable endeavours to obtain and maintain the Listing on TISE so long as the Notes are outstanding, and to pay all fees and supply all such documents, information and undertakings and publish all advertisements or other materials as may be necessary or advisable for such purpose.
- (d) If at any time following the Closing Date, after exercise of all reasonable endeavours by the Issuer, the Issuer is unable to obtain or maintain the TISE Listing, it will if so requested by the Majority Noteholders, use all reasonable endeavours to obtain and maintain a listing of the Notes on such other stock exchange as is commonly used for the quotation of debt securities as the Majority Noteholders decide (acting reasonably).

25.41 Regulatory

- (a) In the event that any inspection or compliance report issued by a Regulatory Authority contains any requirements which any member of the Group is obliged to comply with, the

Issuer shall (and shall procure that each relevant member of the Group will) use all reasonable endeavours to implement and/or satisfy such requirements as soon as possible after receipt of such inspection or compliance report.

- (b) In the event that a member of the Group delivers an action plan to a Regulatory Authority following and in response to the issue by that Regulatory Authority of a Warning to a member of the Group, the Issuer shall (and shall procure that each relevant member of the Group will) implement or take all steps to give effect to the action plan in accordance with its terms.

26. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 26 is an Event of Default (save for 26.19 (*Acceleration*) and Clause 26.20 (*Clean-up Period*)).

26.1 Non-payment

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

- (a) its failure to pay is caused by:
 - (i) administrative or technical error; or
 - (ii) a Disruption Event;and payment is made within three Business Days of its due date; or
- (b) payment is made within five Business Days of its due date.

26.2 Financial covenant and other obligations

- (a) Any requirement of Clause 24.3 (*Financial condition*) is not satisfied or complied with (subject to the expiry of the cure period referred to in Clause 24.5 (*Equity Cure*)).
- (b) An Obligor does not comply with the provisions of Clause 25.38 (*Limitation on short-circuit payments*).
- (c) An Obligor does not comply with the provisions of Clause 23 (*Information Undertakings*) (other than Clause 25.6 (*Group companies*), Clause 23.10 (*Information: miscellaneous*), Clause 23.11 (*Notification of default*) or Clause 23.13 (*"Know your customer" checks*)).
- (d) No Event of Default under paragraph (c) above will occur in respect of a failure to comply with paragraph (a) of Clause 23.4 (*Provision and contents of Compliance Certificate*) or Clause 23.6 (*Budget*), if such failure is remedied within five Business Days of the earlier of:
 - (i) the Agent giving notice to the Issuer or the relevant Obligor; and
 - (ii) the Issuer or an Obligor becoming aware of the failure to comply.

26.3 Other obligations

- (a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 26.1 (*Non-payment*) and Clause 26.2 (*Financial covenant and other obligations*)).

- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within 20 Business Days of the earlier of (i) the Agent giving notice to the Issuer or relevant Obligor and (ii) the Issuer or an Obligor becoming aware of the failure to comply.

26.4 Misrepresentation

- (a) Any representation or statement made or deemed to be made by an Obligor in the Finance Documents is or proves to have been incorrect or misleading in any material respect when made or deemed to be made by reference to the facts and circumstances then existing.
- (b) No Event of Default under paragraph (a) above will occur if the circumstances giving rise to the misrepresentation are capable of remedy and are remedied within 20 Business Days of the earlier of (i) the Agent giving notice to the Issuer or relevant Obligor and (ii) the Issuer or an Obligor becoming aware of such circumstances.

26.5 Cross default

- (a) Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any 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).
- (d) 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).
- (e) No Event of Default will occur under paragraphs (a) to (d) above if:
 - (i) the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above (excluding ground rent leases) is less than £2,500,000 (or its equivalent in any other currency);
 - (ii) any event falling within paragraphs (a) to (d) above is in respect of Financial Indebtedness:
 - (A) the payment of which is prohibited under the terms of the Senior Intercreditor Agreement or otherwise not paid in order to comply with the terms of this Agreement or the Subordination Agreement;
 - (B) owed by one member of the Group to another member of the Group;
 - (C) of any member of the Target Group where such event is caused by the execution, delivery or performance of any Transaction Document and which is to be repaid no later than one Business Day after the Closing Date;
 - (D) incurred under an ancillary facility under the Senior Facilities Agreement where, if Financial Indebtedness is outstanding under such ancillary facility, a revolving facility loan under the Senior Facilities Agreement is available

and is borrowed to refinance such Financial Indebtedness in accordance with the terms of the Senior Facilities Agreement;

- (E) of any member of the Group which has become a member of the Group after the Closing Date as a result of a Permitted Acquisition and such Financial Indebtedness is Permitted Financial Indebtedness (as defined in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated)) under paragraph (g) of the definition of that term; or
- (F) under a Finance Lease if the only event falling within paragraphs (a) to (d) above in respect of such Finance Lease has occurred under paragraph (a) and there is no reasonable prospect of the Financial Indebtedness under such Finance Lease being prematurely declared due and payable; or
- (G) any negotiations with landlords in respect of leases relating to Project Amalfi Leases, Permitted Real Estate Transactions or a Permitted Rent Arrangement.

26.6 Insolvency

- (a) An Material Company:
 - (i) is unable or admits inability to pay its debts as they fall due;
 - (ii) is declared to, be unable to pay its debts under applicable law other than as a result of a legal proceeding which does not constitute an Event of Default under Clause 26.8 (*Insolvency proceedings*) or as a result of the value of its assets being less than its liabilities;
 - (iii) suspends or threatens to suspend making payments on any of its debts (as part of a general suspension of debts); or
 - (iv) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Finance Party in each case in its capacity as such and any negotiations with landlords in respect of leases relating to Project Amalfi Leases, Permitted Real Estate Transactions or a Permitted Rent Arrangement) with a view to rescheduling any of its indebtedness in an amount of at least £2,500,000 (or its equivalent in any other currency).
- (b) A moratorium is declared in respect of any indebtedness of any Material Company. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

26.7 Insolvency proceedings

- (a) Any corporate action, legal proceedings or other formal legal procedure or step is taken in relation to:
 - (i) the suspension of payments generally, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Material Company;
 - (ii) a composition, compromise, assignment or similar arrangement with any creditor of any Material Company by reason of actual or anticipated financial difficulties;

- (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any Material Company or any of its assets having an aggregate value in excess of £2,500,000 (or its equivalent in any other currency); or
- (iv) enforcement of any Security over any assets of any Material Company such assets have an aggregate value in excess of £2,500,000 (or its equivalent in any other currency),

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

(b) Paragraph (a) above shall not apply to:

- (i) any legal proceeding or other formal procedure or step which is frivolous or vexatious or is discharged, stayed or dismissed within 14 days of commencement;
- (ii) any step or procedure contemplated by paragraph (b) or (f) of the definition of “Permitted Transaction” (as defined in the Senior Facilities Agreement (as at the date of this Agreement and, for the avoidance of doubt, not as subsequently amended and/or amended and restated)); or
- (iii) any negotiations with landlords in respect of leases relating to Project Amalfi Leases, Permitted Real Estate Transactions or a Permitted Rent Arrangement.

26.8 Creditors’ process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of a Material Company having an aggregate value exceeding £2,500,000 (or its equivalent in any other currency) and is not discharged within 14 days.

26.9 Unlawfulness and invalidity

- (a) Subject to the Legal Reservations, it is or becomes unlawful for an Obligor or any other member of the Group that is a party to the Subordination Agreement to perform any of its material obligations under the Finance Documents or any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective.
- (b) Any obligation or obligations of any Obligor under any Finance Documents or any member of the Group under the Subordination Agreement are not (subject to the Legal Reservations and the Perfection Requirements) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Noteholders under the Finance Documents.
- (c) Any subordination created under the Senior Intercreditor Agreement or the Subordination Agreement ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective, and in each case the cessation or alleged ineffectiveness individually or cumulatively materially and adversely affects the interests of the Finance Parties under the Finance Documents taken as a whole.

26.10 Subordination Agreement and Senior Intercreditor Agreement

- (a) Any party to the Subordination Agreement or the Senior Intercreditor Agreement (in each case, other than a Finance Party, an Investor-Entity or an Obligor) fails to comply with the

material provisions of, or does not perform its material obligations under, the Senior Intercreditor Agreement; or

- (b) a representation or warranty given by that party in the Subordination Agreement or the Senior Intercreditor Agreement (other than a Finance Party or an Investor-Entity) is incorrect in any material respect,

and, if the non-compliance, non-performance or circumstances giving rise to the misrepresentation are capable of remedy, it is not remedied within 20 Business Days of the earlier of the Agent giving notice to that party or that party becoming aware of the non-compliance, non-performance or misrepresentation.

26.11 Cessation of business

Any 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.

26.12 Change of ownership

After the Closing Date,

- (a) the Issuer ceases to be a direct wholly-owned Subsidiary of Topco;
- (b) the Senior Parent ceases to be a direct wholly-owned Subsidiary of the Issuer;
- (c) the Senior Borrower ceases to be a direct wholly-owned Subsidiary of the Senior Parent; or
- (d) any Senior Obligor ceases to be a wholly-owned Subsidiary of the Senior Parent except as a result of a disposal which is a Permitted Disposal or a Permitted Transaction

26.13 Audit qualification

The Topco's Auditors qualify the Topco's Annual Financial Statements and such qualification relates to the accuracy of material information, access to information or the Issuer's status as a going concern or is otherwise materially adverse to the interests of the Finance Parties under the Finance Documents taken as a whole.

26.14 Expropriation

The authority or ability of any member of the Group to conduct its business is substantially 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.

26.15 Repudiation and rescission of agreements

- (a) An Obligor rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or any of the Transaction Security or evidences an intention to rescind or repudiate a Finance Document or any Transaction Security.
- (b) Any party (other than a Finance Party or an Investor-Entity) to the Subordination Agreement rescinds or purports to rescind or repudiates or purports to repudiate such agreement in whole or in part where to do so has or is reasonably likely to have a material adverse effect on the interests of the Noteholders under the Finance Documents taken as a whole.

26.16 Litigation

Any litigation, arbitration or administrative proceedings, governmental or regulatory proceedings or investigations of, or before, any court, arbitral body or agency are started, or any judgment or order of a court, arbitral body or agency or any order or sanction of any governmental or regulatory body is made, 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 has, or are, or is, reasonably likely to have a Material Adverse Effect.

26.17 Material adverse change

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

26.18 Regulatory Compliance

Any member of the Group fails to comply with the requirements of the Care Services Regulations insofar as they relate to the Authorisations and operations of that member of the Group, where such failure to comply has or could reasonably be expected to have a Material Adverse Effect.

26.19 Acceleration

Subject to Clause 4.4 (*Notes Subscriptions during the Certain Funds Period*), on and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Noteholders:

- (a) by notice to the Issuer:
 - (i) cancel the Total Commitments at which time they shall immediately be cancelled and no Noteholder shall be under any further obligation of subscribe for the Notes under this Agreement;
 - (ii) declare that all or part of the Notes be immediately redeemable at which time they shall become immediately redeemable;
 - (iii) declare that all or part of 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; and/or
 - (iv) declare that all or part of the outstanding amounts under the Notes and the Notes Subscription to be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Noteholders.
- (b) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

26.20 Clean-up Period

Notwithstanding any other provision of any Finance Document:

- (a) any breach of a representation under Clause 22 (Representations) or an undertaking under Clause 25 (General Undertakings); or
- (b) any Default,

which occurs during a Clean-Up Period, other than a Non Clean-Up Default, will be deemed not to be a breach of representation or warranty, a breach of undertaking or a Default (as the case may be) if:

- (i) it would have been (if it were not for this Clause 26.20) a breach of representation or warranty, a breach of undertaking or a Default only by reason of circumstances relating exclusively to:
 - (A) in the case of such a breach or Default which occurs during the Initial Clean-Up Period, any member of the Target Group (or any obligation to procure or ensure in relation to a member of the Target Group); or
 - (B) in the case of such a breach or Default which occurs during a Permitted Acquisition Clean-Up Period, the company (or any of its Subsidiaries) or the business or undertaking which is the subject of the relevant acquisition (or any obligation to procure or ensure in relation to that company, Subsidiary, business or undertaking);
- (ii) it is capable of remedy and reasonable steps are being taken to remedy it;
- (iii) the circumstances giving rise to it have not been procured by or approved by the Issuer or any other member of the Group other than any member of the Group which was the subject of the relevant acquisition; and
- (iv) it does not have and is not reasonably likely to have a Material Adverse Effect.

If the relevant circumstances are continuing on or after the end of that Clean-Up Period, there shall be a breach of representation or warranty, breach of undertaking or Default, as the case may be notwithstanding the above (and without prejudice to the rights and remedies of the Finance Parties).

27. CHANGES TO THE NOTEHOLDERS

27.1 Transfers by the Noteholders

- (a) Subject to this Clause 27, a Noteholder (the “**Existing Noteholder**”) may 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 Noteholder**”).
- (b) Subject to this Clause 27, prior to the transfer of any Note by an Ares Noteholder, that Ares Noteholder shall provide the THCP Entities 5 Business Days’ notice of such transfer, and the THCP Entities (or any one or more of them together) shall have the right to match the terms and economics of such transfer (such right, the “**Right to Match**”), provided that each relevant THCP Entity advises the Ares Noteholder of its intention to exercise the Right to Match no later than 2 Business Days prior to the proposed date of the relevant transfer.
- (c) If a THCP Entity exercises the Right to Match, the relevant Ares Noteholder shall only be permitted to transfer the applicable Notes to the THCP Entity.

27.2 The Issuer consent

- (a) The consent of the Issuer and THCP Advisory Limited (in its capacity as Arranger under this Agreement) is required for a transfer by an Existing Noteholder prior to the expiry of the Lock-up Period, unless the transfer:

- (i) is to another Noteholder, an Affiliate of any Noteholder or to a fund which is a Related Entity of that Existing Noteholder;
- (ii) is made by a Noteholder at a time when a Relevant Event of Default is continuing;
- (iii) is in respect of an Existing Noteholder who is a Topco Shareholder (including, for this purposes, any Affiliate or a Related Entity of such Existing Noteholder) only, simultaneously or concurrently, or following, the exercise of the Tag-Along Right in accordance with the Shareholders' Agreement and in respect of such proportion of its Notes that does not exceed the equivalent percentage of shares disposed of pursuant to the Tag-Along Right being exercised; or
- (iv) satisfies the following conditions:
 - (A) the Existing Noteholder transfers to the New Noteholder simultaneously or concurrently all the Notes (including all the Notes held by any other Noteholder who is an Affiliate or a Related Entity of such Existing Noteholder (and, if the Existing Noteholder is an Investor-Noteholder, all the Notes held by any other Investor-Entity));
 - (B) the New Noteholder acquires simultaneously or concurrently with the transfer referred in paragraph (iv)(A) all the shares in Topco held by such Existing Noteholder (including all the shares in Topco held by any other Noteholder who is an Affiliate or a Related Entity of such Existing Noteholder (and, if the Existing Noteholder is an Investor-Noteholder, all the Notes held by any other Investor-Entity)); and
 - (C) such acquisition or transfer of shares in Topco is made in accordance with, and is permitted or not prohibited under, in respect of a THCP Entity, the Shareholders' Agreement and/or in respect of an Ares Entity, the Ares Subscription Agreement,

provided that any transfer to be made on or prior to the end of the Certain Funds Period shall in all circumstances require the prior written consent of the Issuer and THCP Advisory Limited (in its capacity as Arranger under this Agreement) (which may be given or refused in its absolute discretion and, for the avoidance of doubt, never deemed given) unless such transfer is:

- (i) to another Original Committed Noteholder; or
- (ii) made at a time when a Secured Subordinated Certain Funds Default is continuing.

Notwithstanding the above, in relation to a Noteholder (other than an Investor-Entity), no transfer may be made by any Noteholder prior to the end of the Lock-up Period to a Loan to Own Investor, Competitor, competitor of the Consortium or Defaulting Noteholder at any time save that a transfer may be made during this period to a Loan to Own Investor, a Competitor or a competitor of the Consortium if a Senior Relevant Event of Default continuing.

- (b) If during the Lock-up Period no Ares Entity is an Ares Senior Lender, and an Ares Noteholder wishes to transfer Notes to a New Noteholder, the Ares Noteholder may request that the Issuer and THCP Advisory Limited (in its capacity as Arranger under this Agreement) consent to that transfer, in which case those parties shall engage in good faith discussions in relation to the requested transfer. If the Issuer and THCP Advisory Limited (in its capacity as Arranger under this Agreement) approve the requested transfer, it shall be permitted notwithstanding the Lock-up Period has not yet expired.

- (c) No consent of the Issuer or THCP Advisory Limited (in its capacity as Arranger under this Agreement) is required for a transfer by an Existing Noteholder made after the expiry of the Lock-up Period.
- (d) In respect of a transfer after the end of the Certain Funds Period but prior to the end of the Lock-up Period:
 - (i) the consent of the Issuer or THCP Advisory Limited (in its capacity as Arranger under this Agreement) to a transfer must not be unreasonably withheld or delayed; and
 - (ii) the Issuer and THCP Advisory Limited (in its capacity as Arranger under this Agreement) will be deemed to have given their consent ten Business Days after the Existing Noteholder has requested it unless consent is expressly refused by the Issuer or THCP Advisory Limited (in its capacity as Arranger under this Agreement) within that time. It shall be reasonable for the Issuer to withhold consent to a transfer by a Noteholder if it is a Loan to Own Investor, a competitor of the Consortium or Defaulting Noteholder or for any transfer made other than in the circumstances contemplated in paragraph (a) above.

27.3 Other conditions of transfer

- (a) A transfer will only be effective if the New Noteholder entering into the documentation required for it to accede as a party to the Subordination Agreement and the procedure set out in Clause 27.8 (*Procedure for transfer*) is complied with.
- (b) If:
 - (i) a Noteholder transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
 - (ii) as a result of circumstances existing at the date the transfer or change occurs, an Obligor would be obliged to make a payment to the New Noteholder or Noteholder acting through its new Facility Office under paragraph (c) of Clause 16.2 (*Tax gross-up*) or Clause 17 (*Increased Costs*),

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

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

27.4 Sub-participations

- (a) An Existing Noteholder may, subject to this Clause 27.4 enter into a sub-participation (whether funded or unfunded), sub-contract or similar arrangements (each a “**Participation Agreement**”) in respect of its rights and obligations under this Agreement provided that the Noteholder remains liable under this Agreement in relation to those rights and obligations or, to the extent any voting rights are transferred or are capable of being transferred by the Noteholder, paragraph (b) below is complied with.

- (b) Any Participation Agreement pursuant to the terms of which any voting rights of a Noteholder are transferred (or are capable of being transferred) shall be subject to the same conditions applicable to a transfer as described in Clause 27.1 (*Transfers by the Noteholders*) and Clause 27.2 (*The Issuer consent*) (*mutatis mutandis*).

27.5 Transfer in breach of criteria – disenfranchisement

If a Noteholder transfers all or part of its Commitment (the “**Transferred Commitment**”) or enters into a Participation Agreement in respect of all or part of its Commitment (the “**Sub-participated Commitment**”) in breach of any requirement contained in Clause 27.2 (*The Issuer consent*), Clause 27.3 (*Other conditions of transfer*) or Clause 27.4 (*Sub-participations*) (such transferee or counterparty to the Participation Agreement (as applicable) being, in respect of the Transferred Commitment, a “**Disqualified Transferee**”), as the case may be, then until and unless the subsequent written consent of the Issuer to the relevant transfer or Participation Agreement is obtained (such consent not to be unreasonably withheld or delayed) or deemed to be given:

- (a) in ascertaining:
 - (i) the Majority Noteholders or the Super Majority Noteholders; or
 - (ii) whether:
 - (A) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments; or
 - (B) the agreement of any specified group of Noteholders,has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents the Transferred Commitment or the Sub-participated Commitment shall be deemed to be zero; and
- (b) the Disqualified Transferee shall:
 - (i) in relation to any meeting or conference call to which all the Noteholders are invited to attend or participate, not attend or participate in the same or be entitled to receive the agenda or any minutes of the same;
 - (ii) not be entitled to receive any report, financial information or other document delivered in accordance with this Agreement or prepared at the request of, or on the instructions of, the Agent or one or more of the Noteholders; and
 - (iii) not be entitled to receive interest on any Notes it holds.

27.6 Transfer fee

- (a) Subject to paragraph (b) below, the New Noteholder shall, on the date upon which a transfer takes effect, pay to the Agent (for its own account) a fee of £3,500.
- (b) No fee is payable pursuant to paragraph (a) above if:
 - (i) the Agent agrees that no fee is payable; or
 - (ii) the transfer is made by an Existing Noteholder:
 - (A) to an Affiliate of that Existing Noteholder; or

(B) to a fund which is a Related Entity of that Existing Noteholder.

27.7 Limitation of responsibility of Existing Noteholders

- (a) Unless expressly agreed to the contrary, an Existing Noteholder makes no representation or warranty and assumes no responsibility to a New Noteholder for:
- (i) the legality, validity, effectiveness, adequacy or enforceability of the Transaction Documents, the Transaction Security or any other documents;
 - (ii) the financial condition of any Obligor;
 - (iii) the performance and observance by any Obligor of its obligations under the Transaction Documents or any other documents; or
 - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Transaction Document or any other document,
- and any representations or warranties implied by law are excluded.
- (b) Each New Noteholder confirms to the Existing Noteholder, the other Finance Parties and the Secured Parties that it:
- (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Noteholder or any other Finance Party in connection with any Transaction Document or the Transaction Security; and
 - (ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
- (c) Nothing in any Finance Document obliges an Existing Noteholder to:
- (i) accept a re-transfer from a New Noteholder of any of the rights and obligations transferred under this Clause 27; or
 - (ii) support any losses directly or indirectly incurred by the New Noteholder by reason of the non-performance by any Obligor of its obligations under the Transaction Documents or otherwise.

27.8 Procedure for transfer

- (a) Subject to the conditions set out in Clause 27.2 (*The Issuer consent*) and Clause 27.3 (*Other conditions of transfer*), a transfer is effected in accordance with paragraph (d) below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Noteholder and the New Noteholder. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.
- (b) The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Noteholder and the New Noteholder once it is satisfied it has complied with all necessary

“know your customer” or other similar checks under all applicable laws and regulations in relation to the transfer to such New Noteholder.

- (c) Where the Existing Noteholder holds a Notes Certificate and not all the Notes are the subject of the transfer, upon request of the Existing Noteholder and subject to Clause 8 (*Notes Certificates*), a new Notes Certificate will be issued by the Agent for the balance of the existing Notes held by the Existing Noteholder.
- (d) Subject to Clause 27.11 (*Pro rata interest settlement*), on the Transfer Date:
 - (i) to the extent that in the Transfer Certificate the Existing Noteholder 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 Noteholder shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (being the “**Discharged Rights and Obligations**”);
 - (ii) each of the Obligors and the New Noteholder 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 and the New Noteholder have assumed and/or acquired the same in place of that Obligor and the Existing Noteholder;
 - (iii) the Agent, the Security Agent, the Arrangers, the New Noteholder and the other Noteholders 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 Noteholder been an Original Noteholder with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Security Agent, the Arrangers and the Existing Noteholder shall each be released from further obligations to each other under the Finance Documents; and
 - (iv) the New Noteholder shall become a Party as a “**Noteholder**”.

27.9 Copy of Transfer Certificate, Increase Confirmation or an Incremental Facility Certificate to the Issuer

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

27.10 Security over Noteholders’ rights

In addition to the other rights provided to Noteholders under this Clause 27, each Noteholder 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 Noteholder including, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve, central bank or governmental authority; and
- (b) any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Noteholder as security for those obligations or securities,

- (c) except that no such charge, assignment or Security shall:
 - (i) release a Noteholder from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Noteholder as a party to any of the Finance Documents; or
 - (ii) require any payments to be made by an Obligor other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Noteholder under the Finance Documents.

27.11 Pro rata interest settlement

- (a) If the Agent has notified the Noteholders that it is able to distribute interest payments on a *pro rata* basis to Existing Noteholders and New Noteholders then (in respect of any transfer pursuant to Clause 27.8 (*Procedure for transfer*) the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period):
 - (i) any interest or fees in respect of the relevant holding which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Noteholder up to but excluding the Transfer Date (“**Accrued Amounts**”) and shall become due and payable to the Existing Noteholder (without further interest accruing on them) on the last day of the current Interest Period; and
 - (ii) the rights transferred by the Existing Noteholder will not include the right to the Accrued Amounts so that, for the avoidance of doubt:
 - (A) when the Accrued Amounts become payable, those Accrued Amounts will be payable for the account of the Existing Noteholder; and
 - (B) the amount payable to the New Noteholder on that date will be the amount which would, but for the application of this Clause, have been payable to it on that date, but after deduction of the Accrued Amounts.
- (b) In this Clause references to “**Interest Period**” shall be construed to include a reference to any other period for accrual of fees.
- (c) An Existing Noteholder which retains the right to the Accrued Amounts pursuant to this Clause but which does not have a Commitment shall be deemed not to be a Noteholder for the purposes of ascertaining whether the agreement of any specified group of Noteholders has been obtained to approve any request for a consent, waiver, amendment or other vote of Noteholders under the Finance Documents.

28. RESTRICTION ON DEBT PURCHASE TRANSACTIONS

The Issuer shall not, and Topco shall procure that no other member of the Group shall:

- (a) enter into any Debt Purchase Transaction; or
- (b) be a Noteholder or a party to a Debt Purchase Transaction of the type referred to in paragraphs (b) or (c) of the definition of Debt Purchase Transaction.

29. CHANGES TO THE OBLIGORS

29.1 Assignment and transfers by the Obligors

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

29.2 Additional Guarantors

- (a) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 23.13 (*"Know your customer" checks*), the Issuer may request that any of its Subsidiaries become a Guarantor.
- (b) Subject to Clause 25.39 (*Conditions subsequent*), the Issuer shall procure that any member of the Senior Group which is a Material Company shall within 30 days of being acquired or becoming a Material Company (or 60 days in relation to any entity not incorporated in England and Wales) become an Additional Guarantor and grant Transaction Security pursuant to a Transaction Security Document (in form and substance satisfactory to the Security Agent (acting reasonably), it being understood that a Transaction Security Document shall be deemed in form and substance satisfactory to the Security Agent (acting reasonably) if it is substantially in the form of the Transaction Security Document entered by the Senior Parent and the Senior Borrower on the date of this Agreement) and shall accede to the Subordination Agreement.
- (c) The Issuer shall procure that any other member of the Senior Group which is required to become a Guarantor pursuant to paragraph (a) of Clause 25.34 (*Guarantors*) shall, within 30 days after the delivery of the relevant Compliance Certificate accompanying the Annual Financial Statements or completion of the relevant Senior Permitted Bolt-on Acquisition (as applicable) (or, in each case, 60 days in relation to any entity not incorporated in England and Wales) and become an Additional Guarantor and grant the Transaction Security as the Agent may reasonably require pursuant to a Transaction Security Document (in form and substance satisfactory to the Security Agent (acting reasonably), it being understood that a Transaction Security Document shall be deemed in form and substance satisfactory to the Security Agent (acting reasonably) if it is substantially in the form of the Transaction Security Document entered by the Senior Parent and the Senior Borrower on the date of this Agreement)) and shall accede to the Subordination Agreement.
- (d) A member of the Senior Group shall become an Additional Guarantor if:
 - (i) the Issuer and the proposed Additional Guarantor deliver to the Agent a duly completed and executed Accession Deed; and
 - (ii) the Agent has received all of the documents and other evidence listed in Part 3 of Schedule 2 (*Conditions Precedent*) in relation to that Additional Guarantor, each in form and substance satisfactory to the Agent.
- (e) The Agent shall notify the Issuer and the Noteholders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part 3 of Schedule 2 (*Conditions Precedent*).
- (f) Other than to the extent that the Majority Noteholders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (e) above, the Noteholders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

29.3 Resignation of a Senior Guarantor

- (a) In this Clause 29.3 and Clause 29.5 (*Resignation and release of security on disposal*), “**Third Party Disposal**” means the disposal of a Senior Guarantor (other than the Senior Parent and the Senior Borrower) (including by the disposal of its Holding Company) to a person which is not a member of the Group where that disposal is permitted under Clause 25.15 (*Disposals*) or made with the approval of the Majority Noteholders (and the Issuer has confirmed this is the case).
- (b) The Issuer may request that a Senior Guarantor (other than the Senior Parent or the Senior Borrower) ceases to be a Guarantor by delivering to the Agent a Resignation Letter if:
 - (i) that Senior Guarantor is being disposed of by way of a Third Party Disposal and the Issuer has confirmed this is the case;
 - (ii) in respect of any member of the Senior Group which is not a Material Company, Clause 25.34 (*Guarantors*) would still be complied with after taking such resignation into account; or
 - (iii) all the Noteholders have consented to the resignation of that Senior Guarantor.
- (c) The Agent shall accept a Resignation Letter and notify the Issuer and the Noteholders of its acceptance if:
 - (i) the Issuer has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;
 - (ii) no payment is due from the Senior Guarantor under Clause 21 (*Guarantee and Indemnity*); and
 - (iii) if applicable, the Issuer has confirmed that it shall ensure that the Disposal Proceeds will be applied in accordance with Clause 11.2 (*Disposal, Insurance, Acquisition Proceeds and Specified Real Estate Proceeds*).
- (d) Upon notification by the Agent to the Issuer of its acceptance of the resignation of a Senior Guarantor, that company shall cease to be a Guarantor and shall have no further rights or obligations under the Finance Documents as a Guarantor.

29.4 Repetition of Representations

Delivery of an Accession Deed constitutes confirmation by the relevant Subsidiary that the representations and warranties referred to in paragraph (e) of clause 24.32 (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.

29.5 Resignation and release of security on disposal

- (a) If a Senior Guarantor is or is proposed to be the subject of a Third Party Disposal or is otherwise ceasing to be a Guarantor under Clause 29.3 (*Resignation of a Senior Guarantor*) above then:
 - (i) where that Senior 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 Senior Guarantor, the Security Agent shall, at the cost and request of the Issuer, release those assets,

business or shares (or equivalent) and (where requested to do so by the Issuer) issue certificates of non-crystallisation; and

- (ii) where the Senior Guarantor is or is proposed to be the subject of a Third Party Disposal, any resignation of that Senior Guarantor and related release of Transaction Security referred to in paragraph (a) above shall become effective only on the making of that disposal.

29.6 Release of security on a Permitted Disposal

If a member of the Senior Group makes a Non-Distressed Disposal (as defined in the Subordination Agreement) the Security Agent shall (at the request and cost of the Issuer, on reasonable notice) release those assets from the Transaction Security and (where requested to do so by the Issuer) issue certificates of non-crystallisation in respect of such asset, in each case in accordance with clause 10.2 (*Facilitation of Non-Distressed Disposals*) of the Subordination Agreement.

30. ROLE OF THE AGENT, THE ARRANGERS AND OTHERS

30.1 Appointment of the Agent

- (a) Each of the Arrangers and the Noteholders appoints the Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the Finance Parties authorises the Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

30.2 Instructions

- (a) The Agent shall:
 - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by:
 - (A) all Noteholders if the relevant Finance Document stipulates the matter is an all Noteholder decision;
 - (B) the Super Majority Noteholders if the relevant Finance Document stipulates the matter is Super Majority Noteholder decision; and
 - (C) in all other cases, the Majority Noteholders; and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (a)(i) above.
- (b) The Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Noteholders (or, if the relevant Finance Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties, from that Finance Party or group of Finance Parties) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Agent may refrain from acting unless and until it receives any such instructions or that clarification that it has requested.

- (c) Save in the case of decisions stipulated to be a matter for any other Finance Party or group of Finance Parties under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Agent by the Majority Noteholders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) The Agent may refrain from acting in accordance with any instructions of any Finance Party or group of Finance Parties until it has received any indemnification and/or security and/or prefunding that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
- (e) Without prejudice to these Clause 30.2 (*Instructions*), in the absence of instructions, the Agent may act (or refrain from acting) as it considers to be in the best interest of the Finance Parties.
- (f) The Agent is not authorised to act on behalf of a Finance Party (without first obtaining that Finance Party's consent) in any legal or arbitration proceedings relating to any Finance Document. This paragraph (f) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Transaction Security Documents or enforcement of the Transaction Security or Transaction Security Documents.

30.3 Duties of the Agent

- (a) The duties of the Agent under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.
- (c) Without prejudice to Clause 27.9 (*Copy of Transfer Certificate, Increase Confirmation or an Incremental Facility Certificate to the Issuer*), paragraph 30.3(b) above shall not apply to any Transfer Certificate, any Increase Confirmation or any Incremental Facility Noteholder Certificate.
- (d) Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Agent receives notice from a Party referring to any Finance Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (f) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent or the Security Agent) under this Agreement it shall promptly notify the other Finance Parties.
- (g) The Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

30.4 Role of the Arrangers

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

30.5 No fiduciary duties

- (a) Nothing in any Finance Document constitutes the Agent or the Arrangers as a trustee or fiduciary of any other person.
- (b) None of the Agent, the Security Agent or the Arrangers shall be bound to account to any other Finance Party for any sum or the profit element of any sum received by it for its own account.

30.6 Business with the Obligors

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

30.7 Rights and discretions

- (a) The Agent may:
 - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
 - (ii) assume that:
 - (A) any instructions received by it from the Majority Noteholders, any Finance Parties or any group of Finance Parties are duly given in accordance with the terms of the Finance Documents; and
 - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
 - (iii) rely on a certificate from any person:
 - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Finance Parties) that:
 - (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 26.1 (*Non-payment*));
 - (ii) any right, power, authority or discretion vested in any Party or any group of Finance Parties has not been exercised; and
 - (iii) any notice or request made by the Issuer (other than a Notes Subscription Request or Selection Notice) is made on behalf of and with the consent and knowledge of all the Obligors.
- (c) The Security Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.

- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Noteholders) if the Agent, in its reasonable opinion, deems this to be desirable.
- (e) The Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Agent may act in relation to the Finance Documents through its officers, employees and agents.
- (g) Unless a Finance Document expressly provides otherwise the Agent may disclose to any other Party any information it reasonably believes it has received as agent under the Finance Documents.
- (h) Without prejudice to the generality of paragraph (g) above, the Agent:
 - (i) may disclose; and
 - (ii) on the written request of the Issuer or the Majority Noteholders shall, as soon as reasonably practicable, disclose,

the identity of a Defaulting Noteholder to the Issuer and to the other Finance Parties.
- (i) Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent, the Security Agent or the Arrangers is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (j) Notwithstanding any provision of any Finance Document to the contrary, the Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

30.8 Responsibility for documentation

None of the Agent or the Arrangers is responsible or liable for:

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

30.9 No duty to monitor

The Agent shall not be bound to enquire:

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

30.10 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent), the Agent will not be liable for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Transaction Security, unless directly caused by its gross negligence or wilful misconduct;
 - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, 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, unless directly caused by its gross negligence or wilful misconduct; or
 - (iii) without prejudice to the generality of paragraph (a)(i) and (a)(ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction, including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.
- (b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the 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 Finance Document and any officer, employee or agent of the Agent may rely on this Clause subject to Clause 1.3 (*Third Party Rights*) and the provisions of the Third Parties Act.
- (c) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the

regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.

- (d) Nothing in this Agreement shall oblige the Agent or the Arrangers to carry out:
 - (i) any “know your customer” or other checks in relation to any person; or
 - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Finance Party,

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

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

30.11 Noteholders’ indemnity to the Agent

- (a) Each Noteholder shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent’s gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 33.11 (*Disruption to payment systems etc.*) notwithstanding the Agent’s negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by an Obligor pursuant to a Finance Document).
- (b) Subject to paragraph (c) below, the Issuer shall immediately on demand reimburse any Noteholder for any payment that Noteholder makes to the Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Noteholder claims reimbursement relates to a liability of the Agent to an Obligor.

30.12 Resignation of the Agent

- (a) The Agent may resign and appoint one of its Affiliates acting through an office in the United Kingdom as successor by giving notice to the other Finance Parties and the Issuer.
- (b) Alternatively the Agent may resign by giving 30 days’ notice to the other Finance Parties and the Issuer, in which case the Majority Noteholders (after consultation with the other Finance Parties and the Issuer) may appoint a successor Agent.

- (c) If the Majority Noteholders have not appointed a successor Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Agent (after consultation with the other Finance Parties and the Issuer) may appoint a successor Agent (acting through an office in the United Kingdom).
- (d) If the Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Agent is entitled to appoint a successor Agent under paragraph (c) above, the Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Agent to become a party to this Agreement as Agent) agree with the proposed successor Agent amendments to this Clause 30.12 and any other term of this Agreement dealing with the rights or obligations of the Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the agency fee payable under this Agreement which are consistent with the successor Agent's normal fee rates and those amendments will bind the Parties.
- (e) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (f) The resignation notice of the Agent shall only take effect upon the appointment of a successor.
- (g) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (e) above) but shall remain entitled to the benefit of this Clause 30.12 (and any fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (h) The Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents, either:
 - (i) the Agent fails to respond to a request under Clause 16.7 (*FATCA information*) and a Noteholder reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
 - (ii) the information supplied by the Agent pursuant to Clause 16.7 (*FATCA information*) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
 - (iii) the Agent notifies the Issuer and the Noteholders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
 and (in each case) a Noteholder reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, and that Noteholder, by notice to the Agent, requires it to resign.

30.13 Replacement of the Agent

- (a) After consultation with the Issuer, the Majority Noteholders may, by giving 30 days' notice to the Agent (or, at any time the Agent is an Impaired Agent, by giving any shorter notice determined by the Majority Noteholders) replace the Agent by appointing a successor Agent (acting through an office in the United Kingdom).

- (b) The retiring Agent shall (at its own cost if it is an Impaired Agent and otherwise at the expense of the Noteholders) make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (c) The appointment of the successor Agent shall take effect on the date specified in the notice from the Majority Noteholders to the retiring Agent. As from this date, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) above) but shall remain entitled to the benefit of this Clause 30.13 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date).
- (d) Any successor Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

30.14 Confidentiality

- (a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.

30.15 Relationship with the other Finance Parties

- (a) Subject to Clause 27.11 (*Pro rata interest settlement*), the Agent may treat the person shown in its records as Noteholder at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Noteholder acting through its Facility Office:
 - (i) entitled to or liable for any payment due under any Finance Document on that day; and
 - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

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

- (b) Any Noteholder may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Noteholder under the Finance Documents. Such notice shall contain the address and (where communication by electronic mail or other electronic means is permitted under Clause 35.6 (*Electronic communication*)) electronic mail address and/or any other information required to enable the 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, electronic mail address (or such other information), department and officer by that Noteholder for the purposes of Clause 35.2 (*Addresses*) and Clause 35.6 (*Electronic communication*) below and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Noteholder.

- (c) Each Finance Party shall supply the Security Agent with any information that the Security Agent may reasonably specify as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent.

30.16 Credit appraisal by the Noteholders

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

- (a) the financial condition, status and nature of each Obligor;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
- (c) whether that Finance 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;
- (d) the adequacy, accuracy or completeness of any information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

30.17 Deduction from amounts payable by the Agent

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

30.18 Reliance and engagement letters

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

31. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

31.1 No provision of this Agreement will:

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

32. SHARING AMONG THE FINANCE PARTIES

32.1 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 33 (*Payment Mechanics*) (a “**Recovered Amount**”) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;
- (b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 33 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the “**Sharing Payment**”) equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 33.6 (*Partial payments*).

32.2 Redistribution of payments

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) (the “**Sharing Finance Parties**”) in accordance with Clause 33.6 (*Partial payments*) towards the obligations of that Obligor to the Sharing Finance Parties.

32.3 Recovering Finance Party’s rights

On a distribution by the Agent under Clause 32.2 (*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.

32.4 Reversal of redistribution

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

- (a) each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the “**Redistributed Amount**”); and
- (b) as between the relevant Obligor and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor.

32.5 Exceptions

- (a) This Clause 32 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified the other Finance Party of the legal or arbitration proceedings; and
 - (ii) the other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

33. PAYMENT MECHANICS

33.1 Payments to the Agent

- (a) On each date on which an Obligor or a Noteholder is required to make a payment under a Finance Document that Obligor or Noteholder shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the Agent) and with such bank as the Agent, in each case, specifies.

33.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 33.3 (*Distributions to an Obligor*) and Clause 33.4 (*Clawback and pre-funding*) be made available by the Agent as soon as reasonably practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Noteholder, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days’ notice with a bank specified by that Party in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London, as specified by that Party).

33.3 Distributions to an Obligor

The Agent may (with the consent of the Obligor or in accordance with Clause 34 (*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.

33.4 Clawback and pre-funding

- (a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) Unless paragraph (c) below applies, if the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.
- (c) If the Agent has notified the Noteholders that it is willing to make available amounts for the account of the Issuer before receiving funds from the Noteholders then if and to the extent that the Agent does so but it proves to be the case that it does not then receive funds from a Noteholder in respect of a sum which it paid to the Issuer:
 - (i) the Agent shall notify the Issuer of that Noteholder's identity and the Issuer shall on demand refund it to the Agent; and
 - (ii) the Noteholder by whom those funds should have been made available or, if that Noteholder fails to do so, the Issuer shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Noteholder.

33.5 Impaired Agent

- (a) If, at any time, the Agent becomes an Impaired Agent, an Obligor or a Noteholder which is required to make a payment under the Finance Documents to the Agent in accordance with Clause 33.1 (*Payments to the Agent*) may instead either:
 - (i) pay that amount direct to the required recipient(s); or
 - (ii) if in its absolute discretion it considers that it is not reasonably practicable to pay that amount direct to the required recipient(s), pay that amount or the relevant part of that amount to an interest-bearing account held with an Acceptable Bank within the meaning of paragraph (a) of the definition of Acceptable Bank and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Obligor or the Noteholder making the payment (the "**Paying Party**") and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents (the "**Recipient Party**" or "**Recipient Parties**").

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

- (b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the Recipient Party or Recipient Parties pro rata to their respective entitlements.

- (c) A Party which has made a payment in accordance with these paragraphs (a) to (d) shall be discharged of the relevant payment obligation under the Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.
- (d) Promptly upon the appointment of a successor Agent in accordance with Clause 30.13 (*Replacement of the Agent*), each Paying Party shall (other than to the extent that that Party has given an instruction pursuant to paragraph (e) below) give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution to the relevant Recipient Party or Recipient Parties in accordance with Clause 33.2 (*Distributions by the Agent*).
- (e) A Paying Party shall, promptly upon request by a Recipient Party and to the extent:
 - (i) that it has not given an instruction pursuant to paragraph (d) above; and
 - (ii) that it has been provided with the necessary information by that Recipient Party,
 give all requisite instructions to the bank with whom the trust account is held to transfer the relevant amount (together with any accrued interest) to that Recipient Party.

33.6 Partial payments

- (a) If the 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 Agent shall apply that payment towards the obligations of that Obligor under those Finance Documents in the following order:
 - (i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses owing to the Agent, the Security Agent under the Finance Documents;
 - (ii) **secondly**, in or towards payment pro rata of any principal outstanding, accrued interest, fee or commission or any amounts due but unpaid in relation to Notes subscribed under an Emergency Facility;
 - (iii) **thirdly**, in or towards payment pro rata of any accrued interest, fee or commission due but unpaid under the Finance Documents (other than amounts due but unpaid in relation to Notes subscribed under an Emergency Facility);
 - (iv) **fourthly**, in or towards payment pro rata of any principal due but unpaid under the Finance Documents and any amount due but unpaid under Clause 16 (*Tax Gross-Up and Indemnities*) (other than amounts due but unpaid in relation to Notes subscribed under an Emergency Facility); and
 - (v) **fifthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Agent shall, if so directed by the Majority Noteholders, vary the order set out in paragraphs (a)(ii) to (a)(v) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

33.7 Set-off by Obligors

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

33.8 Business Days

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

33.9 Currency of account

- (a) Subject to paragraphs (b) to (e) below, the Base Currency is the currency of account and payment for any sum due from an Obligor under any Finance Document.
- (b) A redemption or repayment of a Note or Unpaid Sum or a part of a Note or Unpaid Sum shall be made in the currency in which that Note or Unpaid Sum is denominated, pursuant to this Agreement, on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated, pursuant to this Agreement, when that interest accrued.
- (d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (e) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

33.10 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Issuer); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Issuer) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

33.11 Disruption to payment systems etc.

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Issuer that a Disruption Event has occurred:

- (a) the Agent may, and shall if requested to do so by the Issuer, consult with the Issuer with a view to agreeing with the Issuer such changes to the operation or administration of the Facilities as the Agent may deem necessary in the circumstances;
- (b) the Agent shall not be obliged to consult with the Issuer in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Agent and the Issuer shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 39 (*Amendments and Waivers*);
- (e) the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 33.11; and
- (f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

34. SET-OFF

Subject to Clause 4.4 (*Notes Subscriptions during the Certain Funds Period*), at any time following the occurrence of an Event of Default which is continuing, a Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation and that Finance Party shall promptly notify that Obligor of the same. 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.

35. NOTICES

35.1 Communications in writing

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

35.2 Addresses

- (a) The electronic mail and address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:
 - (i) in the case of each Original Obligor, that identified with its name below;
 - (ii) in the case of each Noteholder, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and

- (iii) in the case of the Arrangers, the Agent or the Security Agent, that identified with its name below,

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

35.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:
 - (i) if by way of electronic mail, when received in legible form; or
 - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 35.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Agent or the Security Agent will be effective only when actually received by the Agent or Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's or Security Agent's signature below (or any substitute department or officer as the Agent or Security Agent shall specify for this purpose).
- (c) All notices from or to an Obligor shall be sent through the Agent.
- (d) Any communication or document made or delivered to the Issuer in accordance with paragraph (a) to (c) above will be deemed to have been made or delivered to each of the Obligors.
- (e) Any communication or document which becomes effective, in accordance with paragraph (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.

35.4 Notification of address and electronic mail address

Promptly upon changing its address or electronic mail address, the Agent shall notify the other Parties.

35.5 Communication when Agent is Impaired Agent

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

35.6 Electronic communication

- (a) Any communication or document to be made between any two Parties under or in connection with the Finance Documents may be made or delivered by electronic mail or other electronic

means (including, without limitation, by way of posting to a secure website) if those two Parties:

- (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
 - (ii) notify each other of any change to their electronic email address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication or delivery as specified in paragraph (a) above to be made between an Obligor and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication or delivery.
- (c) Any such electronic communication or document as specified in paragraph (a) above made 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 or document made or delivered by a Party to the Agent or the Security Agent only if it is addressed in such a manner as the Agent or Security Agent shall specify for this purpose.
- (d) Any electronic communication or document which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. in the place in which the Party to whom the relevant communication or document is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in a Finance Document to a communication being sent or received or a document being delivered shall be construed to include that communication or document being made available in accordance with paragraph (a) to (d).

35.7 Direct electronic delivery by the Issuer

The Issuer may satisfy its obligation under this Agreement to deliver any information in relation to a Noteholder by delivering that information directly to that Noteholder in accordance with Clause 35.6 (*Electronic communication*) to the extent that Noteholder and the Agent agree to this method of delivery.

35.8 English language

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
- (i) in English; or
 - (ii) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

36. CALCULATIONS AND CERTIFICATES

36.1 Accounts

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

36.2 Certificates and determinations

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

36.3 Day count convention and interest calculation

- (a) Any interest, commission or fee accruing under a Finance Document will accrue from day to day and the amount of any such interest, commission or fee is calculated:
 - (i) on the basis of the actual number of days elapsed and a year of 365 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice; and
 - (ii) subject to paragraph (b) below, without rounding.
- (b) The aggregate amount of any accrued interest, commission or fee which is, or becomes, payable by an Obligor under a Finance Document shall be rounded to two decimal places.

37. 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.

38. REMEDIES AND WAIVERS

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

39. AMENDMENTS AND WAIVERS

39.1 Subordination Agreement

This Clause 39 is subject to the terms of the Subordination Agreement and Clause 1.10 (*Deemed consent*).

39.2 Required consents

- (a) Subject to Clause 39.3 (*All Noteholder matters*), Clause 39.4 (*Other exceptions*) and Clause 39.5 (*Structural Adjustment*), any term of the Finance Documents may be amended or waived only with the consent of the Majority Noteholders and the Issuer and any such amendment or waiver will be binding on all Parties.
- (b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 39.
- (c) Without prejudice to the generality of paragraphs (c) to (e) of Clause 30.7 (*Rights and discretions*), the Agent may engage, pay for and rely on the services of lawyers in determining

the consent level required for and effecting any amendment, waiver or consent under this Agreement.

- (d) Each Obligor agrees to any such amendment or waiver permitted by this Clause 39 which is agreed to by the Issuer. This includes any amendment or waiver which would, but for this paragraph (d), require the consent of all of the Guarantors.
- (e) Paragraph (c) of Clause 27.11 (*Pro rata interest settlement*) shall apply to this Clause 39.

39.3 All Noteholder matters

- (a) Subject to Clause 39.5 (*Structural Adjustment*), 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:
 - (i) the definitions of “**Majority Noteholders**”, “**Super Majority Noteholders**” and “**Structural Adjustment**” in Clause 1.1 (*Definitions*);
 - (ii) an extension to the date of payment of any amount under the Finance Documents (other than in relation to Clause 11 (*Mandatory Redemption and Cancellation*) and/or a Structural Adjustment);
 - (iii) a reduction in the PIK Margin or the Cash Pay Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable (other than a conversion of Cash Pay Margin into PIK Margin, and vice versa);
 - (iv) a change in currency of payment of any amount under the Finance Documents; and
 - (v) an increase in any Commitment or the Total Commitments (other than pursuant to a Structural Adjustment or pursuant to Clause 2.2 (*Increase*), Clause 6 (*Incremental Facility*)), an extension of any Availability Period or any requirement that a cancellation of Commitments reduces the Commitments of the Noteholders rateably under the relevant Facility;
 - (vi) any provision which expressly requires the consent of all the Noteholders;
 - (vii) (other than as expressly permitted by the provisions of any Finance Document) the:
 - (A) nature or scope of:
 - (1) the guarantee and indemnity granted under Clause 21 (*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 (B) and (C) 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); and
 - (B) the release of any guarantee and indemnity granted under Clause 21 (*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 permitted under this Agreement or any other Finance Document;

- (viii) Clause 2.3 (*Alternative Noteholder*), Clause 2.4 (*Finance Parties' rights and obligations*), Clause 5 (*Notes Subscriptions*), Clause 10.1 (*Illegality*), Clause 11 (*Mandatory Redemption and Cancellation*), the definition of "Change of Control" in Clause 11.1 (*Exit*), Clause 12.10 (*Application of prepayments*), Clause 25.37 (*Anti-layering*), Clause 25.38 (*Limitation on short-circuit payments*), Clause 27 (*Changes to the Noteholders*), Clause 29 (*Changes to the Obligors*), Clause 32 (*Sharing among the Finance Parties*), this Clause 39 (*Amendments and Waivers*), Clause 44 (*Governing Law*) or Clause 45.1 (*Jurisdiction of English courts*);
- (ix) Clause 6 (*Incremental Facility*) or any defined terms therein (but in respect of such defined terms, only for the purposes of Clause 6 (*Incremental Facility*));
- (x) Clause 9.1 (*Redemption of Notes*) and the definition of "Termination Date";
- (xi) Clause 33.6 (*Partial payments*) or any defined terms therein (but in respect of such defined terms, only for the purposes of Clause 33.6 (*Partial payments*));
- (xii) any amendment to the order of priority or subordination under the Subordination Agreement or the manner in which the proceeds of enforcement of the Transaction Security are distributed; and
- (xiii) the definitions of "Restricted Person", "Sanctions", "Sanctions Authorities" or "Sanctioned Country" in Clause 1.1 (*Definitions*), Clause 22.18 (*Anti-corruption law*), Clause 22.30 (*Sanctions*), Clause 25.5 (*Anti-Corruption Law*) or Clause 25.36 (*Sanctions*),

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

- (b) If no Ares Entity is an Ares Senior Lender, an amendment or waiver of any term of this Agreement that has the effect of changing or which relates to Clause 23 (*Information Undertakings*) shall not be made, or given, without the prior consent of all Original Noteholders and, to the extent they are Noteholders, their Related Entities (but only to the extent that such Original Noteholders and Related Entities hold 50% or more of the Commitments held by the Original Noteholders and Related Entities as at the Closing Date).

39.4 Other exceptions

- (a) An amendment or waiver which relates to the rights or obligations of the Arrangers, the Agent or the Security Agent (each in their capacity as such) may not be effected without the consent of the Arrangers, the Agent or the Security Agent as the case may be.
- (b) Any amendment or waiver which:
 - (i) relates only to the rights or obligations applicable to a particular Note, Facility or class of Noteholder; and
 - (ii) does not materially and adversely affect the rights or interests of Noteholders in respect of any other Notes or Facility or another class of Noteholder,

may be made in accordance with this Clause 39 but as if references in this Clause 39 to the specified proportion of Noteholders (including, for the avoidance of doubt, all the Noteholders) whose consent would, but for this paragraph (b), be required for that amendment or waiver were to that proportion of the Noteholders holding that particular Note or Facility or forming part of that particular class.

39.5 Structural Adjustment

- (a) Any Structural Adjustment shall be permitted with the consent of:
 - (i) each Noteholder that is participating in that additional tranche or facility or increasing, extending or redenominating its Commitments or, as applicable, extending or redenominating or reducing any amount due to it; and
 - (ii) the Majority Noteholders (for which purpose only the existing Commitments of each Noteholder will be taken into account).
- (b) If a THCP Entity has received the necessary consents set out in paragraph (a) above to make a Structural Adjustment comprising an increase in Financial Indebtedness (“**Structural Debt**”), it shall provide each Ares Noteholder with notice of such consent (the date of such notice being the “**Structural Debt Notification Date**”) together with the relevant terms of that Structural Debt (including the amount, the margin, any fees and the purpose for which the Structural Debt will be applied), and each Ares Noteholder will benefit from a right of first refusal pursuant to which the Ares Noteholder will be offered a right to participate in the Structural Debt in an aggregate amount equal to the proportion borne by its Commitments to the Total Commitments (the “**Ares Structural Debt Proportion**”) for a period of 10 Business Days from the Structural Debt Notification Date. In the event an Ares Noteholder (or any Ares Noteholders together) do not agree to make available the Ares Structural Debt Proportion by the end of such period, the Structural Debt shall be provided by the relevant THCP Entity in full.

39.6 Excluded Commitments

If:

- (a) any Defaulting Noteholder fails to respond to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document or any other vote of Noteholders under the terms of this Agreement within 10 Business Days of that request being made; or
- (b) any Noteholder which is not a Defaulting Noteholder fails to respond to such a request (other than an amendment, waiver or consent referred to in paragraphs (a)(ii), (a)(iii) and (a)(iv) of Clause 39.3 (*All Noteholder matters*) or such a vote within 10 Business Days of that request being made,

(unless, in either case, the Issuer and the Agent agree to a longer time period in relation to any request):

- (i) its Commitment(s) shall not be included for the purpose of calculating the Total Commitments under the relevant Facilities when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments has been obtained to approve that request; and
- (ii) its status as a Noteholder shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Noteholders has been obtained to approve that request

provided that, in respect of this paragraph (b):

- (A) in the case of a consent, waiver or amendment requiring unanimous Noteholder consent, the consent of the Super Majority Noteholders has been obtained; and
- (B) this paragraph (b) shall not apply in respect of any matter requiring the consent of the Majority Noteholders.

39.7 Replacement of Noteholder

(a) If:

- (i) any Noteholder becomes a Defaulting Noteholder or a Non-Consenting Noteholder (as defined in paragraph (d) below); or
- (ii) an Obligor becomes obliged to repay any amount in accordance with Clause 10.1 (*Illegality*) or to pay additional amounts pursuant to Clause 17.1 (*Increased Costs*), Clause 16.2 (*Tax gross-up*) or Clause 16.3 (*Tax indemnity*) to any Noteholder,

then the Issuer may, on 10 Business Days' prior written notice to the Agent and such Noteholder, replace such Noteholder by requiring such Noteholder to (and, to the extent permitted by law, such Noteholder shall) transfer pursuant to Clause 27 (*Changes to the Noteholders*) all (and not part only) of its rights and obligations under this Agreement to an Eligible Institution (a "**Replacement Noteholder**") which confirms its willingness to assume and does assume all the obligations of the transferring Noteholder in accordance with Clause 27 (*Changes to the Noteholders*) for a purchase price in cash payable at the time of transfer in an amount equal to the outstanding principal amount under the Notes held by such Noteholder and all accrued interest (to the extent that the Agent has not given a notification under Clause 27.11 (*Pro rata interest settlement*))), other amounts payable in relation thereto under the Finance Documents.

(b) The replacement of a Noteholder pursuant to this Clause shall be subject to the following conditions:

- (i) the Issuer shall have no right to replace the Agent or Security Agent;
- (ii) neither the Agent nor the Noteholder shall have any obligation to the Issuer to find a Replacement Noteholder;
- (iii) in the event of a replacement of a Defaulting Noteholder or a Non-Consenting Noteholder such replacement must take place no later than 60 Business Days after the date on which that Noteholder is deemed a Non-Consenting Noteholder;
- (iv) in no event shall the Noteholder replaced under paragraph (a) above be required to pay or surrender to such Replacement Noteholder any of the fees received by such Noteholder pursuant to the Finance Documents; and
- (v) the Noteholder 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.

- (c) A Noteholder shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Issuer when it is satisfied that it has complied with those checks.
- (d) In the event that:
 - (i) the Issuer or the Agent (at the request of the Issuer) has requested the Noteholders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Finance Documents; and
 - (ii) the consent, waiver or amendment in question requires the approval of all the Noteholders or the Super Majority Noteholders, and the Majority Noteholders have consented or agreed to such waiver or amendment,
 - (iii) then any Noteholder who does not and continues not to consent or agree to such waiver or amendment shall be deemed a “**Non-Consenting Noteholder**”.

39.8 Disenfranchisement of Defaulting Noteholders

- (a) For so long as a Defaulting Noteholder has any Available Commitment, in ascertaining:
 - (i) the Majority Noteholders, the Super Majority Noteholders; or
 - (ii) whether:
 - (A) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments under the relevant Facilities; or
 - (B) the agreement of any specified group of Noteholders,

has been obtained to approve any request for a consent, waiver, amendment or other vote of Noteholders under the Finance Documents,

that Defaulting Noteholder’s Commitments under the relevant Facilities will be reduced by the amount of its Available Commitments under the relevant Facilities and, to the extent that that reduction results in that Defaulting Noteholder’s Total Commitments being zero, that Defaulting Noteholder shall be deemed not to be a Noteholder for the purposes of paragraph (i) and (ii) above.
- (b) For the purposes of this Clause, the Agent may assume that the following Noteholders are Defaulting Noteholders:
 - (i) any Noteholder which has notified the Agent that it has become a Defaulting Noteholder;
 - (ii) any Noteholder in relation to which it is aware that any of the events or circumstances referred to in paragraphs (a), (b) or (c) of the definition of Defaulting Noteholder has occurred,

unless it has received notice to the contrary from the Noteholder concerned (together with any supporting evidence reasonably requested by the Agent) or the Agent is otherwise aware that the Noteholder has ceased to be a Defaulting Noteholder.

39.9 Replacement of a Defaulting Noteholder

- (a) The Issuer may, at any time a Noteholder has become and continues to be a Defaulting Noteholder, by giving ten Business Days' prior written notice to the Agent and such Noteholder replace such Noteholder by requiring such Noteholder to (and, to the extent permitted by law, such Noteholder shall) transfer pursuant to Clause 27 (*Changes to the Noteholders*) all (and not part only) of its rights and obligations under this Agreement to an Eligible Institution (a **Replacement Noteholder**) which confirms its willingness to assume and does assume all the obligations or all the relevant obligations of the transferring Noteholder in accordance with Clause 27 (*Changes to the Noteholders*) for a purchase price in cash payable at the time of transfer which is either:
 - (A) in an amount equal to the outstanding principal amount under the Notes held by such Noteholder and all accrued interest (to the extent that the Agent has not given a notification under Clause 27.11 (*Pro rata interest settlement*)) and other amounts payable in relation thereto under the Finance Documents; or
 - (B) in an amount agreed between that Defaulting Noteholder, the Replacement Noteholder and the Issuer and which does not exceed the amount described in paragraph (A) above.
- (b) Any transfer of rights and obligations of a Defaulting Noteholder pursuant to this Clause shall be subject to the following conditions:
 - (i) the Issuer shall have no right to replace the Agent or Security Agent;
 - (ii) neither the Agent nor the Defaulting Noteholder shall have any obligation to the Issuer to find a Replacement Noteholder;
 - (iii) the transfer must take place no later than 60 Business Days after the notice referred to in paragraph (a) above;
 - (iv) in no event shall the Defaulting Noteholder be required to pay or surrender to the Replacement Noteholder any of the fees received by the Defaulting Noteholder pursuant to the Finance Documents; and
 - (v) the Defaulting Noteholder shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer to the Replacement Noteholder.
- (c) The Defaulting Noteholder shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Issuer when it is satisfied that it has complied with those checks.

40. CONFIDENTIAL INFORMATION

40.1 Confidentiality

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 40.2 (*Disclosure of Confidential Information*) and Clause 40.3 (*Disclosure to numbering service providers*), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

40.2 Disclosure of Confidential Information

Any Finance Party may disclose:

- (a) to any of its Affiliates and Related Entity and any of its or their officers, directors, employees, professional advisers, auditors, partners (including actual or potential limited partners or investors, whether direct or indirect, in a Noteholder or a Related Entity of a Noteholder) 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 Clause is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
 - (i) to (or through) whom it transfers (or may potentially transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent or Security Agent and, in each case, to any of that person's Affiliates, Related Entity, Representatives and professional advisers;
 - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligors and to any of that person's Affiliates, Related Entity, Representatives and professional advisers;
 - (iii) appointed by any Finance Party or by a person to whom paragraphs (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 Clause 30.15 (*Relationship with the other Finance Parties*));
 - (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraphs (i) or (ii) above;
 - (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
 - (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
 - (vii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 27.10 (*Security over Noteholders' rights*);
 - (viii) who is a Party; or
 - (ix) with the consent of the Issuer,

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

- (x) 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;
- (xi) 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;
- (xii) in relation to paragraphs (b)(v), (b)(vi) and (b)(vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances; and
- (xiii) to any person appointed by that Finance Party or by a person to whom paragraph (b)(i) to (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 Notes 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 (b)(xiii) 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 Issuer and the relevant Finance Party; and
- (xiv) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

40.3 Disclosure to numbering service providers

- (a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facilities and/or one or more Obligors the following information:
 - (i) names of Obligors;
 - (ii) country of domicile of Obligors;
 - (iii) place of incorporation of Obligors;
 - (iv) date of this Agreement;
 - (v) Clause 44 (*Governing Law*);

- (vi) the names of the Agent and the Arrangers;
- (vii) date of each amendment and restatement of this Agreement;
- (viii) amounts of, and names of, the Facilities (and any tranches);
- (ix) amount of Total Commitments;
- (x) currencies of the Facilities;
- (xi) type of Facilities;
- (xii) ranking of Facilities;
- (xiii) governing law;
- (xiv) Termination Date for Facilities;
- (xv) changes to any of the information previously supplied pursuant to paragraph (a)(i) (a)(xiv) above; and
- (xvi) such other information agreed between such Finance Party and the Issuer,

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

- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facilities and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.
- (c) The Agent shall notify the Issuer and the other Finance Parties of:
 - (i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facilities and/or one or more Obligors; and
 - (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facilities and/or one or more Obligors by such numbering service provider.

40.4 Entire agreement

This Clause 40 constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

40.5 Inside information

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

40.6 Notification of disclosure

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

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(v) of Clause 40.2 (*Disclosure of Confidential Information*) above except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 40.

40.7 Continuing obligations

The obligations in this Clause 40 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of twelve months from the earlier of:

- (a) the date on which all amounts payable by the Obligor under or in connection with the Finance Documents have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

41. DISCLOSURE OF NOTEHOLDER DETAILS BY AGENT

41.1 Supply of Noteholder details to the Issuer

The Agent shall provide to the Issuer, within 10 Business Days of a request by the Issuer (but no more frequently than once per calendar month), a list (which may be in electronic form) setting out the names of the Noteholders as at the date of that request, their respective Commitments, the address and electronic mail (and the department or officer, if any, for whose attention any communication is to be made) of each Noteholder for any communication to be made or document to be delivered under or in connection with the Finance Documents, the electronic mail address and/or any other information required to enable the transmission of information by electronic mail or other electronic means to and by each Noteholder to whom any communication under or in connection with the Finance Documents may be made by that means and the account details of each Noteholder for any payment to be distributed by the Agent to that Noteholder under the Finance Documents.

41.2 Supply of Noteholder details at the Issuer's direction

- (a) The Agent shall, at the request of the Issuer, disclose the identity of the Noteholders and the details of the Noteholders' Commitments to any:
 - (i) other Party or any other person if that disclosure is made to facilitate, in each case, a refinancing of the Financial Indebtedness arising under the Finance Documents or a material waiver or amendment of any term of any Finance Document; and
 - (ii) Obligor.
- (b) Subject to paragraph (c) below, the Issuer and Topco shall procure that the recipient of information disclosed pursuant to paragraph (a) above shall keep such information confidential and shall not disclose it to anyone and shall ensure that all such information is protected with security measures and a degree of care that would apply to the recipient's own confidential information.
- (c) The recipient may disclose such information to any of its officers, directors, employees, professional advisers, auditors and partners as it shall consider appropriate if any such person is informed in writing of its confidential nature, except that there shall be no such requirement to so inform if that person is subject to professional obligations to maintain the confidentiality

of the information or is otherwise bound by duties of confidentiality in relation to the information.

41.3 Supply of Noteholder details to other Noteholders

- (a) If a Noteholder (a “**Disclosing Noteholder**”) indicates to the Agent that the Agent may do so, the Agent shall disclose that Noteholder’s name and Commitment to any other Noteholder that is, or becomes, a Disclosing Noteholder.
- (b) The Agent shall, if so directed by the Requisite Noteholders, request each Noteholder to indicate to it whether it is a Disclosing Noteholder.
- (c) In this Clause 41.3, “**Requisite Noteholders**” means a Noteholder or Noteholders whose Commitments aggregate 15 per cent. (or more) of the Total Commitments (or if the Total Commitments have been reduced to zero, aggregated 15 per cent. (or more) of the Total Commitments immediately prior to that reduction).

41.4 Noteholder enquiry

If any Noteholder believes that any entity is, or may be, a Noteholder and an Insolvency Event occurs in relation to that entity, the Agent shall, at the request of that Noteholder, indicate to that Noteholder the extent to which that entity has a Commitment.

42. BAIL-IN

42.1 Contractual recognition of bail-in

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

42.2 Bail-in definitions

- (a) In this Clause 42:

“**Article 55 BRRD**” means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

“**Bail-In Action**” means the exercise of any Write-down and Conversion Powers.

“**Bail-In Legislation**” means:

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

“EEA Member Country” means any member state of the European Union, Iceland, Liechtenstein and Norway.

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

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

“UK Bail-In Legislation” means Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

“Write-down and Conversion Powers” means:

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

43. COUNTERPARTS

Each Finance Document 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 a Finance Document by e-mail attachment or telecopy shall be an effective mode of delivery.

44. GOVERNING LAW

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

45. ENFORCEMENT

45.1 Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a “**Dispute**”).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) Notwithstanding paragraphs (a) and (b) above, 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.

45.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, Topco:
 - (i) irrevocably appoints the Issuer as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document (and the Issuer by its execution of this Agreement, accepts that appointment); and
 - (ii) agrees that failure by an agent for service of process to notify the relevant Obligor of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Issuer (on behalf of Topco) must immediately (and in any event within five Business Days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may appoint another agent for this purpose.

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

Schedule 1
THE ORIGINAL PARTIES

Part 1: The Original Guarantors

Name of Original Guarantor	Registered number (or equivalent, if any), Original Jurisdiction
Amalfi Topco Limited	143752, Jersey
Amalfi Midco Limited	14185820, England and Wales
Amalfi Cleanco Limited	14185950, England and Wales
Amalfi Bidco Limited	14186033, England and Wales

Part 2: The Original Committed Noteholders

Name of Original Committed Noteholder	Original Facility Commitment (£)
TH Pathways S. à r. l.	208,000,000
Ares Capital Europe V (E) Investments S.à r.l.	15,624,400
Ares Capital Europe V (G) Investments S.à r.l.	3,634,950
Ares Capital Europe V (E) (L) Investments S.à r.l.	28,903,450
Ares Capital Europe V (G) (L) Investments S.à r.l.	1,837,200
Total	258,000,000

Part 3: The Original Alternative Noteholders

Original Alternative Noteholders	Alternative Facility Commitment (£)
Ares Capital Europe V (E) Investments S.à r.l.	9,968,694.00
Ares Capital Europe V (G) Investments S.à r.l.	2,319,174.00
Ares Capital Europe V (E) (L) Investments S.à r.l.	18,441,001.00
Ares Capital Europe V (G) (L) Investments S.à r.l.	1,172,171.00
Ares Credit Strategies Feeder III UK, L.P.	2,734,375.00
Ares ECSF VII (P) Holdings S.à r.l.	390,625.00
MC CA Investment S.à r.l.	3,645,833.00
Prima European Direct Lending 1 Designated Activity Company	390,625.00
Ares ECSF X (T) Holdings S.à r.l.	1,171,875.00
Ares ECSF XII (Z) (E) Holdings S.à r.l.	1,432,292.00
Ares ECSF XII (Z) (G) Holdings S.à r.l.	651,042.00
Ares DCSF (S) Holdings S.à r.l.	260,417.00
Ares SFERS Holdings LLC	260,417.00
Ares European Credit Investments II (G), L.P.	1,953,125.00
Ares ECI I (C) Holdings S.à r.l.	2,604,167.00
Ares ECI V (X) Holdings S.à r.l.	1,302,083.00
Ares ECI IX (AF) Holdings S.à r.l.	651,042.00
Ares ECI VIII (M) Holdings S.à r.l.	651,042.00
TH Pathways S. à r. l.	208,000,000

Schedule 2
CONDITIONS PRECEDENT

Part 1: Conditions Precedent to Signing of the Agreement

1. Obligors

- 1.1 A copy of the constitutional documents of each Original Obligor, including a copy of the consents issued by the Jersey Financial Services Commission pursuant to the Control of Borrowing (Jersey) Order 1958 in respect of Topco.
- 1.2 A copy of a resolution of the board or, if applicable, a committee of the board of directors of each Original Obligor:
 - (a) approving the terms of, and the transactions contemplated by, the 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;
 - (b) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;
 - (c) in the case of an Original Obligor other than the Issuer, authorising the Issuer to act as its agent in connection with the Finance Documents; and
 - (d) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Notes Subscription Request and Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.
- 1.3 A copy of a resolution signed by all the holders of the issued shares in each Original Obligor (other than Topco) approving the terms of, and the transactions contemplated by, the Finance Documents to which the Original Obligor is a party.
- 1.4 A copy of a resolution of the board of directors of each corporate shareholder of each Original Obligor (other than Topco) approving the terms of the resolution referred to in paragraph 1.3 above.
- 1.5 A certificate of the Issuer in agreed form confirming that issuing Notes in an amount equal to the Total Commitments or borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any issuance, borrowing, guarantee, security or similar limit binding on any Original Obligor to be exceeded.
- 1.6 A certificate of an authorised signatory of the Issuer in agreed form certifying that each copy document relating to it specified in section 1 of Part 1 and Part 2 of this Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the Closing Date

2. Finance Documents

- 2.1 This Agreement executed by each Original Obligor.
- 2.2 The Subordination Agreement in agreed form.
- 2.3 The Fee Letters executed by the Issuer.
- 2.4 The following Transaction Security Documents to be signed by the relevant Original Obligor specified below opposite the relevant Transaction Security Document in agreed form:

Name of relevant Original Obligor	Transaction Security Document
Topco	An English law charge over shares of the Issuer, an assignment of intra-group receivables owed by the Issuer to Topco and a floating charge
The Issuer	An English law all assets debenture
The Senior Parent and the Senior Borrower	An English law all assets debenture

- 2.5 All notices required to be sent under the Transaction Security Documents by the relevant Obligor in agreed form to the extent that the relevant Transaction Security Document requires such notices to be sent no later than the date of such Transaction Security Document.

3. **Transaction Documents and Senior Finance Documents**

- 3.1 A copy of the latest draft Scheme Press Announcement.
- 3.2 The Shareholders' Agreement (each in the agreed form and executed by the parties thereto).
- 3.3 The Senior Facilities Agreement, the Senior Intercreditor Agreement and any document evidencing a Senior Transaction Security and letters evidencing satisfaction of conditions precedents for signing (each in the agreed form and executed by the parties thereto).

4. **Other documents and evidence**

- 4.1 The Group Structure Chart which shows the Group assuming the Final Closing Date has occurred.
- 4.2 The Base Case Model.
- 4.3 The Commercial Due Diligence Report, the Legal Due Diligence Report, the Structure Memorandum and the Financial and Tax Due Diligence Report and the Property Valuation Report (each provided on a reliance basis).
- 4.4 A copy of the Initial Valuation.
- 4.5 A copy of the Original Financial Statements.
- 4.6 Completion by the Agent and the Original Noteholders of client identification procedures and "know your customer" requirements in compliance with applicable money laundering rules.
- 4.7 An agreed form power of attorney granted by the Issuer and the other Obligors in favour of TH Pathways S. à r. l. and THCP Advisory Limited.
- 4.8 A copy of the agreed form of the certificate referred to as being in an "agreed form" in paragraph 5.1 of Part 2 of this Schedule 2 (*Conditions Precedent*).
- 4.9 The Project Amalfi Side Letter.
- 4.10 The Sources and Uses Statement.

Part 2: Conditions Precedent to Initial Notes Subscription

1. Obligators

- 1.1 A specimen of the signature of each person authorised by the resolution referred to in paragraph 1.2 of Part 1 of this Schedule 2 in relation to the Finance Documents and related documents who is proposing to sign such documents and notices.
- 1.2 A certificate of the Issuer (signed by a director) confirming that issuing Notes in an amount equal to the Total Commitments or borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any issuance, borrowing, guarantee, security or similar limit binding on any Original Obligor to be exceeded.
- 1.3 A certificate of an authorised signatory of the Issuer certifying that each copy document relating to it specified in section 1 of Part 1 and Part 2 of this Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the Closing Date.
- 1.4 In respect of each company incorporated in the United Kingdom whose shares are the subject of the Transaction Security (“**Charged Company**”), either:
- (a) a certificate of an authorised signatory of the Issuer certifying that:
 - (i) each member of the Group has complied within the relevant timeframe with any notice it has received pursuant to Part 21A of the Companies Act 2006 from that Charged Company; and
 - (ii) no “warning notice” or “restrictions notice” (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of those shares,
 - (b) together with a copy of the “PSC register” (within the meaning of section 790C(10) of the Companies Act 2006) of that Charged Company, which, in the case of a Charged Company that is a member of the Group, is certified by an authorised signatory of the Issuer to be correct, complete and not amended or superseded as at a date no earlier than the Closing Date; or
 - (c) a certificate of an authorised signatory of the Issuer certifying that such Charged Company is not required to comply with Part 21A of the Companies Act 2006.

2. Finance Documents

- 2.1 At least two originals of the following Transaction Security Documents signed by the relevant Original Obligor specified below opposite the relevant Transaction Security Document:

Name of relevant Original Obligor	Transaction Security Document
Topco	An English law charge over shares of the Issuer, an assignment of intra-group receivables owed by the Issuer to Topco and a floating charge
The Issuer	An English law all assets debenture
The Senior Parent and the Senior Borrower	An English law all assets debenture

- 2.2 A copy of all notices required to be sent under the Transaction Security Documents executed by the relevant Obligor to the extent that the relevant Transaction Security Document requires such notices to be sent no later than the date of such Transaction Security Document.
- 2.3 Copies of the register of members in respect of each Original Obligor whose shares are subject to the Transaction Security.
- 2.4 All share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant Original Obligor in blank in relation to any shares it owns in any other Original Obligor which are subject to or expressed to be subject to the Transaction Security (unless not expressly required under a Transaction Security Document).
- 2.5 The Subordination Agreement executed by each Original Obligor.
- 2.6 An executed power of attorney granted by the Issuer and the other Obligors in favour of TH Pathways S. à r. l. and THCP Advisory Limited.

3. **Scheme documents**

- 3.1 Where the Acquisition is being effected by way of a Scheme:
 - (a) a copy of the Scheme Press Announcement, certified as a true and correct copy by the Issuer;
 - (b) a copy of the Scheme Circular, certified as a true and correct copy by the Issuer;
 - (c) a copy of the Court Order, certified as a true and correct copy by the Issuer; and
 - (d) a copy of the Scheme Resolution, certified as a true and correct copy by the Issuer;
 - (e) a copy of the Shareholder Resolution, certified as a true and correct copy by the Issuer; and
 - (f) a certificate of the Issuer (signed by a director) in the agreed form certifying that:
 - (i) the Court Order has been delivered to the Registrar of Companies and that the Scheme has become effective; and
 - (ii) all the terms and conditions of the Scheme (other than payment of the consideration for the Acquisition) have been satisfied and no waiver or amendment of the terms and conditions of the Scheme has occurred, in each case other than as permitted or required (as the case may be) pursuant to (e)(iii) and (e)(iv)) of Clause 25.23 (*Scheme undertakings*),

provided that the documents set out in this paragraph 3.1 shall be considered to be in form and substance satisfactory to the Agent (acting on the instructions of the Majority Noteholders (acting reasonably)) if such documents are in such form that complies with the conditions of Clause 25.23 (*Scheme undertakings*).

4. **Offer documents**

- 4.1 Where the Acquisition is being effected by way of an Offer:
 - (a) a copy of the Offer Press Announcement, certified as a true and correct copy by the Issuer;
 - (b) a copy of the Offer Document, certified as a true and correct copy by the Issuer;

- (c) the certificate from the Receiving Agent issued in accordance with Rule 10 of the Takeover Code; and
- (d) certificate of the Issuer (signed by a director) in the agreed form certifying that:
 - (i) the Senior Borrower has (A) received acceptances of the Offer from Target Shareholders whose Target Shares represent, in aggregate, not less than 90 per cent of the Target Shares to which the Offer relates and (B) become entitled under the Squeeze Out Procedures to issue a Squeeze Out Notice; and
 - (ii) all the terms and conditions of the Offer (other than payment of the consideration for the Acquisition) have been satisfied and no waiver or amendment of the terms and conditions of the Offer has occurred, in each case other than as permitted or required (as the case may be) pursuant to paragraphs (d)(i)(D) and (d)(ii) of Clause 25.24 (*Offer undertakings*),

provided that the documents set out in this paragraph 4.1 shall be considered to be in form and substance satisfactory to the Agent (acting on the instructions of the Majority Noteholders (acting reasonably)) if such documents are in such form that complies with the conditions of Clause 25.24 (*Offer undertakings*).

5. Other documents and evidence

- 5.1 A certificate of the Issuer (signed by a director) certifying that the Senior Finance Documents have not been amended, varied, novated, supplemented, superseded, waived or terminated in a manner which could reasonably be considered to be materially adverse to the interests of the Finance Parties prior to the Closing Date unless with the prior written consent of the Agent (acting on instructions of the Majority Noteholders).
- 5.2 Notes Subscription Requests relating to any Notes Subscription to be made on the Closing Date which shall include an instruction to pay the fees due to the Finance Parties under Clause 15.1 (*Arrangement fee*) *provided that* each such Notes Subscription Request(s) shall be considered to be in form and substance satisfactory to the Agent (acting on the instructions of the Majority Noteholders (acting reasonably)) if such Notes Subscription Request is substantially in the relevant form set out in Part 1 of Schedule 3 (*Requests and Notices*).

Part 3: Conditions Precedent required to be delivered by an Additional Guarantor

1. Additional Guarantor

- 1.1 An Accession Deed executed by the Additional Guarantor and the Issuer.
- 1.2 A copy of the constitutional documents of the Additional Guarantor.
- 1.3 A copy of a resolution of the board or, if applicable, a committee of the board of directors of the Additional Guarantor:
 - (a) approving the terms of, and the transactions contemplated by, the Accession Deed and the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Accession Deed and any other Finance Document to which it is party;
 - (b) authorising a specified person or persons to execute the Accession Deed and other Finance Documents to which it is a party on its behalf;
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices (including, in relation to an Additional Issuer, any Notes Subscription Request or Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
 - (d) authorising the Issuer to act as its agent in connection with the Finance Documents.
- 1.4 If applicable, a copy of a resolution of the board of directors of the Additional Guarantor, establishing the committee referred to in paragraph 1.3 above.
- 1.5 A specimen of the signature of each person authorised by the resolution referred to in paragraph 1.3 above who is proposing to sign such documents and notices.
- 1.6 If required by or customary under local law, a copy of a resolution signed by the member(s) of the Group which hold(s) or will hold 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.
- 1.7 If required by or customary under local law, a copy of a resolution of the board of directors of each corporate shareholder of each Additional Guarantor referred to in paragraph 6 above approving the terms of the resolution referred to in paragraph 1.6 above.
- 1.8 A certificate of the Additional Guarantor (signed by a director) confirming that issuing Notes in an amount equal to the Total Commitments or borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any issuance, borrowing, guarantee, security or similar limit binding on it to be exceeded.
- 1.9 A certificate of an authorised signatory of the Additional Guarantor certifying that each copy document listed in this part 3 of schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Deed.
- 1.10 If available, the latest annual financial statements of the Additional Guarantor (audited if such statements are required to be audited in such Additional Guarantor's jurisdiction of incorporation).

2. Legal opinions

2.1 The following legal opinions, each addressed to the Agent, the Security Agent and the Noteholders:

- (a) A legal opinion of the legal advisers to the Noteholders in England, as to English law in the form distributed to the Noteholders prior to signing the Accession Deed.
- (b) If the Additional Guarantor is incorporated in or has its “centre of main interest” (as referred to in Clause 22.26 (*Centre of main interests*)) 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 Noteholders in the jurisdiction of its incorporation or “centre of main interest” (as applicable) or, as the case may be, the jurisdiction of the governing law of that Finance Document (the “**Applicable Jurisdiction**”) as to the law of the Applicable Jurisdiction and in the form distributed to the Noteholders prior to signing the Accession Deed.

3. Other documents and evidence

- 3.1 If the proposed Additional Guarantor is incorporated in a jurisdiction other than England and Wales, evidence that the process agent specified in Clause 45.2 (*Service of process*), if not an Obligor, has accepted its appointment in relation to the proposed Additional Guarantor.
- 3.2 Any security documents which are required by the Agent (acting reasonably) to be executed by the proposed Additional Guarantor.
- 3.3 Any notices or documents required to be given or executed under the terms of those security documents to the extent that such security documents require such notices or documents to be given or executed no later than the date of such security documents.
- 3.4 An undertaking from the Issuer’s legal advisors or such other evidence reasonably acceptable to the Agent confirming that the legal mortgages contemplated by the Transaction Security granted by the Target will be registered in accordance with paragraph (c) of Clause 25.39 (*Conditions subsequent*).
- 3.5 If the Additional Guarantor is a public limited company 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.
- 3.6 If the Additional Guarantor is not incorporated in England and Wales, Scotland or Northern Ireland, such documentary evidence as legal counsel to the Agent may require, that such Additional Guarantor has complied with any law in its jurisdiction relating to financial assistance or analogous process.
- 3.7 Evidence satisfactory to the Agent that each Finance Party has carried out and is satisfied with the results of all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated by the Finance Documents.
- 3.8 In respect of each Additional Guarantor incorporated in the United Kingdom whose shares are the subject of the Transaction Security (“**Charged Company**”), either:
 - (a) a certificate of an authorised signatory of the Issuer certifying that:
 - (i) each member of the Group has complied within the relevant timeframe with any notice it has received pursuant to Part 21A of the Companies Act 2006 from that Charged Company; and

- (ii) no “warning notice” or “restrictions notice” (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of those shares,
- (b) together with a copy of the “PSC register” (within the meaning of section 790C(10) of the Companies Act 2006) of that Charged Company, which, in the case of a Charged Company that is a member of the Group, is certified by an authorised signatory of the Issuer to be correct, complete and not amended or superseded as at a date no earlier than the date of the relevant Accession Deed; or
- (c) a certificate of an authorised signatory of the Issuer certifying that such Charged Company is not required to comply with Part 21A of the Companies Act 2006.

Schedule 3
REQUESTS AND NOTICES
Part 1: Notes Subscription Request

From: The Issuer

To: [●]

Dated:

Dear Sirs

[Amalfi Midco Limited] – [●] Secured Subordinated Notes Facility Agreement
dated [●] (the “Secured Subordinated Notes Facility Agreement”)

1. We refer to the Secured Subordinated Notes Facility Agreement. This is a Notes Subscription Request. Terms defined in the Secured Subordinated Notes Facility Agreement have the same meaning in this Notes Subscription Request unless given a different meaning in this Notes Subscription Request.
2. We wish to issue a Note on the following terms:
 - (a) Issuer: [●]
 - (b) Proposed Notes Subscription Date: [●] (or, if that is not a Business Day, the next Business Day)
 - (c) Facility to be issued: [Original Facility]/[Incremental Facility]*
 - (d) Currency of Note: [●]
 - (e) Amount: [●] or, if less, the Available Facility in relation to [Original Facility]/[Incremental Facility]*
 - (f) Interest Period: [●]
3. We confirm that each condition specified in Clause 4.2 (*Further Conditions Precedent*) of the Secured Subordinated Notes Facility Agreement or, to the extent applicable, Clause 4.4 (*Notes Subscriptions during the Certain Funds Period*) of the Secured Subordinated Notes Facility Agreement is satisfied on the date of this Notes Subscription Request or will be satisfied on the proposed Notes Subscription Date.
4. The proceeds of this Note are to be made in [whole][part] for the purpose of [●]
5. [The proceeds of this Note should be credited to [account].]
6. This Notes Subscription Request is irrevocable.

Yours faithfully

.....
authorised signatory for
[insert name of the Issuer]

NOTES:

- * Select the Facility under which the Notes will be issued and delete references to the other Facilities.

Part 2: Selection Notice

From: The Issuer

To: [●]

Dated:

Dear Sirs

**[Amalfi Midco Limited] – [●] Secured Subordinated Notes Facility Agreement
dated [●] (the “Secured Subordinated Notes Facility Agreement”)**

1. We refer to the Secured Subordinated Notes Facility Agreement. This is a Selection Notice. Terms defined in the Secured Subordinated Notes Facility Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.
2. We refer to the following [Original Facility]/[Incremental Facility] Note[s] in [*identify currency*] with an Interest Period ending on [●]*.
3. [We request that the above [Original Facility]/[Incremental Facility] Note[s] be divided into [●] [Original Facility]/[Incremental Facility] Notes with the following Base Currency Amounts and Interest Periods:]**

OR

[We request that the next Interest Period for the above [Original Facility]/[Incremental Facility] Note[s] is [●]].***

4. This Selection Notice is irrevocable.

Yours faithfully

.....
authorised signatory for
[insert name of the Issuer]

NOTES:

- * Insert details of all Notes for the relevant Facility which have an Interest Period ending on the same date.
- ** Use this option if division of Notes is requested.
- *** Use this option if sub-division is not required.

Schedule 4
FORM OF TRANSFER CERTIFICATE

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

From: [*The Existing Noteholder*] (the “**Existing Noteholder**”) and [*The New Noteholder*] (the “**New Noteholder**”)

Dated:

Dear Sirs

[Amalfi Midco Limited] – [●] Secured Subordinated Notes Facility Agreement
dated [●] (the “Secured Subordinated Notes Facility Agreement”)

1. We refer to the Secured Subordinated Notes Facility Agreement and the Subordination Agreement. This Agreement (the “**Agreement**”) shall take effect as a Transfer Certificate for the purposes of the Secured Subordinated Notes Facility Agreement and as a Creditor Accession Undertaking for the purposes of the Subordination Agreement (and as defined in the Subordination Agreement). Terms defined in the Secured Subordinated Notes Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
2. We refer to Clause 27.8 (*Procedure for transfer*) of the Secured Subordinated Notes Facility Agreement:
 - (a) The Existing Noteholder and the New Noteholder agree to the Existing Noteholder transferring to the New Noteholder by novation and in accordance with Clause 27.8 of the Secured Subordinated Notes Facility Agreement all of the Existing Noteholder’s rights and obligations under the Secured Subordinated Notes Facility Agreement, the other Finance Documents and in respect of the Transaction Security which relate to that portion of the Existing Noteholder’s Commitment(s) and Notes under the Secured Subordinated Notes Facility Agreement as specified in the Schedule.
 - (b) The proposed Transfer Date is [●].
 - (c) The Facility Office and address and electronic mail and attention details for notices of the New Noteholder for the purposes of Clause 35.2 (*Addresses*) of the Secured Subordinated Notes Facility Agreement are set out in the Schedule.
3. The New Noteholder expressly acknowledges the limitations on the Existing Noteholder’s obligations set out in paragraph (c) of Clause 27.7 (*Limitation of responsibility of Existing Noteholders*) of the Secured Subordinated Notes Facility Agreement.
4. We refer to clause 18.2 (*Change of Senior Noteholder*) of the Subordination Agreement. In consideration of the New Noteholder being accepted as a Senior Noteholder for the purposes of the Subordination Agreement (and as defined in the Subordination Agreement), the New Noteholder confirms that, as from the Transfer Date, it intends to be party to the Subordination Agreement as a Senior Noteholder, and undertakes to perform all the obligations expressed in the Subordination Agreement to be assumed by a Senior Noteholder and agrees that it shall be bound by all the provisions of the Subordination Agreement, as if it had been an original party to the Subordination Agreement.
5. This Agreement 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.

6. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
7. This Agreement has been entered into on the date stated at the beginning of this Agreement.

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

The Schedule
Commitment/rights and obligations to be transferred

[insert relevant details]

[Facility Office, address, electronic mail and attention details for notices and account details for payments]

[Existing Noteholder]

[New Noteholder]

By:

By:

This Agreement is accepted as a Transfer Certificate for the purposes of the Secured Subordinated Notes Facility Agreement by the Agent, and as a Creditor Accession Undertaking for the purposes of the Subordination Agreement by the Security Agent, and the Transfer Date is confirmed as [●].

[●]

By:

[●]

By:

Schedule 5
FORM OF ACCESSION DEED

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

From: [Subsidiary] and [the Issuer]

Dated:

Dear Sirs

[Amalfi Midco Limited] – [●] Secured Subordinated Notes Facility Agreement
dated [●] (the “Secured Subordinated Notes Facility Agreement”)

1. We refer to the Secured Subordinated Notes Facility Agreement and to the Subordination Agreement. This deed (the "**Accession Deed**") shall take effect as an Accession Deed for the purposes of the Secured Subordinated Notes Facility Agreement and as a Debtor Accession Deed for the purposes of the Subordination Agreement (and as defined in the Subordination Agreement). Terms defined in the Secured Subordinated Notes Facility Agreement have the same meaning in paragraphs 1-4 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 Secured Subordinated Notes Facility Agreement and the other Finance Documents (other than the Subordination Agreement) as an Additional Guarantor pursuant to clause [●] (*Additional Guarantors*) of the Secured Subordinated Notes Facility Agreement. [**Subsidiary**] is a company duly incorporated under the laws of [*name of relevant jurisdiction*] and is a [*limited liability company*] with registered number [●].
3. [**Subsidiary's**] administrative details for the purposes of the Secured Subordinated Notes Facility Agreement and the Subordination Agreement are as follows:

Address: [●]

E-mail: [●]

Attention: [●]
4. [**Subsidiary**] (for the purposes of this paragraph 4, the "**Acceding Debtor**") intends give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents:

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

the "**Relevant Documents**".

IT IS AGREED as follows:

- (a) Terms defined in the Subordination Agreement shall, unless otherwise defined in this Accession Deed, bear the same meaning when used in this paragraph 4.
- (b) The Acceding Debtor and the Security Agent agree that the Security Agent shall hold:
 - (i) [any Security in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents;

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

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

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

5. 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 4 above only), signed on behalf of the Issuer 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]

Address:

Email:

Attention:

Schedule 6
FORM OF RESIGNATION LETTER

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

From: [*resigning Guarantor*] and [the Issuer]

Dated:

Dear Sirs

[Amalfi Midco Limited] – [●] Secured Subordinated Notes Facility Agreement
dated [●] (the “Secured Subordinated Notes Facility Agreement”)

1. We refer to the Secured Subordinated Notes Facility Agreement. This is a Resignation Letter. Terms defined in the Secured Subordinated Notes Facility Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.

Pursuant to clause [●] (*Resignation of a Guarantor*) of the Secured Subordinated Notes Facility Agreement, we request that [*resigning Guarantor*] be released from its obligations as a Guarantor under the Secured Subordinated Notes Facility Agreement and the Finance Documents (other than the Subordination Agreement).

2. We confirm that:

- (a) no Default is continuing or would result from the acceptance of this request; and
- (b) this request is given in relation to a Third Party Disposal of [*resigning Guarantor*];
- (c) [the [*resigning Guarantor*] is not a Material Company and, if it had not been a Guarantor as of the date at which the Compliance Certificate most recently delivered to the Agent under clause [●] (*Provision and contents of Compliance Certificate*) of the Secured Subordinated Notes Facility Agreement was prepared, the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of the Guarantors (calculated on an unconsolidated basis and excluding goodwill, intragroup items and investments in Subsidiaries of any member of the Senior Group) would nevertheless have exceeded 80 per cent of the EBITDA of the Senior Group. Any member of the Senior Group generating negative earnings before interest, tax, depreciation and amortisation has been treated as having earnings before interest, tax, depreciation and amortisation of zero for the purposes of this confirmation];
- (d) [the Disposal Proceeds have been or will be applied in accordance with clause [●] (*Disposal, Insurance, Acquisition Proceeds and Specified Amalfi Real Estate Proceeds*) of the Secured Subordinated Notes Facility Agreement.]

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

[Issuer]

[resigning Obligor]

By:

By:

Schedule 7
FORM OF COMPLIANCE CERTIFICATE

To: [●] as Agent

From: [Amalfi Midco Limited]

Dated:

Dear Sirs

**[Amalfi Midco Limited] – [●] Secured Subordinated Notes Facility Agreement
dated [●] (the “Secured Subordinated Notes Facility Agreement”)**

1. We refer to the Secured Subordinated Notes Facility Agreement. This is a Compliance Certificate. Terms defined in the Secured Subordinated Notes Facility Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
2. We confirm that:

Covenants to be Certified

Adjusted Leverage: []

We confirm that Adjusted Leverage is [●]:1.
3. [We confirm that no Default is continuing.]*
4. [We confirm that the following companies constitute Material Companies for the purposes of the Secured Subordinated Notes Facility Agreement: [●]]
5. We confirm that the amount of any Equity Cure Amount applied during the relevant Financial Quarter in connection with Senior Permitted Bolt-on Acquisitions £[●].
6. We confirm that the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of the Senior Guarantors (calculated on an unconsolidated basis and excluding goodwill, intragroup items and investments in Subsidiaries of any member of the Senior Group) exceeds 80 per cent of the EBITDA of the Senior Group. [As it would be unlawful for [●] to become a Guarantor or that person becoming a Guarantor would result in personal liability for that person’s directors or other management or would be contrary to the Senior Agreed Security Principles for any other reason, the earnings before interest, tax, depreciation and amortisation of such person have been deducted from the EBITDA of the Senior Group in giving the above confirmation. Any member of the Senior Group generating negative earnings before interest, tax, depreciation and amortisation has been treated as having earnings before interest, tax, depreciation and amortisation of zero for the purposes of the above confirmation.]**

Signed.....

Signed.....

Director of [Issuer]

Director of [Issuer]

[insert applicable certification language e.g. “We have reviewed the Agreement and audited consolidated financial statements of the [Obligor]/[Senior Parent] for the year ended []. On the basis of that review and audit, nothing has come to our attention which would require any modification to the

confirmations in paragraphs 2 to 3 of the above Compliance Certificate [or which we know to be a continuing Default]”.

.....

for and on behalf of

*[name of Auditors]***

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 Auditors. To be agreed with the Auditors prior to signing the Agreement.

Schedule 8 TIMETABLES

Notes

Delivery of a duly completed Notes Subscription Request
(Clause 5 (*Notes Subscriptions*))

U-12 days, provided that if U is
not a Business Day, the Notes
Subscription will be made
available on the immediately
preceding Business Day
9.30 a.m.

Agent notifies the Noteholders of the Notes in accordance with
Clause 5.5 (*Noteholders' subscription*)

U-12 days or, if that day is not a
Business Day, the immediately
preceding Business Day
Noon

U = date of Notes Subscription Date

U-X = X calendar days prior to the Notes Subscription Date

Schedule 9 FORM OF INCREASE CONFIRMATION

To: [●] as Agent, [●] as Security Agent and [Amalfi Midco Limited] as the Issuer, for and on behalf of each Obligor

From: [the Increase Noteholder] (the “**Increase Noteholder**”)

Dated:

Dear Sirs

[Amalfi Midco Limited] – [●] Secured Subordinated Notes Facility Agreement dated [●] (the “Secured Subordinated Notes Facility Agreement”)

1. We refer to the Secured Subordinated Notes Facility Agreement and the Subordination Agreement. This Agreement (the “**Agreement**”) shall take effect as an Increase Confirmation for the purposes of the Secured Subordinated Notes Facility Agreement and as a Creditor Accession Undertaking for the purposes of the Subordination Agreement (and as defined in the Subordination Agreement). Terms defined in the Secured Subordinated Notes Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
2. We refer to Clause 2.2 (*Increase*) of the Secured Subordinated Notes Facility Agreement.
3. The Increase Noteholder agrees to assume and will assume all of the obligations corresponding to the Commitment(s) specified in the Schedule (the “**Relevant Commitment(s)**”) as if it had been an Original Noteholder under the Secured Subordinated Notes Facility Agreement in respect of the Relevant Commitment(s).
4. The proposed date on which the increase in relation to the Increase Noteholder and the Relevant Commitment(s) is to take effect (the “**Increase Date**”) is [●].
5. On the Increase Date, the Increase Noteholder becomes:
 - (a) party to the relevant Finance Documents (other than the Subordination Agreement) as a Noteholder; and
 - (b) party to the Subordination Agreement as a Senior Noteholder (as defined in the Subordination Agreement).
6. The Facility Office and address, electronic mail and attention details for notices to the Increase Noteholder for the purposes of Clause 35.2 (*Addresses*) of the Secured Subordinated Notes Facility Agreement are set out in the Schedule.
7. The Increase Noteholder expressly acknowledges the limitations on the Noteholders’ obligations referred to in paragraph (i) of Clause 2.2 (*Increase*) of the Secured Subordinated Notes Facility Agreement.
8. We refer to clause 18.6 (*Creditor Accession Undertaking*) of the Subordination Agreement. In consideration of the Increase Noteholder being accepted as a Senior Noteholder for the purposes of the Subordination Agreement (and as defined in the Subordination Agreement), the Increase Noteholder confirms that, as from the Increase Date, it intends to be party to the Subordination Agreement as a Senior Noteholder, and undertakes to perform all the obligations expressed in the Subordination Agreement to be assumed by a Senior Noteholder and agrees that it shall be bound by

all the provisions of the Subordination Agreement, as if it had been an original party to the Subordination Agreement.

9. 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. Delivery of a counterpart of this Agreement by e-mail attachment or telecopy shall be an effective mode of delivery.
10. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
11. This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Increase Confirmation may not be sufficient for the Increase Noteholder to obtain the benefit of the Transaction Security in all jurisdictions. It is the responsibility of the Increase Noteholder to ascertain whether any other documents or other formalities are required to obtain the benefit of the Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

Schedule

Relevant Commitment(s)/Rights and Obligations to Be Assumed by the Increase Noteholder

[insert relevant details]

[Facility office address, electronic mail and attention details for notices and account details for payments]

[Increase Noteholder]

By:

This Agreement is accepted as an Increase Confirmation for the purposes of the Secured Subordinated Notes Facility Agreement by the Agent, and as a Creditor Accession Undertaking for the purposes of the Subordination Agreement by the Security Agent and the Security Agent and the Increase Date is confirmed as [●].

Agent

By:

Security Agent

By:

Schedule 10
FORM OF INCREMENTAL FACILITY NOTICE

To: [●] as Agent, [●] as Security Agent

From: [●] as the Issuer and the entities listed in the Schedule as Incremental Facility Noteholders (the “**Incremental Facility Noteholders**”)

Dated:

[Amalfi Midco Limited] – [●] Secured Subordinated Notes Facility Agreement
dated [●] (the “Secured Subordinated Notes Facility Agreement”)

1. We refer to the Secured Subordinated Notes Facility Agreement and to the Subordination Agreement (as defined in the Secured Subordinated Notes Facility Agreement). This is an Incremental Facility Notice. This Incremental Facility Notice shall take effect as an Incremental Facility Notice for the purposes of the Secured Subordinated Notes Facility Agreement and as a Creditor Accession Undertaking for the purposes of the Subordination Agreement (and as defined in the Subordination Agreement). Terms defined in the Secured Subordinated Notes Facility Agreement have the same meaning in this Incremental Facility Notice unless given a different meaning in this Incremental Facility Notice.
2. We refer to Clause 6 (*Incremental Facility*) of the Secured Subordinated Notes Facility Agreement.
3. We request the establishment of an Incremental Facility with the following Incremental Facility Terms:
 - (a) Currency: [●]
 - (b) Total Incremental Facility Commitments: [●]
 - (c) Cash Pay Margin: [●]
 - (d) PIK Margin: [●]
 - (e) Purpose(s) for which all amounts borrowed under the Incremental Facility shall be applied pursuant to Clause 3.1 (*Purpose*) of the Secured Subordinated Notes Facility Agreement: [●]
 - (f) Availability Period: [●]
 - (g) [Conditions precedent: [●]]
 - (h) The proposed Incremental Facility Commitment Commencement Date is [●].
4. The Issuer confirms that each condition specified in paragraph (e) Clause 6.1 (*Incremental Facility*) of the Secured Subordinated Notes Facility Agreement is satisfied on the date of this Incremental Facility Notice.
5. Each Incremental Facility Noteholder agrees to assume and will assume all of the obligations corresponding to the Incremental Facility Commitment set opposite its name in the Schedule as if it had been an Original Noteholder under the Secured Subordinated Notes Facility Agreement in respect of that Incremental Facility Commitment.

6. On the Incremental Facility Commitment Commencement Date each Incremental Facility Noteholder becomes:
 - (a) party to the relevant Finance Documents (other than the Subordination Agreement) as a Noteholder; and
 - (b) party to the Subordination Agreement as a Senior Noteholder (as defined in the Subordination Agreement).
7. Each Incremental Facility Noteholder expressly acknowledges the limitations on the Noteholders' obligations referred to in Clause 27.7 (*Limitation of responsibility of Existing Noteholders*) of the Secured Subordinated Notes Facility Agreement.
8. We refer to clause 18.6 (*Creditor Accession Undertaking*) of the Subordination Agreement. In consideration of each Incremental Facility Noteholder being accepted as a Senior Noteholder for the purposes of the Subordination Agreement (and as defined in the Subordination Agreement), each Incremental Facility Noteholder confirms that, as from the Incremental Facility Commitment Commencement Date, it intends to be party to the Subordination Agreement as a Noteholder, and undertakes to perform all the obligations expressed in the Subordination Agreement to be assumed by a Senior Noteholder and agrees that it shall be bound by all the provisions of the Subordination Agreement, as if it had been an original party to the Subordination Agreement.
9. This Incremental Facility Notice is irrevocable.
10. This Incremental Facility Notice may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Incremental Facility Notice.
11. This Incremental Facility Notice and any non-contractual obligations arising out of or in connection with it are governed by English law.
12. This Incremental Facility Notice has been entered into on the date stated at the beginning of this Incremental Facility Notice.

Note: The execution of this Incremental Facility Notice may not be sufficient for each Incremental Facility Noteholder to obtain the benefit of the Transaction Security in all jurisdictions. It is the responsibility of each Incremental Facility Noteholder to ascertain whether any other documents or other formalities are required to obtain the benefit of the Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

THE SCHEDULE

Name of Incremental Facility Noteholder

Incremental Facility Commitment

The Issuer

By:

The Incremental Facility Noteholders

[Incremental Facility Noteholders]

By:]

This document is accepted as an Incremental Facility Notice for the purposes of the Secured Subordinated Notes Facility Agreement by the Agent and as a Creditor Accession Undertaking for the purposes of the Subordination Agreement by the Security Agent and the Incremental Facility Commitment Commencement Date is confirmed as [●].

The Agent

By:

The Security Agent

By:]

Schedule 11
FORM OF INCREMENTAL FACILITY NOTEHOLDER CERTIFICATE

To: [●] as Agent and [●] as the Issuer

From: [*The Incremental Facility Noteholder*] (the “**Incremental Facility Noteholder**”)

Dated:

[Amalfi Midco Limited] – [●] Secured Subordinated Notes Facility Agreement
dated [●] (the “Secured Subordinated Notes Facility Agreement”)

1. We refer to the Secured Subordinated Notes Facility Agreement and to the Incremental Facility Notice dated [●]. This is an Incremental Facility Noteholder Certificate. Terms defined in the Secured Subordinated Notes Facility Agreement have the same meaning in this Incremental Facility Noteholder Certificate unless given a different meaning in this Incremental Facility Noteholder Certificate.
2. The Facility Office and address, electronic mail and attention details for notices of the Incremental Facility Noteholder for the purposes of Clause 35.2 (*Addresses*) of the Secured Subordinated Notes Facility Agreement are:

[●].

Incremental Facility Noteholder

[*Incremental Facility Noteholder*]

By:

Schedule 12
FORM OF NOTES CERTIFICATE

Serial No. [●]

AMALFI MIDCO LIMITED (the “Issuer”)
(Incorporated in England and Wales)
(registered number 14185820)

Notes issued on [●]
due on the Termination Date
subject to the terms and conditions below

1. The Notes represented by this certificate forms part of a series designated as specified in the title (the “Notes”) of [●] (the “Issuer”).
2. The Notes are constituted by a secured subordinated notes facility agreement dated [●] (the “**Secured Subordinated Notes Facility Agreement**”) between, among others, the Issuer and [●] as agent (the “**Agent**”). The Notes are subject to, and have the benefit of, the Secured Subordinated Notes Facility Agreement and the terms and conditions therein. Terms defined in the Secured Subordinated Notes Facility Agreement have the same meanings when used herein
3. The Issuer hereby certifies that [●] is, at the date hereof, entered in the register of Noteholders as the holder of Notes in the principal amount of [GBP] [●] under the [Original Facility / Incremental Facility]. The Issuer and the Noteholder agree that the terms of the Secured Subordinated Notes Facility Agreement are hereby incorporated, *mutatis mutandis*, into the Notes, and shall constitute the terms and conditions of such Notes. For value received, the Issuer promises to pay the person who appears at the relevant time on the register of Noteholders as holder of the Notes in respect of which this certificate is issued such amount or amounts as shall become due and payable from time to time in respect of such Notes in accordance with the Secured Subordinated Notes Facility Agreement and otherwise to comply with the Secured Subordinated Notes Facility Agreement.
4. Subject to the provisions of the Secured Subordinated Notes Facility Agreement, the Notes (represented by this certificate shall be redeemed in full on [●] (the “**Termination Date**”)
5. The Issuer shall pay interest on Notes represented by this certificate at the times and at the rate per annum specified in the Secured Subordinated Notes Facility Agreement, with the Agent as paying agent for payments of interest to the Noteholders.
6. This definitive Notes is evidence of entitlement only. Title to the Notes passes only on due registration on the register of Noteholders and only the duly registered holder is entitled to payments in respect of this definitive Notes.
7. This definitive Notes and any non-contractual obligations arising out of or in connection with it are governed by English law.

THE NOTES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT AND MAY NOT BE OFFERED, SOLD, RESOLD, DELIVERED OR DISTRIBUTED (DIRECTLY OR INDIRECTLY) IN OR INTO THE UNITED STATES (EXCEPT IN TRANSACTIONS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT), CANADA, AUSTRALIA OR JAPAN NOR TO NOR FOR THE ACCOUNT OR BENEFIT OF ANY RESTRICTED OVERSEAS PERSON UNLESS IN RELATION TO ANY US PERSON, THE NOTES ARE REGISTERED UNDER THE SECURITIES ACT OR THE TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

EXECUTED AS A DEED

By: [AMALFI MIDCO LIMITED]

..... Signature of Director

..... Name of Director

Authenticated as of [●]

By: **GLOBAL LOAN AGENCY SERVICES LIMITED** as Agent

_____ Authorised Signatory

Address:

E-mail:

Attention:

Telephone:



SIGNATURES

THE ISSUER

AMALFI MIDCO LIMITED

By:

Address:

E-mail:

Attention:

THE ORIGINAL GUARANTORS

AMALFI TOPCO LIMITED

By: 

Address: 
E-mail: 
Attention: 

AMALFI MIDCO LIMITED

By: 

Address: 
E-mail: 
Attention: 

AMALFI CLEANCO LIMITED



Address: 
E-mail: 
Attention: 

AMALFI BIDCO LIMITED

Address:

E-mail:

Attention:

THE ORIGINAL COMMITTED NOTEHOLDERS
TH PATHWAYS S. À R. L.

By: 

Address: 
Attention:
Email:

By: 

Address: 
Attention:
Email:

ARES CAPITAL EUROPE V (E) INVESTMENTS S.À R.L.

By:
Name:
Title: Manager

By:
Name:
Title: Manager

Address: 
Copy to:
Email:
Attention:

THE ORIGINAL COMMITTED NOTEHOLDERS
TH PATHWAYS S. À R. L.

By:

Address:

Attention:

Email:

By:

Address:

Attention:

Email:

ARES CAPITAL EUROPE V (E) INVESTMENTS S.À R.L.

By: 

Name:

Title: Manager

By: 

Name:

Title: Manager

Address: 

Copy to:

Email:

Attention:

ARES CAPITAL EUROPE V (G) INVESTMENTS S.À R.L.

By: 
Name: 
Title: Manager

By: 
Name: 
Title: Manager

Address: 
Copy to: 
Email: 
Attention: 

ARES CAPITAL EUROPE V (E) (L) INVESTMENTS S.À R.L.

By: 
Name: 
Title: Manager

By: 
Name: 
Title: Manager

Address: 
Copy to: 
Email: 
Attention: 

ARES CAPITAL EUROPE V (G) (L) INVESTMENTS S.À R.L.

By: 

Name: 

Title: Manager

By: 

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

THE ORIGINAL ALTERNATIVE NOTEHOLDERS

ARES CAPITAL EUROPE V (E) INVESTMENTS S.À R.L.

By: 

Name:

Title: Manager

By: 

Name:

Title: Manager

Address: 

Copy to:

Email:

Attention:

ARES CAPITAL EUROPE V (G) INVESTMENTS S.À R.L.

By: 

Name:

Title: Manager

By: 

Name:

Title: Manager

Address: 

Copy to:

Email:

Attention:

ARES CAPITAL EUROPE V (E)(L) INVESTMENTS S.À R.L.

By: 

Name: 

Title: Manager

By: 

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

ARES CAPITAL EUROPE V (G)(L) INVESTMENTS S.À R.L.

By: 

Name: 

Title: Manager

By: 

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

ARES CREDIT STRATEGIES FEEDER III UK, L.P.

By Ares Management Limited, its manager

By: 

Name: 

Title: Authorised signatory

Address: 

Copy to: 

Email: 

Attention: 

ARES ECSF VII (P) HOLDINGS S.À R.L.

By: 

Name: 

Title: Manager

By: 

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

MC CA INVESTMENT S.À R.L.

By: 

Name: 

Title: Manager

By: 

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

PRIMA EUROPEAN DIRECT LENDING 1 DESIGNATED ACTIVITY COMPANY

Ares Management Limited signing for and on behalf of (i) **Prima European Direct Lending 1 Designated Activity Company** (the “DAC”) and (ii) Prima Multi-Manager Platform 1 ICAV (an umbrella fund with segregated liability between sub-funds acting in respect of its sub-fund Prima European Direct Lending 1 Fund) (the “ICAV”), in each case as its lawfully appointed attorney and portfolio manager and in the case of the ICAV for the sole purpose of acknowledging the entry into the contract by the DAC so as to comply with Chapter 2, Part I, Section 1, vii, paragraph 1(d) of the Central Bank of Ireland’s AIF Rulebook as such may be amended or replaced from time to time

By: 

Name: 

Title:
Authorised signatory

Address: 

Copy to: 

Email: 

Attention: 

ARES ECSF X (T) HOLDINGS S.À R.L.

By: 

Name: 

Title: Manager

By: 

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

ARES ECSF XII (Z) (E) HOLDINGS S.À R.L.

By: 

Name: 

Title: Manager

By: 

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

ARES ECSF XII (Z) (G) HOLDINGS S.À R.L.

By: 

Name: 

Title: Manager

By: 

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

ARES DCSF (S) HOLDINGS S.À R.L.

By: 

Name: 

Title: Manager

By: 

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

ARES SFERS HOLDINGS LLC

By: Ares Capital Management LLC, its Servicer

By: Ares Management Limited, as subadvisor

By: 
Name: 
Title: Authorised signatory

Address: 
Copy to:
Email:
Attention:

ARES EUROPEAN CREDIT INVESTMENTS II (G), L.P.

By Ares Management Limited, its manager

By: 
Name: 
Title: Authorised Signatory

Address: 
Copy to:
Email:
Attention:

ARES ECI I (C) HOLDINGS S.À R.L.

By: 

Name: 

Title: Manager

By: 

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

ARES ECI V (X) HOLDINGS S.À R.L.

By: .....
Name: 
Title: Manager

By: .....
Name: 
Title: Manager

Address: 
Copy to:
Email:
Attention:

ARES ECI IX (AF) HOLDINGS S.À R.L.

By: .....
Name: 
Title: Manager

By: .....
Name: 
Title: Manager

Address: 
Copy to:
Email:
Attention:

ARES ECI VIII (M) HOLDINGS S.À R.L.

By: .....
Name: 
Title: Manager

By: .....
Name: 
Title: Manager

Address: 
Copy to: 
Email: 
Attention: 

TH PATHWAYS S. À R. L.

_____ [Redacted]

By: [Redacted]

Address: [Redacted]
Attention: [Redacted]
Email: [Redacted]

_____ [Redacted]

By: [Redacted]

Address: [Redacted]
Attention: [Redacted]
Email: [Redacted]

THE ARRANGERS

THCP ADVISORY LTD

By:



Address:

E-mail:

Attention:



ARES MANAGEMENT LIMITED

By:

Name:

Title:

Address:

Copy to:

E-mail:

Attention:



THE ARRANGERS
THCP ADVISORY LTD


By:

Address:

E-mail:


Attention:


ARES MANAGEMENT LIMITED


By: 

Name: 

Title: Authorized signatory

Address: 

Copy to: 

E-mail: 

Attention: 

THE AGENT
GLOBAL LOAN AGENCY SERVICES LIMITED

By:

Authorised Signatory

Address:

E-mail:

Attention:

Telephone:

THE SECURITY AGENT

GLAS TRUST CORPORATION LIMITED

By:



____ Authorised Signatory

Address:

E-mail:

Attention:

Telephone:

