

## RESTATEMENT AGREEMENT

RESTATEMENT AGREEMENT, dated as of September 13, 2016 (this “**Restatement Agreement**”), among Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.), a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052 (“**Holdings**”), Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541 and having a registered share capital of \$1,800,005 (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation (the “**US Borrower**” and together with the Lux Borrower, the “**Borrowers**”) and each lender party hereto (collectively, the “**Lenders**” and individually, a “**Lender**”).

### PRELIMINARY STATEMENTS

A. Holdings, the Lux Borrower and the US Borrower have entered into a Credit Agreement dated as of April 15, 2016, among Holdings, the Lux Borrower, the US Borrower, certain Restricted Subsidiaries of the Lux Borrower party thereto from time to time as Revolving Borrowers (together with any other Restricted Subsidiary designated thereunder as an Additional Revolving Borrower pursuant to the terms thereof), the Lenders and ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the “**Administrative Agent**”) (as amended, supplemented, or otherwise modified from time to time through the date hereof, the “**Original Credit Agreement**”).

B. The parties hereto wish to amend and restate the Original Credit Agreement in its entirety on the terms set forth in the Amended and Restated Credit Agreement (as defined below).

C. Pursuant to Section 9.02(b) and Section 9.02(d)(vi) of the Original Credit Agreement, the Initial Signing Date Lenders (which, as of the date hereof, constitute all Lenders under the Original Credit Agreement immediately prior to the Restatement Effective date) have agreed to amend and restate the Original Credit Agreement in its entirety in the form attached as Annex A hereto (the Original Credit Agreement, as so amended and restated, being referred to as the “**Amended and Restated Credit Agreement**”) subject to the satisfaction of the conditions set forth in Section 4.02 of the Amended and Restated Credit Agreement.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the sufficiency and receipt of all of which are hereby acknowledged, the parties hereto hereby agree as follows:

**SECTION 1. Definitions.** Capitalized terms not otherwise defined in this Restatement Agreement have the same meanings as specified in the Amended and Restated Credit Agreement or, if not defined therein, in the Original Credit Agreement.

**SECTION 2. Amendment and Restatement.** Effective as of the Restatement Effective Date (as defined below), the Original Credit Agreement (including the schedules and exhibits thereto) is hereby amended and restated in its entirety in the form of Annex A hereto.

**SECTION 3. Conditions to Effectiveness of this Restatement Agreement.** This Restatement Agreement shall become effective (the “**Restatement Effective Date**”) when the Administrative Agent shall have received counterparts to this Restatement Agreement, duly executed and

delivered by the Lux Borrower, the US Borrower and the Initial Signing Date Lenders (which, as of such date, constitute all Lenders under the Original Credit Agreement immediately prior to the Restatement Effective date) under the Original Credit Agreement; provided that the Restatement Effective Date shall be subject to the satisfaction or waiver of the conditions set forth in Section 4.02 of the Amended and Restated Credit Agreement.

**SECTION 4. Representations and Warranties.** Each of Holdings and the Borrowers represent and warrant as follows as of the date hereof:

(a) The execution, delivery and performance by the Loan Parties that are party hereto of this Restatement Agreement is within such Loan Party's corporate or other organizational power and has been duly authorized by all necessary corporate or other organization action of such Loan Party. The execution, delivery and performance by the Loan Parties that are party hereto of this Restatement Agreement will not (i) violate any of such Loan Party's Organizational Documents, (ii) violate any Requirements of Law applicable to such Loan Party which, in the case of this clause (ii), could reasonably be expected to have a Material Adverse Effect and (iii) violate or result in a default under any other Contractual Obligation of such Loan Party which in the case of this clause (iii) could reasonably be expected to result in a Material Adverse Effect.

(b) This Restatement Agreement has been duly executed and delivered by each Loan Party that is party hereto. Each of this Restatement Agreement and the Amended and Restated Credit Agreement, after giving effect to the amendments pursuant to this Restatement Agreement, constitutes a legal, valid and binding obligation of each Loan Party that is party hereto, enforceable against each such Loan Party in accordance with its terms, subject to the Legal Reservations and the Perfection Requirements.

**SECTION 5. Effect of Restatement; Reaffirmation.**

(a) The Amended and Restated Credit Agreement shall amend and restate the Original Credit Agreement in its entirety, with the parties hereby agreeing that there is no novation of the Original Credit Agreement and from and after the effectiveness of the Amended and Restated Credit Agreement, the rights and obligations of the parties under the Original Credit Agreement shall be subsumed and governed by the Amended and Restated Credit Agreement. From and after the effectiveness of the Amended and Restated Credit Agreement, the Obligations and Commitments under the Original Credit Agreement shall continue as Obligations and Commitments under the Amended and Restated Credit Agreement until otherwise paid or terminated in accordance with the terms therein.

(b) Each Loan Party that is party hereto hereby acknowledges that it has reviewed the terms and provisions of the Amended and Restated Credit Agreement and consents to the amendment and restatement of the Original Credit Agreement effected pursuant to the Amended and Restated Credit Agreement. Each Loan Party that is party hereto acknowledges and agrees that any of the Loan Documents to which it is a party or otherwise bound shall continue in full force and effect in accordance with its terms and that all of its obligations thereunder shall be valid and enforceable and shall not be impaired or limited by the execution or effectiveness of this Agreement.

(c) On and after the effectiveness of the Amended and Restated Credit Agreement, each reference to the "Credit Agreement" in any other Loan Document shall mean and be a reference to the Amended and Restated Credit Agreement.

**SECTION 6. Execution in Counterparts.** This Restatement Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall

constitute one and the same instrument. Delivery by facsimile or electronic transmission of an executed counterpart of a signature page to this Restatement Agreement shall be effective as delivery of an original executed counterpart of this Restatement Agreement.

SECTION 7. Successors. The terms of this Restatement Agreement shall be binding upon, and shall inure for the benefit of, the parties hereto and their respective successors and assigns.

SECTION 8. Governing Law. THIS RESTATEMENT AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

*[The remainder of this page is intentionally left blank]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

ALLNEX (LUXEMBOURG) & CY S.C.A.

By:  
Name:  
Title:

Linda Harroch  
MANAGER

By:  
Name:  
Title:

ALLNEX S.À R.L.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Linda Harroch  
SULY AUTHORIZED

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ALLNEX USA INC.

By:  
Name:  
Title:

  
**Duncan TAYLOR**  
*Director*

By: \_\_\_\_\_  
Name:  
Title:

ALLNEX USA INC.

By: \_\_\_\_\_  
Name: Thomas Kelly  
Title: Pres. & CEO

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By executing this signature page as a Lender under the Original Credit Agreement, the undersigned institution agrees to the terms of the Restatement Agreement and the Amended and Restated Credit Agreement.

MORGAN STANLEY SENIOR FUNDING,  
INC., as a Lender

By:

Name: Barry Price

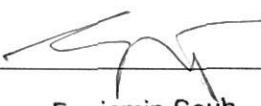
Title: Authorized Signatory

DEUTSCHE BANK AG NEW YORK  
BRANCH, as a Lender

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

  
Marcus M. Tarkington  
Director

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

  
Benjamin Souh  
Vice President

GOLDMAN SACHS BANK USA, individually,  
as a Lender

By:  
Name:  
Title:

Alisdair Fraser  
Authorised Signatory

BARCLAYS BANK PLC, as a Lender

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*Filippo Crosara*

Filippo Crosara  
Director

ING CAPITAL LLC, as a Lender, Swingline Lender,  
Issuing Bank and Guarantee Bank

By: Thomas T.M. McCaughey  
Name: Thomas McCaughey  
Title: Managing Director

By: E. Bailey  
Name: Edward Bailey  
Title: Director

ING BANK N.V., LONDON BRANCH,  
as Administrative Agent

By:   
Name:  
Title: Craig Baker  
Authorised Signatory  
ING Bank N.V., London Branch

By:   
Name:  
Title: Claire Roberts  
Authorised Signatory  
ING Bank N.V., London Branch

ANNEX A  
AMENDED AND RESTATED CREDIT AGREEMENT  
[SEE ATTACHED]

CREDIT AGREEMENT

Dated as of April 15, 2016

and

Amended and Restated as of September 13, 2016

among

ALLNEX (LUXEMBOURG) & CY S.C.A. (F/K/A AI CHEM & CY S.C.A.),

as Holdings,

ALLNEX S.À.R.L.,

as the Lux Borrower,

Allnex USA Inc. (f/k/a AI Chem & Cy US AcquiCo, Inc.),

as the US Borrower,

CERTAIN SUBSIDIARIES OF THE LUX BORROWER PARTY HERETO FROM TIME TO TIME,

as Revolving Borrowers,

THE FINANCIAL INSTITUTIONS PARTY HERETO,  
as Lenders,

ING BANK N.V. LONDON BRANCH,  
as Administrative Agent and Collateral Agent,

MORGAN STANLEY BANK INTERNATIONAL LIMITED,  
DEUTSCHE BANK SECURITIES INC.,  
GOLDMAN SACHS BANK USA,  
BARCLAYS BANK PLC

and

ING CAPITAL LLC,  
as Joint Arrangers

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Schedule 1.01(d)	-	Closing Date Capital Stock
Schedule 1.01(e)	-	Closing Date Collateral Documents and Loan Guaranties
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**EXHIBITS:**

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Exhibit B-1	-	Form of Assignment and Assumption
Exhibit B-2	-	Form of Affiliated Lender Assignment and Assumption
Exhibit C	-	Form of Borrowing Request
Exhibit D	-	Form of Compliance Certificate
Exhibit E	-	[Reserved]
Exhibit F	-	Form of Interest Election Request
Exhibit G	-	Form of Perfection Certificate
Exhibit H	-	Form of Perfection Certificate Supplement
Exhibit I	-	Form of Promissory Note
Exhibit J-1	-	Form of Trademark Security Agreement

- Exhibit J-2 – Form of Patent Security Agreement
- Exhibit J-3 – Form of Copyright Security Agreement
- Exhibit K – Form of Guaranty Agreement
- Exhibit L – Form of US Security Agreement
- Exhibit M-1 – Form of Letter of Credit Request
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- Exhibit N-1 – Form of U.S. Tax Compliance Certificate (For Non-US Lenders That Are Not Partnerships)  
For U.S. Federal Income Tax Purposes
- Exhibit N-2 – Form of U.S. Tax Compliance Certificate (For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)
- Exhibit N-3 – Form of U.S. Tax Compliance Certificate (For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)
- Exhibit N-4 – Form of U.S. Tax Compliance Certificate (For Non-US Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)
- Exhibit O – Form of Solvency Certificate
- Exhibit P – Form of Intercreditor Agreement
- Exhibit Q – Agreed EBITDA

## CREDIT AGREEMENT

CREDIT AGREEMENT, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (this “**Agreement**”), by and among Allnex S.à.r.l., a *société à responsabilité limitée* organized and established under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg Companies Register under number B173541 and having a registered share capital of \$1,800,005 (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.), a *société en commandite par actions* organized and established under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, and registered with the Luxembourg Companies Register under number B172052 (“**Holdings**”), certain Restricted Subsidiaries of the Lux Borrower party hereto from time to time as Revolving Borrowers (together with any other Restricted Subsidiary designated hereunder as an Additional Revolving Borrower pursuant to the terms hereof), the Lenders and ING Bank N.V. London Branch, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the “**Administrative Agent**”).

## RECITALS

A. Holdings owns 100% of the Capital Stock of the Lux Borrower and the Lux Borrower owns, indirectly, all of the Capital Stock of the US Borrower.

B. Pursuant to the terms of the Acquisition Agreement, on the Closing Date, Allnex New Zealand Limited (“**Bidco**”), a limited liability company incorporated under the laws of New Zealand and a Wholly-Owned subsidiary of Allnex Belgium SA/NV (“**Allnex Belgium**”), an indirect Wholly-Owned subsidiary of the Holdings, will purchase (the “**Acquisition**”) all of the Capital Stock of Nuplex Industries Limited (Company No. 48754) a duly incorporated company having its registered office at Level 3, Millennium Centre, 602c Great South Road, Ellerslie, Auckland 105i (the “**Target**”).

C. The Borrowers have requested that the Lenders extend credit in the form of (a) Term Loans consisting of (i) a Euro tranche provided to the Lux Borrower in the aggregate principal amount of €730,000,000, (ii) a Dollar tranche provided to the Lux Borrower in the aggregate principal amount of \$398,200,000 and (iii) a Dollar tranche provided to the US Borrower in the aggregate principal amount of \$300,000,000 and (b) a Revolving Facility in an aggregate amount of €160,000,000 provided to the Revolving Borrowers, in each case, subject to increase and decrease as provided herein.

D. The Revolving Facility will include the ability of the Revolving Lenders (or any of their Affiliates) to provide one or more Ancillary Facilities from time to time.

E. The Lenders are willing to extend such credit to the Borrowers on the terms and subject to the conditions set forth herein. Accordingly, the parties hereto agree as follows:

## ARTICLE 1 DEFINITIONS

Section 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

“**ABR**”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

**“Acceptable Intercreditor Agreement”** means the Intercreditor Agreement, a Market Intercreditor Agreement or another intercreditor agreement that is reasonably satisfactory to the Lux Borrower and the Administrative Agent.

**“ACH”** means automated clearing house transfers.

**“Acquisition”** has the meaning assigned to such term in the Recitals to this Agreement.

**“Acquisition Agreement”** means the Scheme Implementation Agreement, dated as of April 9, 2016, by and among, *inter alios*, Allnex Belgium, Bidco and the Target.

**“Additional Agreement”** has the meaning assigned to such term in Article 8.

**“Additional Collateral Documents”** has the meaning assigned to such term in Section 2.21(h).

**“Additional Commitments”** means any commitments added pursuant to Sections 2.21, 2.22 or 9.02(c).

**“Additional Lender”** has the meaning assigned to such term in Section 2.21(b).

**“Additional Loans”** means the Additional Revolving Loans and the Additional Term Loans.

**“Additional Revolving Borrower”** means such Restricted Subsidiaries as may be requested by the Lux Borrower and reasonably consented to by all of the Revolving Lenders and the Administrative Agent (such consent not to be unreasonably withheld or delayed); provided that, (x) in respect of each Person who becomes an Additional Revolving Borrower, the Lux Borrower shall have provided (or caused to be provided) such customary legal opinions and other customary documentation reasonably requested by the Administrative Agent and consistent with the documentation delivered under Section 4.02(b), (c) and (m) with respect to such Person (and modified as appropriate for the jurisdiction of organization of the applicable Restricted Subsidiary), (y) such Person shall comply with Section 5.12 and (z) such Additional Revolver Borrower will be subject to the provisions of Section 2.24.

**“Additional Revolving Commitments”** means any revolving credit commitments added pursuant to Sections 2.21, 2.22 or 9.02(c)(ii); provided that, with respect to any Additional Revolving Commitment of any Lender, other than for purposes of determining the Required Lenders or Required Revolving Lenders at any time, if such Lender is an Ancillary Lender, such Additional Revolving Commitment is decreased by the amount of such Lender’s Ancillary Commitment (and is increased to the extent that any such Ancillary Commitment is reduced, cancelled or terminated).

**“Additional Revolving Facility”** means any revolving credit facilities added pursuant to Section 2.21, 2.22 or 9.02(c)(ii).

**“Additional Revolving Loans”** means any revolving loans added pursuant to Section 2.21, 2.22 or 9.02(c)(ii).

**“Additional Term Commitments”** means any term commitments added pursuant to Sections 2.21, 2.22 or 9.02(c)(i).

**“Additional Term Facility”** means any term loan credit facilities added pursuant to Section 2.21, 2.22 or 9.02(c)(i).

**“Additional Term Loans”** means any term loans added pursuant to Section 2.21, 2.22 or 9.02(c)(i).

**“Adjusted Eurocurrency Rate”** means, with respect to any Eurocurrency Rate Borrowing for any Interest Period, an interest rate per annum equal to (a) with respect to any Eurocurrency Rate Borrowing denominated in Dollars, the greater of (i) the Eurocurrency Rate determined under clause (a) of the definition of “Eurocurrency Rate” for such Interest Period, multiplied by the Statutory Reserve Rate and (ii) solely in the case of Initial Term Loans, 0.75% per annum, (b) with respect to any Eurocurrency Rate Borrowing denominated in Euros, the greater of (i) the Eurocurrency Rate determined under clause (b) of the definition of “Eurocurrency Rate” for such Interest Period and (ii) in the case of Initial Term Loans, 0.75% per annum, (c) with respect to any Eurocurrency Rate Borrowing denominated in any Alternate Currency (other than Dollars), the greater of (i) the Eurocurrency Rate determined under clause (c) of the definition of “Eurocurrency Rate” with respect to such other Alternate Currency for such Interest Period and (ii) solely in the case of Initial Term Loans, 0.75% per annum; provided that if the Adjusted Eurocurrency Rate is less than zero, such rate shall be deemed to be zero. The Adjusted Eurocurrency Rate for any Eurocurrency Rate Borrowing that includes the Statutory Reserve Rate as a component of the calculation will be adjusted automatically with respect to all such Eurocurrency Rate Borrowings then outstanding as of the effective date of any change in the Statutory Reserve Rate.

**“Adjustment Date”** means the date of delivery of financial statements required to be delivered pursuant to Section 5.01(a) or Section 5.01(b), as applicable.

**“Administrative Agent”** has the meaning assigned to such term in the preamble to this Agreement.

**“Administrative Agent’s Office”** means the Administrative Agent’s address as set forth on Schedule 1.01(a) or such other address as the Administrative Agent may from time to time notify the Borrowers and the Lenders.

**“Administrative Questionnaire”** means a customary administrative questionnaire in the form provided by the Administrative Agent.

**“Adverse Proceeding”** means any action, suit, proceeding (whether administrative, judicial or otherwise), governmental investigation or arbitration (whether or not purportedly on behalf of any Borrower or any of its Restricted Subsidiaries) at law or in equity, or before or by any Governmental Authority, domestic or foreign (including any Environmental Claim), whether pending or, to the knowledge of any Borrower or any of its Restricted Subsidiaries, threatened in writing, against or affecting any Borrower or any of its Restricted Subsidiaries or any property of any Borrower or any of its Restricted Subsidiaries.

**“Affiliate”** means, as applied to any Person, any other Person directly or indirectly Controlling, Controlled by, or under common Control with, that Person. No Person shall be an “Affiliate” of Holdings or any subsidiary thereof solely because it is an unrelated portfolio company of the Sponsor and none of the Administrative Agent, the Arrangers, any Lender (other than an Affiliated Lender or a Debt Fund Affiliate) or any of their respective Affiliates shall be considered an Affiliate of Holdings or any subsidiary thereof.

**“Affiliated Lender”** means any Non-Debt Fund Affiliate, Holdings, the Borrowers and/or any subsidiary of Holdings.

**“Affiliated Lender Assignment and Assumption”** means an assignment and assumption entered into by a Lender and an Affiliated Lender or an assignee and an Affiliated Lender (in each case, with the consent of any party whose consent is required by Section 9.05) and accepted by the Administrative Agent in the form of Exhibit B-2 or any other form approved by the Administrative Agent and the Lux Borrower.

**“Affiliated Lender Cap”** has the meaning assigned to such term in Section 9.05(g)(iv).

**“Aggregate Revolving Credit Exposure”** means, at any time, the aggregate amount of the Lenders’ Revolving Credit Exposures at such time.

**“Agreed Security Principles”** means those principles set forth on Schedule 1.01(b).

**“Agreement”** has the meaning assigned to such term in the preamble hereto.

**“Agreement Currency”** has the meaning assigned to such term in Section 9.24.

**“Allnex Belgium”** has the meaning assigned to such term in the Recitals to this Agreement.

**“Allnex Holdings”** means Allnex Holdings S.à.r.l., *a société à responsabilité limitée* organized and established under the laws of Luxembourg.

**“Allocation Date”** means the date of the allocation of the Initial Term Loans in connection with the primary syndication thereof in accordance with the Fee Letter.

**“Alternate Base Rate”** means, for any day, a rate per annum equal to the highest of (a) the Federal Funds Effective Rate in effect on such day *plus* 0.50%, (b) to the extent ascertainable, the Eurocurrency Rate (as determined under clause (e) of the definition of “Eurocurrency Rate”) *plus* 1.00%, (c) the Prime Rate and (d) in the case of Initial Term Loans, 1.75%; provided that, if the Alternate Base Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Eurocurrency Rate, as the case may be, shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Eurocurrency Rate, as the case may be.

**“Alternate Currency”** means, (x) in the case of Revolving Loans, Dollars, Pounds Sterling, Japanese yen, Norwegian Krone, New Zealand dollars and Australian dollars, (y) in the case of Letters of Credit or Bank Guarantees, Dollars, Pounds Sterling, Japanese yen, Norwegian Krone, New Zealand dollars and Australian dollars and (z) in the case of Swingline Loans, Dollars and Pounds Sterling and, in each case, each other currency (other than Dollars, Euro, Pounds Sterling, Japanese yen, Norwegian Krone, New Zealand dollars and Australian dollars) that is approved in accordance with Section 1.09.

**“Ancillary Commencement Date”** means, with respect to any Ancillary Facility, the date (which must be a Business Day prior to the Maturity Date for the Revolving Facility related to the Ancillary Facility) on which such Ancillary Facility is first made available.

**“Ancillary Commitment”** means, with respect to any Ancillary Lender and any Ancillary Facility, the maximum applicable Euro Equivalent amount which such Ancillary Lender has agreed (whether or not subject to the satisfaction of conditions precedent) to make available from time to time under an Ancillary Facility in accordance with Section 2.23 hereof to the extent such amount has not been cancelled or reduced under this Agreement or the Ancillary Documents relating to such Ancillary Facility.

**“Ancillary Document”** means each document or instrument relating to or evidencing the terms of an Ancillary Facility.

**“Ancillary Facility”** means (a) any overdraft, automated payment, check drawing and/or other current account facility, (b) any short term loan facility, (c) any foreign exchange facility, (d) any standby letter of credit, documentary letter of credit, suretyship, suretyship on first demand, guarantee and/or bonding facility or any other instrument to provide a contingent liability, (e) any derivatives facility and/or (f) any other facility or financial accommodation that may be required in connection with the business of the Lux Borrower and/or any of its Restricted Subsidiaries, in each case, made available by an Ancillary Lender in accordance with Section 2.23.

**“Ancillary Lender”** means each Lender (or Affiliate of Lender) that (a) makes available an Ancillary Facility in accordance with Section 2.23 and (b) has acceded to the Intercreditor Agreement as an Ancillary Lender (as defined in the Intercreditor Agreement) by executing an Ancillary Lender/Banking Services Provider Intercreditor Joinder Agreement (as defined in the Intercreditor Agreement) in accordance with Section 6.03 of the Intercreditor Agreement.

**“Ancillary Obligations”** means all obligations in respect of Ancillary Outstandings, including interest, fees and expenses that accrue after the commencement by or against any Loan Party or any Restricted Subsidiary of any proceeding under any Debtor Relief Law naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and expenses are allowed claims in such proceeding.

**“Ancillary Outstandings”** means, at any time, with respect to any Ancillary Lender and any Ancillary Facility then in effect, the aggregate of the Euro Equivalent (as calculated in accordance with the relevant Ancillary Document) of the sum (without duplication) of the following amounts outstanding under such Ancillary Facility, (a) the principal amount owing under each overdraft facility and on-demand short term loan facility (net of any credit balance on any account of any Borrower under any Ancillary Facility with the relevant Ancillary Lender to the extent that such credit balance is freely available to be set-off by such Ancillary Lender against liabilities owing by such Borrower under such Ancillary Facility), (b) the aggregate stated amount available to be drawn under each guaranty, bond and letter of credit provided or issued under such Ancillary Facility plus any unreimbursed amounts in respect of drawings under each such guaranty, bond and letter of credit (with the amount available to be drawn under any guaranty, bond or letter of credit to be determined in a manner substantially similar to how amounts available to be drawn under Letters of Credit or Bank Guarantees are calculated hereunder), (c) all net obligations owing to such Ancillary Lender under any derivatives facility and (d) the amount fairly representing the aggregate exposure (excluding interest and similar charges) of such Ancillary Lender under each other type of accommodation provided under such Ancillary Facility, in each case as determined by such Ancillary Lender acting reasonably in accordance with its normal banking practice and the terms of the relevant Ancillary Document.

**“Applicable Percentage”** means, (a) with respect to any Term Lender of any Class, a percentage equal to a fraction the numerator of which is the aggregate outstanding principal amount of the Term Loans and unused Additional Commitments of such Term Lender under the applicable Class and the denominator of which is the aggregate outstanding principal amount of the Term Loans and unused Additional Commitments of all Term Lenders under the applicable Class and (b) with respect to any Revolving Lender for any Class, the percentage of the Total Revolving Credit Commitment for such Class represented by such Lender’s Revolving Credit Commitment for such Class; provided that (x) for purposes of Section 2.20 and otherwise herein, when there is a Defaulting Lender, any such Defaulting

Lender's Revolving Credit Commitment shall be disregarded in such calculations and (y) when any Revolving Lender (or its applicable Affiliate) provides Ancillary Commitments under a certain Class of Revolving Credit Commitments, the Applicable Percentage with respect to any Obligations outstanding under such Revolving Credit Commitments prior to the incurrence of the obligations under such Ancillary Facility shall be calculated without giving effect to the reduction in the Total Revolving Credit Commitments of such Class as a result of the incurrence of such Ancillary Commitment until (I) the end of the Interest Period then in effect or (II) the next Credit Extension with respect to Revolving Credit Commitments of such Class, at which point, the Applicable Percentage shall be calculated after giving effect to the reduction in the Total Revolving Credit Commitments of such Class as a result of the incurrence of such Ancillary Commitment. In the case of clause (b), in the event the Revolving Credit Commitments for any Class shall have expired or been terminated, the Applicable Percentages of any Revolving Lender of such Class shall be determined on the basis of the Revolving Credit Exposure of the applicable Revolving Lenders of such Class, giving effect to any assignments and to any Revolving Lender's status as a Defaulting Lender at the time of determination.

**"Applicable Rate"** means, for any day, (a) with respect to any Initial Term Loan, any Initial Revolving Loan or Swingline Loan, the rate per annum applicable to the relevant Class of Loans set forth below under the caption "ABR Spread" or "Eurocurrency Rate Spread", as the case may be, based upon the First Lien Leverage Ratio set forth opposite such rate; provided that until the first Adjustment Date following the completion of at least one full Fiscal Quarter ended after the Closing Date, the "Applicable Rate" shall be the applicable rate per annum set forth below in Category 1 and (b) with respect to any Additional Term Loans and Additional Revolving Loans of any Class, the rate or rates per annum specified in the applicable Refinancing Amendment, Incremental Facility Agreement or Extension Amendment:

#### **Initial Term Loans**

<u>First Lien Leverage Ratio</u>	<u>ABR Spread for Initial Term Loans</u>	<u>Eurocurrency Rate Spread for Initial Term Loans</u>
<u>Category 1</u>		
Greater than 3.05:1.00	3.25%	4.25%
<u>Category 2</u>		
Less than or equal to 3.05:1.00 and greater than 2.05:1.00	3.00%	4.00%
<u>Category 3</u>		
Less than or equal to 2.05:1.00	2.75%	3.75%

#### **Initial Revolving Loans**

<u>First Lien Leverage Ratio</u>	<u>ABR Spread for Initial Revolving Loans</u>	<u>Eurocurrency Rate Spread for Initial Revolving Loans</u>
<u>Category 1</u>		
Greater than 3.05:1.00	3.75%	4.75%
<u>Category 2</u>		
Less than or equal to 3.05:1.00 and greater than 2.55:1.00	3.50%	4.50%

<u>First Lien Leverage Ratio</u>	<u>ABR Spread for Initial Revolving Loans</u> <u>Swingline Loans</u>	<u>Eurocurrency Rate Spread for Initial Revolving Loans</u>
<u>Category 3</u> Less than or equal to 2.55:1.00	3.25%	4.25%

The Applicable Rate shall be adjusted quarterly on a prospective basis on each Adjustment Date based upon the First Lien Leverage Ratio in accordance with the tables above; provided that if financial statements (and the corresponding Compliance Certificate required to be delivered pursuant to Section 5.01(c)) are not delivered when required pursuant to Section 5.01(a) or (b), as applicable, the “Applicable Rate” shall be the rate per annum set forth above in Category 1 until such financial statements (and the corresponding Compliance Certificate required to be delivered pursuant to Section 5.01(c)) are delivered in compliance with Section 5.01(a) or (b), as applicable. Following a Qualified IPO, the percentages set forth in the table above shall automatically be reduced by 0.25% per annum.

**“Applicable Ticking Fee Rate”** means, (a) with respect to any Class of Initial Term Loan Commitments of any Lender that holds term loans under the Existing Credit Agreement (limited to the investment vehicle of such Lender that holds such term loans under the Existing Credit Agreement) as of the Allocation Date (such person, an “**Existing Lender**”) that will be converted into such Class of Initial Term Loans pursuant to a cashless rollover mechanism (the “Rollover Term Loans”) in an aggregate amount equal to the aggregate principal amount of the Rollover Term Loans, the difference between (i) the Applicable Rate set forth in Category 1 of such definition with respect to Initial Term Loans of such Class maintained as Eurocurrency Loans and (ii) the Applicable Rate (as defined in the Existing Credit Agreement (as in effect on the date hereof)) applicable to the corresponding class of term loans held by such Existing Lender as of the Allocation Date pursuant to Section 2.12 of the Existing Credit Agreement (as reasonably determined by the Lux Borrower and the Required Initial Signing Date Lenders) and (b) with respect to (i) any Class of Initial Term Loan Commitments allocated to an Existing Lender on the Allocation Date in an amount that exceeds the aggregate principal amount of such Existing Lender’s corresponding Rollover Term Loans or (ii) any Class of Initial Term Loan Commitment of any Lender that did not hold any corresponding term loans under the Existing Credit Agreement as of the Allocation Date, in each case of clauses (b)(i) and (b)(ii), the Applicable Rate set forth in Category 1 of such definition with respect to Initial Term Loans of such Class maintained as Eurocurrency Loans.

**“Approved Acquisition Agreement”** means the Acquisition Agreement (including all schedules, annexes and exhibits attached thereto), with such changes as are contemplated by Section 4.02(k) or are otherwise subsequently approved by the Initial Signing Date Lenders.

**“Approved Fund”** means, with respect to any Lender, any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities and is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

**“Arrangers”** means the Left Lead Arranger, Deutsche Bank Securities Inc., Goldman Sachs Bank USA, Barclays Bank PLC and ING Capital LLC.

**“Assignment Agreement”** means, collectively, the Assignment and Assumption and the Affiliated Lender Assignment and Assumption.

**“Assignment and Assumption”** means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.05), and accepted by the Administrative Agent, in the form of Exhibit B-1 or any other form approved by the Administrative Agent and the Lux Borrower.

**“Assignment Fee”** has the meaning assigned to such term in Section 9.05(b)(ii)(C).

**“AUD Loan”** means any Revolving Loan denominated in Australian dollars.

**“Australian PPSA”** means Personal Property Securities Act 2009 (Cth) of Australia and any regulation made at any time under the Personal Property Securities Act 2009 (Cth) of Australia.

**“Australian PPSA Law”** means:

(a) the Australian PPSA, including the Personal Property Securities Regulations 2010 (Cth) of Australia (each as amended from time to time); and

(b) any amendment made at any time to any other legislation as a consequence of a law or regulation referred to in clause (a).

**“Availability Period”** means, with respect to any Revolving Credit Commitments, the period from and including the Closing Date to but excluding the earliest of (a) the date of termination of the Revolving Credit Commitments pursuant to Section 2.09, (b) the date of termination of the Revolving Credit Commitment of each Revolver Lender to make Revolving Loans and the obligation of the Issuing Bank to issue Letters of Credit or Guarantee Bank to issue Bank Guarantees pursuant to Section 7.01, and (c) the Maturity Date applicable thereto.

**“Available Amount”** means, at any time, an amount equal to, without duplication:

(a) the sum of:

(i) the greater of €65,000,000 and 18.7% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period; *plus*

(ii) the Excess Cash Flow Retained Amount (provided that such amount shall not be available for any Restricted Payment pursuant to Section 6.04(a)(ii)(A) at any time when any Default or Event of Default under Section 7.01(a), (f) or (g) then exists or would result therefrom); *plus*

(iii) the amount of any capital contributions or other proceeds of issuances of Capital Stock and/or Subordinated Shareholder Debt (other than any amounts (x) constituting a Cure Amount or an Available Excluded Contribution Amount or proceeds of issuances of Disqualified Capital Stock or (y) received from the Lux Borrower or any Restricted Subsidiary) received in Cash by the Lux Borrower, *plus* the fair market value, as determined in good faith by the Lux Borrower, of Cash Equivalents, marketable securities or other property received by the Lux Borrower as a capital contribution or in return for issuances of Capital Stock and/or Subordinated Shareholder Debt (other than any amounts (x) constituting a Cure Amount or an Available Excluded Contribution Amount or proceeds of issuances of Disqualified Capital Stock or

(y) received from the Lux Borrower or any Restricted Subsidiary), in each case, during the period from and including the day immediately following the Closing Date through and including such time; *plus*

(iv) the aggregate principal amount of any Indebtedness or Disqualified Capital Stock, in each case, of the Lux Borrower or any Restricted Subsidiary issued after the Closing Date (other than Indebtedness or such Disqualified Capital Stock issued to the Lux Borrower or a Restricted Subsidiary), which has been converted into or exchanged for Capital Stock and/or Subordinated Shareholder Debt of the Lux Borrower, any Restricted Subsidiary or any Parent Company that does not constitute Disqualified Capital Stock, together with the fair market value of any Cash Equivalents and the fair market value (as reasonably determined by the Lux Borrower) of any property or assets received by the Lux Borrower or such Restricted Subsidiary upon such exchange or conversion, in each case, during the period from and including the day immediately following the Closing Date through and including such time; *plus*

(v) the Net Proceeds received by the Lux Borrower or any Restricted Subsidiary during the period from and including the day immediately following the Closing Date through and including such time in connection with the Disposition to a Person (other than the Lux Borrower or any Restricted Subsidiary) of any Investment made pursuant to Section 6.06(r)(i); *plus*

(vi) to the extent not already reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the proceeds received by the Lux Borrower or any Restricted Subsidiary during the period from and including the day immediately following the Closing Date through and including such time in connection with cash returns, cash profits, cash distributions and similar cash amounts, including cash principal repayments of loans, in each case received in respect of any Investment made after the Closing Date pursuant to Section 6.06(r)(i) (in an amount not to exceed the original amount of such Investment), but excluding any return, profit, distribution or similar amount paid by any Unrestricted Subsidiary to the Lux Borrower or any Restricted Subsidiary in respect of the payment of any Tax liability of such Unrestricted Subsidiary; *plus*

(vii) an amount equal to the sum of (A) the amount of any Investment made by the Lux Borrower or any Restricted Subsidiary pursuant to Section 6.06(r)(i) in any Unrestricted Subsidiary (in an amount not to exceed the original amount of such Investment) that has been re-designated as a Restricted Subsidiary or has been merged, consolidated or amalgamated with or into, or is liquidated, wound up or dissolved into, the Lux Borrower or any Restricted Subsidiary and (B) the fair market value (as reasonably determined by the Lux Borrower) of the property or assets of any Unrestricted Subsidiary that have been transferred, conveyed or otherwise distributed (in an amount not to exceed the original amount of the Investment in such Unrestricted Subsidiary) to the Lux Borrower or any Restricted Subsidiary, in each case, during the period from and including the day immediately following the Closing Date through and including such time; *plus*

(viii) except to the extend applied pursuant to Section 6.04(b)(viii), the amount of any Declined Proceeds; *minus*

(b) an amount equal to the sum of (i) Restricted Payments made pursuant to Section 6.04(a)(iii)(A), plus (ii) Restricted Debt Payments made pursuant to Section 6.04(b)(vi)(A), plus (iii) Investments made pursuant to Section 6.06(r)(i), in each case, made after the Closing Date and prior to such time, or contemporaneously therewith.

**“Available Excluded Contribution Amount”** means the aggregate amount of Cash or Cash Equivalents or the fair market value of other assets or property (as reasonably determined by the Lux Borrower, but excluding any Cure Amount and any amount applied pursuant to the Available Amount) received by the Lux Borrower or any of its Restricted Subsidiaries after the Closing Date from:

- (1) contributions or advances in respect of Qualified Capital Stock (other than any amounts received from the Lux Borrower or any of its Restricted Subsidiaries), and
- (2) the sale (other than to any Restricted Subsidiary of the Lux Borrower or pursuant to any management equity plan or stock option plan or any other management or employee benefit plan) of Qualified Capital Stock of the Lux Borrower or any of its Restricted Subsidiaries,

in each case, designated as Available Excluded Contribution Amounts pursuant to a certificate of a Responsible Officer on or promptly after the date such capital contributions are made or proceeds are received, as the case may be, and which are excluded from the calculation of the Available Amount.

**“Bail-In Action”** means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

**“Bail-In Legislation”** means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

**“Bank Guarantee”** means any bank guarantee issued pursuant to this Agreement.

**“Bank Guarantee Collateral Account”** has the meaning assigned to such term in Section 2.05(b)(x)(A).

**“Bank Guarantee Disbursement”** means a payment or disbursement made by a Guarantee Bank pursuant to a Bank Guarantee.

**“Bank Guarantee Exposure”** means, at any time, the sum of (a) the Euro Equivalent of the aggregate undrawn amount of all outstanding Bank Guarantees at such time, plus (b) the Euro Equivalent of the aggregate principal amount of all Bank Guarantee Disbursements that have not yet been reimbursed at such time. The Bank Guarantee Exposure of any Revolving Lender at any time shall equal its Applicable Percentage of the aggregate Bank Guarantee Exposure at such time.

**“Bank Guarantee Obligations”** means, at any time, the sum of (a) the Euro Equivalent of the maximum amount available to be drawn under Bank Guarantees then outstanding, assuming compliance with all requirements for drawings referenced therein, plus (b) the Euro Equivalent of aggregate principal amount of all unreimbursed Bank Guarantee Disbursements.

**“Banking Services”** means each and any of the following services: commercial credit cards, stored value cards, purchasing cards, treasury management services, netting services, overdraft protections, check drawing services, automated payment services (including depository, overdraft, controlled disbursement, ACH transactions, return items and interstate depository network services), employee credit card programs, cash pooling services and any arrangements or services similar to any of the foregoing and/or otherwise in connection with Cash management and Deposit Accounts.

**“Banking Services Obligations”** means any and all obligations of any Person, whether absolute or contingent and however and whenever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), in connection with Banking Services.

**“Bankruptcy Code”** means Title 11 of the United States Code (11 U.S.C. § 101 et seq.).

**“BBSY Bid”** means in relation to any AUD Loan the Australian Bank Bill Swap Reference Rate (Bid) administered by the Australian Financial Markets Association (or any other person which takes over the administration of that rate) for Australian dollars and for a period equal in length to the Interest Period for that AUD Loan and displayed on page BBSY of the Thomson Reuters Screen (or any replacement Thomson Reuters page which displays that rate) at or about 10.30am (Sydney time) on the first day of the Interest Period.

**“Bidco”** has the meaning assigned to such term in the Recitals to this Agreement.

**“BKBM”** means in relation to any NZD Loan the ‘bank bill reference rate’ (rounded upwards, if necessary, to the nearest four decimal places) administered by the New Zealand Financial Markets Association (or any other person which takes over administration of that rate) quoted at or about 10:45am (Auckland time) on the first day of the Interest Period on the BKBM page of the Thomson Reuters Monitor Screen or Bloomberg equivalent (or its or their respective successor page) for a term equivalent to the Interest Period for that NZD Loan.

**“Board”** means the Board of Governors of the Federal Reserve System of the United States of America.

**“Bona Fide Debt Fund”** means any debt fund, investment vehicle, regulated bank entity or unregulated lending entity that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of business which is managed, sponsored or advised by any Person controlling, controlled by or under common control with (a) any competitor of the Lux Borrower and/or any of its subsidiaries or (b) any Affiliate of such competitor, but with respect to which no personnel involved with any investment in such competitor or Affiliate of such competitor (i) directly or indirectly makes, has the right to make or participates with others in making any investment decisions with respect to such debt fund, investment vehicle, regulated bank entity or unregulated lending entity or (ii) has access to any information (other than information that is publicly available) relating to Holdings, the Lux Borrower or its subsidiaries or any entity that forms a part of any of their respective businesses; it being understood and agreed that the term “Bona Fide Debt Fund” shall not include any Identified Disqualified Lenders and such Identified Disqualified Lender’s reasonably identifiable Affiliates (other than such Affiliates who otherwise satisfy the requirements of this definition).

**“Borrowers”** means (a) the Term Borrowers and (b) the Revolving Borrowers.

**"Borrowing"** means any Loans of the same Type and Class made, converted or continued on the same date and, in the case of Eurocurrency Rate Loans, as to which a single Interest Period is in effect.

**"Borrowing Request"** means a request by the Lux Borrower (on behalf of any Borrower) for a Borrowing in accordance with Section 2.03 and substantially in the form attached hereto as Exhibit C or such other form as shall be reasonably acceptable to the Administrative Agent and the Lux Borrower.

**"Business Day"** means (i) any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, the jurisdiction where the Administrative Agent's Office is located and (ii):

(a) if such day relates to any interest rate settings as to a Eurocurrency Rate Loan, Letter of Credit, Bank Guarantee or Ancillary Facility denominated in Euros, any fundings, disbursements, settlements and payments in Euros in respect of any such Eurocurrency Rate Loan, Letter of Credit, Bank Guarantee or Ancillary Facility, or any other dealings in Euros to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means any such day described in clause (i) above that is also a TARGET Day;

(b) if such day relates to any interest rate settings as to a Eurocurrency Rate Loan, Letter of Credit, Bank Guarantee or Ancillary Facility denominated in Dollars, any fundings, disbursements, settlements and payments in Dollars in respect of any such Eurocurrency Rate Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means any such day described in clause (i) above that is also a London Banking Day;

(c) if such day relates to any interest rate settings as to a Eurocurrency Rate Loan, Letter of Credit, Bank Guarantee or Ancillary Facility denominated in an Alternate Currency other than Dollars, any fundings, disbursements, settlements and payments in such Alternate Currency in respect of any such Eurocurrency Rate Loan, Letter of Credit, Bank Guarantee or Ancillary Facility, or any other dealings in such Alternate Currency to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means any such day described in clause (i) above which is also a day on which dealings in deposits in such Alternate Currency are conducted by and between banks in the London interbank market; and

(d) if such day relates to any non-U.S. law governed document or the performance of any obligations under the Loan Documents by any Non-US Loan Party, means any day other than a day on which commercial banks are authorized to close under the laws of, or are in fact closed in, such non-U.S. jurisdiction.

**"Calculation Period"** means an Excess Cash Flow Period or an Excess Cash Flow Interim Period, as applicable.

**"Canadian Loan Party"** means any Loan Party incorporated, formed or established under the laws of Canada or any province or territory thereof.

**"Capital Lease"** means, as applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is or should be accounted for as a capital lease on the balance sheet of that Person.

**“Capital Stock”** means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire any of the foregoing, but excluding for the avoidance of doubt any Indebtedness convertible into or exchangeable for any of the foregoing.

**“Captive Insurance Subsidiary”** means any Restricted Subsidiary of the Lux Borrower that is subject to regulation as an insurance company (or any Restricted Subsidiary thereof).

**“Cash”** means money, currency or a credit balance in any Deposit Account.

**“Cash Equivalent Bank”** has the meaning assigned to such term in the definition of “Cash Equivalents”.

**“Cash Equivalents”** means, as at any date of determination, (a) readily marketable securities (i) issued or directly and unconditionally guaranteed or insured as to interest and principal by the U.S. government or (ii) issued by any agency or instrumentality of the U.S. the obligations of which are backed by the full faith and credit of the U.S., in each case maturing within one year after such date and, in each case, repurchase agreements and reverse repurchase agreements relating thereto; (b) readily marketable direct obligations issued by any state of the U.S. or any political subdivision of any such state or any public instrumentality thereof, in each case maturing within one year after such date and having, at the time of the acquisition thereof, a rating of at least A-2 from S&P or at least P-2 from Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) and, in each case, repurchase agreements and reverse repurchase agreements relating thereto; (c) commercial paper maturing no more than one year from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-2 from S&P or at least P-2 from Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency); (d) deposits, money market deposits, time deposit accounts, certificates of deposit or bankers’ acceptances maturing within one year after such date and issued or accepted by any Lender or by any commercial bank organized under the laws of the U.S. or any state thereof or the District of Columbia that has capital and surplus of not less than \$100,000,000 (each Lender and each commercial bank referred to in this definition as a **“Cash Equivalent Bank”**) and, in each case, repurchase agreements and reverse repurchase agreements relating thereto; and (e) shares of any money market mutual fund that (i) has substantially all of its assets invested in the types of investments referred to in clauses (a) and (b) above, (ii) has net assets of not less than \$250,000,000 and (iii) has a rating of at least A-2 from S&P or at least P-2 from Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency); and (f) solely with respect to any Captive Insurance Subsidiary, any investment that a Captive Insurance Subsidiary is not prohibited to make in accordance with applicable law.

In the case of Investments by the Lux Borrower or any Restricted Subsidiary that is not organized under the laws of the U.S., any state thereof or the District of Columbia (but which may include Investments made indirectly by the US Borrower or any Domestic Subsidiary), Cash Equivalents shall also include (x) investments of the type and maturity described in clauses (a) through (f) above of foreign obligors, which investments or obligors have the ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (y) other short-term investments utilized by Non-US

Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (a) through (f) and in this paragraph.

**“Cashless Settlement Letter”** shall mean, collectively, those certain cashless settlement letter agreements, dated September 13, 2016 among Allnex USA Inc. as the Initial US Borrower, Allnex (Luxembourg) & Cy S.C.A., as the Initial Lux Borrower, Allnex S.à.r.l., as Allnex, the Administrative Agent, the Existing Administrative Agent and the Existing Term Lenders (as defined therein) party thereto.

**“Change in Law”** means (a) the adoption of any law, treaty, rule or regulation after the date hereof, (b) any change in any law, treaty, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date hereof or (c) compliance by any Lender, Issuing Bank or Guarantee Bank (or, for purposes of Section 2.14(b), by any lending office of such Lender, such Issuing Bank or such Guarantee Bank or by such Lender’s, such Issuing Bank’s or such Guarantee Bank’s holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date hereof (other than any such request, guideline or directive to comply with any law, rule or regulation that was in effect on the date hereof). For purposes of this definition and Section 2.14, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof and (y) all requests, rules, guidelines, requirements or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the U.S. or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case described in clauses (a), (b) and (c) above, be deemed to be a Change in Law, regardless of the date enacted, adopted, issued or implemented; provided that increased costs as a result of any Change in Law pursuant to clauses (x) and (y) above shall only be reimbursable by the Borrowers to the extent the applicable Lender is generally requiring reimbursement therefor from similarly situated borrowers under comparable syndicated credit facilities.

**“Change of Control”** means the earliest to occur of:

(a) at any time prior to a Qualifying IPO, the Permitted Holders ceasing to beneficially own, either directly or indirectly (within the meaning of Rule 13d-3 and Rule 13d-5 under the Exchange Act), Capital Stock representing more than 50% of the total voting power of all of the outstanding voting stock of Holdings (or Successor Holdings, if applicable);

(b) at any time on or after a Qualifying IPO, the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act), including any group acting for the purpose of acquiring, holding or disposing of Securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act, but excluding any employee benefit plan and/or Person acting as the trustee, agent or other fiduciary or administrator therefor), other than one or more Permitted Holders, of Capital Stock representing more than the greater of (x) 35% of the total voting power of all of the outstanding voting stock of Holdings (or Successor Holdings, if applicable) and (y) the percentage of the total voting power of all of the outstanding voting stock of Holdings (or Successor Holdings, if applicable) owned, directly or indirectly, beneficially by the Permitted Holders;

(c) (w) the Lux Borrower (or its Successor Borrower) ceases to be a direct Wholly-Owned Subsidiary of Holdings (or Successor Holdings), (x) Allnex Holdings (or Successor Intermediate Holdco) ceases to be a direct Wholly-Owned Subsidiary of the Lux Borrower (or its

Successor Borrower), (y) so long as any Loans or Commitments hereunder of the US Borrower shall remain outstanding, the US Borrower (or its Successor Borrower) ceases to be a direct or indirect Wholly-Owned Subsidiary of the Lux Borrower (or its Successor Borrower) or (z) so long as any Loans or Commitments hereunder of any Revolving Borrower (other than the Lux Borrower or the US Borrower) shall remain outstanding, such Borrower ceases to be a direct or indirect Wholly-Owned Subsidiary of the Lux Borrower (or its Successor Borrower) other than pursuant to a transaction that is otherwise permitted by Article 6 hereof; or

(d) at any time prior to the closing of the Acquisition, Bidco ceases to be a direct or indirect Wholly-Owned Subsidiary of the Lux Borrower (or its Successor Borrower).

**“Charge”** means any loss (as defined under GAAP), charge, expense, cost, accrual or reserve of any kind.

**“Charged Amounts”** has the meaning assigned to such term in Section 9.19.

**“Class”**, when used with respect to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Tranche B-1 Term Loans, Tranche B-2 Term Loans, Tranche B-3 Term Loans, Initial Term Loans, Additional Term Loans of any series established as a separate “Class” pursuant to Section 2.21, 2.22 and/or 9.02(c)(i), Initial Revolving Loans or Additional Revolving Loans of any series established as a separate “Class” pursuant to Section 2.21, 2.22 and/or 9.02(c)(ii) or Swingline Loans, (b) any Commitment, refers to whether such Commitment is a Tranche B-1 Commitment, Tranche B-2 Commitment, Tranche B-3 Commitment, Initial Term Loan Commitment, an Additional Term Commitment of any series established as a separate “Class” pursuant to Section 2.21, 2.22 and/or 9.02(c)(i), an Initial Revolving Credit Commitment, an Additional Revolving Commitment of any series established as a separate “Class” pursuant to Section 2.21, 2.22 and/or 9.02(c)(ii) or a commitment to make Swingline Loans, (c) any Lender, refers to whether such Lender has a Loan or Commitment of a particular Class and (d) any Revolving Credit Exposure, refers to whether such Revolving Credit Exposure is attributable to a Revolving Credit Commitment of a particular Class.

**“Clean-Up Period”** has the meaning assigned to such term in Section 7.02.

**“Closing Date”** means the date on which the conditions specified in Section 4.02 are satisfied (or waived in accordance with Section 9.02).

**“Closing Date Loan Party”** means Holdings, the Borrowers and each Restricted Subsidiary specified as a Closing Date Loan Party on Schedule 1.01(c).

**“Closing Date Material Adverse Effect”** has the meaning assigned to the term “Material Adverse Change” in the Acquisition Agreement.

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

**“Collateral”** means any and all property of a Loan Party subject to a Lien under the Collateral Documents and any and all other property of any Loan Party, now existing or hereafter acquired, that is or becomes subject to a Lien pursuant to the Collateral Documents to secure the Secured Obligations.

**“Collateral Coverage Parties”** means, collectively, (x) the Borrowers, (y) the Subsidiary Guarantors and (z) any other Non-US Subsidiary of which 100% of the Capital Stock held by Holdings or any of its Restricted Subsidiaries, is pledged to the Administrative Agent pursuant to Section 5.12.

**“Collateral Coverage Requirement”** means, as of the last day of any Test Period ending on June 30th or December 31st, the requirement that (x) the Consolidated Total Assets of the Collateral Coverage Parties shall not be less than 65% of the Consolidated Total Assets of the Lux Borrower and its subsidiaries as of such date and (y) the Consolidated Adjusted EBITDA of the Collateral Coverage Parties shall not be less than 65% of the Consolidated Adjusted EBITDA of the Lux Borrower and its subsidiaries for the respective Test Period, in the case of each of clauses (x) and (y), determined on a Pro Forma Basis as of such date.

**“Collateral and Guarantee Requirement”** means, at any time, subject to (x) the applicable limitations set forth in this Agreement and/or any other Loan Document, including the Agreed Security Principles and (y) the time periods (and extensions thereof) set forth in Section 5.12 and/or Section 5.14, as applicable, the requirement that:

(a) (i) on the Closing Date, the Administrative Agent shall have received, in each case subject to the final paragraph of Section 4.02 and the final paragraph of this definition, (A) the Intercreditor Agreement and each Collateral Document and Loan Guaranty listed on Schedule 1.01(e), duly executed by each Loan Party party thereto, (B) a completed Perfection Certificate in the case of each US Loan Party, (C) a pledge of all of the Capital Stock (together, in the case of Capital Stock that is certificated, with undated stock or similar powers for each such certificate executed in blank by a Responsible Officer of the pledgor thereof (or, in the case of the Capital Stock of any Non-U.S. Subsidiary, any other documents customary under local law subject to the Agreed Security Principles)) of the Closing Date Loan Parties (other than Holdings) listed in Schedule 1.01(d) and (D) each Material Debt Instrument held by a Closing Date Loan Party and listed on Schedule 1.01(f), endorsed (without recourse) in blank or accompanied by an executed transfer form in blank by the pledgor thereof (or, in the case of Material Debt Instruments issued to or held by any Non-U.S. Subsidiary, any other documents customary under local law subject to the Agreed Security Principles);

(ii) not later than 90 days after the Closing Date (or such longer period as the Administrative Agent may agree to in its reasonable discretion), the Administrative Agent shall have received a Mortgage with respect to each Material Real Estate Asset listed on Schedule 1.01(g) and corresponding UCC fixture filings (or, in the case of any Non-US Loan Party, equivalent filings, if any, under local law) with respect to each Material Real Estate Asset listed on Schedule 1.01(g), together with, to the extent customary and appropriate (as reasonably determined by the Administrative Agent and the Lux Borrower) and reasonably requested by the Administrative Agent, the documents described under clause (c) of this definition with respect to such Material Real Estate Asset;

(b) after the Closing Date:

(i) in the case of any Restricted Subsidiary that becomes an Additional Revolving Borrower or that is required to become a Subsidiary Guarantor pursuant to Sections 5.12(a), (b) or (c) and/or Section 5.14:

(A) the Administrative Agent shall have received (v) a Loan Guaranty or a joinder to the applicable Loan Guaranty in substantially the form attached as an exhibit thereto (or such other form as may be reasonably satisfactory to the Administrative Agent and the Lux Borrower) as duly executed

by such Restricted Subsidiary, (w) customary collateral security documentation as the Administrative Agent may reasonably request as necessary to give effect to clause (B) of this subclause (i), including for the avoidance of doubt pledge agreements (or joinders or supplements to existing Collateral Documents) with respect to such Restricted Subsidiary and (i) delivery of all of the Capital Stock pledged thereunder that is certificated (together with undated stock or similar powers for each such certificate executed in blank by a Responsible Officer of the pledger thereof (or, in the case of the Capital Stock of any Non-U.S. Subsidiary, any other documents customary under local law subject to the Agreed Security Principles) and (ii) delivery of all Material Debt Instruments held by such Restricted Subsidiary, together with undated instruments of transfer with respect thereto endorsed (without recourse) in blank (or, in the case of Material Debt Instruments issued to or held by any Non-U.S. Subsidiary, any other documents customary under local law subject to the Agreed Security Principles), (x) an executed Additional Grantor Joinder Agreement (as defined in the Intercreditor Agreement) and, to the extent applicable, a joinder to any other applicable Acceptable Intercreditor Agreement, (y) all documentation reasonably requested by it with respect to such Restricted Subsidiary to the extent such documentation is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act and (z) upon the reasonable request of the Administrative Agent, a customary legal opinion (to be provided by counsel to the Loan Parties to the extent the provision of such opinion by counsel to borrowers is customary in the relevant jurisdiction or in lieu thereof, by counsel to the Administrative Agent to the extent the provision of such opinion by counsel to the lenders is customary in the relevant jurisdiction) with respect to such Restricted Subsidiary, addressed to the Administrative Agent, the Lenders, each Issuing Bank and each Guarantee Bank;

(B) such Restricted Subsidiary shall secure its obligations under the Loan Guaranty and the other Loan Documents to which it is a party with a Lien on (x) to the extent such Restricted Subsidiary is organized in a jurisdiction listed on Schedule 1.01(h), assets (other than Excluded Assets) of the type described therein, if any, with respect to such jurisdiction and (y) to the extent such Restricted Subsidiary is organized in any other jurisdiction, assets (other than Excluded Assets) of such type as the Lux Borrower and the Administrative Agent may reasonably agree; and

(ii) all documents, agreements, instruments, certificates, notices and acknowledgements, including UCC financing statements (or, in the case of any Non-US Loan Party, equivalent filings, if any, under local law), required by the Collateral Documents or local law to create and/or perfect the Liens to the extent required by, and with the priority required by this Agreement, the Collateral Documents, the Intercreditor Agreement and the other provisions of this definition shall have been filed, registered or recorded or delivered to the Administrative Agent for filing, registration, recording upon receipt thereof; and

(c) after the Closing Date, in the case of any Loan Party required to comply with the Collateral and Guarantee Requirement pursuant to Section 5.12(d), with respect to any Material

Real Estate Asset, the Lux Borrower will notify the Administrative Agent, and, if requested by the Administrative Agent, will take, and cause such Loan Party to take, such actions as shall be necessary or reasonably requested by the Administrative Agent to cause the Mortgages on each such Material Real Estate Asset acquired by such Loan Party after the Signing Date to be executed, delivered and recorded and in connection therewith will take or cause to be taken such further actions, including, with respect to Material Real Estate Assets, the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents and such other actions or deliveries, as applicable, as well as the delivery of title insurance policies (the “**Mortgage Policies**”) in an amount reasonably acceptable to the Administrative Agent (not to exceed the fair market value of the Material Real Estate Assets covered thereby (as reasonably determined by the Lux Borrower)), customary legal opinions of local counsel, surveys/Zip Maps/ExpressMaps and appraisals (if appraisals are required under the Financial Institutions Reform Recovery Act of 1989) and “Life of Loan” flood determinations and any required borrower notices under Regulation H (together with evidence of federal flood insurance for any improved Flood Hazard Property located in a flood hazard area to the extent required by applicable Requirements of Law (including Flood Insurance Laws)); it being understood that the Administrative Agent may, in its reasonable discretion, accept any existing survey/Zip Map/ExpressMap or appraisal so long as the same satisfies applicable local Requirements of Law, and provided that, in the case of an existing survey/Zip Map/ExpressMap, it shall be sufficient for the title insurance company to remove all standard survey exceptions from the Mortgage Policies and issue the title endorsements required by the Administrative Agent), in each case in form and substance reasonably acceptable to the Administrative Agent, including any affirmative coverage reasonably required by the Administrative Agent to insure over any particular exceptions made in the Mortgage Policies that arise from Zip Map/ExpressMap surveys rather than ALTA surveys) to create a valid and subsisting Lien on such Material Real Estate Asset and such other evidence that all other actions that the Administrative Agent may reasonably deem necessary in order to create valid and subsisting Liens on the Material Real Estate Assets have been taken, but in any case, subject to the Agreed Security Principles.

Notwithstanding the foregoing provisions of this definition or anything in this Agreement or any other Loan Document to the contrary, (A) Liens required to be granted from time to time pursuant to the term “Collateral and Guarantee Requirement” shall be subject to the exceptions and limitations set forth in any Loan Guaranty or the applicable Collateral Documents; (B) perfection by control shall not be required with respect to assets requiring perfection through control agreements or other control arrangements, including deposit, securities and commodities accounts (other than control of pledged Capital Stock and Material Debt Instruments that constitute Collateral), and in the case of any Person organized under the laws of any jurisdiction other than the U.S., any state thereof or the District of Columbia, notification of pledges over bank accounts will be given to the bank holding the account if and only to the extent required by local law to perfect the relevant security, in each case provided that this is not inconsistent with the Loan Parties ability to retain control over, and to use freely, the balance of the account; (C) the Loan Parties shall not be required to seek any landlord lien waiver, bailee letter, estoppel, warehouseman waiver or other collateral access or similar letter or agreement; (D) notification to third parties (other than filings of UCC financing statements and filings with the U.S. Patent and Trademark Office or the U.S. Copyright Office) with respect to (x) receivables security to debtors (other than debtors that are the Lux Borrower or any subsidiaries), (y) security over goods held by third parties or (z) security over intellectual property will, in each case, only be given if an Event of Default has occurred and is continuing and the Loans have been accelerated in accordance with Section 7.01; (E) in no event shall any action required to perfect a Lien on the Collateral be required to be taken in any jurisdiction unless (x) such jurisdiction is in the US or is the jurisdiction of organization of the applicable Loan Party granting

such Lien or, in the case of any Lien over Capital Stock of a Loan Party, the jurisdiction of organization of such Loan Party or (y) such action is required pursuant to clause (a)(ii) or clause (c) above with respect to Material Real Estate Assets; (F) no Loan Party will be required to take any action to perfect a security interest in any jurisdiction other than its jurisdiction of organization except to the extent contemplated in clause (E) above and in all cases to the extent contemplated by and consistent with the Agreed Security Principles; (G) in no event shall the Collateral include any Excluded Assets; (H) each Loan Guaranty and each Collateral Document shall be subject to the Agreed Security Principles and (I) no action shall be required to perfect a Lien with respect to (x) Commercial Tort Claims with a value of less than €10,000,000, as reasonably determined by the Lux Borrower, (y) vehicles and other assets subject to certificates of title (or with respect to such assets located in Belgium or Germany, retention of title and extended retention of title rights, or any similar rights applicable to any other relevant jurisdiction) and/or (z) Letter-of-Credit Rights to the extent that a security interest therein cannot be perfected by filing a Form UCC-1 (or similar) financing statement.

**“Collateral Documents”** means, collectively, (i) the US Security Agreement and each Non-US Security Agreement, (ii) each Non-US Pledge Agreement, (iii) each Mortgage, (iv) each Intellectual Property Security Agreement, (v) any supplement to any of the foregoing delivered to the Administrative Agent pursuant to the Collateral and Guarantee Requirement and (vi) each of the other instruments and documents granting a Lien upon the Collateral as security for payment of the Secured Obligations executed and delivered by a Loan Party (including any Additional Collateral Documents).

**“Commercial Letter of Credit”** means any Letter of Credit issued for the purpose of providing the primary payment mechanism in connection with the purchase of any materials, goods or services by the Lux Borrower or any of its subsidiaries in the ordinary course of business of such Person.

**“Commercial Tort Claim”** has the meaning set forth in Article 9 of the UCC.

**“Commitment”** means, with respect to each Lender, such Lender’s Term Commitment and Revolving Credit Commitment, as applicable, in effect as of such time.

**“Commitment Fee Rate”** means, on any date (a) with respect to the Initial Revolving Credit Commitments, the applicable rate per annum set forth below based upon the First Lien Leverage Ratio as of the last day of the last Test Period set forth opposite such applicable rate; provided that until the first Adjustment Date following the completion of at least one full Fiscal Quarter after the Closing Date, “Commitment Fee Rate” shall be the applicable rate per annum set forth below in Category 1 and (b) with respect to Additional Revolving Commitments of any Class, the rate or rates per annum specified in the applicable Refinancing Amendment, Incremental Facility Agreement or Extension Amendment:

First Lien Leverage Ratio	Commitment Fee Rate
<u>Category 1</u>	
Greater than 3.05:1.00	0.50%
<u>Category 2</u>	
Equal to or less than 3.05:1.00 but greater than 2.55:1.00	0.375%
<u>Category 3</u>	
Equal to or less than 2.55:1.00	0.25%

The Commitment Fee Rate with respect to the Initial Revolving Credit Commitment shall be adjusted

quarterly on a prospective basis on each Adjustment Date based upon the First Lien Leverage Ratio in accordance with the table above; provided that if financial statements (and the corresponding Compliance Certificate required pursuant to Section 5.01(c)) are not delivered when required pursuant to Section 5.01(a) or (b), the Commitment Fee Rate shall be the rate per annum set forth above in Category 1 until such financial statements (and the corresponding Compliance Certificate required pursuant to Section 5.01(c)) are delivered in compliance with Section 5.01(a) or (b), as applicable.

**“Commitment Schedule”** means the Schedule attached hereto as Schedule 1.01(i).

**“Commodity Exchange Act”** means the Commodity Exchange Act (7 U.S.C. § 1 et seq.).

**“Companies Act”** means the Companies Act 1993 of New Zealand.

**“Company Competitor”** means any competitor of the Lux Borrower and/or any of its subsidiaries.

**“Compliance Certificate”** means a Compliance Certificate substantially in the form of Exhibit D.

**“Confidential Information”** has the meaning assigned to such term in Section 9.13.

**“Consolidated Adjusted EBITDA”** means, as to any Person for any period, an amount determined for such Person on a consolidated basis equal to the total of (a) Consolidated Net Income for such period *plus* (b) the sum, without duplication, of (to the extent deducted in calculating Consolidated Net Income, other than in respect of clauses (x), (xii), (xiii) and (xiv) below) the amounts of:

(i) Consolidated Interest Expense;

(ii) Taxes paid and any provision for Taxes, including income, capital, state, franchise and similar Taxes, property Taxes, foreign withholding Taxes and foreign unreimbursed value added Taxes (including penalties and interest related to any such Tax or arising from any Tax examination, and including pursuant to any Tax sharing arrangement or as a result of any Tax distribution) of such Person paid or accrued during such period;

(iii) (A) depreciation, (B) amortization (including, without limitation, amortization of goodwill, software and other intangible assets), (C) any impairment Charge (including any Charge relating to impairment of goodwill and other assets) and (D) any asset write-off and/or write-down;

(iv) any non-Cash Charges, including the excess of GAAP rent expense over actual Cash rent paid, including the benefit of lease incentives (in the case of a charge) during such period due to the use of straight line rent for GAAP purposes; provided that (x) if any such non-Cash Charge represents an accrual or reserve for potential Cash items in any future period, (A) such Person may elect not to add back such non-cash Charge in the current period and (B) to the extent such Person elects to add back such non-cash Charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated Adjusted EBITDA to such extent and (y) any non-cash Charge representing amortization of a prepaid cash item that was paid and not expensed in a prior period shall not be added back);

(v) (A) Transaction Costs, (B) Charges incurred (1) in connection with the consummation of any transaction (or any transaction proposed and not consummated) whether or not permitted under this Agreement, including the issuance or offering of Capital Stock, Investments, acquisitions, Dispositions, recapitalizations, mergers, consolidations or amalgamations, option buyouts or the incurrence, repayment, refinancing, amendment or modification of Indebtedness (including any amortization or write-off of debt issuance or deferred financing costs, premiums and prepayment penalties) or similar transactions or (2) in connection with a Qualifying IPO (whether or not consummated), (C) the amount of any Charge to the extent actually reimbursed or reimbursable by third parties pursuant to indemnification or reimbursement provisions or similar agreements or insurance; provided that in respect of any Charge that is added back pursuant to clause (C) above, such Person in good faith expects to receive reimbursement for such fee, cost, expense or reserve within the next four Fiscal Quarters (it being understood that to the extent not actually received within such Fiscal Quarters, such reimbursement amounts shall be deducted in calculating Consolidated Adjusted EBITDA for such Fiscal Quarters) and/or (D) Public Company Costs;

(vi) the amount of any Charge associated with any subsidiary of such Person attributable to non-controlling interests or minority interests of third parties;

(vii) any portion of management, monitoring, consulting, transaction and advisory fees and related expenses actually paid by or on behalf of, or accrued by, such Person or any of its subsidiaries (A) to the Investors (or their Affiliates or management companies) to the extent permitted under this Agreement, (B) as permitted by Section 6.09(f) or (C) prior to the Closing Date;

(viii) the amount of any Charge in connection with a single or one-time event, including in connection with (A) the Transactions or any acquisition or other similar Investment permitted hereunder after the Closing Date (including, without limitation, legal, accounting and other professional fees and expenses incurred in connection with acquisitions and other Investments made prior to the Closing Date) and (B) the consolidation, reconfiguration or closing of any facility or plant during such period;

(ix) earn-out obligations incurred in connection with any acquisition or other Investment permitted pursuant to Section 6.06 or completed prior to the Closing Date, which is paid or accrued during such period;

(x) expected cost savings, operating expense reductions, product margin synergies and product cost and other synergies (collectively, "**Expected Cost Savings**") (net of actual amounts realized) reasonably identifiable and factually supportable (in the good faith determination of such Person, as certified by a Responsible Officer of such Person in the Compliance Certificate required by Section 5.01(c) to be delivered in connection with the financial statements for such period) related to (A) the Transactions and (B) after the Closing Date, permitted asset sales, acquisitions, Investments, Dispositions, operating improvements, restructurings, cost savings initiatives, any similar initiative and/or any specified transaction (any such operating improvement, restructuring, cost savings initiative or similar initiative or specified transaction, a "**Cost Savings Initiative**"); provided that, with respect to clause (B), such cost savings, operating expense reductions, product margin synergies and product cost and other

synergies are reasonably expected to be realized within 24 months after the event or action giving rise thereto or after which a substantial step with respect thereto is taken;

(xi) any Charge attributable to the undertaking and/or implementation of cost savings initiatives, cost rationalization programs, operating expense reductions and/or synergies (including, without limitation, in connection with any integration, restructuring or transition, any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternative uses, any facility opening and/or pre-opening, any inventory optimization program and/or any curtailment), any business optimization Charge, any restructuring Charge (including any Charge relating to any Tax restructuring), any Charge relating to the closure or consolidation of any facility and/or discontinued operations (including but not limited to severance, rent termination costs, moving costs and legal costs), any systems implementation Charge, any severance Charge, any Charge relating to entry into a new market, any Charge relating to any strategic initiative, any signing Charge, any retention or completion bonus, any expansion and/or relocation Charge, any Charge associated with any modification to any pension and post-retirement employee benefit plan, any software development Charge, any Charge associated with new systems design, any implementation Charge, any project startup Charge, any Charge in connection with new operations, any consulting Charge, any business integrity Charge and/or any corporate development Charge;

(xii) business interruption insurance in an amount representing the earnings for the applicable period that such proceeds are intended to replace (whether or not received so long as such Person in good faith expects to receive the same within the next four Fiscal Quarters (it being understood that to the extent not actually received within such Fiscal Quarters, such proceeds shall be deducted in calculating Consolidated Adjusted EBITDA for such Fiscal Quarters));

(xiii) Cash actually received (or any netting arrangements resulting in reduced Cash expenditures) during such period, and not included in Consolidated Net Income in any period, to the extent that the non-Cash gain relating to such Cash receipt or netting arrangement was deducted in the calculation of Consolidated Adjusted EBITDA pursuant to clause (c)(i) below for any previous period and not added back;

(xiv) any non-cash compensation Charge and/or any other non-cash Charge arising from the granting of any stock option or similar arrangement (including any profits interest), the granting of any stock appreciation right and/or similar arrangement (including any repricing, amendment, modification, substitution or change of any such stock option, stock appreciation right, profits interest or similar arrangement); and

(xv) other add-backs and adjustments (which add-backs and adjustments shall not, for the avoidance of doubt, be limited to the time periods in respect of which such add backs and adjustments were reflected therein) reflected in (i) the Projections and (ii) the QoE Report;

*minus (c)* to the extent such amounts increase Consolidated Net Income:

(i) any non-Cash gains or income (provided that if any non-cash income or non-cash gain represents an accrual or deferred income in respect of potential cash items

in any future period, such Person may determine not to deduct the relevant non-cash gain or income in the then-current period);

(ii) the amount added back to Consolidated Adjusted EBITDA pursuant to clause (b)(v)(C) above (as described in such clause) to the extent such reimbursement amounts were not received within the time period required by such clause;

(iii) the amount added back to Consolidated Adjusted EBITDA pursuant to clause (b)(xii) above (as described in such clause) to the extent such business interruption proceeds were not received within the time period required by such clause;

(iv) to the extent that such Person adds back the amount of any non-Cash charge to Consolidated Adjusted EBITDA pursuant to clause (b)(iv) above, the cash payment in respect thereof in such future period; and

(v) the excess of actual Cash rent paid, including the benefit of lease incentives, over and above GAAP rent expense during such period due to the use of straight line rent for GAAP purposes.

Notwithstanding anything to the contrary, it is agreed, that for the purpose of calculating the Total Leverage Ratio, the First Lien Leverage Ratio, the Senior Secured Leverage Ratio and the Interest Coverage Ratio for any period that includes one or more of the four consecutive Fiscal Quarters ended prior to the Closing Date, Consolidated Adjusted EBITDA for each such Fiscal Quarter shall be deemed to be the amount specified on Exhibit Q hereto, in each case, as adjusted on a Pro Forma Basis, as applicable.

**“Consolidated First Lien Debt”** means, as to any Person at any date of determination, the aggregate principal amount of Consolidated Total Debt outstanding on such date that is secured by a first priority Lien on the Collateral.

**“Consolidated Interest Expense”** means, with respect to any Person for any Period, the sum of (a) consolidated total interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued and whether or not capitalized, (including, without limitation (and without duplication), amortization of any debt issuance cost and/or original issue discount, any premium paid to obtain payment, financial assurance or similar bonds, any interest capitalized during construction, any non-cash interest payment, the interest component of any deferred payment obligation, the interest component of any payment under any Capital Lease (regardless of whether accounted for as interest expense under GAAP), any commission, discount and/or other fee or charge owed with respect to any letter of credit and/or bankers’ acceptance, any fee and/or expense paid to the Administrative Agent in connection with its services hereunder, any other bank, administrative agency (or trustee) and/or financing fee and any cost associated with any surety bond in connection with financing activities (whether amortized or immediately expensed)) plus (b) any cash dividend paid or payable in respect of Disqualified Capital Stock during such period other than to such Person or any Loan Party, plus (c) any net losses or obligations arising from, any Hedge Agreement and/or other derivative financial instrument issued by such Person for the benefit of such Person or its subsidiaries, in each case determined on a consolidated basis for such period. For purposes of this definition, interest in respect of any Capital Lease shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capital Lease in accordance with GAAP.

**“Consolidated Net Income”** means, as to any Person (the “**Subject Person**”) for any period, the net income (or loss) of the Subject Person on a consolidated basis for such period taken as a single accounting period determined in accordance with GAAP; provided that there shall be excluded, without duplication,

(a) (i) the income of any Person (other than a subsidiary of the Subject Person) in which any other Person (other than the Subject Person or any of its subsidiaries) has a joint interest, except to the extent of the amount of dividends or distributions or other payments (including any ordinary course dividend, distribution or other payment) paid in Cash (or to the extent converted into Cash) to the Subject Person or any of its subsidiaries by such Person during such period or (ii) the loss of any Person (other than a subsidiary of the Subject Person) in which any other Person (other than the Subject Person or any of its subsidiaries) has a joint interest, other than to the extent that the Subject Person or any of its subsidiaries has contributed Cash or Cash Equivalents to such Person in respect of such loss during such period; provided that, to the extent the Subject Person is the Lux Borrower, the reference to a subsidiary of such Subject Person shall mean a Restricted Subsidiary of the Lux Borrower,

(b) gains or losses (less all fees and expenses chargeable thereto) attributable to any sales or dispositions of Capital Stock or other assets (including asset retirement costs) or of returned surplus assets outside of the ordinary course of business,

(c) (i) gains or losses from (A) extraordinary items and (B) nonrecurring or unusual items and/or (ii) Charges associated with and/or payment of actual or prospective legal settlements, fines, judgments or orders,

(d) (i) any realized or unrealized gain or loss in respect of (x) any obligation under any Hedge Agreement as determined in accordance with GAAP and/or (y) any other derivative instrument pursuant to, in the case of this clause (y), the Financial Accounting Standards Board Accounting Standards Codification 815 – Derivatives and Hedging and (ii) any realized or unrealized foreign currency exchange gain or loss (including any currency re-measurement of Indebtedness, any net gain or loss resulting from Hedge Agreements for currency exchange risk associated with the foregoing or any other currency related risk and any gain or loss resulting from intercompany Indebtedness); provided, that notwithstanding anything to the contrary herein, realized gains and losses in respect of any Designated Operational FX Hedge shall be included in the calculation of Consolidated Net Income, and

(e) any net gains, Charges or losses with respect to (i) disposed, abandoned, divested and/or discontinued asset, property or operations (other than, at the option of the Borrowers, assets, properties or operations pending disposal, abandonment, divestiture or termination thereof) and any accretion or accrual of discounted liabilities and on the disposal of disposed, abandoned, and discontinued operations, and (ii) facilities, plants or distribution centers that have been closed during such period,

(f) any net income or loss (less all fees and expenses or charges related thereto) attributable to the early extinguishment of Indebtedness (and the termination of any associated Hedge Agreements),

(g) (i) any Charge incurred as a result of, in connection with or pursuant to any management equity plan, profits interest or stock option plan or any other management or

employee benefit plan or agreement, any pension plan (including any post-employment benefit scheme to which the relevant pension trustee has agreed), any stock subscription or shareholder agreement, any employee benefit trust, any employee benefit scheme or any similar equity plan or agreement (including any deferred compensation arrangement) and (ii) any Charge incurred in connection with the rollover, acceleration or payout of Capital Stock held by management of Holdings (or any other Parent Company), the Borrowers and/or any Restricted Subsidiary, in each case under this clause (ii), to the extent that any cash Charge is funded with net Cash proceeds contributed to the relevant Person as a capital contribution or as a result of the sale or issuance of Qualified Capital Stock (other than Disqualified Capital Stock) of the Subject Person,

(h) any Charge that is established, adjusted and/or incurred, as applicable, within 12 months after the Closing Date that is required to be established, adjusted or incurred, as applicable, as a result of the Transactions in accordance with GAAP,

(i) any write-off or amortization made in such period of deferred financing costs and premiums paid or other Charges incurred directly in connection with any early extinguishment of Indebtedness (or the termination of any associated Hedge Agreement),

(j) (i) effects of adjustments (including the effects of such adjustments pushed down to the Subject Person and its subsidiaries) in the Subject Person's consolidated financial statements pursuant to GAAP (including in the inventory, property and equipment, software, goodwill, intangible assets, in-process research and development, deferred revenue, advanced billing and debt line items thereof) resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transactions or any consummated acquisition or the amortization or write-off of any amounts thereof, (ii) the cumulative effect of any change in accounting principles (effected by way of either a cumulative effect adjustment or a retroactive application, in each case, in accordance with GAAP) and/or any change resulting from the adoption or modification of accounting principles and/or policies, (iii) the cumulative effect of any change in the functional currency of a Subject Person and its subsidiaries and (iv) the cumulative effect of any conversion by a Subject Person and its subsidiaries in its financial reporting standards from GAAP to IFRS.

(k) solely for the purpose of determining the Available Amount, the net income for such period of any subsidiary (other than any Subsidiary Guarantor), to the extent the declaration or payment of dividends or similar distributions by that subsidiary of its net income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule, or governmental regulation applicable to that subsidiary or its stockholders, unless such restriction with respect to the payment of dividends or similar distributions has been legally waived; provided that Consolidated Net Income will be increased by the amount of dividends or other distributions or other payments actually paid in cash (or to the extent converted into cash) to the Subject Person or a subsidiary thereof in respect of such period, to the extent not already included therein,

(l) solely for purposes of calculating Excess Cash Flow, the income or loss of any Person accrued prior to the date on which such Person becomes a Restricted Subsidiary of such Person or is merged into or consolidated with such Person or any Restricted Subsidiary of such Person or the date that such other Person's assets are acquired by such Person or any Restricted Subsidiary of such Person, and

(m) any deferred Tax expense associated with any tax deduction or net operating loss arising as a result of the Transactions, or the release of any valuation allowance related to any such item.

**“Consolidated Senior Secured Debt”** means, as to any Person at any date of determination, the aggregate principal amount of Consolidated Total Debt outstanding on such date that is secured by a Lien on the Collateral.

**“Consolidated Total Assets”** means, at any date, all amounts that would, in conformity with GAAP, be set forth opposite the caption “total assets” (or any like caption) on a consolidated balance sheet of the applicable Person at such date.

**“Consolidated Total Debt”** means, as to any Person at any date of determination, the aggregate principal amount of all third party debt for borrowed money (including LC Disbursements that have not been reimbursed within three Business Days, Bank Guarantee Disbursements that have not been reimbursed within three Business Days and the outstanding principal balance of all Indebtedness of such Person represented by notes, bonds and similar instruments), Capital Leases and purchase money Indebtedness (but excluding, for the avoidance of doubt, undrawn letters of credit and/or bank guarantees); provided that “Consolidated Total Debt” shall be (a) adjusted to reflect the effect (in the good faith determination of the Lux Borrower) of any Debt FX Hedge relating to any such debt for borrowed money, Capital Leases and/or purchase money Indebtedness, calculated on a mark-to-market basis and (b) calculated (i) net of the Unrestricted Cash Amount, (ii) excluding any obligation, liability or indebtedness of such Person if, upon or prior to the maturity thereof, such Person has irrevocably deposited with the proper Person in trust or escrow the necessary funds (or evidences of indebtedness) for the payment, redemption or satisfaction of such obligation, liability or indebtedness, and thereafter such funds and evidences of such obligation, liability or indebtedness or other security so deposited are not included in the calculation of Unrestricted Cash and (iii) based on the initial stated principal amount of any Indebtedness that is issued at a discount to its initial stated principal amount without giving effect to any such discounts.

**“Consolidated Working Capital”** means, as at any date of determination, the excess of Current Assets over Current Liabilities.

**“Consolidated Working Capital Adjustment”** means, for any period on a consolidated basis, the amount (which may be a negative number) by which Consolidated Working Capital as of the beginning of such period exceeds (or is less than) Consolidated Working Capital as of the end of such period; provided that there shall be excluded (a) the effect of reclassification during such period between current assets and long term assets and current liabilities and long term liabilities (with a corresponding restatement of the prior period to give effect to such reclassification), (b) the effect of any Disposition or acquisition during such period, (c) the effect of any fluctuations in the amount of accrued and contingent obligations under Hedge Agreement, and (d) the application of purchase or recapitalization accounting.

**“Contractual Obligation”** means, as applied to any Person, any provision of any Security issued by that Person or of any indenture, mortgage, deed of trust, contract, undertaking, agreement or other instrument to which that Person is a party or by which it or any of its properties is bound or to which it or any of its properties is subject.

**“Control”** means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlling**” and “**Controlled**” have meanings correlative thereto.

**“Copyright”** means the following: (a) all copyrights, rights and interests in copyrights, works protectable by copyright whether published or unpublished, copyright registrations and copyright applications; (b) all renewals of any of the foregoing; (c) all income, royalties, damages, and payments now or hereafter due and/or payable under any of the foregoing, including, without limitation, damages or payments for past or future infringements for any of the foregoing; (d) the right to sue for past, present, and future infringements of any of the foregoing; and (e) all rights corresponding to any of the foregoing.

**“Corporations Act”** means the *Corporations Act 2001* (Cth) of Australia.

**“Corresponding Debt”** has the meaning assigned to such term in Section 9.21(b).

**“Cost Savings Initiative”** has the meaning assigned to such term in the definition of “Consolidated Adjusted EBITDA”.

**“Credit Extension”** means each of (i) the making of a Revolving Loan or Swingline Loan or (ii) the issuance, amendment, modification, renewal or extension of any Letter of Credit (other than any such amendment, modification, renewal or extension that does not increase the Stated Amount of the relevant Letter of Credit).

**“Credit Facilities”** means the Revolving Facility and the Term Facility.

**“Cure Amount”** has the meaning assigned to such term in Section 6.15(b).

**“Cure Right”** has the meaning assigned to such term in Section 6.15(b).

**“Current Assets”** means, at any time, the consolidated current assets (other than Cash and Cash Equivalents, the current portion of current and deferred Taxes based on income, profits or capital, permitted loans made to third parties, assets held for sale, pension assets, deferred bank fees and derivative financial instruments) of the Lux Borrower and its Restricted Subsidiaries.

**“Current Liabilities”** means, at any time, the consolidated current liabilities of the Lux Borrower and its Restricted Subsidiaries at such time, but excluding, without duplication, (a) the current portion of any long-term Indebtedness, (b) outstanding revolving loans, (c) the current portion of interest expense, (d) the current portion of any Capital Leases, (e) the current portion of current and deferred Taxes based on income, profit or capital, (f) liabilities in respect of unpaid earn-outs, (g) the current portion of any other long-term liabilities for borrowed money, (h) accruals relating to restructuring reserves, (i) liabilities in respect of funds of third parties on deposit with the Borrowers or any of their Restricted Subsidiaries and (j) any liabilities recorded in connection with stock-based awards, partnership interest-based awards, awards of profits interests, deferred compensation awards and similar incentive based compensation awards or arrangements.

**“Debt Fund Affiliate”** means any Affiliate (other than a natural person) of one or more Investors (which is an Affiliate of the Lux Borrower) that is primarily engaged in, or advises funds or other investment vehicles that are engaged in, making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course and for which no personnel making investment decisions in respect of any equity fund which has a direct or indirect equity

investment in Holdings, the Borrowers or their Restricted Subsidiaries has the right to make any investment decisions.

**“Debt FX Hedge”** means any Hedge Agreement entered into for the purpose of hedging currency-related risks in respect of any Indebtedness of the type described in the definition of “Consolidated Total Debt”.

**“Debtor Relief Laws”** means the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, general assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization or similar debtor relief laws of the U.S., Luxembourg or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

**“Declined Proceeds”** has the meaning assigned to such term in Section 2.10(b)(v).

**“Default”** means any event or condition which upon notice, lapse of time or both would become an Event of Default.

**“Defaulting Lender”** means any Person that has (a) defaulted in (or is otherwise unable to perform) its obligations under this Agreement, including without limitation, to make a Loan within one Business Day of the date required to be made by it hereunder or to fund its participation in a Letter of Credit or Swingline Loan required to be funded by it hereunder within two Business Days of the date such obligation arose or such Loan, Letter of Credit or Swingline Loan was required to be made or funded, (b) notified the Administrative Agent, any Issuing Bank, Guarantee Bank or Swingline Lender or a Loan Party in writing that it does not intend to satisfy or perform any such obligation or has made a public statement to the effect that it does not intend to comply with its funding or other obligations under this Agreement or under agreements in which it commits to extend credit generally, (c) failed, within two Business Days after the request of Administrative Agent or any Borrower, to confirm in writing that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans and participations in then outstanding Letters of Credit, Bank Guarantees and Swingline Loans or other obligations hereunder; provided that such Person shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent, (d) become (or any parent company thereof has become) insolvent or been determined by any Governmental Authority having regulatory authority over such Person or its assets, to be insolvent, or the assets or management of which has been taken over by any Governmental Authority, (e)(i) become (or any parent company thereof has become) either (x) the subject of a bankruptcy or insolvency proceeding and/or (y) the subject of a Bail-In Action, (ii) has had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or custodian, appointed for it, and/or (iii) has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in, any such proceeding or appointment, unless in the case of any Person subject to this clause (e), the Lux Borrower and, in the case of any Lender, the Administrative Agent shall each have determined that such Person intends, and has all approvals (including approvals from any Governmental Authority) required to enable it (in form and substance satisfactory to each of the Lux Borrower and the Administrative Agent), to continue to perform its obligations hereunder; provided that no Person shall be deemed to be a Defaulting Lender solely by virtue of (i) the ownership or acquisition of any Capital Stock in such Person or its parent by a Governmental Authority or (ii) in the case of a solvent Person, the precautionary appointment of an administrator, guardian, custodian or other similar official by a Governmental Authority under or based on the law of the country where such Person is subject to home jurisdiction supervision if applicable law requires that such appointment not be publicly disclosed provided in any such case, in the case of the foregoing clauses (i) and (ii), where such action does not

result in or provide such Lender with immunity from the jurisdiction of courts within the U.S. or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

**“Deposit Account”** means a demand, time, savings, passbook or like account with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit.

**“Derivative Transaction”** means (a) any interest-rate transaction, including any interest-rate swap, basis swap, forward rate agreement, interest rate option (including a cap, collar or floor), and any other instrument linked to interest rates that gives rise to similar credit risks (including when-issued securities and forward deposits accepted), (b) any exchange-rate transaction, including any cross-currency interest-rate swap, any forward foreign-exchange contract, any currency option, and any other instrument linked to exchange rates that gives rise to similar credit risks, (c) any equity derivative transaction, including any equity-linked swap, any equity-linked option, any forward equity-linked contract, and any other instrument linked to equities that gives rise to similar credit risk and (d) any commodity (including precious metal) derivative transaction, including any commodity-linked swap, any commodity-linked option, any forward commodity-linked contract, and any other instrument linked to commodities that gives rise to similar credit risks; provided, that, no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees, members of management, managers or consultants of Holdings or its subsidiaries shall be a Derivative Transaction.

**“Designated Gross Amount”** has the meaning assigned to such term in Section 2.23(a).

**“Designated Net Amount”** has the meaning assigned to such term in Section 2.23(a).

**“Designated Non-Cash Consideration”** means the fair market value (as determined by the Lux Borrower in good faith) of non-Cash consideration received by the Lux Borrower or a Restricted Subsidiary in connection with a Disposition pursuant to Section 6.07(h) and/or Section 6.08 that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer of the Lux Borrower, setting forth the basis of such valuation (which amount will be reduced by the amount of Cash or Cash Equivalents received in connection with a subsequent sale or conversion of such Designated Non-Cash Consideration to Cash or Cash Equivalents).

**“Designated Operational FX Hedge”** means any Hedge Agreement entered into for the purpose of hedging currency-related risks in respect of the revenues, cash flows or other balance sheet items of Holdings and/or any of its subsidiaries and designated at the time entered into (or on or prior to the Closing Date, with respect to any Hedge Agreement entered into on or prior to the Closing Date) as a Designated Operational FX Hedge by the Lux Borrower in a writing delivered to the Administrative Agent.

**“Discretionary Guarantor”** means any Restricted Subsidiary that is designated by the Lux Borrower as a Discretionary Guarantor in writing to the Administrative Agent and organized under the laws of any Permitted Jurisdiction.

**“Disposition”** or **“Dispose”** means the sale, lease, sublease, or other disposition of any property of any Person.

**“Disqualified Capital Stock”** means any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (other than for Qualified Capital Stock), pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than for Qualified Capital Stock), in whole or in part, on or prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued (it being understood that if any such redemption is in part, only such part coming into effect prior to 91 days following the Latest Maturity Date shall constitute Disqualified Capital Stock), (b) is or becomes convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Capital Stock that would constitute Disqualified Capital Stock, in each case at any time on or prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued, (c) contains any mandatory repurchase obligation or any other repurchase obligation at the option of the holder thereof (other than for Qualified Capital Stock), in whole or in part, which may come into effect prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued (it being understood that if any such repurchase obligation is in part, only such part coming into effect prior to 91 days following the Latest Maturity Date shall constitute Disqualified Capital Stock) or (d) provides for the scheduled payments of dividends in Cash on or prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued; provided that any Capital Stock that would not constitute Disqualified Capital Stock but for provisions thereof giving holders thereof (or the holders of any security into or for which such Capital Stock is convertible, exchangeable or exercisable) the right to require the issuer thereof to redeem such Capital Stock upon the occurrence of a change in control, Qualifying IPO or a Disposition occurring prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued shall not constitute Disqualified Capital Stock if such Capital Stock provides that the issuer thereof will not redeem any such Capital Stock pursuant to such provisions prior to the Termination Date.

Notwithstanding the preceding sentence, (A) if such Capital Stock is issued to any plan for the benefit of directors, officers, employees, members of management, managers or consultants or by any such plan to such directors, officers, employees, members of management, managers or consultants, in each case in the ordinary course of business of the Lux Borrower or any Restricted Subsidiary, such Capital Stock shall not constitute Disqualified Capital Stock solely because it may be required to be repurchased by the issuer thereof in order to satisfy applicable statutory or regulatory obligations, (B) no Capital Stock held by any future, present or former employee, director, officer, manager, member of management or consultant (or their respective Affiliates or Immediate Family Members) of the Lux Borrower (or any Parent Company or any subsidiary) shall be considered Disqualified Capital Stock because such stock is redeemable or subject to repurchase pursuant to any management equity subscription agreement, stock option, stock appreciation right or other stock award agreement, stock ownership plan, put agreement, stockholder agreement or similar agreement that may be in effect from time to time and (C) neither (x) preferred equity certificates (1) issued on or prior to the Signing Date, (2) issued after the Signing Date and on or prior to the Closing Date that either (A) are substantially similar in all material respects to the preferred equity certificates issued by the Lux Borrower (or a Parent Company thereof) on or prior to the Signing Date or (B) receives equity treatment from Moody’s and/or S&P, or (3) issued after the Closing Date that is substantially similar in all material respects to the preferred equity certificates issued by the Lux Borrower (or a Parent Company thereof) on or prior to the Closing Date nor (y) any Subordinated Shareholder Debt, shall constitute Disqualified Capital Stock.

**“Disqualified Institution”** means:

- (a) (i) any Person identified in writing to the Arrangers prior to the Signing Date and (ii) any Person identified in writing to the Left Lead Arranger (and reasonably satisfactory to the

Required Initial Signing Date Lenders) on or after the Signing Date and on or prior to the Closing Date, (iii) any Person identified to the Administrative Agent in writing (and reasonably satisfactory) after the Closing Date (excluding, in each case, any Company Competitor) (the Persons described in clauses (a)(i) through (a)(iii) above, the “Identified Disqualified Lenders”),

(b) (i) any Person that is or becomes a Company Competitor and is identified as such in writing to (A) prior the Signing Date, the Arrangers, (B) on or after the Signing Date and on or prior to the Closing Date, the Left Lead Arranger or (C) after the Closing Date, the Administrative Agent and (ii) any Affiliate of any Person described in clause (i) above (other than a Bona Fide Debt Fund) that is identified in writing to the Administrative Agent as such, and

(c) (i) any reasonably identifiable Affiliate of any Person described in clauses (a) or (b) above on the basis of such Affiliate’s name other than, in the case of clause (b) above, a Bona Fide Debt Fund and (ii) any Affiliate of any Person described in clause (a) above (even if not reasonably identifiable) that is identified in writing to the Administrative Agent as such;

it being understood and agreed that (x) the identification of any Person as a Disqualified Institution after the Closing Date shall not apply to retroactively disqualify any Person that has previously acquired an assignment or participation interest in any Loan, subject to the provisions of Section 9.05(f) and (y) additions to the list of Disqualified Institutions referenced in clauses (a) and (c) above shall not be effective until the second Business Day after receipt of such notice from the Lux Borrower.

**“Disqualified Person”** has the meaning assigned to such term in Section 9.05(f)(ii).

**“Dollar Equivalent”** means, at any time, (a) with respect to any amount denominated in Dollars, such amount and (b) with respect to any amount denominated in any currency other than Dollars, the equivalent amount thereof in Dollars as determined by the Administrative Agent at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date or other relevant date of determination) for the purchase of Dollars with such other currency.

**“Dollar Term Loans”** means the Tranche B-1 Term Loans, the Tranche B-2 Term Loans and each Additional Term Loan denominated in Dollars.

**“Dollars”** or **“\$”** refers to lawful money of the U.S.

**“Domestic Subsidiary”** means any Restricted Subsidiary incorporated or organized under the laws of the U.S., any state thereof or the District of Columbia.

**“Dutch Auction”** has the meaning assigned to such term on Schedule 1.01(j).

**“Dutch Civil Code”** means the *Burgerlijk Wetboek*.

**“Dutch Loan Party”** means a Loan Party organized under the laws of The Netherlands.

**“E&Y Steps Memo”** means the Tax Structure Memorandum prepared by Ernst & Young GmbH, which may be redacted as reasonably agreed between the Lux Borrower and the Required Initial Signing Date Lenders and shall be attached hereto (with such redactions) as Schedule 1.01(k) (as may be amended from time to time prior to the Closing Date in a manner that is not materially adverse to the interests of the Lenders, taken as a whole, or otherwise with the consent of the Required Initial Signing Date Lenders; provided that for purposes of Section 1.15 and Article 6, references to the E&Y Steps Memo shall not

include (i) the steps set out in the section titled “Optional Action 13: Post-Closing reorganization of existing Allnex Group” as item 1 under the heading “Increase of local GAAP equity of selected entities potentially confined with leveraged dividends” and item 5 under the heading “Migration of existing IP” or (ii) any steps relating to the acquisition of any Capital Stock (or other transfer of the value of the issuer of such Capital Stock attributable such Capital Stock) not held directly or indirectly by either the Lux Borrower or the Target as of the Signing Date).

**“ECF Prepayment Amount”** has the meaning assigned to such term in Section 2.10(b)(i).

**“EEA Financial Institution”** means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

**“EEA Member Country”** means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

**“EEA Resolution Authority”** means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.

**“Effective Yield”** means, as to any Indebtedness, the effective yield applicable thereto calculated by the Administrative Agent in consultation with the Lux Borrower in a manner consistent with generally accepted financial practices, taking into account (a) interest rate margins, (b) interest rate floors (subject to the proviso set forth below), (c) any amendment to the relevant interest rate margins and interest rate floors prior to the applicable date of determination and (d) original issue discount and upfront or similar fees (based on an assumed four-year average life to maturity or lesser remaining average life to maturity), but excluding (i) any arrangement, commitment, structuring, underwriting and/or amendment fees (regardless of whether any such fees are paid to or shared in whole or in part with any lender) and/or (ii) any other fee that is not payable to all relevant lenders generally; provided, however, that (A) to the extent that the Eurocurrency Rate (with an Interest Period of three months and without giving effect to any floor specified in the definition thereof) or Alternate Base Rate (without giving effect to any floor specified in the definition thereof) is less than any floor applicable to the Term Loans in respect of which the Effective Yield is being calculated on the date on which the Effective Yield is determined, the amount of the resulting difference will be deemed added to the interest rate margin applicable to the relevant Indebtedness for purposes of calculating the Effective Yield, (B) to the extent that the Eurocurrency Rate (with an Interest Period of three months and without giving effect to any floor specified in the definition thereof) or Alternate Base Rate (without giving effect to any floor specified in the definition thereof) is greater than any applicable floor on the date on which the Effective Yield is determined, the floor will be disregarded in calculating the Effective Yield and (C) any stepdowns in interest rate margins shall be disregarded in calculating the Effective Yield.

**“Eligible Assignee”** means (a) a Lender, (b) a commercial bank, insurance company, finance company, financial institution, any fund that invests in loans or any other “accredited investor” (as defined in Regulation D of the Securities Act), (c) any Affiliate of a Lender, (d) an Approved Fund of a Lender or (e) to the extent permitted under Section 9.05(f)(ii) and/or 9.05(g), any Affiliated Lender or any Debt Fund Affiliate; provided that in any event, “Eligible Assignee” shall not include (i) any natural

person, (ii) any Disqualified Institution or (iii) except as permitted under Section 9.05(f)(ii) and/or 9.05(g), the Borrowers or any of their Affiliates.

**“EMU Legislation”** means the legislative measures of the European Council for the introduction of, changeover to or operation of a single or unified European currency.

**“Environmental Claim”** means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (a) pursuant to or in connection with any actual or alleged violation of any Environmental Law or (b) in connection with any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment.

**“Environmental Laws”** means any and all current or future foreign or domestic, federal or state (or any subdivision of either of them), statutes, ordinances, orders, rules, regulations, judgments, Governmental Authorizations, or any other applicable requirements of Governmental Authorities and the common law relating protection of natural resources or the environment.

**“Environmental Liability”** means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of any Borrower or any Restricted Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) exposure to any Hazardous Materials, (c) the Release or threatened Release of any Hazardous Materials into the environment or (d) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

**“ERISA”** means the Employee Retirement Income Security Act of 1974.

**“ERISA Affiliate”** means, as applied to any Person, (a) any corporation which is a member of a controlled group of corporations within the meaning of Section 414(b) of the Code of which that Person is a member; and (b) any trade or business (whether or not incorporated) which is a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Code of which that Person is a member.

**“ERISA Event”** means (a) a “reportable event” within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to any Pension Plan (excluding those for which the 30-day notice period has been waived); (b) the failure to meet the minimum funding standard of Section 412 of the Code with respect to any Pension Plan, or the filing of any request for or receipt of a minimum funding waiver under Section 412 of the Code with respect to any Pension Plan; (c) engaging in a non-exempt prohibited transaction within the meaning of Section 4975 of the Code or Section 406 of ERISA with respect to a Pension Plan; (d) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) or Section 302 of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (e) the withdrawal by the Lux Borrower, any of its Restricted Subsidiaries or any of their respective ERISA Affiliates from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability to the Lux Borrower, any of its Restricted Subsidiaries or any of their respective Affiliates pursuant to Section 4063 or 4064 of ERISA; (f) the institution by the PBGC of proceedings to terminate any Pension Plan; (g) the imposition of liability on the Lux Borrower, any of its Restricted Subsidiaries or any of their respective ERISA Affiliates pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (h) a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) of the Lux Borrower, any of its Restricted Subsidiaries or any of their respective ERISA

Affiliates from any Multiemployer Plan if there is any potential liability therefor under Title IV of ERISA, or the receipt by the Lux Borrower, any of its Restricted Subsidiaries or any of their respective ERISA Affiliates of notice from any Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; or (i) the incurrence of liability or the imposition of a Lien pursuant to Section 436 or 430(k) of the Code or pursuant to ERISA with respect to any Pension Plan.

**“Escrow Deed”** means the Escrow Deed, by and among, *inter alios*, Allnex Belgium, Bidco and ING Bank NV, London Branch.

**“EU Bail-In Legislation Schedule”** means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

**“Euro”** or “€” means the single currency of the European Union as constituted by the Treaty on European Union and as referred to in the EMU Legislation.

**“Euro Equivalent”** means, at any time, (a) with respect to any amount denominated in Euros, such amount and (b) with respect to any amount denominated in any currency other than Euros, the equivalent amount thereof in Euros as determined by the Administrative Agent at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date or other relevant date of determination) for the purchase of Euros with such other currency.

**“Eurocurrency Rate”** means, for any Interest Period:

(a) in the case of any Eurocurrency Rate Loan denominated in Dollars:

(i) the rate per annum equal to the offered rate that appears on the Reuters Screen LIBOR01 (or any successor thereto) for deposits in Dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period; or

(ii) if the rate referenced in the preceding clause (a)(i) does not appear on such page or service or such page or service shall not be available, the rate per annum equal to the rate reasonably determined by the Administrative Agent to be the offered rate on such other page or other service that displays an average ICE Benchmark Administration London Interbank Offered Rate for deposits in Dollars offered in the London interbank market (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period; or

(iii) if the rates referenced in the preceding clauses (a)(i) and (a)(ii) are not available, the rate per annum reasonably determined by the Administrative Agent as the average rate of interest at which deposits in Dollars for delivery on the first day of such Interest Period in Same Day Funds in the approximate amount of the Eurocurrency Rate Loan being offered to three reference banks designated by the Administrative Agent and approved by the Borrowers (such approval not to be unreasonably withheld) and with a term equivalent to such Interest Period by major banks in the London interbank market at

their request at approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period;

(b) in the case of any Eurocurrency Rate Loan denominated in Euros:

(i) the rate per annum equal to the offered rate that appears on Reuters Page EURIBOR01 (or any successor thereto) for deposits in Euros (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (Brussels time) two Business Days prior to the first day of such Interest Period; or

(ii) if the rate referenced in the preceding clause (b)(i) does not appear on such page or service or such page or service shall not be available, the rate per annum equal to the rate reasonably determined by the Administrative Agent to be the offered rate on such other page or other service that displays an average European Money Markets Institute Euro Interbank Offered Rate for deposits in Euros (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period; or

(iii) if the rates referenced in the preceding clauses (b)(i) and (b)(ii) are not available, the rate per annum reasonably determined by the Administrative Agent as the average rate of interest at which deposits in Euros for delivery on the first day of such Interest Period offered to three reference banks designated by the Administrative Agent and approved by the Borrowers (such approval not to be unreasonably withheld) and with a term equivalent to such Interest Period by major banks in the European interbank market at their request at approximately 11:00 a.m. (Brussels time) two Business Days prior to the first day of such Interest Period;

(c) in the case of any Eurocurrency Rate Loan denominated in an Alternate Currency other than Dollars or Norwegian Krone:

(i) the rate per annum equal to the offered rate that appears on Reuters Page LIBOR01 (or any successor thereto) that displays an ICE Benchmark Administration London Interbank Offered Rate for deposits in such Alternate Currency (for delivery on the first day of such Interest Period) (or, with respect to (x) an AUD Loan, BBSY Bid and (y) an NZD Loan, BKBM) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period, or, if different, the date on which quotations would customarily be provided by leading banks in the London interbank market (or, with respect to (x) an AUD Loan, the Australian interbank market and (y) an NZD Loan, the New Zealand bank bill market) for deposits of amounts in the relevant currency for delivery on the first day of such Interest Period; or

(ii) (other than in respect of an AUD Loan or NZD Loan) if the rate referenced in the preceding clause (c)(i) does not appear on such page or service or such page or service shall not be available, the rate per annum equal to the rate reasonably determined by the Administrative Agent to be the offered rate on such other page or other service that displays an average ICE Benchmark Administration London Interbank

Offered Rate for deposits in such Alternate Currency (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period, or, if different, the date on which quotations would customarily be provided by leading banks in the London interbank market for deposits of amounts in the relevant currency for delivery on the first day of such Interest Period; or

(iii) if the rates referenced in the preceding clauses (c)(i) and (c)(ii) are not available, the rate per annum reasonably determined by the Administrative Agent as the average rate of interest at which deposits in such Alternate Currency for delivery on the first day of such Interest Period in Same Day Funds in the approximate amount of the Eurocurrency Rate Loan being offered to three reference banks designated by the Administrative Agent and approved by the Borrowers (such approval not to be unreasonably withheld) and with a term equivalent to such Interest Period offered by major banks in the London interbank market (or, with respect to (x) an AUD Loan, the Australian interbank market and (y) an NZD Loan, the New Zealand bank bill market) at their request at approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period or, if different, the date on which quotations would customarily be provided by leading banks in the London interbank market for deposits of amounts in the relevant currency for delivery on the first day of such Interest Period (or with respect to (x) an AUD Loan, as of 11:00 a.m. (Sydney time) and (y) an NZD Loan, as of 10:45 a.m. (New Zealand time) on the first day of the Interest Period);

(d) in the case of any Eurocurrency Rate Loan denominated in Norwegian Krone:

(i) the rate per annum equal to the offered rate that appears on the appropriate Reuters Page that displays the Norwegian Interbank Offered Rate NIBOR administered by Oslo Stock Exchange for deposits in Norwegian Krone (for delivery on the first day of such Interest Period) at 11:00 (London time) two Business Days prior to the first day of such Interest Period ;

(ii) if the rate referenced in the preceding clause (d)(i) does not appear on such page or service or such page or service shall not be available, the rate per annum equal to the rate reasonably determined by the Administrative Agent to be the offered rate on such other page or other service that displays the Oslo Stock Exchange administered Norwegian Interbank Offered Rate for deposits in Norwegian Krone (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m., or, if different, the date on which quotations would customarily be provided by leading banks in the Norwegian interbank market for deposits of amounts in Norwegian Krone for delivery on the first day of such Interest Period; or

(iii) if the rates referenced in the preceding clauses (d)(i) and (d)(ii) are not available, the rate per annum reasonably determined by the Administrative Agent as the average rate of interest at which deposits in Norwegian Krone for delivery on the first day of such Interest Period in Same Day Funds in the approximate amount of the Eurocurrency Rate Loan being offered to three reference banks designated by the Administrative Agent and approved by the Borrowers (such approval not to be unreasonably withheld) and with a term equivalent to such Interest Period offered by

major banks in the Norwegian interbank market at approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period or, if different, the date on which quotations would customarily be provided by leading banks in the Norwegian interbank market for deposits of amounts in Norwegian Krone for delivery on the first day of such Interest Period; and

(e) for any interest calculation with respect to an ABR Loan on any date:

(i) the rate per annum equal to the offered rate that appears on the Reuters Screen LIBOR01 (or any successor thereto) for one-month deposits in Dollars offered in the London interbank market (for delivery on the first day of such Interest Period) commencing on such date, determined as of approximately 11:00 a.m. (London time) two Business Days prior to such date; or

(ii) if the rate referenced in preceding clause (d)(i) does not appear on such page or service or such page or service shall not be available, the rate per annum equal to the rate reasonably determined by the Administrative Agent to be the offered rate on such other page or other service that displays an average ICE Benchmark Administration London Interbank Offered Rate for one-month deposits in Dollars offered in the London interbank market (for delivery on the first day of such Interest Period) commencing on such date, determined as of approximately 11:00 a.m. (London time) two Business Days prior to such date; or

(iii) if the rates referenced in preceding clauses (d)(i) and (d)(ii) are not available, the rate per annum reasonably determined by the Administrative Agent as the rate of interest at which deposits in Dollars for delivery on the date of determination in Same Day Funds in the approximate amount of the ABR Loan being made and with a term equal to one month would be offered to three reference banks designated by the Administrative Agent and approved by the Borrowers (such approval not to be unreasonably withheld) by major banks in the London interbank market at their request at the date and time of such determination.

**“Event of Default”** has the meaning assigned to such term in Article 7.

**“Excess Cash Flow”** means, for any Calculation Period, an amount (if positive) equal to:

(a) the sum, without duplication, of the amounts for such Calculation Period of the following:

(i) Consolidated Adjusted EBITDA for such Calculation Period without giving effect to clause (b)(x) of the definition thereof, *plus*

(ii) the Consolidated Working Capital Adjustment for (x) in the case of each Excess Cash Flow Period, from the first day to the last day of such Excess Cash Flow Period and (y) in the case of any Excess Cash Flow Interim Period, from the first day of the relevant Fiscal Year to the last day of the most recently ended Fiscal Quarter, *plus*

(iii) cash gains of the type described in clauses (b), (c), (d), (e) and (f) of the definition of “Consolidated Net Income”, to the extent not otherwise included in calculating Consolidated Adjusted EBITDA (except to the extent such gains consist of

proceeds utilized in calculating Net Proceeds or Net Insurance/Condemnation Proceeds subject to Sections 2.10(b)(ii) and (iii), *plus*

(iv) to the extent not otherwise included in the calculation of Consolidated Adjusted EBITDA for such Calculation Period, cash payments received by the Lux Borrower or any of its Restricted Subsidiaries with respect to amounts deducted from Excess Cash Flow in a prior period pursuant to clause (b)(viii) below, *minus*

(b) the sum, without duplication, of the amounts for such Calculation Period of the following:

(i) permanent repayments of long-term Indebtedness, including for purposes of clarity, the current portion of any such Indebtedness (including (x) payments under Section 2.08(b), Section 2.09(a) or (b) and Section 2.10(a) (except as otherwise provided in clause (A) below) and (y) prepayments of Term Loans to the extent (and only to the extent) made with the Net Proceeds of a Prepayment Asset Sale or Net Insurance/Condemnation Proceeds that resulted in an increase to Consolidated Net Income and not in excess of the amount of such increase, but excluding (A) the principal amount of all Indebtedness deducted pursuant to clause (B) of Section 2.10(b)(i), (B) all other repayments of the Term Loans and (C) repayments of the Revolving Loans or loans under any revolving credit facility or arrangement, except to the extent a corresponding amount of the commitments under such revolving credit facility or arrangement are permanently reduced in connection with such repayments), in each case, to the extent not financed with long-term Indebtedness (other than revolving Indebtedness) or Restricted Debt Payments made with amounts then available under clause (a)(ii) of the definition of “Available Amount”, *plus*

(ii) without duplication of amounts deducted from Excess Cash Flow pursuant to this clause (ii) or clause (x) below in respect of a prior Calculation Period, all Cash payments in respect of capital expenditures as would be reported in the Lux Borrower’s consolidated statement of cash flows made during such Calculation Period and, at the option of the Lux Borrower, any Cash payments in respect of any such capital expenditures made after such Calculation Period and prior to the date of the applicable Excess Cash Flow payment (except, in each case, to the extent financed with long-term Indebtedness (other than revolving Indebtedness)), *plus*

(iii) Consolidated Interest Expense added back pursuant to clause (b)(i) of the definition of “Consolidated Adjusted EBITDA” to the extent paid in Cash, *plus*

(iv) Taxes (including pursuant to any Tax sharing arrangements) paid and provisions for Taxes, to the extent payable in Cash with respect to such Calculation Period, *plus*

(v) without duplication of amounts deducted from Excess Cash Flow pursuant to this clause (v) or (x) below in respect of a prior Calculation Period, Cash payments made during such Calculation Period in respect of Permitted Acquisitions and other Investments permitted by Section 6.06 or otherwise consented to by the Required Lenders (other than Investments in (x) Cash and Cash Equivalents and (y) the Lux Borrower or any of its Restricted Subsidiaries), and, at the option of the Borrowers, any

Cash payments in respect of Permitted Acquisitions and other Investments permitted by Section 6.06 or otherwise consented to by the Required Lenders (other than Investments in (x) Cash and Cash Equivalents and (y) the Lux Borrower or any of its Restricted Subsidiaries) made after such Calculation Period and prior to the date of the applicable Excess Cash Flow payment (except, in each case, to the extent financed with long-term Indebtedness (other than revolving Indebtedness)), *plus*

(vi) the aggregate amount of all Restricted Payments made under Sections 6.04(a)(i), (ii), (iv), (vi)(B)(y), (x) and (xii) or otherwise consented to by the Required Lenders in each case to the extent actually paid in Cash during such Calculation Period, and, at the option of the Borrowers, made after such Calculation Period and prior to the date of the applicable Excess Cash Flow payment (except, in each case, to the extent financed with long-term Indebtedness (other than revolving Indebtedness)), *plus*

(vii) foreign currency translation losses payable in cash related to currency remeasurements of Indebtedness (including any net cash loss resulting from Hedge Agreements for currency risk), to the extent included in calculating Consolidated Adjusted EBITDA pursuant to clause (b) of the definition thereof, *plus*

(viii) amounts added back under clauses (b)(v)(C) or (b)(xii) of the definition of “Consolidated Adjusted EBITDA” to the extent such amounts have not yet been received by the Lux Borrower or its Restricted Subsidiaries, *plus*

(ix) an amount equal to all Charges either (A) excluded in calculating Consolidated Net Income or (B) added back in calculating Consolidated Adjusted EBITDA, in each case, to the extent paid in Cash, *plus*

(x) without duplication of amounts deducted from Excess Cash Flow in respect of a prior Calculation Period, at the option of the Lux Borrower, the aggregate consideration (i) required to be paid in Cash by the Lux Borrower or its Restricted Subsidiaries pursuant to binding contracts entered into prior to or during such Calculation Period relating to capital expenditures, acquisitions or Investments permitted by Section 6.06 and/or Restricted Payments described in clause (b)(vi) above or otherwise consented to by the Required Lenders and/or (ii) otherwise committed or budgeted to be made in connection with capital expenditures, acquisitions or Investments permitted by Section 6.06 and/or Restricted Payments described in clause (b)(vi) above or otherwise consented to by the Required Lenders (clauses (i) and (ii), the “**Scheduled Consideration**”) (other than Investments in (x) Cash and Cash Equivalents and (y) the Lux Borrower or any of its Restricted Subsidiaries) to be consummated or made during the period of four consecutive Fiscal Quarters of the Lux Borrower following the end of such Calculation Period (except, in each case, to the extent financed with long-term Indebtedness (other than revolving Indebtedness)); provided that to the extent the aggregate amount actually utilized to finance such capital expenditures, acquisitions, Investments or Restricted Payments during such subsequent period of four consecutive Fiscal Quarters is less than the Scheduled Consideration, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such subsequent period of four consecutive Fiscal Quarters, *plus*

(xi) to the extent not expensed (or exceeding the amount expensed) during such Calculation Period or not deducted (or exceeding the amount deducted) in calculating Consolidated Net Income, the aggregate amount of expenditures, fees, costs and expenses paid in Cash by the Lux Borrower and its Restricted Subsidiaries during such Calculation Period, other than to the extent financed with long-term Indebtedness (other than revolving Indebtedness), *plus*

(xii) Cash payments (other than in respect of Taxes, which are governed by clause (iv) above) made during such Calculation Period for any liability the accrual of which in a prior Calculation Period did not reduce Consolidated Adjusted EBITDA and therefore increased Excess Cash Flow in such prior Calculation Period (provided there was no other deduction to Consolidated Adjusted EBITDA or Excess Cash Flow related to such payment), except to the extent financed with long-term Indebtedness (other than revolving Indebtedness), *plus*

(xiii) Cash expenditures in respect of any Hedge Agreement during such Calculation Period to the extent (A) not otherwise deducted in the calculation of Consolidated Net Income or Consolidated Adjusted EBITDA and (B) not financed with long-term Indebtedness (other than revolving Indebtedness), *plus*

(xiv) amounts paid in Cash (except to the extent financed with long-term Indebtedness (other than revolving Indebtedness)) during such Calculation Period on account of (A) items that were accounted for as non-Cash reductions of Consolidated Net Income or Consolidated Adjusted EBITDA in a prior Calculation Period and (B) reserves or amounts established in purchase accounting to the extent such reserves or amounts are added back to, or not deducted from, Consolidated Net Income, *plus*

(xv) cash payments made by the Lux Borrower or its Restricted Subsidiaries during such Calculation Period in respect of long-term liabilities, including for purposes of clarity, the current portion of any such liabilities (other than Indebtedness) of the Lux Borrower or its Restricted Subsidiaries, except to the extent such cash payments were (A) deducted in the calculation of Consolidated Net Income or Consolidated Adjusted EBITDA for such Calculation Period or (B) financed with long-term Indebtedness (other than revolving Indebtedness), *plus*

(xvi) the amount of any Tax obligation of the Lux Borrower and/or any Restricted Subsidiary that is estimated in good faith by the Lux Borrower as due and payable (but is not currently due and payable) by the Lux Borrower and/or any Restricted Subsidiary as a result of the repatriation of any dividend or similar distribution of net income of any Non-US Subsidiary to the Lux Borrower or any Restricted Subsidiary.

**“Excess Cash Flow Interim Percentage”** means, with respect to any Excess Cash Flow Interim Period, (a) 100% minus (b) the Excess Cash Flow Percentage with respect to such Excess Cash Flow Interim Period.

**“Excess Cash Flow Interim Period”** means, during any Excess Cash Flow Period, the one, two or three Fiscal Quarter period (i) commencing at the end of the immediately preceding Excess Cash Flow Period and (ii) ending on the last day of the most recently ended Fiscal Quarter (other than the last day of

the Fiscal Year) during such Excess Cash Flow Period for which financial statements have been delivered pursuant to Section 5.01(a) or (b), as applicable.

**“Excess Cash Flow Percentage”** means, as of any date of determination, (a) if the First Lien Leverage Ratio is greater than 3.05:1.00, 50%, (b) if the First Lien Leverage Ratio is less than or equal to 3.05:1.00 and greater than 2.55:1.00, 25%, and (c) if the First Lien Leverage Ratio is less than or equal to 2.55:1.00, 0%; it being understood and agreed that, for purposes of this definition as it applies to the determination of the amount of Excess Cash Flow that is required to be applied to prepay the Term Loans under Section 2.10(b)(i) for any Fiscal Year, the First Lien Leverage Ratio shall be determined on a Pro Forma Basis on the scheduled date of prepayment (before giving effect to any prepayment to be made on such date pursuant to Section 2.10(b)(i)).

**“Excess Cash Flow Period”** means each Fiscal Year of the Lux Borrower (commencing with the Fiscal Year ending December 31, 2017).

**“Excess Cash Flow Retained Amount”** means, at any date of determination, an amount, not less than zero and determined on a cumulative basis, that is equal to, without duplication, (a) the aggregate cumulative sum of the Excess Cash Flow that is not required to be applied as a mandatory prepayment under Section 2.10(b)(i) prior to such date plus (b) for each Excess Cash Flow Interim Period ended prior to such date but as to which the corresponding Fiscal Year has not ended (or no Fiscal Year has then ended), an amount equal to the Excess Cash Flow Interim Percentage of Excess Cash Flow of the Lux Borrower and its Restricted Subsidiaries, for such Excess Cash Flow Interim Period.

**“Exchange Act”** means the Securities Exchange Act of 1934 and the rules and regulations of the SEC promulgated thereunder.

**“Excluded Assets”** means each of the following:

(a) any asset the grant or perfection of a security interest in which would (i) be prohibited by enforceable anti-assignment provisions set forth in any contract that is permitted or otherwise not prohibited by the terms of this Agreement (so long as such contract was not entered into in contemplation thereof), (ii) violate the terms of any contract relating to such asset that is permitted or otherwise not prohibited by the terms of this Agreement or (iii) trigger termination of any contract relating to such asset that is permitted or otherwise not prohibited by the terms of this Agreement pursuant to any “change of control” or similar provision; it being understood that the term “Excluded Asset” shall not include proceeds or receivables arising out of any contract described in this clause (a) to the extent that the assignment of such proceeds or receivables is expressly deemed to be effective under the UCC or other applicable Requirements of Law notwithstanding the relevant prohibition, violation or termination right,

(b) the Capital Stock of any (i) Immaterial Subsidiary (except to the extent (x) the security interest therein can be perfected by the filing of a Form UCC-1 (or similar) financing statement, (y) such Immaterial Subsidiary is a Loan Party or (z) such Immaterial Subsidiary is a Collateral Coverage Party), (ii) Captive Insurance Subsidiary, (iii) Unrestricted Subsidiary, (iv) not-for-profit subsidiary or (v) any special purpose entity used for securitization facilities, receivables, and/or factoring facilities or arrangements,

(c) any intent-to-use (or similar) Trademark applications prior to the filing of a “Statement of Use”, “Amendment to Allege Use” or similar filing with respect thereto, only to

the extent, if any, that, and solely during the period, in which, if any, the grant of a security interest therein may impair the validity or enforceability of such intent-to-use Trademark applications under applicable law,

(d) any asset or property, the granting of a security interest in which would (A) require any governmental consent, approval, license or authorization (to the extent not obtained), (B) be prohibited by enforceable anti-assignment provisions of applicable law, except, in the case of this clause (B), to the extent such prohibition would be rendered ineffective under the UCC or other applicable law notwithstanding such prohibition, or (C) result in material adverse tax consequences to any Loan Party as reasonably determined by the Lux Borrower,

(e) any leasehold Real Estate Asset and any owned Real Estate Asset that is not a Material Real Estate Asset,

(f) any interests in partnerships, joint ventures and non-Wholly-Owned Subsidiaries which cannot be pledged without the consent of one or more third parties (other than Holdings or any of its Restricted Subsidiaries) (after giving effect to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law),

(g) any Margin Stock,

(h) assets of any Loan Party to the extent excluded by application of the Agreed Security Principles,

(i) any asset sold or otherwise transferred pursuant to a Permitted Receivables Financing,

(j) any lease, license or agreement or any asset subject to a purchase money security interest, Capital Lease or similar arrangement that is, in each case, permitted by this Agreement to the extent that the grant of a security interest therein would violate or invalidate such lease, license or agreement or purchase money, Capital Lease or similar arrangement or trigger a right of termination in favor of any other party thereto (other than Holdings, the Lux Borrower or any of its Restricted Subsidiaries) after giving effect to the applicable anti-assignment provisions of the UCC or any other applicable Requirement of Law; it being understood that the term "Excluded Asset" shall not include any proceeds or receivables arising out of any asset described in this clause (j) to the extent that the assignment of such proceeds or receivables is expressly deemed to be effective under the UCC or any other applicable Requirement of Law notwithstanding the relevant requirement or prohibition,

(k) if applicable in any jurisdiction, Commercial Tort Claims with a value (reasonably estimated by the Lux Borrower) of less than €10,000,000,

(l) any Cash or Cash Equivalents comprised of (a) funds specially and exclusively used or to be used for payroll and payroll taxes and other employee benefit payments to or for the benefit of any Loan Party's employees, (b) funds used or to be used to pay all Taxes required to be collected, remitted or withheld (including, without limitation, U.S. federal and state withholding Taxes (including the employer's share thereof)) and (c) any other funds which any Loan Party holds as an escrow or fiduciary for the benefit of another Person, and

(m) any asset with respect to which the Administrative Agent and the Lux Borrower shall have reasonably determined that the cost, burden, difficulty or consequence (including any effect on the ability of the relevant Loan Party to conduct its operations and business in the ordinary course of business) of obtaining or perfecting a security interest therein outweighs the benefit of a security interest to the relevant Secured Parties afforded thereby (and the Lenders acknowledge that the Collateral that may be provided by any Loan Party may be limited to minimize stamp duty, notarization, registration or other applicable fees, taxes and duties where the benefit to the Secured Parties of increasing the secured amount is disproportionate to the cost of such fees, taxes and duties).

**“Excluded Subsidiary”** means

- (a) any Restricted Subsidiary that is not a Wholly-Owned Subsidiary,
- (b) any Immaterial Subsidiary,
- (c) [reserved],
- (d) any not-for-profit subsidiary,
- (e) any Captive Insurance Subsidiary,
- (f) any special purpose entities used for permitted securitization facilities or Receivables Facilities,
- (g) any subsidiary (i) that (and for so long as it) is prohibited by law, regulation or Contractual Obligation from providing a Loan Guaranty; provided that, with respect to any Contractual Obligations, such Contractual Obligation is in effect on the Closing Date (or, with respect to any subsidiary that is acquired after the Closing Date, in effect on the date of such acquisition) and in each case not entered into in contemplation thereof, (ii) where the provision by such subsidiary of a Loan Guaranty would conflict with the fiduciary duties of such subsidiary’s directors or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for such subsidiary or any of its officers or directors or to the extent it is not within the legal capacity of such subsidiary to provide a Loan Guaranty (whether as a result of financial assistance, corporate benefit, thin capitalization, capital maintenance, liquidity maintenance or similar rules or otherwise); provided that, subject to the Collateral and Guarantee Requirement and the Agreed Security Principles, the Lux Borrower shall use its commercially reasonable efforts to structure a Loan Guaranty by such Restricted Subsidiary to avoid or address such conflicts or risks, (iii) that would require a governmental (including regulatory) consent, approval, license or authorization in order to provide a Loan Guaranty (to the extent not obtained) (including, in the case of a Non-US Subsidiary, to the extent prohibited under any financial assistance, corporate benefit or thin capitalization rule or during a “whitewash” process; provided that, subject to the Collateral and Guarantee Requirement and the Agreed Security Principles, the Lux Borrower shall use its commercially reasonable efforts to structure a Loan Guaranty by such Non-US Subsidiary to avoid or address such restrictions) or (iv) where the provision by such subsidiary of a Loan Guaranty would result in material adverse tax consequences as reasonably determined by the Lux Borrower and notified to the Administrative Agent; provided that, subject to the Collateral and Guarantee Requirement and the Agreed Security Principles, the Lux

Borrower shall use its commercially reasonable efforts to structure a Loan Guaranty by any such Restricted Subsidiary to avoid or address such adverse tax consequences,

(h) any Restricted Subsidiary acquired by the Lux Borrower or another Restricted Subsidiary that, at the time of the relevant acquisition, is an obligor in respect of assumed Indebtedness permitted by Section 6.01 to the extent (A) (and for so long as) the documentation governing the applicable assumed Indebtedness prohibits such subsidiary from providing a Loan Guaranty and (B) the relevant prohibition was not implemented in contemplation of the applicable acquisition,

(i) any other Restricted Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent and the Lux Borrower, the burden or cost of providing a Loan Guaranty shall outweigh the benefits to be afforded thereby, including the burden or cost of complying with any applicable financial assistance, corporate benefit or thin capitalization rules (and the Lenders acknowledge that the maximum amount of the Secured Obligations that may be guaranteed by any Loan Party may be limited to minimize stamp duty, notarization, registration or other applicable fees, taxes and duties where the benefit to the Secured Parties of increasing the guaranteed amount is disproportionate to the cost of such fees, taxes and duties),

(j) any subsidiary that is not a Restricted Subsidiary, and

(k) any other subsidiary of Holdings to the extent it is not required to give a Loan Guaranty or provide Collateral as a result of the application of the Agreed Security Principles.

**“Excluded Swap Obligation”** means, with respect to any Loan Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Loan Guaranty of such Loan Guarantor of, or the grant by such Loan Guarantor of a Lien to secure, such Swap Obligation (or any Loan Guaranty thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the Loan Guaranty of such Loan Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Loan Guaranty or security interest is or becomes illegal.

**“Excluded Taxes”** means, with respect to the Administrative Agent, any Lender, Issuing Bank, or Guarantee Bank or any other recipient of any payment to be made by or on account of any obligation of any Borrower or any other Loan Party hereunder, (a) Taxes imposed on (or measured by) its net or overall gross income or franchise Taxes (i) imposed as a result of such recipient being organized or having its principal office located in or, in the case of any Lender, having its applicable lending office located in, the taxing jurisdiction or (ii) that are Other Connection Taxes, (b) any branch profits taxes imposed by the U.S. or any similar tax imposed by any other jurisdiction described in clause (a), (c) in the case of a Non-US Lender, any U.S. federal withholding tax that is imposed on amounts payable to such Non-US Lender at the time such Non-US Lender becomes a party to this Agreement (or designates a new lending office), except (i) pursuant to an assignment or designation of a new lending office under Section 2.18 and (ii) to the extent that such Non-US Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from any Borrower or any other Loan Party with respect to such withholding tax pursuant to Section 2.16(f), (d) any tax

imposed as a result of the Administrative Agent, a Lender, an Issuing Bank or Guarantee Bank's failure to comply with Section 2.16(f), (e) any U.S. federal withholding tax under FATCA, (f) any Austrian stamp duty (*Rechtsgeschäftsgebühr*) payable in respect of an Assignment Agreement or any other document or transaction relating to the assignment, transfer, sub-participation or sub-contract by any Lender, Issuing Bank and/or Guarantee Bank of any of their respective rights and/or obligations under any Loan Document and (g) any withholding taxes which would have not been due had such payment not been made on an account opened in the books of a financial institution located in a Non-Cooperative Jurisdiction.

**“Existing Administrative Agent”** shall mean the “Administrative Agent” under, and as defined in, the Existing Credit Agreement.

**“Existing Credit Agreement”** means that certain First Lien Credit Agreement, dated as of April 3, 2013, among AI Chem (Luxembourg) Intermediate S.à.r.l., a société à responsabilité limitée organized and established under the laws of Luxembourg, having its registered office at 2-4 rue Beck, L-1222 Luxembourg, registered with the Luxembourg Companies Register under number B171968 and having a registered share capital of €70,000, AI Chem Holdings Allnex (Luxembourg) S.à.r.l. (f/k/a AI Chem S.à.r.l.), a société à responsabilité limitée organized and established under the laws of Luxembourg, having its registered office at 2-4 rue Beck, L-1222 Luxembourg, registered with the Luxembourg Companies Register under number B172014 and having a registered share capital of €12,500, Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.), a société en commandite par actions organized and established under the laws of Luxembourg, having its registered office at 2-4 rue Beck, L-1222 Luxembourg, and registered with the Luxembourg Companies Register under number B172052, as the borrower, the US Borrower, the lenders party thereto from time to time, and Deutsche Bank AG New York Branch, as administrative agent and collateral agent and the other parties thereto, as amended, restated, amended and restated, supplemented or otherwise modified.

**“Existing Lender”** has the meaning assigned to such term in the definition of “Applicable Ticking Fee Rate”.

**“Existing Letter of Credit”** means any letter of credit previously issued that (a) will remain outstanding on and after the Closing Date and (b) is listed on Schedule 1.01(l).

**“Expected Cost Savings”** has the meaning assigned to such term in the definition of “Consolidated Adjusted EBITDA”.

**“Expiration Date”** means the earliest to occur of: (x) 5 Business Days after the End Date (as defined in the Approved Acquisition Agreement), (y) the date on which the Acquisition Agreement is terminated by Allnex Belgium (or its applicable Affiliate) or with Allnex Belgium’s (or its applicable Affiliate’s) written consent, in each case prior to the closing of the Acquisition and (z) January 16, 2017.

**“Extended Revolving Credit Commitment”** has the meaning assigned to such term in Section 2.22(a).

**“Extended Revolving Facility”** means the Extended Revolving Credit Commitments and the Extended Revolving Loans and other extensions of credit thereunder.

**“Extended Revolving Loans”** has the meaning assigned to such term in Section 2.22(a).

**“Extended Term Loans”** has the meaning assigned to such term in Section 2.22(a).

**“Extension”** has the meaning assigned to such term in Section 2.22(a).

**“Extension Amendment”** means an amendment to this Agreement that is reasonably satisfactory to the Administrative Agent (to the extent required by Section 2.22) and the Lux Borrower executed by each of (a) Holdings, (b) the Lux Borrower, (c) the Administrative Agent and (d) each Lender that has accepted the applicable Extension Offer pursuant hereto and in accordance with Section 2.22.

**“Extension Offer”** has the meaning assigned to such term in Section 2.22(a).

**“Facility”** means any real property (including all buildings, fixtures or other improvements located thereon) now, hereafter or, except with respect to Articles 5 and 6, heretofore owned, leased, operated or used by any Borrower or any of its Restricted Subsidiaries or any of their respective predecessors or Affiliates.

**“FATCA”** means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code and any intergovernmental agreements implementing the foregoing.

**“FCPA”** has the meaning assigned to such term in Section 3.17(d).

**“Federal Funds Effective Rate”** means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time), as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for such day for such transactions received by Administrative Agent from three Federal funds brokers of recognized standing selected by it.

**“Fee Letter”** means that certain Fee and Syndication Letter, dated as of April 15, 2016, by and among, *inter alios*, the Lux Borrower and the Arrangers.

**“Financial Covenant Standstill”** has the meaning assigned to such term in Section 7.01(c).

**“First Lien Collateral Agent”** has the meaning set forth in the Intercreditor Agreement.

**“First Lien Leverage Ratio”** means the ratio, as of any date of determination, of (a) Consolidated First Lien Debt as of such date to (b) Consolidated Adjusted EBITDA for the Test Period then most recently ended, in each case for the Lux Borrower and its Restricted Subsidiaries.

**“Fiscal Quarter”** means a fiscal quarter of any Fiscal Year.

**“Fiscal Year”** means the fiscal year of the Lux Borrower for financial reporting purposes hereunder ending on December 31 of each calendar year.

**“Fixed Incremental Amount”** means (i) the greater of €300,000,000 and 100% of Consolidated Adjusted EBITDA of the Lux Borrower for the most recently ended Test Period *minus* (ii) the aggregate outstanding principal amount of all Incremental Facilities and/or Incremental Equivalent Debt incurred or issued in reliance on amounts under this definition.

**“Flood Hazard Property”** means any parcel of a Material Real Estate Asset subject to a Mortgage located in the U.S. in an area designated by the Federal Emergency Management Agency as having special flood or mud slide hazards.

**“Flood Insurance Laws”** means, collectively, (a) National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973), (b) the Flood Insurance Reform Act of 2004 and (c) the Biggert-Waters Flood Insurance Reform Act of 2012.

**“Funding Account”** has the meaning assigned to such term in Section 2.03(vi).

**“Funding and Logistics Memorandum”** means the funding and logistics memorandum set forth as Schedule 1.01(m) attached hereto (as may be amended from time to time on or prior to the Closing Date solely with the consent of the Lux Borrower and each Initial Signing Date Lender; such consent not to be unreasonably withheld, conditioned or delayed).

**“GAAP”** means generally accepted accounting principles in the U.S. in effect and applicable to the accounting period in respect of which reference to GAAP is being made, subject to the provisions of Section 1.04.

**“German Security”** has the meaning assigned to such term in Section 8.01.

**“Governmental Authority”** means any federal, state, provincial, territorial, municipal, national or other government, governmental department, ministry, commission, board, bureau, court, agency or instrumentality or political subdivision thereof or any entity or officer exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court (including any supra-national body exercising such powers or functions, such as the European Union or the European Central Bank), in each case whether associated with a state or locality of the U.S., the U.S., or a foreign government or any political subdivision thereof.

**“Governmental Authorization”** means any permit, license, authorization, plan, directive, consent order or consent decree of or from any Governmental Authority.

**“Granting Lender”** has the meaning assigned to such term in Section 9.05(e).

**“Gross Outstandings”** means, in relation to a Multi-Account Overdraft, the Ancillary Outstandings of that Multi-Account Overdraft but calculated on the basis that the words “(net of any credit balance on any account of any borrower under any Ancillary Facility with the relevant Ancillary Lender to the extent that such credit balance is freely available to be set-off by such Ancillary Lender against liabilities owing by such borrower under such Ancillary Facility)” in paragraph (a) of the definition of “Ancillary Outstandings” were deleted.

**“Guarantee”** of or by any Person (the “**Guarantor**”) means any obligation, contingent or otherwise, of the Guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation of any other Person (the “**Primary Obligor**”) in any manner and including any obligation of the Guarantor (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other monetary obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition

or liquidity of the Primary Obligor so as to enable the Primary Obligor to pay such Indebtedness or other monetary obligation, (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or monetary obligation, (e) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part) or (f) secured by any Lien on any assets of such Guarantor securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or monetary other obligation is assumed by such Guarantor (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition, Disposition or other transaction permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith.

**“Guarantee Bank”** means, as the context may require, (a) ING and (b) any other Revolving Lender that, at the request of the Lux Borrower and with the consent of the Administrative Agent (not to be unreasonably withheld or delayed), agrees to become a Guarantee Bank. Each Guarantee Bank may, in its discretion, arrange for one or more Bank Guarantees to be issued by Affiliates of such Guarantee Bank, in which case the term “Guarantee Bank” shall include any such Affiliate with respect to Bank Guarantees issued by such Affiliate.

**“Guarantee Limitations”** means, in respect of any Loan Party and any payments it is required to make in respect of its obligations under any Loan Guaranty, the limitations and restrictions applicable to such entity as set out in the Loan Guaranty or the relevant joinder to such Loan Party’s Loan Guaranty.

**“Hardening Period”** means any period during which a security interest is capable of being avoided by virtue of any bankruptcy, insolvency, liquidation or similar laws.

**“Hazardous Materials”** means any chemical, material, substance or waste, or any constituent thereof that is defined or otherwise characterized as “hazardous,” “toxic,” a “pollutant,” a “contaminant,” or words of similar import pursuant to applicable Environmental Law.

**“Hedge Agreement”** means any agreement with respect to any Derivative Transaction between any Loan Party or any Restricted Subsidiary and any other Person.

**“Hedging Obligations”** means, with respect to any Person, the obligations of such Person under any Hedge Agreement.

**“Holdings”** has the meaning assigned to such term in the preamble to this Agreement and shall, for the avoidance of doubt, include any Successor Holdings.

**“IFRS”** means international accounting standards within the meaning of the IAS Regulation 1606/2002, as in effect from time to time (subject to the provisions of Section 1.04), to the extent applicable to the relevant financial statements.

**“ING”** means ING Capital LLC.

**"Immaterial Subsidiary"** means, as of any date, any Restricted Subsidiary of the Lux Borrower (other than any Borrower (for so long as such Person is a Borrower), Allnex Holdings, Allnex Belgium, US Holdco and, on or prior to the Closing Date, Bidco) (a) that does not have assets in excess of 5.0% of Consolidated Total Assets of the Lux Borrower and its Restricted Subsidiaries and (b) that does not contribute Consolidated Adjusted EBITDA in excess of 5.0% of the Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries, in each case, for the most recently ended Test Period; provided that, for purposes of Sections 6.02(w) and 7.01(f) and (g), the Consolidated Total Assets and Consolidated Adjusted EBITDA (as so determined) of all Immaterial Subsidiaries shall not exceed 15% of Consolidated Total Assets and 15% of Consolidated Adjusted EBITDA, in each case, of the Lux Borrower and its Restricted Subsidiaries for the relevant Test Period; provided further that, at all times prior to the first delivery of financial statements pursuant to Section 5.01(a) or (b), this definition shall be applied based on the pro forma consolidated financial statements of the Lux Borrower delivered pursuant to Section 4.02(c) hereto.

**"Immediate Family Member"** means, with respect to any individual, such individual's child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, domestic partner, former domestic partner, sibling, mother-in-law, father-in-law, son-in-law and daughter-in-law (including adoptive relationships), any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals, such individual's estate (or an executor or administrator acting on their behalf), heirs or legatees or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

**"Implementation Date"** has the meaning assigned to such term in the Acquisition Agreement.

**"Incremental Cap"** means:

- (a) the Fixed Incremental Amount, plus
- (b) in the case of any Incremental Facility that effectively extends the Maturity Date with respect to any Class of Loans and/or Commitments hereunder, an amount equal to the portion of the relevant Class of Loans or Commitments that will be replaced by such Incremental Facility, plus
- (c) in the case of any Incremental Facility that effectively replaces any Revolving Credit Commitment terminated in accordance with Section 2.18, an amount equal to the relevant terminated Revolving Credit Commitment, plus
- (d) (i) the amount of any optional prepayment of any Loan (other than any Additional Loan incurred in reliance on clause (e) below) in accordance with Section 2.10(a) and/or the amount of any permanent reduction of any Revolving Credit Commitment (other than any Additional Revolving Commitment incurred in reliance on clause (e) below) and (ii) the amount paid in Cash in respect of any reduction in the outstanding amount of any Term Loan (other than any Additional Term Loan incurred in reliance on clause (e) below) resulting from any assignment of such Term Loan to (and/or purchase of such Term Loan by) Holdings, the Borrowers and/or any Restricted Subsidiary so long as, in the case of any such optional prepayment, the relevant prepayment or assignment and/or purchase was not funded (A) with the proceeds of any long-term Indebtedness or (B) with the proceeds of any Incremental Facility or Incremental Equivalent Debt incurred in reliance on the Fixed Incremental Amount, plus

(e) an unlimited amount so long as, in the case of this clause (e), after giving effect to the relevant Incremental Facility, (i) if such Incremental Facility is secured by a Lien on the Collateral that is pari passu with the Lien securing the Secured Obligations on a first lien basis, the First Lien Leverage Ratio does not exceed 3.55:1.00, (ii) if such Incremental Facility is secured by a Lien on the Collateral that is junior to the Lien securing the Secured Obligations that are secured on a first lien basis, the Senior Secured Leverage Ratio does not exceed 3.80:1.00 or (iii) if such Incremental Facility is unsecured, either (A) the Total Leverage Ratio does not exceed 4.05:1.00 or (B) the Interest Coverage Ratio is not less than 2.00:1.00, for the most recently ended Test Period in each case described in this clause (e), calculated on a Pro Forma Basis, including the application of the proceeds thereof (without “netting” the cash proceeds of the applicable Incremental Facility on the consolidated statement of financial position of the Lux Borrower), and in the case of any Incremental Revolving Facility or Incremental Term Facility that is a delayed draw facility, assuming a full drawing of such Incremental Revolving Facility and Incremental Term Facility, as applicable.

It is understood and agreed that, unless the Borrowers otherwise notify the Administrative Agent, if all or any portion of Incremental Facility or Incremental Equivalent Debt would be permitted under clause (e) of this definition on the applicable date of determination, such Incremental Facility or Incremental Equivalent Debt (or the relevant portion thereof) shall be deemed to have been incurred in reliance on clause (e) of this definition prior to the utilization of any amount available under clause (a) of this definition.

**“Incremental Commitment”** means any commitment made by a lender to provide all or any portion of an Incremental Facility or Incremental Loans.

**“Incremental Equivalent Debt”** means Indebtedness of any Term Borrower organized in Luxembourg, the U.S. or another jurisdiction reasonably acceptable to the Administrative Agent in the form of senior secured or unsecured notes or loans or junior secured or unsecured notes or loans and/or commitments in respect of any of the foregoing issued, incurred or implemented in lieu of loans under an Incremental Facility; provided, that:

(a) the aggregate outstanding principal amount thereof shall not exceed the Incremental Cap,

(b) except as otherwise agreed by the lenders or holders providing such notes or loans, no Event of Default exists immediately prior to or after giving effect to such notes or loans,

(c) the Weighted Average Life to Maturity applicable to such notes or loans (other than customary bridge loans with a maturity date of not longer than one year; provided, that any loans, notes, securities or other Indebtedness which are exchanged for or otherwise replace such bridge loans shall be subject to the requirements of this clause (c)) is no shorter than the Weighted Average Life to Maturity of the then-existing Term Loans,

(d) the final maturity date with respect to such notes or loans (other than customary bridge loans with a maturity date of not longer than one year; provided, that any loans, notes, securities or other Indebtedness which are exchanged for or otherwise replace such bridge loans shall be subject to the requirements of this clause (d)) is no earlier than the Latest Term Loan Maturity Date on the date of the issuance or incurrence, as applicable, thereof,

(e) in the case of any such Indebtedness incurred pursuant to clause (e) of the definition of Incremental Cap in the form of term loans that are pari passu with the Initial Term Loans in right of payment and with respect to security (other than customary bridge loans) that is incurred within 12 months after the Closing Date, (i) the Effective Yield applicable thereto may not be more than 0.50% higher than the Effective Yield applicable to each Class of Initial Term Loans denominated in the same currency as such term loans unless the Applicable Rate with respect to such Class of Initial Term Loans in such currency is adjusted to be equal to the Effective Yield with respect to such Incremental Facility, minus 0.50% and (ii) in the event that, on the Closing Date, the Applicable Rate applicable to Initial Term Loans denominated in Euros is different than the Applicable Rate applicable to Initial Term Loans denominated in Dollars (such positive differential, the "**Positive Rate Differential**"), then if the effect of clause (i) is to increase the Applicable Rate with respect to the Initial Term Loans denominated in one currency, the Applicable Rate of the Initial Term Loans denominated in the other currency shall be adjusted solely to the extent necessary to maintain such Positive Rate Differential as in effect on the Closing Date, and

(f) no such Indebtedness may be (x) guaranteed by any Person which is not a Loan Party or (y) secured by any assets other than the Collateral.

**"Incremental Facilities"** has the meaning assigned to such term in Section 2.21(a).

**"Incremental Facility Agreement"** means an amendment to this Agreement that is reasonably satisfactory to the Administrative Agent (to the extent required by Section 2.21) and the Lux Borrower executed by each of (a) Holdings and the Lux Borrower, (b) the Administrative Agent and (c) each Lender that agrees to provide all or any portion of the Incremental Facility being incurred pursuant thereto and in accordance with Section 2.21.

**"Incremental Loans"** has the meaning assigned to such term in Section 2.21(a).

**"Incremental Revolving Commitment"** means any commitment made by a lender to provide all or any portion of any Incremental Revolving Facility.

**"Incremental Revolving Facility"** has the meaning assigned to such term in Section 2.21(a).

**"Incremental Revolving Loans"** has the meaning assigned to such term in Section 2.21(a).

**"Incremental Term Facility"** has the meaning assigned to such term in Section 2.21(a).

**"Incremental Term Loans"** has the meaning assigned to such term in Section 2.21(a).

**"Indebtedness"** as applied to any Person means, without duplication, (a) all indebtedness for borrowed money; (b) that portion of obligations with respect to Capital Leases to the extent recorded as a liability on a balance sheet (excluding footnotes thereto) prepared in accordance with GAAP; (c) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments to the extent the same would appear as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; (d) any obligation of such Person owed for all or any part of the deferred purchase price of property or services (excluding (w) any earn out obligation or purchase price adjustment until such obligation (A) becomes a liability on the balance sheet (excluding footnotes thereto) in accordance with GAAP and (B) has not been paid within thirty (30) days after becoming due and payable, (x) any such obligations incurred under ERISA, (y) accrued expenses and trade accounts payable

in the ordinary course of business (including on an inter-company basis) and (z) liabilities associated with customer prepayments and deposits), which purchase price is (i) due more than six months from the date of incurrence of the obligation in respect thereof or (ii) evidenced by a note or similar written instrument; (e) all Indebtedness of others secured by any Lien on any property or asset owned or held by that Person regardless of whether the Indebtedness secured thereby shall have been assumed by that Person or is non-recourse to the credit of that Person; (f) the face amount of any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (g) the Guarantee by such Person of the Indebtedness of another; (h) all obligations of such Person in respect of any Disqualified Capital Stock and (i) all net obligations of such Person in respect of any Derivative Transaction, including any Hedge Agreement, whether or not entered into for hedging or speculative purposes; provided that (i) in no event shall obligations under any Derivative Transaction be deemed “Indebtedness” for any calculation of the Total Leverage Ratio, the First Lien Leverage Ratio, the Senior Secured Leverage Ratio, the Interest Coverage Ratio or any other financial ratio under this Agreement, (ii) in no event shall amounts transferred or owing or other obligations pursuant to any Permitted Non-Recourse Receivables Financing be considered Indebtedness, (iii) the amount of Indebtedness of any Person for purposes of clause (e) shall be deemed to be equal to the lesser of (A) the aggregate unpaid amount of such Indebtedness and (B) the fair market value of the property encumbered thereby as determined by such Person in good faith, (iv) no preferred equity certificates issued on or prior to the Signing Date, or issued after the Signing Date that are substantially similar to any preferred equity certificates issued by the Lux Borrower (or a Parent Company thereof) on or prior to the Signing Date, shall constitute Indebtedness and (v) the term “Indebtedness” shall not include Subordinated Shareholder Debt. For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, except to the extent such Person’s liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would otherwise be included in the calculation of Consolidated Total Debt; provided that notwithstanding anything herein to the contrary, Indebtedness shall not include, and shall be calculated without giving effect to, (x) the effects of Accounting Standards Codification Topic 815 or International Accounting Standard 39 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose hereunder as a result of accounting for any embedded derivatives created by the terms of such Indebtedness (it being understood that any such amounts that would have constituted Indebtedness hereunder but for the application of this proviso shall not be deemed an incurrence of Indebtedness hereunder) and (y) the effects of Statement of Financial Accounting Standards No. 133 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivative created by the terms of such Indebtedness (it being understood that any such amounts that would have constituted Indebtedness under this Agreement but for the application of this sentence shall not be deemed to be an incurrence of Indebtedness under this Agreement).

**“Indemnified Taxes”** means Taxes other than Excluded Taxes or Other Taxes.

**“Indemnitee”** has the meaning assigned to such term in Section 9.03(b).

**“Initial Collateral Documents”** has the meaning assigned to such term in Section 2.21(h).

**“Initial Revolving Credit Commitment”** means, with respect to each Lender, the commitment of such Lender to make Initial Revolving Loans (and acquire participations in Letters of Credit, Bank Guarantees and Swingline Loans) hereunder as set forth on the Commitment Schedule, or in the Assignment Agreement pursuant to which such Lender assumed its Initial Revolving Credit Commitment,

as applicable, as the same may be (a) reduced from time to time pursuant to Section 2.08, Section 2.10, Section 2.18 or Section 9.02(c), (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.05, (c) increased pursuant to an Incremental Revolving Facility or (d) other than for purposes of determining the Required Lenders or Required Revolving Lenders at any time, if such Lender is an Ancillary Lender, decreased by the amount of such Lender's Ancillary Commitment (and is increased to the extent that any such Ancillary Commitment is reduced, cancelled or terminated). The aggregate amount of the Initial Revolving Credit Commitments as of the Closing Date is €160,000,000.

**"Initial Revolving Credit Maturity Date"** means the date that is five years after the Closing Date.

**"Initial Revolving Facility"** means the Initial Revolving Credit Commitments and the Initial Revolving Loans and other extensions of credit thereunder.

**"Initial Revolving Lender"** means any Lender with an Initial Revolving Credit Commitment or an outstanding Initial Revolving Loan.

**"Initial Revolving Loan"** means any revolving loan made by the Initial Revolving Lenders to the Revolving Borrowers pursuant to Section 2.01(a)(ii).

**"Initial Signing Date Lender"** means any Lender with an Initial Revolving Credit Commitment and/or an Initial Term Loan Commitment as of the Signing Date.

**"Initial Term Lender"** means any Lender with an Initial Term Loan Commitment or an outstanding Initial Term Loan.

**"Initial Term Loan Commitment"** means such Lender's Tranche B-1 Commitment, Tranche B-2 Commitment and Tranche B-3 Commitment, as applicable, in effect as of such time.

**"Initial Term Loan Maturity Date"** means the date that is seven years after the Closing Date.

**"Initial Term Loans"** means the Tranche B-1 Term Loans, the Tranche B-2 Term Loans, the Tranche B-3 Term Loans.

**"Intellectual Property Security Agreement"** means any agreement executed on or after the Closing Date confirming or effecting the grant of any Lien on IP Rights owned by any Loan Party to the Administrative Agent, for the benefit of the Secured Parties, in accordance with this Agreement, including any of the following: (a) a Trademark Security Agreement substantially in the form of Exhibit J-1 hereto, (b) a Patent Security Agreement substantially in the form of Exhibit J-2 hereto or (c) a Copyright Security Agreement substantially in the form of Exhibit J-3 hereto.

**"Intercreditor Agreement"** means the Intercreditor Agreement substantially in the form of Exhibit P hereto, dated as of the Closing Date, among Holdings, the Borrowers, each of the other Obligors and Intra-group Lenders (as defined therein), and each of the agents and other parties thereto.

**"Interest Coverage Ratio"** means, as of any date of determination, the ratio of (a) Consolidated Adjusted EBITDA for the most recently ended Test Period to (b) Ratio Interest Expense for such Test Period, in each case of the Lux Borrower and its Restricted Subsidiaries on a consolidated basis.

**“Interest Election Request”** means a request by the Lux Borrower in the form of Exhibit F hereto or such other form reasonably acceptable to the Administrative Agent to convert or continue a Borrowing in accordance with Section 2.07.

**“Interest Payment Date”** means (a) with respect to any ABR Loan, the last Business Day of each March, June, September and December beginning with the last Business Day of the first full Fiscal Quarter after the Closing Date and the Revolving Credit Maturity Date or the maturity date applicable to such Loan or Additional Commitment, (b) with respect to any Eurocurrency Rate Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurocurrency Rate Borrowing with an Interest Period of more than three months’ duration, each day that would have been an Interest Payment Date had successive Interest Periods of three months’ duration been applicable to such Borrowing and (c) to the extent necessary to create a fungible Class of Loans in connection with the incurrence of any Additional Loans, as reasonably determined by the Administrative Agent and the Lux Borrower, the date of the incurrence of such Additional Loans.

**“Interest Period”** means with respect to any Eurocurrency Rate Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months (or, to the extent agreed to by all relevant affected Lenders, twelve months or a shorter period) thereafter, as the Lux Borrower may elect; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

**“Internally Generated Cash”** means funds of the Lux Borrower and/or any of its Restricted Subsidiaries not constituting (x) proceeds of the issuance of (or contributions in respect of) Capital Stock of the Lux Borrower and/or any of its Restricted Subsidiaries (other than issuances to, or contributions by, the Lux Borrower and/or any of its Restricted Subsidiaries), (y) proceeds of the incurrence of Indebtedness of the Lux Borrower and/or any of its Restricted Subsidiaries (other than (1) Term Loans or Revolving Loans incurred hereunder, (2) extensions of credit under any other revolving credit or similar facility, (3) Indebtedness under any Permitted Receivables Financing or (4) any intercompany Indebtedness) or (z) proceeds of Dispositions that constitute a Prepayment Asset Sale and casualty events.

**“Investment”** means (a) any purchase or other acquisition by the Lux Borrower or any of its Restricted Subsidiaries of any of the Securities of any other Person (other than any Loan Party), (b) the acquisition by purchase or otherwise (other than purchases or other acquisitions of inventory, materials, supplies and/or equipment in the ordinary course of business) of all or a substantial portion of the business, property or fixed assets of any Person or any division or line of business or other business unit of any Person and (c) any loan, advance (other than advances to current or former employees, officers, directors, members of management, managers, consultants or independent contractors of the Borrowers or their Restricted Subsidiaries or any Parent Company for moving, entertainment and travel expenses, drawing accounts and similar expenditures in the ordinary course of business) or capital contribution by the Lux Borrower or any of its Restricted Subsidiaries to any other Person. Subject to Section 5.10, the amount of any Investment shall be the original cost of such Investment, *plus* the cost of all additions thereto, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-

offs with respect to such Investment, but (other than in the case of Investments made pursuant to Section 6.06(gg)) giving effect to any repayments of principal in the case of Investments in the form of loans and any return of capital or return on Investment in the case of equity Investments (whether as a distribution, dividend, redemption or sale but not in excess of the amount of the initial Investment).

**“Investors”** means (i) the Sponsor, (ii) the Management Investors and (iii) certain other investors identified to the Administrative Agent in writing on or prior to the Signing Date; provided that, the investors identified pursuant to clause (iii) may be updated from time to time during the period from the Signing Date to the Closing by providing a list of additional investors to the Administrative Agent, which list of investors shall be subject to the consent of the Required Initial Signing Date Lenders (such consent not to be unreasonably withheld or delayed).

**“IP Rights”** has the meaning assigned to such term in Section 3.05(c).

**“IRS”** means the U.S. Internal Revenue Service.

**“Issuing Bank”** means, as the context may require, (a) ING, (b) any other Revolving Lender that, at the request of the Lux Borrower and with the consent of the Administrative Agent (not to be unreasonably withheld or delayed), agrees to become an Issuing Bank and (c) solely with respect to any Existing Letter of Credit (and any amendment, renewal or extension thereof in accordance with this Agreement), the Lender or Affiliate of a Lender that issued such Existing Letter of Credit. Each Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

**“Italian Banking Law”** means Legislative Decree No. 385 of 1 September 1993 and the relevant implementing regulations, each as amended, integrated and supplemented from time to time.

**“Italian Civil Code”** means the Italian *codice civile*, the initial version of which was approved by Italian Royal Decree No. 262 of 16 March 1942, as amended from time to time.

**“Italian Insolvency Act”** means Royal Decree No. 267 of 16 March 1942, as amended from time to time.

**“Italian Loan Party”** means a Loan Party organized under the laws of the Italian Republic.

**“Italian Security”** has the meaning assigned to such term in Section 8.01.

**“Italian Usury Law”** means Law No. 108 of 7 March 1996, as amended and/or restated from time to time.

**“Joinder Deadline Date”** means the last Business Day by which any Post-Closing Loan Party has to become a Subsidiary Guarantor pursuant to Section 5.12 and/or Section 5.14 (including any related schedule thereto) as such date may be extended from time to time by the Administrative Agent in its reasonable discretion.

**“Judgment Currency”** has the meaning assigned to such term in Section 9.24.

**“Junior Indebtedness”** means any Subordinated Indebtedness (other than Indebtedness among Holdings and its subsidiaries) with an individual outstanding principal amount in excess of the Threshold Amount.

**“Junior Lien Indebtedness”** means any Indebtedness that is secured by a security interest on any Collateral (other than Indebtedness among Holdings and its subsidiaries) that is expressly junior or subordinated to the Lien securing the Credit Facilities with an individual outstanding principal amount in excess of the Threshold Amount.

**“Latest Maturity Date”** means, as of any date of determination, the latest maturity or expiration date applicable to any Loan or commitment hereunder at such time, including the latest maturity or expiration date of any Term Loan, Additional Term Loan, Revolving Loan, Additional Revolving Loan, Revolving Credit Commitment or Additional Commitment.

**“Latest Revolving Loan Maturity Date”** means, as of any date of determination, the latest maturity or expiration date applicable to any revolving loan or revolving credit commitment hereunder at such time, including the latest maturity or expiration date of any Revolving Loan, any Additional Revolving Loan, the Revolving Credit Commitment or any Additional Revolving Commitment.

**“Latest Term Loan Maturity Date”** means, as of any date of determination, the latest maturity or expiration date applicable to any term loan or term credit commitment hereunder at such time, including the latest maturity or expiration date of any Term Loan, Additional Term Loan or any Additional Term Commitment.

**“LC Collateral Account”** has the meaning assigned to such term in Section 2.05(a)(x)(A).

**“LC Disbursement”** means a payment or disbursement made by an Issuing Bank pursuant to a Letter of Credit.

**“LC Exposure”** means, at any time, the sum of (a) the Euro Equivalent of the aggregate undrawn amount of all outstanding Letters of Credit at such time, *plus* (b) the Euro Equivalent of the aggregate principal amount of all LC Disbursements that have not yet been reimbursed at such time. The LC Exposure of any Revolving Lender at any time shall equal its Applicable Percentage of the aggregate LC Exposure at such time.

**“LC Obligations”** means, at any time, the sum of (a) the Euro Equivalent of the maximum amount available to be drawn under Letters of Credit then outstanding, assuming compliance with all requirements for drawings referenced therein, plus (b) the Euro Equivalent of aggregate principal amount of all unreimbursed LC Disbursements.

**“Left Lead Arranger”** means Morgan Stanley Bank International Limited.

**“Legal Reservations”** means (a) the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court and principles of good faith and fair dealing, (b) applicable Debtor Relief Laws, (c) the existence of timing limitations with respect to the bringing of claims under applicable limitation laws and the defenses of acquiescence, set-off or counterclaim and the possibility that an undertaking to assume liability for, or to indemnify a Person against, non-payment of stamp duty may be void, (d) the principle that in certain jurisdictions and under certain circumstances a Lien granted by way of fixed charge may be re-characterized as a floating charge or that security purported to be constituted as an assignment may be re-characterized as a charge, (e) the principle that

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, (f) the principle that a court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant, (g) the principle that the creation or purported creation of collateral over any claim, other right, 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 (or contract or agreement relating to or governing the claim or other right) over which security has purportedly been created, (h) similar principles, rights and defenses under the laws of any relevant jurisdiction and (i) any other matters which are set out as qualifications or reservations (however described) as to matters of law in any legal opinion delivered pursuant to the Loan Documents.

**“Lenders”** means the Term Lenders, the Revolving Lenders, any Additional Lender and any other Person that shall have become a party hereto pursuant to an Assignment Agreement, other than any such Person that ceases to be a party hereto pursuant to an Assignment Agreement.

**“Letter of Credit”** means any Standby Letter of Credit or Commercial Letter of Credit issued (or, in the case of an Existing Letter of Credit, deemed to be issued) pursuant to this Agreement.

**“Letter of Credit and Bank Guarantee Sublimit”** means €40,000,000.

**“Letter-of-Credit Right”** has the meaning set forth in Article 9 of the UCC.

**“Lien”** means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capital Lease having substantially the same economic effect as any of the foregoing), in each case, in the nature of security; provided that in no event shall an operating lease in and of itself be deemed a Lien.

**“Loan Documents”** means this Agreement, any Promissory Note, any Loan Guaranty, the Collateral Documents, any Revolving Borrower Joinder, the Intercreditor Agreement (and any other intercreditor agreement required to be entered into pursuant to the terms of this Agreement and to which any Loan Party is a party) and any other document or instrument designated by the Lux Borrower and the Administrative Agent as a “Loan Document.” Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto and solely for purposes of Sections 8.01 and 9.03, a reference to a Loan Document shall be deemed to include the Escrow Deed.

**“Loan Guarantor”** means each Loan Party.

**“Loan Guaranty”** means (a) the Guaranty Agreement, substantially in the form of Exhibit K hereto, executed by the Loan Parties party thereto and the Administrative Agent for the benefit of the Secured Parties and (b) each other guaranty agreement executed by the Non-US Loan Parties pursuant to Section 5.12 in form and substance substantially similar to the form of Exhibit K hereto (with appropriate changes to reflect the requirements of local law) or otherwise reasonably satisfactory to the Administrative Agent and the Lux Borrower.

**“Loan Installment Date”** has the meaning assigned to such term in Section 2.09(a).

**“Loan Parties”** means the US Loan Parties, the Non-US Loan Parties and the Discretionary Guarantors.

**“Loans”** means any Term Loan, any Revolving Loan, any Swingline Loan, or any Additional Term Loan or Additional Revolving Loan.

**“London Banking Day”** means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank market.

**“Lux Borrower”** has the meaning assigned to such term in the preamble to this Agreement.

**“Luxembourg”** means the Grand-Duchy of Luxembourg.

**“Luxembourg Companies Register”** means the Luxembourg Register of Commerce and Companies.

**“Lux Party”** means any Loan Party whose registered office/place of central administration is in Luxembourg.

**“Management Investors”** means the officers, directors, managers, employees and other members of the management of Holdings, any Parent Company, the Lux Borrower and/or any of its subsidiaries (including, for the avoidance of doubt, the Target and its subsidiaries).

**“Margin Stock”** has the meaning assigned to such term in Regulation U.

**“Market Intercreditor Agreement”** means an intercreditor agreement the terms of which are consistent with market terms including, to the extent relevant for the type of Indebtedness to be subject to such intercreditor agreement, those governing standstill provisions, release mechanics and security arrangements for the sharing of liens or arrangements relating to the distribution of payments, as applicable (which may, if applicable, consist of a payment “waterfall”), at the time the intercreditor agreement is proposed to be established in light of the type of Indebtedness subject thereto, which is reasonably satisfactory to the Administrative Agent.

**“Material Acquisition”** means any Permitted Acquisition or similar Investment (including any Investment in a Similar Business) as reasonably determined by the Lux Borrower (including any acquisition specified to the Required Initial Signing Date Lenders on or prior to the Closing Date).

**“Material Adverse Effect”** means (a) on the Closing Date, a Closing Date Material Adverse Effect and (b) after the Closing Date, a material adverse effect on (i) the business, assets, financial condition or results of operations, in each case, of Holdings, the Lux Borrower and its Restricted Subsidiaries, taken as a whole, (ii) the rights and remedies (taken as a whole) of the Administrative Agent under the applicable Loan Documents or (iii) the ability of the Borrowers and the other Loan Parties (taken as a whole) to perform their payment obligations under the applicable Loan Documents.

**“Material Debt Instrument”** means any physical instrument evidencing (x) Indebtedness for borrowed money with an original principal amount in excess of €10,000,000 and (y) any intercompany loan made on or around the Closing Date by the Lux Borrower or the US Borrower, using the proceeds of the Term Loans received by the Lux Borrower or the US Borrower, as expressly contemplated by the E&Y Steps Memo.

**“Material Real Estate Asset”** means (a) initially, each Real Estate Asset owned in fee (or similar concept under any applicable jurisdiction) having a fair market value (as reasonably determined by the Lux Borrower after taking into account any liabilities with respect thereto that impact such fair market

value) in excess of €10,000,000 as of the Closing Date and listed on Schedule 1.01(g) and (b) subsequently shall include each other parcel of any fee-owned (or similar concept under any applicable jurisdiction) Real Estate Asset acquired by any Loan Party after the Closing Date (or owned by any Person at the time such Person becomes a Loan Party) having a fair market value (as reasonably determined by the Lux Borrower after taking into account any liabilities with respect thereto that impact such fair market value) in excess of €10,000,000 as of the date of the acquisition thereof or at the time such person becomes a Loan Party, but in any case of the foregoing, subject to the Agreed Security Principles.

**“Maturity Date”** means (a) with respect to the Initial Revolving Facility, the Initial Revolving Credit Maturity Date, (b) with respect to the Initial Term Loans, the Initial Term Loan Maturity Date, (c) as to any Replacement Term Loans or Replacement Revolving Facility incurred pursuant to Section 9.02(c), the final maturity date for such Replacement Term Loan or Replacement Revolving Facility, as the case may be, as set forth in the applicable Refinancing Amendment; (d) with respect to any Incremental Term Loans, the final maturity date as set forth in the applicable Incremental Facility Agreement and (e) with respect to any Extended Revolving Credit Commitment or Extended Term Loans, the final maturity date set forth in the applicable Extension Amendment.

**“Maximum Rate”** has the meaning assigned to such term in Section 9.19.

**“Minimum Extension Condition”** has the meaning assigned to such term in Section 2.22(b).

**“Moody’s”** means Moody’s Investors Service, Inc.

**“Mortgage Policies”** has the meaning assigned to such term in the definition of “Collateral and Guarantee Requirement”.

**“Mortgages”** means any mortgage, deed of trust or other agreement which conveys or evidences a Lien in favor of the Administrative Agent, for the benefit of the Administrative Agent and the relevant Secured Parties, on Material Real Estate Assets.

**“Multiemployer Plan”** means any employee benefit plan which is a “multiemployer plan” as defined in Section 3(37) of ERISA, that is subject to the provisions of Title IV of ERISA, and in respect of which the Lux Borrower or any of its Restricted Subsidiaries, or any of their respective ERISA Affiliates, makes or is obligated to make contributions or with respect to which any of them has any ongoing obligation or liability, contingent or otherwise.

**“Multi-Account Overdraft Facility”** means an Ancillary Facility which is an overdraft facility comprising more than one account.

**“Narrative Report”** means, with respect to the financial statements in respect of which it is delivered, a customary summary narrative report describing the operations of the Lux Borrower and its Restricted Subsidiaries for the relevant Fiscal Quarter or Fiscal Year and for the period from the beginning of the then-current Fiscal Year to the end of the period to which the relevant financial statements relate.

**“Net Insurance/Condemnation Proceeds”** means an amount equal to: (a) any Cash payments or proceeds (including Cash Equivalents) received by the Lux Borrower or any of its Restricted Subsidiaries (i) under any casualty insurance policy in respect of a covered loss thereunder of any assets of the Lux Borrower or any of its Restricted Subsidiaries or (ii) as a result of the taking of any assets of the Lux

Borrower or any of its Restricted Subsidiaries by any Person pursuant to the power of eminent domain, condemnation or otherwise, or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking, *minus* (b) (i) any actual out-of-pocket costs incurred by the Lux Borrower or any of its Restricted Subsidiaries in connection with the adjustment, settlement or collection of any claims of the Lux Borrower or such Subsidiary in respect thereof, (ii) payment of the outstanding principal amount of, premium or penalty, if any, and interest and other amounts on any Indebtedness (other than the Loans and any Indebtedness secured by a Lien on any Collateral that is *pari passu* or expressly subordinated to the Lien on any Collateral securing the Secured Obligations) that is secured by a Lien on the assets in question and that is required to be repaid or otherwise comes due or would be in default under the terms thereof as a result of such loss, taking or sale, (iii) in the case of a taking, the reasonable out-of-pocket costs of putting any affected property in a safe and secure position, (iv) any selling costs and out-of-pocket expenses (including reasonable broker's fees or commissions, legal fees, transfer and similar Taxes and the Borrowers' good faith estimate of income Taxes paid or payable (including pursuant to any Tax sharing arrangements or any Tax distribution) in connection with any sale or taking of such assets as referred to in clause (a) of this definition and (v) any amounts provided as a reserve, in accordance with GAAP, against any liabilities under any indemnification obligations or purchase price adjustments associated with any sale or taking of such assets as referred to in clause (a) of this definition (provided that to the extent and at the time any such amounts are released from such reserve (other than in connection with a payment in respect of such liability), such amounts shall constitute Net Insurance/Condemnation Proceeds).

**“Net Outstanding”** means, in relation to a Multi-Account Overdraft, the Ancillary Outstanding of that Multi-Account Overdraft.

**“Net Proceeds”** means (a) with respect to any Disposition (including any Prepayment Asset Sale), the Cash proceeds (including Cash Equivalents and Cash proceeds subsequently received (as and when received) in respect of non-cash consideration initially received), net of (i) selling costs and out-of-pocket expenses (including reasonable broker's fees or commissions, legal fees, transfer and similar Taxes and the Borrowers' good faith estimate of income Taxes paid or payable (including pursuant to Tax sharing arrangements or any Tax distribution) in connection with such Disposition), (ii) amounts provided as a reserve, in accordance with GAAP, against any liabilities under any indemnification obligations or purchase price adjustment associated with such Disposition (provided that to the extent and at the time any such amounts are released from such reserve, such amounts shall constitute Net Proceeds), (iii) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness (other than the Loans and any other Indebtedness secured by a Lien on any Collateral that is *pari passu* or expressly subordinated to the Lien on any Collateral securing the Secured Obligations) which is secured by the asset sold in such Disposition and which is required to be repaid or otherwise comes due or would be in default and is repaid (other than any such Indebtedness assumed by the purchaser of such asset) and (iv) Cash escrows (until released from escrow to the Borrowers or any of their respective Restricted Subsidiaries) from the sale price for such Disposition; and (b) with respect to any issuance or incurrence of Indebtedness or Capital Stock, the Cash proceeds thereof, net of all Taxes and customary fees, commissions, costs, underwriting discounts and other fees and expenses incurred in connection therewith.

**“Non-Consenting Lender”** has the meaning assigned to such term in Section 2.18(b).

**“Non-Cooperative Jurisdiction”** means a “non-cooperative state or territory” (*Etat ou territoire non coopératif*) as set out in the list referred to in Article 238-0 A of the French Code général des impôts, as such list may be amended from time to time.

**“Non-Debt Fund Affiliate”** means any Investor (which is an Affiliate of the Lux Borrower) and any Affiliate of any such Investor, other than any Debt Fund Affiliate, Holdings, the Lux Borrower or any subsidiary of the Lux Borrower.

**“Non-U.S. Plan”** means any plan, fund (including, without limitation, any superannuation fund) or other similar program, other than a plan or arrangement maintained by any governmental authority, established, contributed to (regardless of whether through direct contributions or through employee withholding) or maintained outside the U.S. by the Lux Borrower or any of its Restricted Subsidiaries or their respective Affiliates primarily for the benefit of employees of the Lux Borrower or such Restricted Subsidiaries or Affiliates residing outside the U.S., which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment, and which plan is not subject to ERISA or the Code and under which Lux Borrower or any of its Restricted Subsidiaries have any liability, contingent or otherwise.

**“Non-U.S. Plan Event”** means, with respect to any Non-U.S. Plan, (i) the failure to register or loss of good standing with applicable regulatory authorities of any such Non-U.S. Plan required to be registered under applicable law, (ii) the existence of unfunded liabilities in excess of the amount permitted under any applicable law, or in excess of the amount that would be permitted absent a waiver from a Governmental Authority, (iii) the failure to make the required contributions or payments under any applicable law on or before the due date for such contributions of payments, (iv) the receipt by the Lux Borrower or any of its Restricted Subsidiaries of notice from any Governmental Authority relating to the intention to terminate any such Non-U.S. Plan or to appoint a trustee or similar official to administer such Non-U.S. Plan, (v) the incurrence by the Lux Borrower or any of its Restricted Subsidiaries of any liability under applicable law on account of the complete or partial termination of such Non-U.S. Plan or the complete or partial withdrawal of any participating employer therein, or (vi) the occurrence of any transaction that is prohibited under any applicable law and could reasonably be expected to result in liability for the Lux Borrower or any of its Restricted Subsidiaries, or the imposition on the Lux Borrower or any of its Restricted Subsidiaries of any fine, excise tax or penalty resulting from any noncompliance with any applicable law.

**“Non-US Lender”** means a Lender that is not a “United States person” within the meaning of Section 7701(a)(30) of the Code.

**“Non-US Loan Parties”** means Holdings, the Lux Borrower and the Non-US Subsidiary Guarantors; provided that for purposes of Article 6, to the extent that 100% of the Capital Stock of any Non-US Subsidiary that is owned by any Loan Party is pledged to the Administrative Agent, such Non-US Subsidiary shall be deemed to be a Non-US Loan Party.

**“Non-US Pledge Agreement”** means (a) each pledge agreement executed by a Non-US Loan Party listed on Schedule 1.01(e) and (b) each other pledge agreement executed by the Non-US Loan Parties pursuant to Section 5.12 or Section 5.14 in form and substance reasonably satisfactory to the Administrative Agent and the Lux Borrower.

**“Non-US Security Agreement”** means (a) each security agreement executed by a Non-US Loan Party listed on Schedule 1.01(e) and (b) each other security agreement executed by the Non-US Loan Parties pursuant to Section 5.12 in form and substance reasonably satisfactory to the Administrative Agent and the Lux Borrower.

**“Non-US Subsidiary”** means any Restricted Subsidiary that is not a Domestic Subsidiary.

**“Non-US Subsidiary Guarantor”** means (x) on the Closing Date, each Restricted Subsidiary listed on Part B of Schedule 3.13 and (y) thereafter, each other Restricted Subsidiary, excluding any Domestic Subsidiary, that either is or becomes a party to any Loan Guaranty pursuant to Section 5.12, in each case, until such time as the respective Restricted Subsidiary is released from its obligations under such Loan Guaranty in accordance with the terms and provisions hereof.

**“Notice of Intent to Cure”** has the meaning assigned to such term in Section 6.15(b).

**“NRK Loan”** means any Revolving Loan denominated in Norwegian Krone.

**“NZD Loan”** means any Revolving Loan denominated in New Zealand dollars.

**“NZ Loan Party”** means any Loan Party incorporated under the laws of New Zealand.

**“NZ PPSA”** means the Personal Property Securities Act 1999 (New Zealand).

**“Obligations”** means all unpaid principal of and accrued and unpaid interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, all LC Exposure, all Bank Guarantee Exposure, all accrued and unpaid fees and all expenses (including fees and expenses accruing during the pendency of any bankruptcy, insolvency, reorganization or other similar proceeding, regardless of whether allowed or allowable in such proceeding), reimbursements, indemnities and all other advances to, debts, liabilities and obligations of the Loan Parties to the Lenders or to any Lender, the Administrative Agent, any Issuing Bank, any Guarantee Bank or any indemnified party arising under the Loan Documents in respect of any Loan, Letter of Credit or Bank Guarantee, whether direct or indirect (including those acquired by assumption), absolute, contingent, due or to become due, now existing or hereafter arising.

**“Obligations Derivative Instrument”** has the meaning assigned to such term in Section 9.05(d)(ii).

**“OFAC”** has the meaning assigned to such term in the definition of “Sanctions”.

**“Organizational Documents”** means (a) with respect to any corporation, its certificate or articles of incorporation or organization and its by-laws, (b) with respect to any limited partnership, its certificate of limited partnership or declaration of partnership and its partnership agreement, (c) with respect to any general partnership, its partnership agreement, (d) with respect to any limited liability company, its articles of organization or certificate of formation, and its operating agreement and (e) with respect to any other form of entity, such other organizational documents required by local Requirements of Law or customary under such jurisdiction to document the formation and governance principles of such type of entity. In the event any term or condition of this Agreement or any other Loan Document requires any Organizational Document to be certified by a secretary of state or similar governmental official, the reference to any such “Organizational Document” shall only be to a document of a type customarily certified by such governmental official.

**“Other Applicable Indebtedness”** has the meaning assigned to such term in Section 2.10(b)(i).

**“Other Connection Taxes”** means, with respect to any Lender, Issuing Bank, Guarantee Bank or Administrative Agent, Taxes imposed as a result of a present or former connection between such recipient and the jurisdiction imposing such Tax (other than connections arising solely from such recipient having

executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, or engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

**“Other Taxes”** means any and all present or future stamp, court or documentary taxes or any intangible, recording, filing or other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement, but not including, for the avoidance of doubt, (a) the Excluded Taxes and (b) any Luxembourg registration duties (*droits d'enregistrement*) and/or stamp duties (*droits de timbre*) due to a registration, submission or filing by the relevant Lender, Issuing Bank or Guarantee Bank or the Administrative Agent, as applicable, of any Loan Document but only to the extent that such registration, submission or filing is or was made on a purely voluntary basis by such Lender, Issuing Bank, Guarantee Bank or Administrative Agent, as applicable, which shall mean that such registration, submission or filing is (i) not mandatory and (ii) not required to maintain, defend or preserve the rights of such party under any Loan Document.

**“Outstanding Amount”** means (a) with respect to Term Loans, Revolving Loans and Swingline Loans on any date, the Euro Equivalent amount of the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Term Loans, Revolving Loans and Swingline Loans, as the case may be, occurring on such date and (b) with respect to any LC Obligations or Bank Guarantee Obligations on any date, the Euro Equivalent amount of the aggregate outstanding amount of such LC Obligations or Bank Guarantee Obligations on such date after giving effect to any Credit Extension with respect to any Letter of Credit or Bank Guarantee occurring on such date and any other changes in the aggregate amount of the LC Obligations or Bank Guarantee Obligations as of such date, including as a result of any reimbursements by the Lux Borrower of unreimbursed LC Disbursements or Bank Guarantee Disbursements.

**“Overnight Rate”** on any date shall mean the offered quotation to first-class banks in the European interbank market by the Swingline Lender for Euro or Alternate Currency (other than Dollars) (as applicable) overnight borrowings of amounts comparable to the outstanding principal amount of the Euro or Alternate Currency (other than Dollars) (as applicable) denominated Swingline Loan of the Swingline Lender as of 11:00 A.M. (London time) on such date; provided that, if the Overnight Rate is less than zero, such rate shall be deemed to be zero; provided further that, in the event the Administrative Agent has made any determination pursuant to Section 2.13(a) in respect of Swingline Loans denominated in Euros or an Alternate Currency (other than Dollars), or in the circumstances described in Section 2.19 in respect of Swingline Loans denominated in Euros or an Alternate Currency (other than Dollars), the Overnight Rate determined (acting reasonably and in good faith) pursuant to this definition shall instead be the rate determined by the Swingline Lender as the all-in-cost of funds for the Swingline Lender to fund such Swingline Loan denominated in Euros or such Alternate Currency (other than Dollars), as applicable.

**“Parallel Debt”** has the meaning assigned to such term in Section 9.21(b).

**“Parent Company”** means (a) Holdings and (b) any other Person of which the Lux Borrower is an indirect Wholly-Owned Subsidiary.

**“Participant”** has the meaning assigned to such term in Section 9.05(c).

**“Participant Register”** has the meaning assigned to such term in Section 9.05(c).

**“Patent”** means the following: (a) any and all patents and patent applications; (b) all inventions described and claimed therein; (c) all reissues, divisions, continuations, renewals, extensions, and continuations-in-part thereof; (d) all income, royalties, damages, claims, and payments now or hereafter due or payable under and with respect thereto, including, without limitation, damages and payments for past and future infringements thereof; (e) all rights to sue for past, present, and future infringements thereof; and (f) all rights corresponding to any of the foregoing.

**“PBGC”** means the Pension Benefit Guaranty Corporation.

**“Pension Plan”** means any employee pension benefit plan, as defined in Section 3(2) of ERISA (other than a Multiemployer Plan), that is subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, in which the Lux Borrower or any of its Restricted Subsidiaries, or any of their respective ERISA Affiliates, maintains or contributes to or has an obligation to contribute to, or otherwise has any liability, contingent or otherwise.

**“Perfection Certificate”** means a certificate substantially in the form of Exhibit G.

**“Perfection Certificate Supplement”** means a supplement to the Perfection Certificate substantially in the form of Exhibit H.

**“Perfection Requirements”** means, subject in all cases to the Agreed Security Principles, the making of the appropriate registrations, filings or notifications with respect to the Collateral as contemplated by (x) any legal opinion required to be delivered hereby or under the terms of a Loan Document, including the making of such filings and taking of such other actions required to be taken thereby, (y) the applicable Loan Documents or (z) pursuant to applicable Requirements of Law (including the filing of appropriate financing statements with the office of the Secretary of State of the state of organization of each US Loan Party, the filing of appropriate assignments or notices with the U.S. Patent and Trademark Office and the U.S. Copyright Office, the proper recording or filing, as applicable, of Mortgages and fixture filings with respect to any Material Real Estate Asset and any other recordings, filings, registrations, notifications or other actions required to be taken in any other jurisdiction), in each case in favor of the Administrative Agent for the benefit of the Secured Parties and the delivery to the Administrative Agent of any stock certificates or promissory notes required to be delivered pursuant to the applicable Loan Documents.

**“Permitted Acquisition”** means any acquisition by the Lux Borrower or any of its Restricted Subsidiaries, whether by purchase, merger or otherwise, of all or substantially all of the assets of, or any business line, unit or division of, any Person or of a majority of the outstanding Capital Stock of any Person who is engaged in a Similar Business and becomes a Restricted Subsidiary (and, in any event, including any Investment in (x) any Restricted Subsidiary the effect of which is to increase the Lux Borrower’s or any Restricted Subsidiary’s equity ownership in such Restricted Subsidiary or (y) any joint venture for the purpose of increasing the Lux Borrower’s or its relevant Restricted Subsidiary’s ownership interest in such joint venture to the extent such Investment results in such joint venture becoming a Restricted Subsidiary under this Agreement and is consolidated in the financial statements of the Lux Borrower in accordance with GAAP).

**“Permitted Holders”** means (a) the Investors and (b) any Person with which one or more Investors form a “group” (within the meaning of Section 14(d) of the Exchange Act) so long as, in the case of this clause (b), the relevant Investors beneficially own more than 50% of the relevant voting stock beneficially owned by the group.

**“Permitted Holdings Unsecured Indebtedness”** means unsecured Indebtedness of Holdings; provided that (a) at the election of the Lux Borrower, either (i) the Total Leverage Ratio of Holdings and its Restricted Subsidiaries does not exceed 4.05:1.00 or (ii) the Interest Coverage Ratio of Holdings and its Restricted Subsidiaries is not less than 2.00:1.00, (b) such Indebtedness is not Guaranteed by any Subsidiary of Holdings, (c) such Indebtedness has covenant, default and remedy provisions no more restrictive (taken as a whole) than those set forth in this Agreement (taken as a whole) (except in a manner customary for holding company loans or debt securities, including senior discount notes or PIK toggle notes), (d) the holders of such debt (or their agent, trustee or similar representative) shall have acceded to an Acceptable Intercreditor Agreement and (e) such Indebtedness does not mature or require any scheduled amortization or scheduled payments of principal or be subject to any mandatory redemption, repurchase, repayment or sinking fund obligation (other than (x) payments as part of an “applicable high yield discount obligation” catch up payment, (y) customary offers to repurchase in connection with any change of control, Disposition or casualty event and (z) customary acceleration rights after an event of default), in each case, prior to the date that is 91 days after the then-existing Latest Term Loan Maturity Date.

**“Permitted Jurisdictions”** means (a) the Republic of Austria, (b) the Commonwealth of Australia, (c) the Kingdom of Belgium, (d) the Federative Republic of Brazil, (e) Canada or any province or territory thereof, (f) the French Republic, (g) the Federal Republic of Germany, (h) Hong Kong Special Administrative Region of the People’s Republic of China, (i) the Italian Republic, (j) Japan, (k) the Grand Duchy of Luxembourg, (l) The Netherlands, (m) New Zealand, (n) the Kingdom of Norway, (o) the United Kingdom of Great Britain and Northern Ireland, (p) the U.S. any state thereof or the District of Columbia, (q) any other jurisdiction where a Loan Party is organized and (r) any other jurisdiction to which the Administrative Agent provides consent (such consent not to be unreasonably withheld or delayed); provided that, with respect to clause (r), the Administrative Agent may withhold such consent if it determines, in its reasonable credit judgment, that such Restricted Subsidiary would not provide customary credit support for the Obligations, which determination may be based upon (A) the amount and enforceability of the Loan Guaranty that would be provided by the relevant Person, (B) the value and enforceability of any security interest that may be granted with respect to any Collateral located in the relevant jurisdiction and (C) any political risk to the Lenders, taken as a whole, associated with the relevant jurisdiction).

**“Permitted Liens”** means Liens permitted pursuant to Section 6.02.

**“Permitted Non-Recourse Receivables Financing”** means one or more non-recourse (except to the extent customary, including customary representations, warranties, covenants and indemnities made in connection with such non-recourse facilities) Receivables Financings made available to the Lux Borrower or any of its Restricted Subsidiaries on then-market terms (as reasonably determined by the Lux Borrower) in an aggregate principal amount for all such facilities not exceeding (a) the greater of €300,000,000 and 86.5% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries *minus* (b) the aggregate principal amount outstanding of any Permitted Recourse Receivables Financing.

**“Permitted Receivables Financing”** means a Permitted Non-Recourse Financing or a Permitted Recourse Receivables Financing.

**“Permitted Recourse Receivables Financing”** means one or more Receivables Financings made available to the Lux Borrower or any of its Restricted Subsidiaries on then-market terms (as reasonably determined by the Lux Borrower) in an aggregate principal amount for all such facilities not exceeding

the greater of €25,000,000 and 7.2% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries.

**“Person”** means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or any other entity.

**“Plan”** means an “employee benefit plan” as defined in Section 3 of ERISA (other than a Multiemployer Plan), that is subject to ERISA that the Lux Borrower or any of its Restricted Subsidiaries maintains or contributes to or has an obligation to contribute to, or otherwise has liability, contingent or otherwise.

**“Positive Rate Differential”** has the meaning assigned to such term in the definition of “Incremental Equivalent Debt”.

**“Post-Acquisition Transactions”** means after the closing of the Acquisition, (a) the Target issuing one or more new shares to Bidco and (b) Target acquiring and cancelling all of the shares held by Bidco in Target that were acquired by Bidco pursuant to the Acquisition Agreement (such that only the Target shares newly issued to Bidco in accordance with clause (a) will remain outstanding following such acquisition and cancellation), in each case, such acquisition and cancellation to be undertaken in accordance with the Companies Act.

**“Post-Closing Loan Party”** means any Restricted Subsidiary that is owned directly or indirectly by the Lux Borrower (other than any Closing Date Loan Party), or is directly or indirectly acquired or formed by the Lux Borrower, in each case, on or after the Closing Date, and is required to become a Subsidiary Guarantor hereunder pursuant to Section 5.12, the definition of the “Collateral and Guarantee Requirement” and/or Section 5.14 (or the Lux Borrower otherwise elects to make such Restricted Subsidiary a Discretionary Guarantor). Each Restricted Subsidiary that is a Post-Closing Loan Party (other than the Closing Date Loan Parties) on the Closing Date is specified as a Post-Closing Loan Party Schedule 1.01(c).

**“Prepayment Asset Sale”** means any Disposition by the Lux Borrower or its Restricted Subsidiaries made pursuant to Section 6.07(h), Section 6.07(j), Section 6.07(q), Section 6.07(cc) and Section 6.08 (other than Sale Lease-Back Transactions described on Schedule 6.08).

**“Primary Obligor”** has the meaning assigned to such term in the definition of “Guarantee”.

**“Prime Rate”** means (a) the rate of interest publicly announced, from time to time, by the Administrative Agent at its principal office in New York City as its “prime rate,” with the understanding that the “prime rate” is one of the Administrative Agent’s base rates (not necessarily the lowest of such rates) and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto and is evidenced by the recording thereof after its announcement in such internal publications as the Administrative Agent may designate or (b) if the Administrative Agent has no “prime rate,” the rate of interest last quoted by *The Wall Street Journal* as the “Prime Rate” in the U.S. or, if *The Wall Street Journal* ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as reasonably determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as reasonably determined by the Administrative Agent).

**“Pro Forma Basis”** or **“pro forma effect”** means, with respect to any determination of the Total Leverage Ratio, the First Lien Leverage Ratio, the Senior Secured Leverage Ratio, the Interest Coverage Ratio, Consolidated Adjusted EBITDA or Consolidated Total Assets (including component definitions thereof), that each Subject Transaction shall be deemed to have occurred as of the first day of the applicable Test Period (or, in the case of Consolidated Total Assets, as of the last day of such Test Period) with respect to any test or covenant for which such calculation is being made and that:

- (a) (i) in the case of (A) any Disposition of all or substantially all of the Capital Stock of any Restricted Subsidiary or any division and/or product line of the Lux Borrower, any Restricted Subsidiary, (B) any designation of a Restricted Subsidiary as an Unrestricted Subsidiary and (C) the implementation of any Cost Savings Initiative, income statement items (whether positive or negative and including any Expected Cost Savings) attributable to the property or Person subject to such Subject Transaction, shall be excluded as of the first day of the applicable Test Period with respect to any test or covenant for which the relevant determination is being made and (ii) in the case of any Permitted Acquisition, Investment and/or designation of an Unrestricted Subsidiary as a Restricted Subsidiary described in the definition of the term “Subject Transaction”, income statement items (whether positive or negative) attributable to the property or Person subject to such Subject Transaction shall be included as of the first day of the applicable Test Period with respect to any test or covenant for which the relevant determination is being made; provided that any pro forma adjustment described in this clause (a) may be applied to any such test or covenant solely to the extent that such adjustment is consistent with the definition of “Consolidated Adjusted EBITDA”,
- (b) any retirement or repayment of Indebtedness (other than normal fluctuations in revolving Indebtedness incurred for working capital purposes) shall be deemed to have occurred as of the last day of the applicable Test Period with respect to any test or covenant for which the relevant determination is being made (or, in the case of any calculation of the Interest Coverage Ratio, as of the first day of the applicable Test Period),
- (c) any Indebtedness incurred by the Lux Borrower or any of its Restricted Subsidiaries in connection therewith shall be deemed to have occurred as of the last day of the applicable Test Period with respect to any test or covenant for which the relevant determination is being made (or, in the case of any calculation of the Interest Coverage Ratio, as of the first day of the applicable Test Period); provided that, (x) if such Indebtedness has a floating or formula rate, such Indebtedness shall have an implied rate of interest for the applicable Test Period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness at the relevant date of determination (taking into account any interest hedging arrangements applicable to such Indebtedness), (y) interest on any obligation with respect to any Capital Lease shall be deemed to accrue at an interest rate reasonably determined by a Responsible Officer of the Lux Borrower to be the rate of interest implicit in such obligation in accordance with GAAP and (z) interest on any Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency interbank offered rate or other rate shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen by the Lux Borrower and
- (d) the acquisition of any assets included in calculating Consolidated Total Assets, whether pursuant to any Subject Transaction or any Person becoming a subsidiary or merging, amalgamating or consolidating with or into the Lux Borrower or any of its subsidiaries, or the Disposition of any assets included in calculating Consolidated Total Assets described in the

definition of “Subject Transaction” shall be deemed to have occurred as of the last day of the applicable Test Period with respect to any test or covenant for which such calculation is being made.

In the case of any calculation of the Total Leverage Ratio, the First Lien Leverage Ratio, the Senior Secured Leverage Ratio, the Interest Coverage Ratio, Consolidated Adjusted EBITDA or Consolidated Total Assets for any events described above that occur prior to the first date on which financial statements have been (or are required to be) delivered, such calculation to be made on a “Pro Forma Basis” shall use the Consolidated Adjusted EBITDA specified on Exhibit Q hereto. It is hereby agreed that for purposes of determining pro forma compliance with Section 6.15(a) prior to the last day of the first Fiscal Quarter after the Closing Date, the applicable level shall be the level cited in Section 6.15(a). Notwithstanding anything to the contrary set forth in the immediately preceding paragraph, for the avoidance of doubt, when calculating the First Lien Leverage Ratio for purposes of the definitions of “Applicable Rate” and “Commitment Fee Rate” and for purposes of Section 6.15 (other than for the purpose of determining pro forma compliance with such Section 6.15 as a condition to taking any action under this Agreement), the events described in the immediately preceding paragraph that occurred subsequent to the end of the applicable Test Period shall not be given pro forma effect.

**“Projections”** means the financial projections of the Lux Borrower and its Restricted Subsidiaries included in the financial model delivered by the Sponsor to the Arrangers on March 17, 2016 (or a supplement thereto).

**“Promissory Note”** means a promissory note of the relevant Borrower payable to any Lender or its registered assigns, in substantially the form of Exhibit I hereto, evidencing the aggregate outstanding principal amount of Loans of such Borrower to such Lender resulting from the Loans made by such Lender.

**“Public Company Costs”** means Charges associated with, or in anticipation of, or preparation for, compliance with the requirements of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith and Charges relating to compliance with the provisions of the Securities Act and the Exchange Act (and, in each case, similar Requirements of Law under other applicable jurisdictions), as applicable to companies with equity or debt securities held by the public, the rules of national securities exchange companies with listed equity or debt securities, directors’, managers’ and/or employees’ compensation, fees and expense reimbursement, Charges relating to investor relations, shareholder meetings and reports to shareholders or debtholders, directors’ and officers’ insurance and other executive costs, legal and other professional fees and listing fees and other costs and/or expenses associated with being a public company.

**“QoE Report”** means that certain draft of the quality of earnings report dated as of March 19, 2016 and prepared by Ernst & Young LLP (including any supplements thereto).

**“Qualified Capital Stock”** of any Person means any Capital Stock of such Person that is not Disqualified Capital Stock; provided that (x) any preferred equity certificates issued by the Lux Borrower (or any Parent Company thereof) on or prior to the Signing Date, (y) any preferred equity certificates substantially similar in all material respects to any preferred equity certificates issued by the Lux Borrower (or any Parent Company thereof) on or prior to the Signing Date and (z) any Subordinated Shareholder Debt, in each case, shall constitute Qualified Capital Stock.

**“Qualifying IPO”** means the issuance and sale by Holdings or any Parent Company of its common Capital Stock in an underwritten primary public offering (other than a public offering pursuant to a registration statement on Form S-8) pursuant to an effective registration statement filed with the SEC in accordance with the Securities Act or any analogous filing under the securities laws of any jurisdiction other than the US (including, without limitation, Luxembourg) (whether alone or in connection with a secondary public offering) pursuant to which Net Proceeds of at least €75,000,000 are received by Holdings and contributed to the Lux Borrower.

**“Ratio Interest Expense”** means, with respect to any Person for any period, (a) the sum of consolidated total interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued and whether or not capitalized, (i) including (A) the interest component of any payment under any Capital Lease (regardless of whether accounted for as interest expense under GAAP), (B) amortization of original issue discount resulting from the issuance of Indebtedness at less than par, (C) any commission, discount and/or other fee or charge owed with respect to any letter of credit and/or bankers’ acceptance and (D) net payments arising under any interest rate Hedge Agreement with respect to Indebtedness and (ii) excluding (A) amortization of deferred financing fees, debt issuance costs, discounted liabilities, commissions, fees and expenses, (B) any expense arising from any bridge, commitment and/or other financing fee, (C) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization accounting or, if applicable, acquisition accounting, (D) penalties and interest relating to Taxes and (E) for the avoidance of doubt, any non-cash interest expense attributable to any movement in the mark to market valuation of any obligation under any Hedge Agreement or any other derivative instrument and/or any payment obligation arising under any Hedge Agreement or derivative instrument other than any interest rate Hedge Agreement or interest rate derivative instrument with respect to Indebtedness minus (b) interest income for such period. For purposes of this definition, interest in respect of any Capital Lease shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capital Lease in accordance with GAAP.

**“Real Estate Asset”** means, at any time of determination, all right, title and interest (fee, leasehold or otherwise) of any Loan Party in and to real property (including, but not limited to, land, improvements and fixtures thereon) of such Loan Party.

**“Receivables Financing”** shall mean any transaction pursuant to which any Person or one or more of its Restricted Subsidiaries sells, conveys or otherwise transfers to any other Person, or grants a security interest in, accounts receivable or other related assets and/or any other securitization, receivables financing facility and/or factoring facility or arrangement with respect to accounts receivable or other related assets.

**“Refinancing”** means the repayment in full of all Indebtedness outstanding under, and the termination of the commitments under (and all guaranties, Liens and security relating to) the Existing Credit Agreement.

**“Refinancing Amendment”** means an amendment to this Agreement in form and substance reasonably satisfactory to the Administrative Agent and the Lux Borrower executed by each of (a) Holdings, and each Borrower, (b) the Administrative Agent and (c) each Lender that agrees to provide all or any portion of the Replacement Term Loans or the Replacement Revolving Facility, as applicable, being incurred pursuant thereto and in accordance with Section 9.02(c).

**“Refinancing Indebtedness”** has the meaning assigned to such term in Section 6.01(p).

**“Refunding Capital Stock”** has the meaning assigned to such term in Section 6.04(a)(viii).

**“Register”** has the meaning assigned to such term in Section 9.05(b).

**“Regulation D”** means Regulation D of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

**“Regulation U”** means Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

**“Regulation X”** means Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

**“Related Funds”** means, with respect to any Lender that is an Approved Fund, any other Approved Fund that is managed by the same investment advisor as such Lender or by an Affiliate of such investment advisor.

**“Related Parties”** means, with respect to any specified Person, such Person’s Affiliates and the respective directors, managers, officers, trustees, employees, partners, agents, advisors and other representatives of such Person and such Person’s Affiliates.

**“Release”** means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of any Hazardous Material into the environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material), including the movement of any Hazardous Material through the air, soil, surface water or groundwater.

**“Release Provisions”** has the meaning assigned to such term in Article 8.

**“Replaced Revolving Facility”** has the meaning assigned to such term in Section 9.02(c).

**“Replaced Term Loans”** has the meaning assigned to such term in Section 9.02(c).

**“Replacement Notes”** means any Refinancing Indebtedness (whether issued in a public offering, Rule 144A under the Securities Act or other private placement or bridge financing in lieu of the foregoing or otherwise) incurred in respect of Indebtedness permitted under Section 6.01(a) (and any subsequent refinancing of such Replacement Notes).

**“Replacement Revolving Facility”** has the meaning assigned to such term in Section 9.02(c).

**“Replacement Term Loans”** has the meaning assigned to such term in Section 9.02(c).

**“Representative”** has the meaning assigned to such term in Section 9.13.

**“Repricing Transaction”** means each of (a) the prepayment, repayment, refinancing, substitution or replacement of all or a portion of the Initial Term Loans substantially concurrently with the incurrence by any Loan Party of any secured term loans (including any Replacement Term Loans) having an Effective Yield that is less than the Effective Yield applicable to the Initial Term Loans so prepaid, repaid, refinanced, substituted or replaced and (b) any amendment, waiver or other modification to this Agreement that would have the effect of reducing the Effective Yield applicable to the Initial Term Loans; provided that the

primary purpose of such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver or other modification was to reduce the Effective Yield applicable to the Initial Term Loans; provided, further, that in no event shall any such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver or other modification in connection with a Change of Control, Qualifying IPO or Material Acquisition constitute a Repricing Transaction. Any determination by the Administrative Agent of the Effective Yield for purposes of the definition shall be conclusive and binding on all Lenders, and the Administrative Agent shall have no liability to any Person with respect to such determination absent bad faith, gross negligence or willful misconduct.

**“Required Initial Signing Date Lenders”** means, at any time, the Initial Signing Date Lenders having unused Commitments as of the Signing Date representing more than 50% of the sum of the total unused Commitments at such time.

**“Required Lenders”** means, at any time, Lenders having Loans or unused Commitments representing more than 50% of the sum of the total Loans and such unused Commitments at such time.

**“Required Revolving Lenders”** means, at any time, Lenders having Revolving Loans, Additional Revolving Loans, unused Revolving Credit Commitments or unused Additional Revolving Commitments representing more than 50% of the sum of the total Revolving Loans, Additional Revolving Loans and such unused commitments at such time.

**“Requirements of Law”** means, with respect to any Person, collectively, the common law and all federal, state, provincial, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of any Governmental Authority, in each case whether or not having the force of law and that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

**“Responsible Officer”** means, with respect to any Person, the chief executive officer, the president, the chief financial officer, the treasurer, any assistant treasurer, any executive vice president, any senior vice president, any vice president or the chief operating officer of such Person and any other individual or similar official thereof responsible for the administration of the obligations of such Person in respect of this Agreement, and, as to any document delivered on the Signing Date or Closing Date, shall include any secretary or assistant secretary or any other individual or similar official thereof with substantially equivalent responsibilities of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

**“Responsible Officer Certification”** means, with respect to the financial statements for which such certification is required, the certification of a Responsible Officer of the Lux Borrower that such financial statements fairly present, in all material respects, in accordance with GAAP, the consolidated financial condition of the Lux Borrower as at the dates indicated and the results of its operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments; it being understood and agreed that no financial statements delivered pursuant to Section 5.01(a) shall be required to reflect purchase accounting adjustments relating to the Acquisition or any other consummated acquisition until the delivery of annual financial statements pursuant to Section

5.01(b) with respect to the Fiscal Year in which the Acquisition or such other acquisition, as applicable, were consummated.

**“Restricted Amount”** has the meaning set forth in Section 2.10(b)(iv).

**“Restricted Debt”** has the meaning set forth in Section 6.04(b).

**“Restricted Debt Payment”** has the meaning set forth in Section 6.04(b).

**“Restricted Payment”** means (a) any dividend or other distribution on account of any shares of any class of the Capital Stock of the Lux Borrower, except a dividend payable solely in shares of Qualified Capital Stock to the holders of such class; (b) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value of any shares of any class of the Capital Stock of the Lux Borrower, (c) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of the Capital Stock of the Lux Borrower now or hereafter outstanding and (d) any payment with respect to any Subordinated Shareholder Debt of the Lux Borrower or any redemption, retirement, sinking fund or similar payment, purchase, defeasance or other acquisition for value of any Subordinated Shareholder Debt of the Lux Borrower.

**“Restricted Subsidiary”** means, as to any Person, any subsidiary of such Person that is not an Unrestricted Subsidiary. Unless otherwise specified, “Restricted Subsidiary” shall mean any Restricted Subsidiary of the Lux Borrower.

**“Revaluation Date”** means (a) with respect to any Revolving Loan or Swingline Loan denominated in an Alternate Currency, each of the following: (i) each date of a Borrowing of such Revolving Loan or Swingline Loan, (ii) each date of a continuation of such Revolving Loan pursuant to the terms of this Agreement, (iii) the last day of each Fiscal Quarter and (iv) the date of any voluntary reduction of a Revolving Credit Commitment pursuant to Section 2.08(c); (b) with respect to any Letter of Credit or Bank Guarantee denominated in an Alternate Currency, each of the following: (i) each date of issuance of such a Letter of Credit or Bank Guarantee, (ii) each date of an amendment of such a Letter of Credit or Bank Guarantee that would have the effect of increasing the face amount thereof and (iii) the last day of each Fiscal Quarter; (c) with respect to any Ancillary Facility denominated in an Alternate Currency, the last day of each Fiscal Quarter; (d) such additional dates as the Administrative Agent or the respective Issuing Bank or Guarantee Bank shall determine, or the Required Revolving Lenders shall require, at any time when (i) an Event of Default has occurred and is continuing or (ii) to the extent that, and for so long as, the Aggregate Revolving Credit Exposure (for such purpose, using the Euro Equivalent in effect for the most recent Revaluation Date) exceeds 75% of the Total Revolving Credit Commitment and (e) with respect to the Unused Revolving Credit Commitment of a given Lender pursuant to Section 2.11(a), each day of the applicable period such Unused Revolving Credit Commitment is in effect.

**“Revolving Borrower Joinder”** means the joinder hereto by any Additional Revolving Borrower, as a new Revolving Borrower pursuant to a joinder agreement in the substantially the form of Exhibit A hereto, among such Additional Revolving Borrower and the Administrative Agent.

**“Revolving Borrowers”** means (a) the Lux Borrower, (b) the US Borrower and/or (c) any Additional Revolving Borrower.

**“Revolving Borrowing”** means a Borrowing of Revolving Loans under this Agreement.

**“Revolving Credit Commitment”** means each Initial Revolving Credit Commitment and each Additional Revolving Commitment.

**“Revolving Credit Exposure”** means, with respect to any Lender at any time, the aggregate Outstanding Amount at such time of all Revolving Loans of such Lender, *plus* the aggregate amount at such time of such Lender’s LC Exposure, *plus* the aggregate amount at such time of such Lender’s Bank Guarantee Exposure, *plus* the aggregate amount at such time of such Lender’s participations in the Outstanding Amount of any Swingline Loans.

**“Revolving Facility”** means the Initial Revolving Facility, any Incremental Revolving Facility, any Extended Revolving Facility and any Replacement Revolving Facility.

**“Revolving Facility Test Condition”** means, as of any date of determination, without duplication, that the aggregate Outstanding Amount of all Revolving Loans (including Swingline Loans), LC Obligations and Bank Guarantee Obligations (excluding (x) unreimbursed LC Disbursements which are reimbursed within three Business Days (except to the extent reimbursed with the proceeds of Revolving Loans or Swingline Loans), (y) unreimbursed Bank Guarantee Disbursements which are reimbursed within three Business Days (except to the extent reimbursed with the proceeds of Revolving Loans or Swingline Loans) or (z) undrawn Letters of Credit and undrawn Bank Guarantees) exceeds an amount equal to 35% of the Total Revolving Credit Commitment.

**“Revolving Lender”** means any Initial Revolving Lender and any Additional Revolving Lender. Unless the context otherwise requires, the term “Revolving Lenders” shall include the Swingline Lender.

**“Revolving Loans”** means the revolving Loans made by the Lenders to the Revolving Borrowers pursuant to Section 2.01(b).

**“Rollover Term Loans”** has the meaning assigned to such term in the definition of “Applicable Ticking Fee Rate”.

**“S&P”** means Standard & Poor’s Financial Services LLC, a subsidiary of the McGraw-Hill Companies, Inc.

**“Sale and Lease-Back Transaction”** has the meaning assigned to such term in Section 6.08.

**“Same Day Funds”** means disbursements and payments in immediately available funds.

**“Sanctions”** means all economic or financial sanctions or trade embargoes or export controls imposed, enacted, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury (“OFAC”) or (b) the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom.

**“Sanctioned Country”** means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (at the time of this Agreement, the Crimea region, Cuba, Iran, North Korea, Sudan and Syria).

**“Sanctioned Person”** means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the U.S. government, including OFAC, or by the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom, (b) any Person

operating, organized or resident in a Sanctioned Country, except that a Non-US Person shall not be a Sanctioned Person on the basis of having transactions in or relating to a Sanctioned Country that are not prohibited by Sanctions, or (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

“**Savings Directive**” has the meaning assigned to such term in Section 2.16(e)(ii)(E).

“**Scheduled Consideration**” has the meaning assigned to such term in the definition of “Excess Cash Flow”.

“**Scheme**” means the scheme detailed in the Acquisition Agreement and submitted to the High Court of New Zealand for approval in accordance with Part 15 of the Companies Act.

“**Scheme Booklet**” means the scheme booklet for the Scheme proposed by the Target, filed and dated in accordance with the Acquisition Document.

“**Scheme Documents**” means the Acquisition Agreement, the Scheme Booklet and all other agreements entered into by Bidco as expressly required by the Acquisition Agreement.

“**SEC**” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of its functions.

“**Secured Banking Services Obligations**” means all Banking Services Obligations (a) under any arrangement (but excluding any arrangement documenting any Ancillary Facilities) that is in effect on the Closing Date between any Loan Party and a counterparty that is the Administrative Agent, a Lender, an Arranger or an Affiliate of the Administrative Agent, a Lender or an Arranger as of the Closing Date or (b) under any arrangement (but excluding any arrangement documenting any Ancillary Facilities) that is entered into after the Closing Date between any Loan Party and any counterparty that is the Administrative Agent, a Lender, an Arranger, or an Affiliate of the Administrative Agent, a Lender or an Arranger at the time such arrangement is entered into, in each case, that has (x) been designated to the Administrative Agent in writing by the Lux Borrower as being a Secured Banking Services Obligation for the purposes of the Loan Documents and (y) acceded to the Intercreditor Agreement as a Banking Services Provider (as defined in the Intercreditor Agreement) by executing an Ancillary Lender/Banking Services Provider Intercreditor Joinder Agreement (as defined in the Intercreditor Agreement) in accordance with Section 6.03 of the Intercreditor Agreement, it being understood that each counterparty thereto shall be deemed (A) to appoint the Administrative Agent as its agent under the applicable Loan Documents and (B) to agree to be bound by the provisions of Article 8, Section 9.03 and Section 9.10 as if it were a Lender.

“**Secured Hedging Obligations**” means all Hedging Obligations (other than any Excluded Swap Obligation and any Ancillary Obligation) under each Hedge Agreement that (a) is in effect on the Closing Date between any Loan Party and a counterparty that is the Administrative Agent, a Lender, an Arranger or an Affiliate of the Administrative Agent, a Lender or an Arranger as of the Closing Date or (b) is entered into after the Closing Date between any Loan Party and any counterparty that is the Administrative Agent, a Lender, an Arranger or an Affiliate of the Administrative Agent, a Lender or an Arranger at the time such Hedge Agreement is entered into, for which such Borrower or such Loan Party agrees to provide security, in each case that has (x) been designated to the Administrative Agent in writing by the Lux Borrower as being a Secured Hedging Obligation for the purposes of the Loan Documents and (y) is party to the Intercreditor Agreement as a First Lien Hedge Counterparty (as

defined in the Intercreditor Agreement) on the Closing Date or (II) has acceded thereto as a First Lien Hedge Counterparty by executing and delivering an instrument in the form of Annex V of the Intercreditor Agreement in accordance with Section 16.09 of the Intercreditor Agreement, it being understood that each counterparty thereto shall be deemed (A) to appoint the Administrative Agent as its agent under the applicable Loan Documents and (B) to agree to be bound by the provisions of Article 8, Sections 9.03 and Section 9.10 as if it were a Lender.

**“Secured Obligations”** means all Obligations, together with (a) all Secured Banking Services Obligations, (b) all Secured Hedging Obligations and (c) all Ancillary Obligations; provided that Secured Banking Services Obligations, Secured Hedging Obligations and Ancillary Obligations shall cease to constitute Secured Obligations on and after the Termination Date.

**“Secured Parties”** means (i) the Lenders, (ii) the Administrative Agent, (iii) each counterparty to a Hedge Agreement with a Loan Party the obligations under which constitute Secured Hedging Obligations, (iv) each provider of Banking Services to any Loan Party with respect to which the Banking Services Obligations constitute Secured Banking Services Obligations, (v) each Ancillary Lender, and (vi) the beneficiaries of each indemnification obligation undertaken by any Loan Party under any Loan Document.

**“Securities”** means any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as “securities” or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing; provided that “Securities” shall not include any earn-out agreement or obligation or any employee bonus or other incentive compensation plan or agreement.

**“Securities Act”** means the Securities Act of 1933 and the rules and regulations of the SEC promulgated thereunder.

**“Senior Secured Leverage Ratio”** means the ratio, as of any date of determination, of (a) Consolidated Senior Secured Debt as of such date to (b) Consolidated Adjusted EBITDA for the Test Period then most recently ended, in each case for the Lux Borrower and its Restricted Subsidiaries.

**“Signing Date”** means the date on which each of the conditions under Section 4.01 is satisfied (or waived in accordance with Section 9.02).

**“Similar Business”** means any Person the majority of the revenues of which are derived from a business that would be permitted by Section 6.10 if the references to “Restricted Subsidiaries” in Section 6.10 were read to refer to such Person.

“SPC” has the meaning assigned to such term in Section 9.05(e).

**“Specified Acquisition Agreement Representations”** means the representations made by or on behalf of the Target, its subsidiaries and their respective businesses in the Acquisition Agreement as are material to the interests of the Lenders, but only to the extent that Allnex Belgium (or any of its applicable Affiliates) has the right to terminate its (or their) obligations under the Acquisition Agreement or decline to consummate the Acquisition as a result of the breach of such representations.

**“Specified Representations”** means the representations and warranties set forth in Sections 3.01(a) (as it relates to organizational existence of the Closing Date Loan Parties), 3.02 (as it relates to corporate or organizational power in connection with the due authorization, execution, delivery and performance of the Loan Documents and the enforceability thereof, in each case, with respect to the Closing Date Loan Parties), 3.03(b)(i) (as it relates to the Closing Date Loan Parties), 3.08, 3.12, 3.14 (subject to the last sentence of Section 4.02, as it relates to the creation, validity, perfection and priority of the security interests in the Collateral of the Closing Date Loan Parties), 3.16, 3.17(a)(ii), 3.17(c) and 3.17(d) (but in the case of Section 3.17, solely to the Lux Borrower’s knowledge with respect to the Target and its subsidiaries).

**“Sponsor”** means Advent International Corporation and any of its controlled Affiliates and funds managed or advised by it or its controlled Affiliates.

**“Spot Rate”** means, for any currency, on any Revaluation Date or other relevant date of determination, the rate determined by the Administrative Agent to be the rate quoted by the Administrative Agent as the spot rate for the purchase by the Administrative Agent of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date that is two Business Days prior to the date as of which the foreign exchange computation is made; provided that the Administrative Agent may obtain such spot rate from another financial institution designated by the Administrative Agent if the Administrative Agent does not have as of the date of determination a spot buying rate for any such currency.

**“Standby Letter of Credit”** means any Letter of Credit other than a Commercial Letter of Credit.

**“Stated Amount”** means, with respect to each Letter of Credit, at any time, the maximum amount available to be drawn thereunder, in each case determined (x) as if any future automatic increases in the maximum available amount provided for in any such Letter of Credit had in fact occurred at such time and (y) without regard to whether any conditions to drawing could then be met but after giving effect to all previous drawings made thereunder.

**“Statutory Reserve Rate”** means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject with respect to the Adjusted Eurocurrency Rate, for Eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurocurrency Rate Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

**“Subject Person”** has the meaning assigned to such term in the definition of “Consolidated Net Income”.

**“Subject Proceeds”** has the meaning assigned to such term in Section 2.10(b)(ii).

**“Subject Term Loans”** means, as of any date of determination, the Initial Term Loans and any Additional Term Loans subject to ratable prepayment requirements in accordance with Section 2.10(b)(vi) on such date of determination.

**“Subject Transaction”** means, with respect to any Test Period, (a) the Transactions, (b) any Permitted Acquisition or any other acquisition, whether by purchase, merger or otherwise, of all or substantially all of the assets of, or any business line, unit or division of, any Person or any facility, or of a majority of the outstanding Capital Stock of any Person (including any Investment in a subsidiary which serves to increase any Borrower’s or any subsidiary’s respective equity ownership in such subsidiary or any acquisition or Investment in any joint venture for the purpose of purchasing any or all of the interests of any joint venture partner), in each case permitted by this Agreement, (c) any Disposition of all or substantially all of the assets or Capital Stock of a subsidiary (or any business unit, line of business or division of any Borrower or a Restricted Subsidiary) not prohibited by this Agreement, (d) the designation of a Restricted Subsidiary as an Unrestricted Subsidiary or an Unrestricted Subsidiary as a Restricted Subsidiary in accordance with Section 5.10 hereof, (e) the incurrence or repayment of Indebtedness, (f) the implementation of any Cost Savings Initiative and/or or (g) any other event that by the terms of the Loan Documents requires pro forma compliance with a test or covenant hereunder or requires such test or covenant to be calculated on a Pro Forma Basis.

**“Subordinated Indebtedness”** means any Indebtedness of the Lux Borrower or any of its Restricted Subsidiaries that is expressly subordinated in right of payment to the Obligations.

**“Subordinated Shareholder Debt”** means any debt provided to Holdings and/or the Lux Borrower owing to any direct or indirect parent thereof in exchange for or pursuant to any security, instrument or agreement other than Capital Stock (for purposes of this definition, excluding Subordinated Shareholder Debt as Qualified Capital Stock), together with any such security, instrument or agreement and any other security or instrument other than Capital Stock issued in payment of any obligation under any Subordinated Shareholder Debt; provided that:

(a) such debt does not (including upon the happening of any event) mature or require any amortization or other payment of principal prior to the date that is six months after the then Latest Maturity Date (other than by way of conversion or exchange of any such security or instrument for Capital Stock of the Lux Borrower or any Parent Company (other than Disqualified Capital Stock) or for any other security or instrument meeting the requirements of the definition);

(b) such debt does not (including upon the happening of any event) require the payment of cash interest prior to the date that is six months after the then Latest Maturity Date;

(c) such debt does not (including upon the happening of any event) provide for any covenants (other than covenants for which the failure to comply has no consequences), any mandatory redemption or the acceleration of its maturity nor confer on its shareholders any right (including upon the happening of any event) to declare a default or event of default or take any enforcement action, in each case, prior to the date that is six months after the then Latest Maturity Date,

(d) such debt is not secured by a lien on any asset of Holdings, the Lux Borrower or any Restricted Subsidiary of Holdings and is not guaranteed by the Lux Borrower, or any Restricted Subsidiary of Holdings;

(e) such debt shall be subject to an Acceptable Intercreditor Agreement as an “Investor Obligation” (as defined in the Intercreditor Agreement) or equivalent term in any Acceptable Intercreditor Agreement;

(f) such debt does not (including upon the happening of any event) restrict the payment of amounts due in respect of this Agreement or compliance by Holdings and/or the Lux Borrower, as applicable, and their Restricted Subsidiaries with their obligations hereunder; and

(g) such debt is not (including upon the happening of any event) mandatorily convertible or exchangeable, or convertible or exchangeable at the option of the holder, in whole or in part, prior to the date that is six months after the then Latest Maturity Date other than into or for Capital Stock (other than Disqualified Capital Stock) of Holdings or any Parent Company.

**“subsidiary”** means, with respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity of which more than 50% of the total voting power of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other subsidiaries of that Person or a combination thereof; provided that in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interests in the nature of a “qualifying share” of the former Person shall be deemed to be outstanding; provided, further, that (x) except as otherwise provided under Section 1.11(a), Entis Co. Ltd. shall not be deemed to be a subsidiary for any purpose under this Agreement or the other Loan Documents unless and until such time as the Lux Borrower designates such joint venture as a subsidiary hereunder in a writing delivered to the Administrative Agent and (y) the Lux Borrower may at any time in its discretion, with respect to any other joint venture (or other non-wholly owned entity) in which it, directly or indirectly, maintains Investments, designate in a writing delivered to the Administrative Agent that such joint venture shall not be deemed to be a subsidiary for any purpose under this Agreement or the other Loan Documents. Unless otherwise specified, “subsidiary” shall mean any subsidiary of the Lux Borrower.

**“Subsidiary Guarantors”** means the US Subsidiary Guarantors and the Non-US Subsidiary Guarantors.

**“Successor Borrower”** has the meaning assigned to such term in Section 6.07(a).

**“Successor Holdings”** means the surviving Person (other than Holdings) of any merger, consolidation or amalgamation between Holdings and any other Person to the extent permitted by Section 6.14(a)(iv).

**“Successor Intermediate Holdco”** has the meaning assigned to such term in Section 6.07(a).

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

**“Swingline Exposure”** means, at any time, the Euro Equivalent of the aggregate principal amount of all Swingline Loans outstanding at such time. The Swingline Exposure of any Revolving

Lender at any time shall equal to its Applicable Percentage of the aggregate Swingline Exposure at such time.

**“Swingline Lender”** means ING, in its capacity as lender of Swingline Loans hereunder, or any successor lender of Swingline Loans hereunder.

**“Swingline Loan”** means a Loan made pursuant to Section 2.04.

**“Target”** has the meaning assigned to such term in the Recitals to this Agreement.

**“TARGET Day”** means any day on which the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET) payment system (or, if such payment system ceases to be operative, such other payment system (if any) determined by the Administrative Agent to be a suitable replacement) is open for the settlement of payments in Euros.

**“Target Revolving Facility”** means. that certain Nuplex Multicurrency Revolving Syndicated Facility, dated as of December 6, 2013, by and among, *inter alios*, the Target and the Commonwealth Bank of Australia.

**“Target USPP Facility”** means that certain Note and Guarantee Agreement, dated as of July 30, 2012, by and among, *inter alios*, Nuplex Industries GmbH, Nuplex Industries B.V. and the Target, as a guarantor.

**“Taxes”** means any and all present and future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

**“Termination Date”** has the meaning assigned to such term in the lead-in to Article 5.

**“Term Borrowers”** means (a) the Lux Borrower and (b) the US Borrower.

**“Term Borrowing”** means a Borrowing of Term Loans under this Agreement.

**“Term Commitment”** means any Initial Term Loan Commitment and any Additional Term Commitment.

**“Term Facility”** means the Term Loans provided to or for the benefit of the Borrowers pursuant to the terms of this Agreement.

**“Term Lender”** means any Initial Term Lender and any Additional Term Lender.

**“Term Loan”** means the Tranche B-1 Term Loans, the Tranche B-2 Term Loans, the Tranche B-3 Term Loans and any Additional Term Loans.

**“Test Period”** means, as of any date, the period of four consecutive Fiscal Quarters then most recently ended for which financial statements under Section 5.01(a) or Section 5.01(b), as applicable, have been delivered (or are required to have been delivered); it being understood and agreed that prior to the first delivery of financial statements of Section 5.01(a), “Test Period” means the period of four consecutive Fiscal Quarters most-recently ended in respect of which financial statements for Lux Borrower and the Target are available.

**“Threshold Amount”** means €30,000,000.

**“Ticking Fee”** has the meaning assigned to such term in Section 2.11(g).

**“Total Leverage Ratio”** means the ratio, as of any date of determination, of (a) Consolidated Total Debt as of such date to (b) Consolidated Adjusted EBITDA for the Test Period then most recently ended.

**“Total Revolving Credit Commitment”** means, at any time, the aggregate amount of the Revolving Credit Commitments, as in effect at such time.

**“Trademark”** means the following: (a) all trademarks (including service marks), common law marks, trade names, trade dress, and logos, slogans and other indicia of origin under the laws of any jurisdiction in the world, and the registrations and applications for registration thereof and the goodwill of the business symbolized by the foregoing; (b) all renewals of the foregoing; (c) all income, royalties, damages, and payments now or hereafter due or payable with respect thereto, including, without limitation, damages, claims, and payments for past and future infringements thereof; (d) all rights to sue for past, present, and future infringements of the foregoing, including the right to settle suits involving claims and demands for royalties owing; and (e) all domestic rights corresponding to any of the foregoing.

**“Tranche B-1 Commitment”** means, with respect to each Term Lender, the commitment of such Term Lender to make Tranche B-1 Term Loans hereunder as set forth (x) on the Commitment Schedule or (y) in the Cashless Settlement Letter applicable to such Term Lender, as the same may be (a) reduced from time to time pursuant to Section 2.08 and (b) reduced or increased from time to time pursuant to (i) assignments by or to such Term Lender pursuant to Section 9.05 or (ii) an Additional Term Commitment; provided that the aggregate amount of the Tranche B-1 Commitments as of the Signing Date shall be €730,000,000.

**“Tranche B-2 Commitment”** means, with respect to each Term Lender, the commitment of such Term Lender to make Tranche B-2 Term Loans hereunder as set forth (x) on the Commitment Schedule or (y) in the Cashless Settlement Letter applicable to such Term Lender, as the same may be (a) reduced from time to time pursuant to Section 2.08 and (b) reduced or increased from time to time pursuant to (i) assignments by or to such Term Lender pursuant to Section 9.05 or (ii) an Additional Term Commitment; provided that the aggregate amount of the Tranche B-2 Commitments as of the Signing Date shall be \$398,200,000.

**“Tranche B-3 Commitment”** means, with respect to each Term Lender, the commitment of such Term Lender to make Tranche B-3 Term Loans hereunder as set forth (x) on the Commitment Schedule or (y) in the Cashless Settlement Letter applicable to such Term Lender, as the same may be (a) reduced from time to time pursuant to Section 2.08 and (b) reduced or increased from time to time pursuant to (i) assignments by or to such Term Lender pursuant to Section 9.05 or (ii) an Additional Term Commitment; provided that the aggregate amount of the Tranche B-3 Commitments as of the Signing Date shall be \$300,000,000.

**“Tranche B-1 Term Loans”** means the term loans made by the Initial Term Lenders to the Lux Borrower pursuant to Section 2.01(a)(i)(A).

**“Tranche B-2 Term Loans”** means the term loans made by the Initial Term Lenders to the Lux Borrower pursuant to Section 2.01(a)(i)(B).

**“Tranche B-3 Term Loans”** means the term loans made by the Initial Term Lenders to the US Borrower pursuant to Section 2.01(a)(i)(C).

**“Transaction Costs”** means fees, premiums, expenses and other transaction costs (including original issue discount or upfront fees) payable or otherwise borne by Holdings, the Lux Borrower and its subsidiaries in connection with the Transactions and the transactions contemplated thereby.

**“Transaction Settlement Agreement”** has the meaning assigned to such term in the Funding and Logistics Memorandum.

**“Transactions”** means, collectively, (a) the execution, delivery and performance by the Loan Parties of the Loan Documents to which they are a party and the Borrowing of Loans hereunder, (b) the Acquisition and the other transactions contemplated by the Acquisition Agreement, (c) the Refinancing, (d) the transactions expressly contemplated in the E&Y Steps Memo and any actions necessary to implement such transactions and (e) the payment of the Transaction Costs.

**“Treasury Capital Stock”** has the meaning assigned to such term in Section 6.04(a)(viii).

**“Type”**, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted Eurocurrency Rate or the Alternate Base Rate.

**“UCC”** means the Uniform Commercial Code as in effect from time to time in the State of New York or any other state the laws of which are required to be applied in connection with the creation or perfection of security interests.

**“Unrestricted Cash Amount”** means, as to any Person on any date of determination, the amount of (a) unrestricted Cash and Cash Equivalents of such Person whether or not held in an account pledged to the Administrative Agent and (b) Cash and Cash Equivalents of such Person restricted in favor of the Credit Facilities (which may also include Cash and Cash Equivalents securing other Indebtedness secured by a Lien on any Collateral along with the Credit Facilities), in each case as determined in accordance with GAAP.

**“Unrestricted Subsidiary”** means any subsidiary of Allnex Holdings designated by the Lux Borrower as an Unrestricted Subsidiary on the Closing Date or pursuant to Section 5.10.

**“Unused Revolving Credit Commitment”** of any Revolving Lender, at any time, means the Revolving Credit Commitment of such Lender at such time, if any, less the sum of (a) the Outstanding Amount of Revolving Loans made by such Lender, (b) such Lender’s LC Exposure at such time, (c) such Lender’s Bank Guarantee Exposure at such time and (d) except for purposes of Section 2.11(a), such Lender’s Applicable Percentage of the Outstanding Amount of Swingline Loans.

**“U.S.”** means the United States of America.

**“USA PATRIOT Act”** means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)).

**“US Borrower”** has the meaning assigned to such term in the preamble to this Agreement.

**“US Holdco”** means Allnex Holding USA Inc. (f/k/a AI Chem & Cy US HoldCo, Inc.), a Delaware corporation.

**“US Loan Parties”** means the US Borrower, US Holdco and the US Subsidiary Guarantors.

**“US Security Agreement”** means the US Pledge and Security Agreement, substantially in the form of Exhibit L, among the US Loan Parties and the Administrative Agent for the benefit of the Secured Parties.

**“US Subsidiary Guarantor”** means (x) on the Closing Date, each Domestic Subsidiary listed on Part C of Schedule 3.13 and (y) thereafter, each other Domestic Subsidiary that is or becomes a party to a Loan Guaranty pursuant to Section 5.12, in each case, until such time as the respective Domestic Subsidiary is released from its obligations under such Loan Guaranty in accordance with the terms and provisions hereof.

**“U.S. Tax Compliance Certificate”** has the meaning assigned to such term in Section 2.16(f).

**“Weighted Average Life to Maturity”** means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

**“Wholly-Owned Subsidiary”** of any Person means a subsidiary of such Person, 100% of the Capital Stock of which (other than directors’ qualifying shares or shares required by law to be owned by a resident of the relevant jurisdiction) shall be owned by such Person or by one or more Wholly-Owned Subsidiaries of such Person; provided that Surface Specialties Holding GmbH and any other subsidiary organized in Germany for which a minority interest may be granted to a third party solely for German real estate transfer tax planning purposes shall be deemed to be a Wholly-Owned Subsidiary for all purposes under this Agreement and the other Loan Documents.

**“Write-Down and Conversion Powers”** means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Section 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Tranche B-1 Term Loan”) or by Type (e.g., a “Eurocurrency Rate Loan”) or by Class and Type (e.g., a “Eurocurrency Rate Tranche B-1 Term Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Tranche B-1 Term Borrowing”) or by Type (e.g., a “Eurocurrency Rate Borrowing”) or by Class and Type (e.g., a “Eurocurrency Rate Tranche B-1 Term Borrowing”).

Section 1.03. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be

construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein or in any Loan Document (including any Loan Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, amended and restated, supplemented or otherwise modified or extended, replaced or refinanced (subject to any restrictions or qualifications on such amendments, restatements, amendment and restatements, supplements or modifications or extensions, replacements or refinancings set forth herein), (b) any reference to any law or any Requirement of Law in any Loan Document shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Requirement of Law, (c) any reference herein or in any Loan Document to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein,” “hereof” and “hereunder,” and words of similar import, when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision hereof, (e) all references herein or in any Loan Document to Articles, Sections, clauses, paragraphs, Exhibits and Schedules shall be construed to refer to Articles, Sections, clauses and paragraphs of, and Exhibits and Schedules to, such Loan Document, (f) in the computation of periods of time in any Loan Document from a specified date to a later specified date, the word “from” means “from and including”, the words “to” and “until” mean “to but excluding” and the word “through” means “to and including” and (g) the words “asset” and “property”, when used in any Loan Document, shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including Cash, securities, accounts and contract rights. For purposes of determining compliance at any time with Sections 6.01, 6.02, 6.04 (other than Section 6.04(a)(xii)), 6.05, 6.06 (other than Section 6.06(gg)), 6.07 and 6.09, in the event that any Indebtedness, Lien, contractual restriction, Restricted Payment, Restricted Debt Payment, Investment, Disposition or affiliate transaction, as applicable, meets the criteria of more than one of the categories of transactions or items permitted pursuant to any clause of such Sections 6.01 (other than Sections 6.01(a) and (y), 6.02 (other than Sections 6.02(a) and (t)), 6.04, 6.05, 6.06, 6.07 and 6.09), the Lux Borrower, in its sole discretion, may, from time to time, classify or reclassify such transaction or item (or portion thereof) and will only be required to include the amount and type of such transaction (or portion thereof) in any one category. It is understood and agreed that any Indebtedness, Lien, Restricted Payment, Restricted Debt Payment, Investment, Disposition and/or Affiliate transaction need not be permitted solely by reference to one category of permitted Indebtedness, Lien, Restricted Payment, Restricted Debt Payment, Investment, Disposition and/or Affiliate transaction under Sections 6.01, 6.02, 6.04, 6.05, 6.06, 6.07 or 6.09, respectively, but may instead be permitted in part under any combination thereof.

Section 1.04. Accounting Terms; GAAP.

(a) All financial statements to be delivered pursuant to this Agreement shall be prepared in accordance with GAAP as in effect from time to time and, except as otherwise expressly provided herein, all terms of an accounting or financial nature that are used in calculating the Total Leverage Ratio, the First Lien Leverage Ratio, the Senior Secured Leverage Ratio, the Interest Coverage Ratio, Consolidated Adjusted EBITDA or Consolidated Total Assets shall be construed and interpreted in accordance with GAAP, as in effect from time to time; provided that if the Lux Borrower notifies the Administrative Agent that the Lux Borrower requests an amendment to any provision hereof to eliminate the effect of any change in GAAP occurring after the date of delivery of the financial statements described in Section 3.04(a) or in the application thereof (including the conversion to IFRS as described below and any change in the functional currency reflected in the financial statements) on the operation of such provision (or if the Administrative Agent notifies the Lux Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is

given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith; provided, further, that the Lux Borrower or the Required Lenders may request to amend the relevant affected provisions hereof (whether or not the request for such amendment is delivered before or after the relevant change or election) to eliminate the effect of such change or election, as the case may be, on the operation of such provisions and (w) the Lux Borrower and the Administrative Agent shall negotiate in good faith to enter into an amendment of the relevant affected provisions (it being understood that no amendment or similar fee shall be payable to the Administrative Agent or any Lender in connection therewith) to preserve the original intent thereof in light of the applicable change or election, as the case may be, (x) the relevant affected provisions shall be interpreted on the basis of GAAP as in effect and applied immediately prior to the applicable change or election, as the case may be, until the request for amendment has been withdrawn by the Lux Borrower or the Required Lenders, as applicable, or this Agreement has been amended as contemplated hereby, (y) after giving effect to any such amendment, the term "GAAP" as used herein shall be deemed to be a reference to IFRS; it being understood and agreed that the Lux Borrower may not convert to GAAP after exercising its right or complying with any requirement to report under IFRS and (z) to the extent any such amendment is requested prior to the Closing Date, such amendment will be negotiated in good faith between the Lux Borrower and the Left Lead Arranger (and shall be reasonably acceptable to the Required Initial Signing Date Lenders) and the Administrative Agent shall execute any such amendment unless it imposes new materially burdensome representations or warranties on the Administrative Agent or would cause the Administrative Agent to violate applicable Requirements of Law; provided, further, that all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made without giving effect to (i) any election under Accounting Standards Codification 825-10-25 (previously referred to as Statement of Financial Accounting Standards 159) (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrowers or any subsidiary at "fair value," as defined therein and (ii) any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof. If the Lux Borrower notifies the Administrative Agent that it (or its applicable Parent Company) is required to report under IFRS or has elected to do so through an early adoption policy or otherwise, "GAAP" shall mean international financial reporting standards pursuant to IFRS (provided that after such conversion, the Lux Borrower cannot elect to report under GAAP).

(b) Notwithstanding anything to the contrary contained in paragraph (a) above or the definition of "Capital Lease," in the event of an accounting change requiring all leases to be capitalized, only those leases (assuming for purposes hereof that they were in existence on the date hereof) that would constitute Capital Leases on the date hereof shall be considered Capital Leases and all calculations and deliverables under this Agreement or any other Loan Document shall be made or delivered, as applicable, in accordance therewith.

Section 1.05. Effectuation of Transactions. Each of the representations and warranties of the Loan Parties contained in this Agreement (and all corresponding definitions) are made after giving effect to the Transactions, unless the context otherwise requires.

Section 1.06. Timing of Payment of Performance. When payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension.

Section 1.07. Times of Day. Unless otherwise specified herein, all references herein to times of day shall be references to London time (daylight or standard, as applicable).

Section 1.08. Exchange Rate; Currency Equivalents Generally.

(a) The Administrative Agent shall determine the Spot Rates as of each Revaluation Date to be used for calculating the Euro Equivalent amounts of Revolving Loans, Letters of Credit, Bank Guarantees and Ancillary Outstandings denominated in an Alternate Currency. Such Spot Rates shall become effective as of such Revaluation Date and shall be the Spot Rates employed in converting any amounts between an Alternate Currency and Euros until the next Revaluation Date to occur.

(b) Notwithstanding anything to the contrary in clause (a) above, for purposes of any determination under Article 5, Article 6 (other than Section 6.15 and the calculation of compliance with any financial ratio for purposes of taking any action hereunder) or Article 7 with respect to the amount of any Indebtedness, Lien, contractual restriction, Restricted Payment, Restricted Debt Payment, Investment, Disposition, Sale and Lease-Back Transaction, affiliate transaction or other transaction, event or circumstance, or any determination under any other provision of this Agreement, (any of the foregoing, a “**specified transaction**”) in a currency other than Euros, (i) the Euro Equivalent amount of a specified transaction in a currency other than Euros shall be calculated based on the rate of exchange quoted by the Bloomberg Foreign Exchange Rates & World Currencies Page (or any successor page thereto, or in the event such rate does not appear on any Bloomberg Page, by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Lux Borrower) for such currency, as in effect at 11:00 a.m. (London time) on the date of such specified transaction (which, in the case of any Restricted Payment, shall be deemed to be the date of the declaration thereof and, in the case of the incurrence of Indebtedness, shall be deemed to be on the date first committed); provided, that if any Indebtedness is incurred (and, if applicable, associated Lien granted) to refinance or replace other Indebtedness denominated in a currency other than Euros, and such refinancing or replacement would cause the applicable Euro-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing or replacement, such Euro-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing or replacement Indebtedness (and, if applicable, associated Lien granted) does not exceed an amount sufficient to repay the principal amount of such Indebtedness being refinanced or replaced, except by an amount equal to (x) unpaid accrued interest and premiums (including tender premiums) thereon plus other reasonable and customary fees and expenses (including upfront fees and original issue discount) incurred in connection with such refinancing or replacement, (y) any existing commitments unutilized thereunder and (z) additional amounts permitted to be incurred under Section 6.01 and (ii) for the avoidance of doubt, no Default or Event of Default shall be deemed to have occurred solely as a result of a change in the rates of currency exchange occurring after the time of any specified transaction so long as such specified transaction was permitted at the time incurred, made, acquired, committed, entered or declared as set forth in

clause (i). For purposes of Section 6.15 and the calculation of compliance with any financial ratio for purposes of taking any action hereunder, on any date of determination, amounts in currencies other than Euros shall be translated into Euros at the currency exchange rate used in preparing the financial statements delivered pursuant to Section 5.01(a) or (b) corresponding to such Test Period as of the date of determination and will, in the case of Indebtedness, reflect the currency translation effects, determined in accordance with GAAP, of any Hedge Agreement permitted hereunder in respect of currency exchange risks with respect to the applicable currency in effect on the date of determination for the Euro Equivalent amount of such Indebtedness. Notwithstanding the foregoing or anything to the contrary herein, to the extent that the Lux Borrower would not be in compliance with Section 6.15 if any Indebtedness denominated in a currency other than Euros were to be translated into Euros on the basis of the applicable currency exchange rate used in preparing the financial statements delivered pursuant to Section 5.01(a) or (b), as applicable, for the relevant Test Period (or, prior to the first such delivery, the financial statements referred to in Section 3.04), but would be in compliance with Section 6.15 if such Indebtedness that is denominated in a currency other than in Euros were instead translated into Euros on the basis of the average relevant currency exchange rates over such Test Period (taking into account the currency translation effects, determined in accordance with GAAP, of any Hedge Agreement permitted hereunder in respect of currency exchange risks with respect to the applicable currency in effect on the date of determination for the Euro Equivalent amount of such Indebtedness), then, solely for purposes of compliance with Section 6.15, the First Lien Leverage Ratio as of the last day of such Test Period shall be calculated on the basis of such average relevant currency exchange rates; provided that the amount of any Indebtedness that is subject to a Debt FX Hedge shall be determined in accordance with the definition of "Consolidated Total Debt".

(c) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify with the Lux Borrower's consent to appropriately reflect a change in currency of any country and any relevant market conventions or practices relating to such change in currency.

#### Section 1.09. Additional Alternate Currencies.

(a) The Lux Borrower may from time to time request that Revolving Loans be made and/or Letters of Credit and/or Bank Guarantees be issued in a currency other than those specifically listed in the definition of "Alternate Currency"; provided that such requested currency is a lawful currency (other than Euros) that is readily available and freely transferable and convertible into Euros. In the case of any such request with respect to the making of Revolving Loans, such request shall be subject to the approval of the Administrative Agent and the Revolving Lenders; in the case of any such request with respect to the issuance of Letters of Credit, such request shall be subject to the approval of the Administrative Agent and the applicable Issuing Bank; and, in the case of any such request with respect to the issuance of Bank Guarantees, such request shall be subject to the approval of the Administrative Agent and the applicable Guarantee Bank.

(b) Any such request shall be made to the Administrative Agent not later than 11:00 a.m. ten (10) Business Days prior to the date of the desired Credit Extension (or such other time or date as may be agreed by the Administrative Agent and, in the case of any such request pertaining to Letters of Credit or Bank Guarantees, the relevant Issuing Bank or Guarantee Bank, as applicable, in its or their sole discretion). In the case of any such request pertaining to

Revolving Loans, the Administrative Agent shall promptly notify each Revolving Lender thereof, in the case of any such request pertaining to Letters of Credit, the Administrative Agent shall promptly notify the relevant Issuing Bank thereof and in the case of any such request pertaining to Bank Guarantees, the Administrative Agent shall promptly notify the relevant Guarantee Bank thereof. Each such Revolving Lender (in the case of any such request pertaining to Revolving Loans), the relevant Issuing Bank (in the case of a request pertaining to Letters of Credit) or the relevant Guarantee Bank (in the case of a request pertaining to Bank Guarantees) shall notify the Administrative Agent, not later than 11:00 a.m., ten (10) Business Days after receipt of such request whether it consents, in its sole discretion, to the making of Revolving Loans or the issuance of Letters of Credit or Bank Guarantees, as the case may be, in such requested currency.

(c) Any failure by a Revolving Lender or the relevant Issuing Bank or Guarantee Bank, as the case may be, to respond to such request within the time period specified in the preceding paragraph (b) shall be deemed to be a refusal by such Revolving Lender, Issuing Bank, or Guarantee Bank as the case may be, to permit Revolving Loans to be made or Letters of Credit or Bank Guarantees, as applicable, to be issued in such requested currency. If the Administrative Agent and all the Revolving Lenders that would be obligated to make Credit Extensions denominated in such requested currency consent to making Revolving Loans in such requested currency, the Administrative Agent shall so notify the Lux Borrower and such currency shall thereupon be deemed for all purposes to be an Alternate Currency hereunder for purposes of any Borrowings of Revolving Loans; and if the Administrative Agent and the relevant Issuing Bank or Guarantee Bank consent to the issuance of Letters of Credit or Bank Guarantees in such requested currency, the Administrative Agent shall so notify the Lux Borrower and such currency shall thereupon be deemed for all purposes to be an Alternate Currency hereunder for purposes of any Letter of Credit or Bank Guarantee issuances. If the Administrative Agent shall fail to obtain the requisite consent to any request for an additional currency under this Section 1.09, the Administrative Agent shall promptly so notify the Lux Borrower.

Section 1.10. Agreed Security Principles. Each Loan Guaranty, the Collateral Documents and each other guaranty and security document delivered or to be delivered under this Agreement and any obligation to enter into such document or obligation by any Non-US Loan Party shall be subject in all respects to the Agreed Security Principles.

Section 1.11. Certain Calculations and Tests.

(a) Notwithstanding anything to the contrary herein, (i) financial ratios and tests (including the Total Leverage Ratio, the First Lien Leverage Ratio, the Senior Secured Leverage Ratio, the Interest Coverage Ratio, the determination of Consolidated Adjusted EBITDA and the amount of Consolidated Total Assets) contained in this Agreement (A) that are calculated with respect to any Test Period during which any Subject Transaction occurs shall be calculated with respect to such Test Period and such Subject Transaction on a Pro Forma Basis and (B) shall include, with respect to (1) Entis Co. Ltd., only the portion of Consolidated Adjusted EBITDA, Consolidated Total Debt, Consolidated First Lien Debt, Consolidated Senior Secured Debt and Consolidated Total Assets, as applicable (and including any component definition therein), allocable to the Lux Borrower based on its ownership percentage in such Person (without duplication of Cash received and included in Consolidated Adjusted EBITDA pursuant to the definition Consolidated Net Income) and (2) any other entity designated in accordance with clause (y) of the second proviso of the definition of “subsidiary”, such entity’s Consolidated Net Income in accordance with clause (a) of the definition of Consolidated Net Income and its portion

of Consolidated Total Debt, Consolidated First Lien Debt, Consolidated Senior Secured Debt and Consolidated Total Assets, as applicable (and including any component definition therein), allocable to the Lux Borrower based on its ownership percentage in such Person and (ii) Excess Cash Flow shall not include the Consolidated Adjusted EBITDA of Entis Co. Ltd. or any other entity designated in accordance with clause (y) of the second proviso of the definition of “subsidiary” except to the extent of dividends or distributions paid in Cash by such Person to the Lux Borrower or any of its Restricted Subsidiaries during the relevant Fiscal Year. Further, if since the beginning of any such Test Period and on or prior to the date of any required calculation of any financial ratio or test (x) any Subject Transaction has occurred or (y) any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into the Lux Borrower or any of its Restricted Subsidiaries since the beginning of such Test Period has consummated any Subject Transaction, then, in each case, any applicable financial ratio or test shall be calculated on a Pro Forma Basis for such Test Period as if such Subject Transaction occurred at the beginning of the applicable Test Period (it being understood, for the avoidance of doubt, that solely for purposes of (x) calculating quarterly compliance with Section 6.15 and (y) calculating the First Lien Leverage Ratio for purposes of the definitions of “Applicable Rate” and “Commitment Fee Rate”, in each case, the date of the required calculation shall be the last day of the Test Period, and Subject Transactions occurring thereafter shall not be taken into account).

(b) Notwithstanding anything to the contrary herein, to the extent that the terms of this Agreement require (i) compliance with any financial ratio or test (including, without limitation, Section 6.15 hereof, any First Lien Leverage Ratio test, any Senior Secured Leverage Ratio test, any Total Leverage Ratio test, any Interest Coverage Ratio test) and/or any cap expressed as a percentage of Consolidated Adjusted EBITDA and/or Consolidated Total Assets or (ii) the absence of a Default or Event of Default (or any type of Default or Event of Default) as a condition to (A) the consummation of any transaction in connection with any acquisition or similar Investment, (B) the making of any Restricted Payment, (C) the making of any Restricted Debt Payment (including in each case of clauses (A), (B) and (C), the related assumption or incurrence of Indebtedness) and/or (D) the incurrence or assumption of any Indebtedness, the determination of whether the relevant condition is satisfied may be made, at the election of the Lux Borrower, (1) in the case of any acquisition or similar Investment, or incurrence or assumption of Indebtedness, at the time of (or on the basis of the financial statements for the most recently ended Test Period at the time of) either (x) the execution of the definitive agreement with respect to such acquisition or Investment, or incurrence or assumption of Indebtedness or (y) the consummation of such acquisition or Investment, or incurrence or assumption of Indebtedness, (2) in the case of any Restricted Payment, at the time of (or on the basis of the financial statements for the most recently ended Test Period at the time of) either (x) the declaration of such Restricted Payment or (y) the making of such Restricted Payment and (3) in the case of any Restricted Debt Payment, at the time of (or on the basis of the financial statements for the most recently ended Test Period at the time of) either (x) delivery of irrevocable (which may be conditional) notice with respect to such Restricted Debt Payment or (y) the making of such Restricted Debt Payment, in each case, after giving effect to the relevant acquisition, Investment, Restricted Payment and/or Restricted Debt Payment on a Pro Forma Basis.

(c) For purposes of determining the permissibility of any action, change, transaction or event that requires a calculation of any financial ratio or test (including, without limitation, Section 6.15 hereof, any First Lien Leverage Ratio test, any Senior Secured Leverage Ratio test, any Total Leverage Ratio test and/or any Interest Coverage Ratio test and/or the amount of

Consolidated Adjusted EBITDA or Consolidated Total Assets), such financial ratio or test shall be calculated at the time such action is taken (subject to clause (b) above), such change is made, such transaction is consummated or such event occurs, as the case may be, and no Default or Event of Default shall be deemed to have occurred solely as a result of a change in such financial ratio or test occurring after the time such action is taken, such change is made, such transaction is consummated or such event occurs, as the case may be.

(d) Notwithstanding anything to the contrary herein, with respect to any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that does not require compliance with a financial ratio or test (including, without limitation, Section 6.15 hereof, any First Lien Leverage Ratio test, any Senior Secured Leverage Ratio test, any Total Leverage Ratio test and/or any Interest Coverage Ratio test) (any such amounts, the "Fixed Amounts") substantially concurrently with any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that requires compliance with a financial ratio or test (including, without limitation, Section 6.15 hereof, any First Lien Leverage Ratio test, any Senior Secured Leverage Ratio test, any Total Leverage Ratio test and/or any Interest Coverage Ratio test) (any such amounts, the "Incurrence-Based Amounts"), it is understood and agreed that the Fixed Amounts shall be disregarded in the calculation of the financial ratio or test applicable to the Incurrence-Based Amounts.

Section 1.12. Cashless Rolls. Notwithstanding anything to the contrary contained in this Agreement or in any other Loan Document, to the extent that any Lender extends the maturity date of, or replaces, renews or refinances, any of its then-existing Loans with Incremental Loans, Replacement Term Loans, Loans in connection with any Replacement Revolving Facility, Extended Term Loans, Extended Revolving Loans or loans incurred under a new credit facility, in each case, that are effected by means of a "cashless roll" by such Lender, such extension, replacement, renewal or refinancing shall be deemed to comply with any requirement hereunder or any other Loan Document that such payment be made "in Dollars", in "Euros" or the relevant Alternate Currency, "in immediately available funds", "in Cash" or any other similar requirement.

Section 1.13. Schedules. Notwithstanding anything to the contrary contained in this Agreement, the Borrowers shall be permitted to (i) amend and/or supplement any Schedule attached to this Agreement and/or (ii) add one or more new schedules to this Agreement, including for purposes of qualifying any representation or warranty set forth in Article 3 hereof by reference thereto, in each case, on or after the Signing Date and on or prior to the Closing Date to the extent that (x) with respect to the Lux Borrower and its subsidiaries (prior to giving effect to the Transactions), the item or items reflected on such amended, supplemented or new schedules are permitted or not restricted by the terms of the Existing Credit Agreement (as in effect on the Signing Date) and (y) with respect to the Target and its subsidiaries, the item or items reflected on such amended, supplemented or new schedules are permitted or not restricted by the terms of the Acquisition Agreement, as amended or otherwise modified from time to time, but without giving effect to any amendments, waivers or consents with respect to the Acquisition Agreement by the Lux Borrower that are materially adverse to the interests of the Arrangers and their respective Affiliates that are party hereto as Lenders on the Signing Date in their respective capacities as such without the consent of the Required Initial Signing Date Lenders, such consent not to be unreasonably withheld, delayed or conditioned), it being understood that the granting of any consent under the Acquisition Agreement that is not materially adverse to the interests of the Arrangers (or such Affiliates) shall not otherwise constitute an amendment or waiver.

Section 1.14. Loan Parties. During the period commencing with the Closing Date and ending after the applicable Joinder Deadline Date, each Post-Closing Loan Party that is listed on Part B of Schedule 1.01(c) on the Closing Date shall be deemed to be a Loan Party for all purpose of this Agreement and the other Loan Documents.

Section 1.15. E&Y Steps Memo; Post-Acquisition Transactions. Notwithstanding any provision herein or in any other Loan Documents, all of the steps, actions, events and/or other transactions and/or reorganizations and corporate restructurings, in each case, expressly contemplated by the E&Y Steps Memo and/or the Post-Acquisition Transactions (or any action or intermediate transactions necessary to implement each of the foregoing) shall be permitted (and shall not be prohibited) and no such step, action, event, transaction, reorganization or corporate restructuring shall, in any case, constitute, result in or be deemed to be (x) a breach of any representation or warranty under this Agreement or any other Loan Document, (y) a breach of any covenant under this Agreement or any other Loan Document or (z) a Default or Event of Default under this Agreement or any other Loan Document.

Section 1.16. Australian Terms. Notwithstanding any other provision of this Agreement to the contrary, in this Agreement where it relates to a Loan Party which is incorporated in Australia, a reference to a winding-up, liquidation, conservatorship, bankruptcy, general assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization or dissolution will include:

- (a) that Loan Party becoming insolvent within the meaning of section 95A, or being taken to have failed to comply with a statutory demand under section 459F(1) save for a statutory demand which is disputed by that Loan party acting diligently and in good faith, or being presumed by a court to be insolvent under section 459C(2), or is the subject of a circumstance specified in section 461 (whether or not an application to court has been made under that section) or, if the person is a Part 5.7 body, being taken to be unable to pay its debts under section 585, of the Corporations Act;
- (b) except with the Administrative Agent's consent or with respect to a solvent liquidation, it is the subject of a liquidation, or an order or an application is made for its liquidation (save for an application which is disputed by the person acting diligently and in good faith), or an effective resolution is passed or meeting summoned or convened to consider a resolution for its liquidation;
- (c) an administrator is appointed to it or to the whole or substantially the whole of its assets or a step is taken to do so (except an application made to a court for the purpose of appointing an administrator which is disputed by a Loan Party acting diligently and in good faith);
- (d) a step is taken under section 601AA, 601AB or 601AC of the Corporations Act to cancel its registration; or
- (e) it stops or suspends payment to all or a class of creditors generally.

Section 1.17. Austrian Terms. Notwithstanding any other provision of this Agreement to the contrary, in this Agreement

- (a) where it relates to a Loan Party that has its centre of main interest as outlined in article 3(1) of the Council Regulation (EC) No 1346/2000 of 29 May 2000 (as amended and

replaced from time to time) in the Republic of Austria (an “**Austrian Loan Party**”), a reference to:

- (i) “**inability to pay its debts as such debts become due**” includes that it is insolvent (*zahlungsunfähig*) within the meaning of section 66 of the Austrian Insolvency Code (*Insolvenzordnung*) or overindebted (*überschuldet*) within the meaning of section 67 of the Austrian Insolvency Code (*Insolvenzordnung*);
- (ii) “**bankruptcy**” includes bankruptcy (*Konkurs*) within the meaning of the Austrian Insolvency Code (*Insolvenzordnung*);
- (iii) “**liquidation**” includes a liquidation (*Liquidation*) within the meaning of the Austrian Act on Limited Liability Companies (*GmbH-Gesetz*) or within the meaning of the Austrian Stock Corporation Act (*Aktiengesetz*) or any other applicable Austrian law;
- (iv) “**reorganization**” in the course of reorganisation proceedings (*Sanierungsverfahren*) within the meaning of the Austrian Insolvency Code (*Insolvenzordnung*); and
- (v) a “**receiver, receiver and manager, liquidator, administrator, trustee, custodian, sequestrator, conservator or similar officer**” means, as the case may be, an insolvency receiver (*Insolvenzverwalter*) within the meaning of the Austrian Insolvency Code (*Insolvenzordnung*), a reorganisation examiner (*Reorganisationsprüfer*), or a liquidator (Liquidator),

(b) where it relates to assets located in the Republic of Austria “**attachment or similar process**” means an attachment (*Pfändung*) pursuant to the Austrian Enforcement Act (*Exekutionsordnung*), and

(c) where it relates to a Loan Party that is incorporated and registered in Austria “**capital maintenance**” refers to Austrian capital maintenance rules (*Kapitalerhaltungsvorschriften*) pursuant to Austrian corporate laws, in particular sections 82 et seq. of the Austrian Act on Limited Liability Companies (*Gesetz über Gesellschaften mit beschränkter Haftung*) and and/or sections 52 and 65 et seq. of the Austrian Joint-Stock Corporation Act (*Aktiengesetz*).

Section 1.18. Belgian Terms. In this Agreement, where it relates to a Belgian Loan Party, a reference to:

- (a) “**gross negligence**” means “*zware fout/faute lourde*”;
- (b) “**wilful misconduct**” or “**wilful breach**” means “*opzet/intention*”;
- (c) “**winding up**” shall include “*vereffening/liquidation*”;
- (d) “**dissolution**” means “*ontbinding/dissolution*”;
- (e) an “**inability to pay debts**” includes a “*staking van betalingen/cessation de paiements*”;

(f) “**moratorium**” shall include a judicial reorganization (“*gerechtelijke reorganisatie/réorganisation judiciaire*”); and “**compromise**” shall include “*minnelijk akkoord/accord amiable*.”

Section 1.19. Canadian Terms. In this Agreement, where it relates to a Canadian Loan Party, a reference to a Debtor Relief Law shall include a reference to any of the Bankruptcy and Insolvency Act (Canada), the Companies’ Creditors Arrangement Act (Canada), and the Winding-Up and Restructuring Act (Canada), each as now and hereafter in effect, and any successors to such statutes and any proceeding under applicable corporate law seeking a compromise or arrangement of any debts of any Person, or a stay of proceedings to enforce any of the claims of any Person’s creditors against it.

Section 1.20. Dutch Terms. In this Agreement, where it relates to a Dutch Loan Party, a reference to:

(a) **The Netherlands** means the European part of the Kingdom of The Netherlands and Dutch means in or of The Netherlands;

(b) **necessary corporate action** where applicable, includes:

(i) any action required to comply with the Works Councils Act of The Netherlands (*Wet op de ondernemingsraden*); and

(ii) obtaining advice (*advies*) from the competent works council(s);

(c) **financial assistance** means any act not permitted by Article 2:98c of the Dutch Civil Code;

(d) a **security interest** includes any mortgage (*hypothek*), pledge (*pandrecht*), retention of title arrangement (*eigendomsvoorbehoud*), right of retention (*recht van retentie*), right to reclaim goods (*recht van reclame*), and, in general, any right in rem (*beperkt recht*), created for the purpose of granting security (*goederenrechtelijk zekerheidsrecht*);

(e) a **bankruptcy** includes a *faillissement*;

(f) a **dissolution** includes an *ontbinding*;

(g) any step or procedure taken in connection with insolvency proceedings includes such Dutch entity having filed a notice under Section 36 of the Tax Collection Act of The Netherlands (*Invorderingswet 1990*);

(h) a **moratorium** includes *surseance van betaling*;

(i) a **trustee** includes a *curator* or a *beoogd curator*;

(j) an **administrator** includes a *bewindvoerder* or a *beoogd bewindvoerder*; and

(k) an **attachment** includes a *beslag*.

Section 1.21. French Terms. Notwithstanding any other provision of this Agreement to the contrary, in this Agreement where it relates to a Loan Party organized under French law or any Restricted

Subsidiary of such Loan Party which is organized under French law, a reference to: (a) a winding-up, administration or dissolution includes a *redressement judiciaire*, a *cession totale de l'entreprise*, a *liquidation judiciaire*, a *sauvegarde accélérée* or a *sauvegarde financière accélérée* under articles L. 620 to L. 644-6 to the French Code de commerce; (b) a composition, assignment or similar arrangement with any creditor includes a conciliation or a mandate ad hoc under articles L. 611-3 to L. 611-16 French Code de commerce; (c) a compulsory manager, receiver or administrator includes an *administrateur judiciaire*, a *mandataire ad hoc*, a *conciliateur*, a *mandataire liquidateur* or any other person appointed as a result of any proceedings described in clauses (a) and (b) above; (d) any Debtor Relief Law shall include all of the proceedings referred to in clauses (a) and (b); (e) a guarantee includes a *cautionnement*, an *aval* and any *garantie* which is independent from the debt to which it relates; (f) a reconstruction includes any contribution or part of its business in consideration of shares (*apport partiel d'actifs*) and any demerger (*scission*) implemented in accordance with articles L. 236-1 to L. 236-24 of the French Code de commerce; (g) a Lien includes any type of security (*sûreté réelle*) and transfer by way of security ; and (h) a person unable to pay its debt includes that person being in a state of *cessation des paiements* as defined in article L. 631-1 of the French Code de commerce.

Section 1.22. German Terms. In this Agreement, where it relates to a Loan Party that is existing under the laws of the Federal Republic of Germany (a “**German Loan Party**”), a reference to:

- (a) “**InsO**” means the German Insolvency Code (*Insolvenzordnung*);
- (b) “**inability to pay its debts as such debts become due**” includes that person being in a state of (i) *Zahlungsunfähigkeit* within the meaning of section 17 InsO or (ii) *Überschuldung* within the meaning of section 19 InsO;
- (c) “**entering of a decree or order for relief in an involuntary or voluntary case or proceeding**” means, (i) if the requirements for the application for the opening of insolvency proceedings for the reasons set out in sections 17 and 19 InsO are met in relation to the relevant German Loan Party; or (ii) the making of an application by the relevant German Loan Party for the opening of insolvency proceedings for the reason set out in section 18 of the German Insolvency Code (*Insolvenzordnung*) (*Antrag auf Eröffnung eines Insolvenzverfahrens*); or (iii) the taking of actions in relation to the relevant German Loan Party pursuant to section 21 InsO (*Anordnung von Sicherungsmaßnahmen*);
- (d) “**a receiver, receiver and manager, liquidator, sequestrator, trustee, custodian, monitor or similar officer**” means, as the case may be, an *Insolvenzverwalter* or a *vorläufiger Insolvenzverwalter*.

Section 1.23. Italian Terms. In this Agreement, where it relates to an Italian Loan Party, a reference to:

- (a) a **winding up, bankruptcy, insolvency, administration, dissolution** or the like includes, without limitation, any *scioglimento, liquidazione, procedura concorsuale (fallimento, concordato preventivo, liquidazione coatta amministrativa, amministrazione straordinaria or misure urgenti per la ristrutturazione industriale delle grandi imprese in stato di insolvenza)* or any other similar proceedings or legal concepts;
- (b) a **receiver, administrative receiver, administrator** or the like includes, without limitation, a *curatore, commissario giudiziale, commissario straordinario, commissario*

*liquidatore*, *liquidatore*, or any other person performing the same function of each of the foregoing;

(c) a **step** or **procedure** taken in connection with insolvency proceedings for any person includes, without limitation, that person formally making a proposal to assign its assets pursuant to Article 1977 of the Italian Civil Code (*cessione dei beni ai creditori*), implementing a piano di risanamento, entering into an *accordo di ristrutturazione dei debiti* pursuant to article 182-bis of the Italian Insolvency Act, an *accordo di ristrutturazione con intermediari finanziari* or a *convenzione di moratoria* pursuant to article 182-septies of the Italian Insolvency Act, filing a petition for a *concordato preventivo* or entering into a similar arrangement for a substantial part of its creditors;

(d) an **assignment**, **arrangement** or **composition with or for the benefit of its creditors** or the like, includes, without limitation, an arrangement pursuant to Article 1977 of the Italian Civil Code (*cessione dei beni ai creditori*), a *piano di risanamento*, an *accordo di ristrutturazione dei debiti*, a *concordato preventivo* or a similar arrangement for the a substantial part of creditors;

(e) a **matured obligation** includes, without limitation, any *credito liquido ed esigibile*; and

(f) **security** if referred to an Italian Security or a Loan Guaranty governed by Italian law includes, without limitation, any *pegno*, *ipoteca*, *privilegio speciale* pursuant to Article 46 of the Italian Banking Law, *fideiussione*, *garanzia a prima domanda*, *cessione del credito in garanzia*, and any other *garanzia reale* or *garanzia personale*.

Section 1.24. Luxembourg Terms. Notwithstanding any other provision of this Agreement to the contrary, in this Agreement where it relates to a Lux Party or any Restricted Subsidiary of the Lux Borrower which is organized under the laws of Luxembourg, a reference to: (a) a winding-up, administration, liquidation, conservatorship, bankruptcy, general assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization or dissolution includes bankruptcy (*faillite*), insolvency, liquidation, composition with creditors (*concordat préventif de faillite*), moratorium or reprieve from payment (*sursis de paiement*), controlled management (*gestion contrôlée*), fraudulent conveyance (*action paulienne*), general settlement with creditors, reorganization or similar laws affecting the rights of creditors generally; (b) a receiver, receiver and manager, liquidator, administrator, trustee, custodian, sequestrator, conservator or similar officer includes a *juge délégué*, *commissaire*, *juge-commissaire*, *mandataire ad hoc*, *administrateur provisoire*, *liquidateur* or *curateur*; (c) a lien or security interest includes any *hypothèque*, *nantissement*, *gage*, *privilege*, *sûreté réelle*, *droit de rétention*, and any type of security in rem (*sûreté réelle*) or agreement or arrangement having a similar effect and any transfer of title by way of security; (d) a person being unable to pay its debts includes that person being in a state of cessation de paiements or having lost or meeting the criteria to lose its commercial creditworthiness; (e) attachments or similar creditors process means an executory attachment (*saisie exécutoire*) or conservatory attachment (*saisie conservatoire*); (f) a guaranty includes any *garantie* that is independent from the debt to which it relates and excludes any suretyship (*cautionnement*) within the meaning of Articles 2011 and seq. of the Luxembourg Civil Code; and (g) by-laws or Organizational Documents includes its articles of association (*statuts coordonnés*).

Section 1.25. New Zealand Terms. Notwithstanding any other provision of this Agreement to the contrary, in this Agreement where it relates to a Loan Party incorporated, formed or established under

the laws of New Zealand (a “**New Zealand Loan Party**”), a reference to: (a) a winding-up, liquidation, conservatorship, bankruptcy, general assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization or dissolution includes a Liquidation or an External Administrator being appointed to it or any of its assets or a step being taken to do so (including, in the case of a statutory management, the New Zealand Loan party being declared “at risk”) and (b) a receiver, receiver and manager, liquidator, administrator, trustee, custodian, sequestrator, conservator or similar officer includes any External Administrator and (c) an admission in writing of its inability to pay its debts as such debts become due includes it is presumed unable or admits inability to pay its debts as they fall due (in accordance with section 287 of the Companies Act).

## ARTICLE 2 THE CREDITS

### Section 2.01. Commitments.

(a) Subject to the terms and conditions set forth herein, (i) each Initial Term Lender severally, and not jointly, agrees (A) to make Tranche B-1 Term Loans to the Lux Borrower on the Closing Date in Euros in a principal amount not to exceed its Tranche B-1 Commitment, (B) to make Tranche B-2 Term Loans to the Lux Borrower on the Closing Date in Dollars in a principal amount not to exceed its Tranche B-2 Commitment and (C) to make Tranche B-3 Term Loans to the US Borrower on the Closing Date in Dollars in a principal amount not to exceed its Tranche B-3 Commitment and (ii) each Initial Revolving Lender severally, and not jointly, agrees to make Revolving Loans to any Revolving Borrower in Euros or an Alternate Currency as may be requested by the applicable Revolving Borrower, at any time and from time to time on and after the Closing Date, and until the earlier of the Initial Revolving Credit Maturity Date and the termination of the Initial Revolving Credit Commitment of such Lender in accordance with the terms hereof; provided that, after giving effect to any Borrowing of Revolving Loans, the Outstanding Amount of such Initial Revolving Lender’s Revolving Credit Exposure shall not exceed such Initial Revolving Lender’s Revolving Credit Commitment. Within the foregoing limits and subject to the terms, conditions and limitations set forth herein, (x) Revolving Loans denominated in Dollars may consist of ABR Loans, Eurocurrency Rate Loans, or a combination thereof, and may be borrowed, paid, repaid and reborrowed and (y) Revolving Loans denominated in Euros or an Alternate Currency (other than Dollars, which are governed by clause (x)) shall consist of Eurocurrency Rate Loans, and may be borrowed, paid, repaid and reborrowed. Amounts paid or prepaid in respect of the Initial Term Loans may not be reborrowed. Subject to the terms and conditions set forth herein and in the relevant Ancillary Documents, any Initial Revolving Lender may make one or more Ancillary Facilities available to any Revolving Borrower in place of all or a portion of its Initial Revolving Credit Commitment. For the avoidance of doubt, any reference to a Loan, Letter of Credit or Bank Guarantee or outstanding amounts in respect thereof shall not include any utilization of any Ancillary Facility.

(b) Subject to the terms and conditions of this Agreement and any applicable Refinancing Amendment, Extension Amendment or Incremental Facility Agreement, each Additional Lender with an Additional Term Commitment for a given Class of Additional Term Loans severally agrees to make Additional Term Loans of such Class to the applicable Borrower, which Additional Term Loans shall not exceed for any such Additional Lender at the time of any incurrence thereof, the Additional Term Commitment of such Class of such Lender as set forth in the applicable Refinancing Amendment, Extension Amendment or Incremental Facility Agreement.

Section 2.02. Loans and Borrowings.

(a) Each Loan (other than a Swingline Loan) shall be made as part of a Borrowing consisting of Loans of the same Class and Type made by the Lenders ratably in accordance with their respective Commitments of the applicable Class. Each Swingline Loan shall be made in accordance with the procedures set forth in Section 2.04.

(b) Subject to Section 2.01 and Section 2.13, each Borrowing shall be comprised entirely of ABR Loans or Eurocurrency Rate Loans as any Borrower may request in accordance herewith; provided that (x) each Revolving Loan denominated in Euros or an Alternate Currency other than Dollars shall be a Eurocurrency Rate Loans, (y) each Swingline Loan denominated in Dollars shall be an ABR Loan and (z) each Term Loan denominated in Euros or an Alternate Currency other than Dollars shall be a Eurocurrency Rate Loan. Each Lender at its option may make any Eurocurrency Rate Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that (i) any exercise of such option shall not affect the obligation of the Borrowers to repay such Loan in accordance with the terms of this Agreement, (ii) such Eurocurrency Rate Loan shall be deemed to have been made and held by such Lender, and the obligation of the Borrowers to repay such Eurocurrency Rate Loan shall nevertheless be to such Lender for the account of such domestic or foreign branch or Affiliate of such Lender and (iii) in exercising such option, such Lender shall use reasonable efforts to minimize increased costs to the Borrowers resulting therefrom (which obligation of such Lender shall not require it to take, or refrain from taking, actions that it determines would result in increased costs for which it will not be compensated hereunder or that it otherwise determines would be disadvantageous to it and in the event of such request for costs for which compensation is provided under this Agreement, the provisions of Section 2.14 shall apply); provided, further, that any such domestic or foreign branch or Affiliate of such Lender shall not be entitled to any greater indemnification under Section 2.16 with respect to such Eurocurrency Rate Loan than that which the applicable Lender was entitled on the date on which such Loan was made (except in connection with any indemnification entitlement arising as a result of a Change in Law after the date on which such Loan was made).

(c) At the commencement of each Interest Period for any Eurocurrency Rate Borrowing, such Borrowing shall comprise an aggregate principal amount that is an integral multiple of €100,000 (or (x) \$100,000 in the case of any Eurocurrency Rate Borrowing denominated in Dollars, (y) £100,000 in the case of any Eurocurrency Rate Borrowing denominated in Pounds Sterling or (z) the Euro Equivalent thereof in the case of any Eurocurrency Rate Borrowing denominated in any other Alternate Currency) and not less than €1,000,000 (or (x) \$1,000,000 in the case of any Eurocurrency Rate Borrowing denominated in Dollars, (y) £1,000,000 in the case of any Eurocurrency Rate Borrowing denominated in Pounds Sterling or (z) the Euro Equivalent thereof in the case of any Eurocurrency Rate Borrowing denominated in any other Alternate Currency). Each ABR Borrowing when made shall be in a minimum principal amount of \$100,000; provided that an ABR Revolving Borrowing may be made in a lesser aggregate amount that is (x) equal to the entire aggregate Unused Revolving Credit Commitments, (y) required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.05(a)(v) or (z) required to finance the reimbursement of a Bank Guarantee Disbursement as contemplated by Section 2.05(b)(v). Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of 15 different Interest Periods in effect for Eurocurrency Rate Borrowings at

any time outstanding (or such greater number of different Interest Periods as the Administrative Agent may agree from time to time).

(d) Notwithstanding any other provision of this Agreement, no Borrower shall, nor shall it be entitled to, request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date applicable to such Loans.

**Section 2.03. Requests for Borrowings.** Each Term Borrowing, each Revolving Borrowing, each conversion of Term Loans or Revolving Loans from one Type to the other, and each continuation of Eurocurrency Rate Loans shall be made upon irrevocable notice by the respective Borrower to the Administrative Agent. Each such notice must be in writing and must be received by the Administrative Agent (by hand delivery, fax or other electronic transmission (including “.pdf” or “.tiff”)) not later than 11:00 a.m. (London time) (i) three Business Days (or one Business Day in the case of a Eurocurrency Rate Borrowing to be made on the Closing Date) prior to the requested date of any Borrowing of, conversion of ABR Loans to, or continuation of, Eurocurrency Rate Loans and (ii) on the requested date of any Borrowing of ABR Loans (other than Swingline Loans) or the conversion of Eurocurrency Rate Loans to ABR Loans (or, in each case, such later time as shall be acceptable to the Administrative Agent); provided, however, that if the Borrowers wish to request Eurocurrency Rate Loans having an Interest Period other than one, three or six months in duration as provided in the definition of Interest Period, the applicable notice from the respective Borrower must be received by the Administrative Agent not later than 11:00 a.m. (London time) four Business Days prior to the requested date of such Borrowing, conversion or continuation, whereupon the Administrative Agent shall give prompt notice to the appropriate Lenders of such request and determine whether the requested Interest Period is acceptable to them. Not later than 10:00 a.m. (London time) three Business Days before the requested date of such Borrowing, conversion or continuation, the Administrative Agent shall notify the applicable Borrower whether or not the requested Interest Period has been consented to by all the appropriate Lenders. Each written notice with respect to a Borrowing by any Borrower pursuant to this Section 2.03 shall be delivered to the Administrative Agent in the form of a written Borrowing Request, appropriately completed and signed by a Responsible Officer of the applicable Borrower. Each such written Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) the Class of such Borrowing and if a Revolving Loan or Additional Revolving Loan, whether such Borrowing will be made in Euros or in an Alternate Currency;
- (ii) the aggregate amount of the requested Borrowing (stated in Euros or the applicable Alternate Currency);
- (iii) the date of such Borrowing, which shall be a Business Day;
- (iv) whether such Borrowing is to be an ABR Borrowing or a Eurocurrency Rate Borrowing;
- (v) in the case of a Eurocurrency Rate Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term “Interest Period”; and
- (vi) the location and number of the relevant Borrower’s account or any other designated account(s) to which funds are to be disbursed (the “**Funding Account**”).

If, with respect to Loans denominated in Dollars, no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurocurrency Rate Borrowing, then the Borrowers shall be deemed to have selected an Interest Period of one month's duration. (x) In the case of any ABR Borrowing, on the same Business Day of receipt of a Borrowing Request in accordance with this Section or (y) in the case of any Eurocurrency Rate Borrowing, no later than one Business Day following receipt of a Borrowing Request in accordance with this Section, in each case, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing. If no currency is specified, the requested Borrowing shall be denominated in Euros. No Loan may be converted into or continued as a Loan denominated in a different currency, but instead must be prepaid in the original currency of such Loan and reborrowed in the other currency.

#### Section 2.04. Swingline Loans.

(a) Subject to the terms and conditions set forth herein, the Swingline Lender agrees to make Swingline Loans to the Borrowers in Euros or any Alternate Currency from time to time during the Availability Period, in an aggregate principal amount at any time outstanding not to exceed €25,000,000 (taking the Euro Equivalent of all amounts in an Alternate Currency); provided that (x) the Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding Swingline Loan and (y) after giving effect to any Swingline Loan, the aggregate Outstanding Amount of all Revolving Loans, Swingline Loans, LC Obligations and Bank Guarantee Obligations shall not exceed the Total Revolving Credit Commitment. Each Swingline Loan shall be in a minimum principal amount of not less than €100,000 (or (x) \$100,000 in the case any Swingline Loan denominated in Dollars, (y) £100,000 in the case of any Swingline Loan denominated in Pounds Sterling or (z) the Euro Equivalent thereof in the case of any Swingline Loan denominated in any other Alternate Currency) or such lesser amount as may be agreed by the Swingline Lender; provided that, notwithstanding the foregoing, a Swingline Loan may be in an aggregate amount that is (x) equal to the entire unused balance of the aggregate Unused Revolving Credit Commitments, (y) required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.05(a)(v) or (z) required to finance the reimbursement of a Bank Guarantee Disbursement as contemplated by Section 2.05(b)(v). Within the foregoing limits and subject to the terms and conditions set forth herein, Swingline Loans may be borrowed, prepaid and reborrowed. To request a Swingline Loan, the respective Borrower shall notify the Swingline Lender (with a copy to the Administrative Agent) of such request by telephone (confirmed in writing), not later than 11:00 a.m. (London time) on the day of a proposed Swingline Loan. Each such notice shall be irrevocable and shall specify the requested date (which shall be a Business Day) and amount (stated in Euros or the applicable Alternate Currency) of the requested Swingline Loan. The Swingline Lender shall make each Swingline Loan available to the respective Borrower by means of a credit to the Funding Account or otherwise in accordance with the instructions of such Borrower (including, in the case of a Swingline Loan made to finance the reimbursement of an LC Disbursement as provided in Section 2.05(a)(v), by remittance to the applicable Issuing Bank) on the requested date of such Swingline Loan and in the case of a Swingline Loan made to finance the reimbursement of a Bank Guarantee Disbursement as provided in Section 2.05(b)(v), by remittance to the applicable Guarantee Bank) on the requested date of such Swingline Loan.

(b) The Swingline Lender may by written notice given to the Administrative Agent not later than 12:00 p.m. (London time) on any Business Day require the Revolving Lenders to acquire participations on the second Business Day following receipt of such notice in all or a

portion of the Swingline Loans outstanding. Such notice shall specify the aggregate amount (stated in Euros or the applicable Alternate Currency) of Swingline Loans in which Revolving Lenders will participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Revolving Lender, specifying in such notice such Lender's Applicable Percentage of such Swingline Loan or Swingline Loans. Each Revolving Lender hereby absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to the Administrative Agent, for the account of the Swingline Lender, such Lender's Applicable Percentage of such Swingline Loan or Swingline Loans. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations in Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or any reduction or termination of the Revolving Credit Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Revolving Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.06 with respect to Revolving Loans made by such Revolving Lender (and Section 2.06 shall apply, *mutatis mutandis*, to the payment obligations of the Revolving Lenders pursuant to this Section 2.04(b)), and the Administrative Agent shall promptly remit to the Swingline Lender the amounts so received by it from the Revolving Lenders. The Administrative Agent shall notify the applicable Borrower of any participation in any Swingline Loan acquired pursuant to this Section 2.04(b), and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to the Swingline Lender. Any amounts received by the Swingline Lender from the applicable Borrower (or other Person on behalf of such Borrower) in respect of a Swingline Loan after receipt by the Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted by the Swingline Lender to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the Revolving Lenders that shall have made their payments pursuant to this Section 2.04(b) and to the Swingline Lender, as their interests may appear; provided that any such payment so remitted shall be repaid to the Swingline Lender or the Administrative Agent, as the case may be, and thereafter to the applicable Borrower, if and to the extent such payment is required to be refunded to such Borrower for any reason. The purchase of participations in a Swingline Loan pursuant to this Section 2.04(b) shall not relieve any Borrower of any default in the payment thereof.

(c) If any Revolving Lender fails to make available to the Administrative Agent for the account of the Swingline Lender any amount required to be paid by such Revolving Lender pursuant to the foregoing provisions of this Section 2.04 by the time specified in Section 2.04(b), the Swingline Lender shall be entitled to recover from such Revolving Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swingline Lender at a rate per annum equal to the greater of the Federal Funds Effective Rate (or, in the case of Swingline Loans denominated in Euros or an Alternate Currency (other than Dollars), the Administrative Agent's customary rate for interbank advances in Euros or such Alternate Currency (other than Dollars)) from time to time in effect and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. A certificate of the Swingline Lender submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this clause (c) shall be conclusive absent manifest error.

Section 2.05. Letters of Credit; Bank Guarantees.

(a) Letters of Credit

(i) General. On and after the Closing Date, each Existing Letter of Credit shall be deemed to be a Letter of Credit issued hereunder for all purposes of this Agreement and the other Loan Documents and for all purposes hereof will be deemed to have been issued on the Closing Date. Subject to the terms and conditions set forth herein, (i) each Issuing Bank agrees, in each case in reliance upon the agreements of the other Revolving Lenders set forth in this Section 2.05, (A) from time to time on any Business Day during the period from the Closing Date to the fifth Business Day prior to the Latest Revolving Loan Maturity Date, upon the request of any Revolving Borrower, to issue Letters of Credit denominated in Euros or an Alternate Currency and issued on sight basis only for the account of such Revolving Borrower (or any Restricted Subsidiary; provided that (x) a Borrower will be the applicant and (y) any Letter of Credit issued for the account of a Restricted Subsidiary that is not a Loan Party for the purpose of supporting indebtedness for borrowed money of such Restricted Subsidiary shall be deemed to be an Investment by such Borrower in such Restricted Subsidiary) and to amend or renew Letters of Credit previously issued by it, in accordance with Section 2.05(a)(ii), and (B) to honor drafts under the Letters of Credit, and (ii) the Revolving Lenders severally agree to participate in the Letters of Credit in accordance with Section 2.05(a)(iv).

(ii) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the applicable Revolving Borrower shall deliver to the applicable Issuing Bank and the Administrative Agent, at least three Business Days in advance of the requested date of issuance (or such shorter period as is acceptable to the applicable Issuing Bank or one Business Day in the case of issuances to be made on the Closing Date), a request to issue a Letter of Credit, which shall specify that it is being issued under this Agreement, in the form of Exhibit M-1 attached hereto. To request an amendment, extension or renewal of a Letter of Credit, the applicable Revolving Borrower shall submit such a request to the applicable Issuing Bank (with a copy to the Administrative Agent) at least three Business Days in advance of the requested date of amendment, extension or renewal (or such shorter period as is acceptable to the applicable Issuing Bank), identifying the Letter of Credit to be amended, extended or renewed, and specifying the proposed date (which shall be a Business Day) and other details of the amendment, extension or renewal. Requests for issuance, amendment, extension or renewal must be accompanied by such other information as shall be necessary to issue, amend, extend or renew such Letter of Credit. If requested by the applicable Issuing Bank, the applicable Borrower also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any request for a Letter of Credit. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by any Revolving Borrower to, or entered into by any Revolving Borrower with, the applicable Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control. No Letter of Credit, letter of credit application or other document entered into by any Borrower with the applicable Issuing Bank relating to any Letter of Credit shall (x) contain any

representations or warranties, covenants or events of default not set forth in this Agreement (and to the extent inconsistent herewith, shall be rendered null and void) and (y) with respect to all representations and warranties, covenants and events of default contained therein, contain standards, qualifications, thresholds and exceptions for materiality or otherwise inconsistent with this Agreement (and, to the extent inconsistent herewith, shall be deemed to incorporate such standards, qualifications, thresholds and exceptions contained herein without action by any other party). A Letter of Credit shall be issued, amended, extended or renewed only if (and upon issuance, amendment, extension or renewal of each Letter of Credit the applicable Revolving Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, extension or renewal, (x) the LC Exposure and the Bank Guarantee Exposure shall, subject to Sections 2.08 and 2.21(f), not exceed the Letter of Credit and Bank Guarantee Sublimit (taking the Euro Equivalent of all amounts in an Alternate Currency) and (y) the aggregate Outstanding Amount of all Revolving Loans, Swingline Loans, LC Obligations and Bank Guarantee Obligations would not exceed the Total Revolving Credit Commitment. Promptly after the delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable Issuing Bank will also deliver to the Lux Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment. Upon receipt of such Letter of Credit or amendment, the Administrative Agent shall notify the Revolving Lenders, in writing, of such Letter of Credit or amendment, and if so requested by a Revolving Lender, the Administrative Agent will provide such Lender with copies of such Letter of Credit or amendment.

(iii) Expiration Date.

(A) Each Standby Letter of Credit shall expire not later than the earlier of (x) the date one year after the date of the issuance of such Letter of Credit and (y) the date that is five Business Days prior to the Latest Revolving Loan Maturity Date; provided that any Standby Letter of Credit may provide for the automatic extension thereof for any number of additional periods each of up to one year in duration (none of which, in any event, shall extend beyond the date referred to in clause (y) of this paragraph (iii)(A) unless 100% of the then available face amount thereof is Cash collateralized or backstopped pursuant to arrangements reasonably satisfactory to the Issuing Bank thereof).

(B) Each Commercial Letter of Credit shall expire on the earlier of (x) 180 days after the date of the issuance of such Letter of Credit (or such later date as the applicable Issuing Bank may agree) and (y) the date that is five Business Days prior to the Latest Revolving Loan Maturity Date.

(iv) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the applicable Issuing Bank or the Revolving Lenders, the applicable Issuing Bank hereby grants to each Revolving Lender, and each Revolving Lender hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Revolving Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit (in respect of any Letters of Credit issued in an Alternate Currency, expressed in the Euro Equivalent thereof). In consideration and in furtherance of the

foregoing, each Revolving Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the applicable Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by such Issuing Bank and not reimbursed by the applicable Revolving Borrower on the date due as provided in paragraph (v) of this Section 2.05(a), or of any reimbursement payment required to be refunded to the applicable Revolving Borrower for any reason. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or Event of Default or reduction or termination of the Revolving Credit Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(v) Reimbursement. If the applicable Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the applicable Revolving Borrower shall reimburse such LC Disbursement by paying to the applicable Issuing Bank an amount equal to such LC Disbursement not later than 1:00 p.m. two Business Days immediately following the date such applicable Revolving Borrower receives notice under paragraph (vii) of this Section 2.05(a) of such LC Disbursement; provided that the applicable Revolving Borrower may, without satisfying the conditions to borrowing set forth herein, request (or if the applicable Revolving Borrower fails to make such payment when due, then the applicable Revolving Borrower shall be deemed to have requested), in accordance with Section 2.03 or 2.04 that such payment be financed with (x) in the case of a Letter of Credit denominated in Dollars, an ABR Revolving Borrowing or Swingline Loan denominated in Dollars in an equivalent amount and (y) in the case of a Letter of Credit denominated in Euros or an Alternate Currency (other than Dollars), a Eurocurrency Rate Revolving Loan denominated in Euros or such Alternate Currency or Swingline Loan denominated in Euros or such Alternate Currency (other than Dollars) in an equivalent amount, and, to the extent so financed, the applicable Revolving Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing, Swingline Loan or Eurocurrency Rate Revolving Loan, as the case may be. If the applicable Revolving Borrower fails to make such payment when due, the Administrative Agent shall notify each Revolving Lender of the applicable LC Disbursement, the payment then due from the applicable Revolving Borrower in respect thereof and such Revolving Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Revolving Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the applicable Revolving Borrower, in the same manner as provided in Section 2.06 with respect to Loans made by such Revolving Lender (and Section 2.06 shall apply, *mutatis mutandis*, to the payment obligations of the Revolving Lenders), and the Administrative Agent shall promptly pay to the applicable Issuing Bank the amounts so received by it from the Revolving Lenders. Promptly following receipt by the Administrative Agent of any payment from the applicable Revolving Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Revolving Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Revolving Lenders and such Issuing Bank as their interests may appear.

(A) If any Revolving Lender fails to make available to the Administrative Agent for the account of the applicable Issuing Bank any amount required to be paid by such Revolving Lender pursuant to the foregoing provisions of this Section 2.05(a)(v) by the time specified therein, such Issuing Bank shall be entitled to recover from such Revolving Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such Issuing Bank at a rate per annum equal to the greater of the Federal Funds Effective Rate (or, in the case of Letters of Credit denominated in Euros or an Alternate Currency other than Dollars, the Administrative Agent's customary rate for interbank advances in Euros or such Alternate Currency) from time to time in effect and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. A certificate of applicable Issuing Bank submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this clause (v) shall be conclusive absent manifest error.

(vi) Obligations Absolute. The applicable Revolving Borrower's obligation to reimburse LC Disbursements as provided in paragraph (v) of this Section 2.05(a) shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (1) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (2) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (3) payment by the applicable Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit or (4) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the applicable Revolving Borrower's obligations hereunder. Neither the Administrative Agent, the Revolving Lenders nor any Issuing Bank, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of such Issuing Bank; provided that the foregoing shall not be construed to excuse such Issuing Bank from liability to the Lux Borrower to the extent of any direct damages suffered by the applicable Revolving Borrower that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence, bad faith or willful misconduct on the part of applicable Issuing Bank (as finally determined by a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the applicable Issuing Bank

may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(vii) Disbursement Procedures. The applicable Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. Such Issuing Bank shall promptly notify the Administrative Agent and the applicable Revolving Borrower by telephone (confirmed in writing) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the applicable Revolving Borrower of its obligation to reimburse such Issuing Bank and the Revolving Lenders with respect to any such LC Disbursement.

(viii) Interim Interest. If an Issuing Bank shall make any LC Disbursement, then, unless the applicable Revolving Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Lux Borrower reimburses such LC Disbursement, at the rate per annum then applicable to (x) in the case of Letters of Credit denominated in Dollars, Revolving Loans that are ABR Loans and (y) in the case of Letters of Credit denominated in Euros or any Alternate Currency (other than Dollars), Eurocurrency Rate Revolving Loans; provided that if any Revolving Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (v) of this Section 2.05(a), then Section 2.12(d) shall apply until such Issuing Bank is reimbursed in accordance with paragraph (v) of this Section 2.05(a). Interest accrued pursuant to this paragraph and owing to an Issuing Bank (prior to reimbursement of the Issuing Bank in accordance with paragraph (v) of this Section 2.05(a)) shall be for the account of the applicable Issuing Bank and shall be payable on the date the applicable LC Disbursement is due (and, thereafter on demand by the Issuing Bank). After the date of payment by any Revolving Lender pursuant to paragraph (v) of this Section 2.05(a) to reimburse the relevant Issuing Bank, any interest accruing after such date shall be for the account of such Revolving Lender to the extent of such payment, and shall be payable in accordance with Section 2.12 for the applicable Class and Type of Revolving Loans.

(ix) Replacement of an Issuing Bank or Addition of New Issuing Banks. An Issuing Bank may be replaced with the consent of the Administrative Agent (not to be unreasonably withheld or delayed) at any time by written agreement among the Revolving Borrowers, the Administrative Agent and the successor Issuing Bank. The Administrative Agent shall notify the Revolving Lenders of any such replacement of an Issuing Bank. At the time any such replacement shall become effective, the Revolving Borrowers shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.11(b)(iii). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of the replaced Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to include such successor or any previous Issuing Bank, or such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder,

the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit. The Revolving Borrowers may, at any time and from time to time with the consent of the Administrative Agent (which consent shall not be unreasonably withheld or delayed) and such Revolving Lender, designate one or more additional Revolving Lenders to act as an issuing bank under the terms of this Agreement. Any Revolving Lender designated as an issuing bank pursuant to this paragraph (x) shall be deemed to be an "Issuing Bank" (in addition to being a Revolving Lender) in respect of Letters of Credit issued or to be issued by such Revolving Lender, and, with respect to such Letters of Credit, such term shall thereafter apply to the other Issuing Bank and such Revolving Lender.

(x) Cash Collateralization.

(A) If any Event of Default exists and the Loans have been declared due and payable in accordance with Article 7, then on the Business Day that the applicable Revolving Borrower receives notice from the Administrative Agent at the direction of the Required Lenders demanding the deposit of Cash collateral pursuant to this paragraph (xi), upon such demand, the Lux Borrower shall deposit, in an interest-bearing account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Revolving Lenders (the "**LC Collateral Account**"), an amount in Cash equal to 100% of the Euro Equivalent of the LC Exposure as of such date (minus the amount then on deposit in the LC Collateral Account); provided that the obligation to deposit such Cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to any Revolving Borrower described in Section 7.01(f) or (g).

(B) Any such deposit under clause (i) above shall be held by the Administrative Agent as collateral for the payment and performance of the Secured Obligations in accordance with the provisions of this paragraph (xi). The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account and the applicable Revolving Borrower hereby grants the Administrative Agent, for the benefit of the Secured Parties, a first priority security interest in the LC Collateral Account. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the applicable Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the applicable Revolving Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of the Required Revolving Lenders) be applied to satisfy other Secured Obligations. If the applicable Revolving Borrower is required to provide an amount of Cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (together with all interest and other earnings with respect thereto, to the extent not applied as aforesaid) shall be returned to the applicable Revolving Borrower promptly but

in no event later than three Business Days, after such Event of Default has been cured or waived.

(b) Bank Guarantees.

(i) General. Subject to the terms and conditions set forth herein, (i) each Guarantee Bank agrees, in each case in reliance upon the agreements of the other Revolving Lenders set forth in this Section 2.05, (A) from time to time on any Business Day during the period from the Closing Date to the fifth Business Day prior to the Latest Revolving Loan Maturity Date, upon the request of any Revolving Borrower, to issue Bank Guarantees denominated in Euros or an Alternate Currency for the account of such Revolving Borrower (or any Restricted Subsidiary; provided that (x) a Borrower will be the applicant and (y) any Bank Guarantee issued for the account of a Restricted Subsidiary that is not a Loan Party for the purpose of supporting indebtedness for borrowed money of such Restricted Subsidiary shall be deemed to be an Investment by such Borrower in such Restricted Subsidiary) and to amend or renew Bank Guarantees previously issued by it, in accordance with Section 2.05(b)(ii), and (B) to honor drafts under the Bank Guarantees, and (ii) the Revolving Lenders severally agree to participate in the Bank Guarantees in accordance with Section 2.05(b)(iv).

(ii) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Bank Guarantee (or the amendment, renewal or extension of an outstanding Bank Guarantee), the applicable Revolving Borrower shall deliver to the applicable Guarantee Bank and the Administrative Agent, at least three Business Days in advance of the requested date of issuance (or such shorter period as is acceptable to the applicable Guarantee Bank or one Business Day in the case of issuances to be made on the Closing Date), a request to issue a Bank Guarantee, which shall specify that it is being issued under this Agreement, in the form of Exhibit M-2 attached hereto. To request an amendment, extension or renewal of a Bank Guarantee, the applicable Revolving Borrower shall submit such a request to the applicable Guarantee Bank (with a copy to the Administrative Agent) at least three Business Days in advance of the requested date of amendment, extension or renewal (or such shorter period as is acceptable to the applicable Guarantee Bank), identifying the Bank Guarantee to be amended, extended or renewed, and specifying the proposed date (which shall be a Business Day) and other details of the amendment, extension or renewal. Requests for issuance, amendment, extension or renewal must be accompanied by such other information as shall be necessary to issue, amend, extend or renew such Bank Guarantee. If requested by the applicable Guarantee Bank, the applicable Borrower also shall submit a Bank Guarantee application on such Guarantee Bank's standard form in connection with any request for a Bank Guarantee. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of Bank Guarantee application or other agreement submitted by any Revolving Borrower to, or entered into by any Revolving Borrower with, the applicable Guarantee Bank relating to any Bank Guarantee, the terms and conditions of this Agreement shall control. No Bank Guarantee or other document entered into by any Borrower with the applicable Guarantee Bank relating to any Bank Guarantee shall (x) contain any representations or warranties, covenants or events of default not set forth in this Agreement (and to the extent inconsistent herewith, shall be rendered null and void) and (y) with respect to all representations and warranties, covenants and events of default contained therein, contain

standards, qualifications, thresholds and exceptions for materiality or otherwise inconsistent with this Agreement (and, to the extent inconsistent herewith, shall be deemed to incorporate such standards, qualifications, thresholds and exceptions contained herein without action by any other party). A Bank Guarantee shall be issued, amended, extended or renewed only if (and upon issuance, amendment, extension or renewal of each Bank Guarantee the applicable Revolving Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, extension or renewal, (x) the Bank Guarantee Exposure and the LC Exposure shall, subject to Sections 2.08 and 2.21(f), not exceed the Letter of Credit and Bank Guarantee Sublimit (taking the Euro Equivalent of all amounts in an Alternate Currency) and (y) the aggregate Outstanding Amount of all Revolving Loans, Swingline Loans, LC Obligations and Bank Guarantee Obligations would not exceed the Total Revolving Credit Commitment. Promptly after the delivery of any Bank Guarantee or any amendment to a Bank Guarantee to an advising bank with respect thereto or to the beneficiary thereof, the applicable Guarantee Bank will also deliver to the Lux Borrower and the Administrative Agent a true and complete copy of such Bank Guarantee or amendment. Upon receipt of such Bank Guarantee or amendment, the Administrative Agent shall notify the Revolving Lenders, in writing, of such Bank Guarantee or amendment, and if so requested by a Revolving Lender, the Administrative Agent will provide such Lender with copies of such Bank Guarantee or amendment.

(iii) Expiration Date. Each Bank Guarantee shall expire not later than the earlier of (x) the date one year after the date of the issuance of such Bank Guarantee and (y) the date that is five Business Days prior to the Latest Revolving Loan Maturity Date; provided that any Bank Guarantee may provide for the automatic extension thereof for any number of additional periods each of up to one year in duration (none of which, in any event, shall extend beyond the date referred to in clause (y) of this paragraph (iii)(A) unless 100% of the then available face amount thereof is Cash collateralized or backstopped pursuant to arrangements reasonably satisfactory to the Guarantee Bank thereof).

(iv) Participations. By the issuance of a Bank Guarantee (or an amendment to a Bank Guarantee increasing the amount thereof) and without any further action on the part of the applicable Guarantee Bank or the Revolving Lenders, the applicable Guarantee Bank hereby grants to each Revolving Lender, and each Revolving Lender hereby acquires from such Guarantee Bank, a participation in such Bank Guarantee equal to such Revolving Lender's Applicable Percentage of the aggregate amount available to be drawn under such Bank Guarantee (in respect of any Bank Guarantees issued in an Alternate Currency, expressed in the Euro Equivalent thereof). In consideration and in furtherance of the foregoing, each Revolving Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the applicable Guarantee Bank, such Lender's Applicable Percentage of each Bank Guarantee Disbursement made by such Guarantee Bank and not reimbursed by the applicable Revolving Borrower on the date due as provided in paragraph (v) of this Section 2.05(b), or of any reimbursement payment required to be refunded to the applicable Revolving Borrower for any reason. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Bank Guarantees is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Bank

Guarantee or the occurrence and continuance of a Default or Event of Default or reduction or termination of the Revolving Credit Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(v) Reimbursement. If the applicable Guarantee Bank shall make any Bank Guarantee Disbursement in respect of a Bank Guarantee, the applicable Revolving Borrower shall reimburse such Bank Guarantee Disbursement by paying to the applicable Guarantee Bank an amount equal to such Bank Guarantee Disbursement not later than 1:00 p.m. two Business Days immediately following the date such applicable Revolving Borrower receives notice under paragraph (vii) of this Section 2.05(b) of such Bank Guarantee Disbursement; provided that the applicable Revolving Borrower may, without satisfying the conditions to borrowing set forth herein, request (or if the applicable Revolving Borrower fails to make such payment when due, then the applicable Revolving Borrower shall be deemed to have requested), in accordance with Section 2.03 or 2.04 that such payment be financed with (x) in the case of a Bank Guarantee denominated in Dollars, an ABR Revolving Borrowing or Swingline Loan denominated in Dollars in an equivalent amount and (y) in the case of a Bank Guarantee denominated in Euros or an Alternate Currency (other than Dollars), a Eurocurrency Rate Revolving Loan denominated in Euros or such Alternate Currency (other than Dollars) or Swingline Loan denominated in Euros or such Alternate Currency in an equivalent amount, and, to the extent so financed, the applicable Revolving Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing, Swingline Loan or Eurocurrency Rate Revolving Loan, as the case may be. If the applicable Revolving Borrower fails to make such payment when due, the Administrative Agent shall notify each Revolving Lender of the applicable Bank Guarantee Disbursement, the payment then due from the applicable Revolving Borrower in respect thereof and such Revolving Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Revolving Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the applicable Revolving Borrower, in the same manner as provided in Section 2.06 with respect to Loans made by such Revolving Lender (and Section 2.06 shall apply, *mutatis mutandis*, to the payment obligations of the Revolving Lenders), and the Administrative Agent shall promptly pay to the applicable Guarantee Bank the amounts so received by it from the Revolving Lenders. Promptly following receipt by the Administrative Agent of any payment from the applicable Revolving Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the applicable Guarantee Bank or, to the extent that Revolving Lenders have made payments pursuant to this paragraph to reimburse such Guarantee Bank, then to such Revolving Lenders and such Guarantee Bank as their interests may appear.

(A) If any Revolving Lender fails to make available to the Administrative Agent for the account of the applicable Guarantee Bank any amount required to be paid by such Revolving Lender pursuant to the foregoing provisions of this Section 2.05(b)(v) by the time specified therein, such Guarantee Bank shall be entitled to recover from such Revolving Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such Guarantee Bank at a rate

per annum equal to the greater of the Federal Funds Effective Rate (or, in the case of Bank Guarantees denominated in Euros or an Alternate Currency other than Dollars, the Administrative Agent's customary rate for interbank advances in Euros or such Alternate Currency) from time to time in effect and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. A certificate of applicable Guarantee Bank submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this clause (v) shall be conclusive absent manifest error.

(vi) Obligations Absolute. The applicable Revolving Borrower's obligation to reimburse Bank Guarantee Disbursements as provided in paragraph (v) of this Section 2.05(b) shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (1) any lack of validity or enforceability of any Bank Guarantee or this Agreement, or any term or provision therein, (2) any draft or other document presented under a Bank Guarantee proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (3) payment by the applicable Guarantee Bank under a Bank Guarantee against presentation of a draft or other document that does not comply with the terms of such Bank Guarantee or (4) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the applicable Revolving Borrower's obligations hereunder. Neither the Administrative Agent, the Revolving Lenders nor any Guarantee Bank, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Bank Guarantee or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Bank Guarantee (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of such Guarantee Bank; provided that the foregoing shall not be construed to excuse such Guarantee Bank from liability to the Lux Borrower to the extent of any direct damages suffered by the applicable Revolving Borrower that are caused by such Guarantee Bank's failure to exercise care when determining whether drafts and other documents presented under a Bank Guarantee comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence, bad faith or willful misconduct on the part of applicable Guarantee Bank (as finally determined by a court of competent jurisdiction), such Guarantee Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Bank Guarantee, the applicable Guarantee Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Bank Guarantee.

(vii) Disbursement Procedures. The applicable Guarantee Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Bank Guarantee. Such Guarantee Bank shall promptly notify the Administrative Agent and the applicable Revolving Borrower by telephone (confirmed in writing) of such demand for payment and whether such Guarantee Bank has made or will make a Bank Guarantee Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the applicable Revolving Borrower of its obligation to reimburse such Guarantee Bank and the Revolving Lenders with respect to any such Bank Guarantee Disbursement.

(viii) Interim Interest. If a Guarantee Bank shall make any Bank Guarantee Disbursement, then, unless the applicable Revolving Borrower shall reimburse such Bank Guarantee Disbursement in full on the date such Bank Guarantee Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such Bank Guarantee Disbursement is made to but excluding the date that the Lux Borrower reimburses such Bank Guarantee Disbursement, at the rate per annum then applicable to (x) in the case of Bank Guarantees denominated in Dollars, Revolving Loans that are ABR Loans and (y) in the case of Bank Guarantees denominated in Euros or any Alternate Currency (other than Dollars), Eurocurrency Rate Revolving Loans; provided that if any Revolving Borrower fails to reimburse such Bank Guarantee Disbursement when due pursuant to paragraph (v) of this Section 2.05(b), then Section 2.12(d) shall apply until such Guarantee Bank is reimbursed in accordance with paragraph (v) of this Section 2.05(b). Interest accrued pursuant to this paragraph and owing to a Guarantee Bank (prior to reimbursement of such Guarantee Bank in accordance with paragraph (v) of this Section 2.05(b)) shall be for the account of the applicable Guarantee Bank and shall be payable on the date the applicable Bank Guarantee Disbursement is due (and, thereafter on demand by the Guarantee Bank). After the date of payment by any Revolving Lender pursuant to paragraph (v) of this Section 2.05(b) to reimburse the relevant Guarantee Bank, any interest accruing after such date shall be for the account of such Revolving Lender to the extent of such payment, and shall be payable in accordance with Section 2.12 for the applicable Class and Type of Revolving Loans.

(ix) Replacement of a Guarantee Bank or Addition of New Guarantee Banks. A Guarantee Bank may be replaced with the consent of the Administrative Agent (not to be unreasonably withheld or delayed) at any time by written agreement among the Revolving Borrowers, the Administrative Agent and the successor Guarantee Bank. The Administrative Agent shall notify the Revolving Lenders of any such replacement of a Guarantee Bank. At the time any such replacement shall become effective, the Revolving Borrowers shall pay all unpaid fees accrued for the account of the replaced Guarantee Bank pursuant to Section 2.11(b)(iii). From and after the effective date of any such replacement, (i) the successor Guarantee Bank shall have all the rights and obligations of the replaced Guarantee Bank under this Agreement with respect to Bank Guarantees to be issued thereafter and (ii) references herein to the term "Guarantee Bank" shall be deemed to include such successor or any previous Guarantee Bank, or such successor and all previous Guarantee Banks, as the context shall require. After the replacement of a Guarantee Bank hereunder, the replaced Guarantee Bank shall remain a party hereto and shall continue to have all the rights and obligations of a Guarantee Bank under this Agreement with respect to Bank Guarantees issued by it prior to such

replacement, but shall not be required to issue additional Bank Guarantees. The Revolving Borrowers may, at any time and from time to time with the consent of the Administrative Agent (which consent shall not be unreasonably withheld or delayed) and such Revolving Lender, designate one or more additional Revolving Lenders to act as a Guarantee Bank under the terms of this Agreement. Any Revolving Lender designated as a Guarantee Bank pursuant to this paragraph (x) shall be deemed to be a “Guarantee Bank” (in addition to being a Revolving Lender) in respect of Bank Guarantees issued or to be issued by such Revolving Lender, and, with respect to such Bank Guarantees, such term shall thereafter apply to the other Guarantee Bank and such Revolving Lender.

(x) Cash Collateralization.

(A) If any Event of Default exists and the Loans have been declared due and payable in accordance with Article 7, then on the Business Day that the applicable Revolving Borrower receives notice from the Administrative Agent at the direction of the Required Lenders demanding the deposit of Cash collateral pursuant to this paragraph (xi), upon such demand, the Lux Borrower shall deposit, in an interest-bearing account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Revolving Lenders (the “**Bank Guarantee Collateral Account**”), an amount in Cash equal to 100% of the Euro Equivalent of the Bank Guarantee Exposure as of such date (minus the amount then on deposit in the Bank Guarantee Collateral Account); provided that the obligation to deposit such Cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to any Revolving Borrower described in Section 7.01(f) or (g).

(B) Any such deposit under clause (i) above shall be held by the Administrative Agent as collateral for the payment and performance of the Secured Obligations in accordance with the provisions of this paragraph (xi). The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account and the applicable Revolving Borrower hereby grants the Administrative Agent, for the benefit of the Secured Parties, a first priority security interest in the Bank Guarantee Collateral Account. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the applicable Guarantee Bank for Bank Guarantee Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the applicable Revolving Borrower for the Bank Guarantee Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of the Required Revolving Lenders) be applied to satisfy other Secured Obligations. If the applicable Revolving Borrower is required to provide an amount of Cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (together with all interest and other earnings with respect thereto, to the extent not applied as aforesaid) shall be returned to the applicable Revolving Borrower promptly but in no event later than three Business Days, after such Event of Default has been cured or waived.

Section 2.06. Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 1:00 p.m. (London time) to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders in an amount equal to such Lender's respective Applicable Percentage; provided that Swingline Loans shall be made as provided in Section 2.04. The Administrative Agent will make such Loans available to the Borrowers by promptly crediting the amounts so received, in like funds, to the Funding Account or as otherwise directed by the applicable Borrowers (or the Lux Borrower on behalf of Borrowers); provided that ABR Revolving Loans (or Eurocurrency Rate Revolving Loans in the case of Letters of Credit or Bank Guarantees denominated in Euros or an Alternate Currency other than Dollars) made to finance the reimbursement of an LC Disbursement as provided in Section 2.05(a)(v) or Bank Guarantee Disbursement as provided in Section 2.05(b)(v), as applicable, shall be remitted by the Administrative Agent to the applicable Issuing Bank or Guarantee Bank, as applicable.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrowers a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrowers severally agree to pay to the Administrative Agent forthwith on demand (without duplication) such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrowers to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate (or, with respect to any amount denominated in Euros or an Alternate Currency (other than Dollars), the rate of interest per annum at which overnight deposits in Euros or the applicable Alternate Currency (other than Dollars), on an amount approximately equal to the amount with respect to which such rate is being determined, would be offered for such day by the Administrative Agent in the applicable offshore interbank market for such currency) and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrowers, the interest rate applicable to Loans comprising such Borrowing at such time. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing and the Borrowers' obligation to repay the Administrative Agent such corresponding amount pursuant to this Section 2.06(b) shall cease. If the Borrowers pay such amount to the Administrative Agent, the amount so paid shall constitute a repayment of such Borrowing by such amount. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or any Borrower or any other Loan Party may have against any Lender as a result of any default by such Lender hereunder.

Section 2.07. Type; Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurocurrency Rate Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the applicable Borrower may elect to convert any Borrowing denominated in Dollars to a Borrowing of a different Type or

to continue such Borrowing and, in the case of any Eurocurrency Rate Borrowing, may elect Interest Periods therefor, all as provided in this Section. The applicable Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders, based upon their Applicable Percentages and the Loans comprising each such portion shall be considered a separate Borrowing. This Section shall not apply to Swingline Loans, which may not be converted or continued.

(b) To make an election pursuant to this Section, the applicable Borrower shall notify the Administrative Agent of such election delivered in writing (by hand delivery, fax or other electronic transmission (including ".pdf" or ".tiff")) by the time that a Borrowing Request would be required under Section 2.03 if such Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election; it being agreed that, in any case, any Borrower may make an election with respect to Term Loans by email (which email, if sent by an officer of Holdings and its Restricted Subsidiaries that is not a Borrower, shall be promptly confirmed through email by a Responsible Officer of the Lux Borrower).

(c) Each written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the currency of such Borrowing;

(ii) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iv) and (v) below shall be specified for each resulting Borrowing);

(iii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iv) whether the resulting Borrowing is to be an ABR Borrowing or a Eurocurrency Rate Borrowing; and

(v) if the resulting Borrowing is a Eurocurrency Rate Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurocurrency Rate Borrowing but does not specify an Interest Period, then the applicable Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each applicable Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the applicable Borrower fails to deliver a timely Interest Election Request with respect to a Eurocurrency Rate Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to a Eurocurrency Rate Borrowing with an Interest

Period of one month. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the applicable Borrower, then, so long as an Event of Default is continuing (i) no outstanding Borrowing denominated in Dollars may be converted to or continued as a Eurocurrency Rate Borrowing and (ii) unless repaid, each Eurocurrency Rate Borrowing denominated in Dollars shall be converted to an ABR Borrowing at the end of the then-current Interest Period applicable thereto.

(f) It is understood and agreed that only a Borrowing denominated in Dollars may be made in the form of, or converted into, an ABR Loan.

#### Section 2.08. Termination and Reduction of Commitments.

(a) Unless previously terminated, (i) the Initial Term Loan Commitments shall automatically terminate upon the earlier of (x) the Expiration Date if the Closing Date has not occurred on or prior to such date and (y) the making of the Initial Term Loans on the Closing Date, (ii) the Initial Revolving Credit Commitments shall automatically terminate on the earlier of (x) the Expiration Date if the Closing Date has not occurred on or prior to such date and (y) the Initial Revolving Credit Maturity Date, (iii) the Additional Term Commitments of any Class shall automatically terminate upon the making of the Additional Term Loans of such Class and, if any such Additional Term Commitment is not drawn on the date that such Additional Term Commitment is required to be drawn pursuant to the applicable Incremental Facility Agreement, Extension Amendment or Refinancing Amendment, as applicable, the undrawn amount thereof shall automatically terminate and (iv) the Additional Revolving Commitments of any Class shall automatically terminate on the Maturity Date specified therefor in the applicable Incremental Facility Agreement, Extension Amendment or Refinancing Amendment, as applicable.

(b) Upon delivering the notice required by Section 2.08(c), the Lux Borrower may at any time terminate or reduce the Revolving Credit Commitments of any Class upon (i) the payment in full in Cash of all outstanding Revolving Loans of such Class, together with accrued and unpaid interest thereon, (ii) the cancellation and return of all outstanding Letters of Credit (or alternatively, with respect to each such Letter of Credit, the furnishing to the Administrative Agent of a Cash deposit (or if reasonably satisfactory to the Administrative Agent, a backup standby letter of credit) equal to 100% of the LC Exposure (minus the amount then on deposit in the LC Collateral Account) as of such date), in each case, issued under the Revolving Credit Commitments of such Class, (iii) the cancellation of all outstanding Bank Guarantees (or alternatively, with respect to each outstanding Bank Guarantee, the furnishing to the Administrative Agent of a Cash deposit (or if reasonably satisfactory to the applicable Guarantee Bank, a backup standby letter of credit) equal to 100% of the Bank Guarantee Exposure (minus the amount then on deposit in the Bank Guarantee Collateral Account) as of such date), in each case, issued under the Revolving Credit Commitments of such Class and (iv) the payment in full of all accrued and unpaid fees and all reimbursable expenses and other non-contingent Obligations with respect to the Revolving Credit Commitments of such Class then due, together with accrued and unpaid interest (if any) thereon; provided that (i) each reduction of the Revolving Credit Commitments of any Class shall be in an amount that is an integral multiple of €1,000,000 and not less than €1,000,000 and (ii) the Lux Borrower shall not reduce the Revolving Credit Commitments of any Class if, after giving effect to any concurrent prepayment of the Revolving Loans of such Class in accordance with Section 2.09 or Section 2.10, the aggregate

Revolving Credit Exposure attributable to the Revolving Credit Commitments of such Class would exceed the aggregate amount of Revolving Credit Commitment of such Class.

(c) The Lux Borrower shall notify the Administrative Agent of any election to terminate or reduce the Revolving Credit Commitments under paragraph (b) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Revolving Lenders of the contents thereof. Each notice delivered by the Lux Borrower pursuant to this Section shall be irrevocable; provided that a notice of termination of the Revolving Credit Commitments delivered by the Lux Borrower may state that such notice is conditioned upon the effectiveness of other transactions, in which case such notice may be revoked by the Lux Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Revolving Credit Commitments pursuant to this Section 2.08 shall be permanent. Upon any reduction of the Revolving Credit Commitments, the Revolving Credit Commitment of each Revolving Lender shall be reduced by such Revolving Lender's Applicable Percentage of such reduction amount.

Section 2.09. Repayment of Loans; Evidence of Debt.

(a) Commencing at the end of the first full Fiscal Quarter ended after the Closing Date, (i) the Lux Borrower hereby unconditionally promises to repay in Euros the Tranche B-1 Term Loans, (ii) the Lux Borrower hereby unconditionally promises to repay in Dollars, the Tranche B-2 Term Loans and (iii) the US Borrower hereby unconditionally promises to repay in Dollars the Tranche B-3 Term Loans, in each case to the Administrative Agent for the account of each Term Lender (x) on the last day of each March, June, September and December prior to the Initial Term Loan Maturity Date (each such date being referred to as a "**Loan Installment Date**"), in each case in an amount equal to 0.25% of the original principal amount of the Initial Term Loans of such Class, as applicable (as such payments may be reduced from time to time as a result of the application of prepayments in accordance with Section 2.10 and purchases or assignments in accordance with Section 9.05(f)(ii) and/or 9.05(g) or increased as a result of any increase in the amount of such Term Loans pursuant to Section 2.21(a)), and (y) on the Initial Term Loan Maturity Date, the remainder of the principal amount of the Tranche B-1 Term Loans, Tranche B-2 Term Loans or Tranche B-3 Term Loans, as applicable, outstanding on such date, together in each case with accrued and unpaid interest on the principal amount to be paid to but excluding the date of such payment.

(b) The applicable Borrower shall repay the Additional Term Loans of any Class in such scheduled amortization installments and on such date or dates as shall be specified therefor in the applicable Incremental Facility Agreement, Extension Amendment or Refinancing Amendment (as such payments may be reduced from time to time as a result of the application of prepayments in accordance with Section 2.10 or purchases or assignments in accordance with Section 9.05(f)(ii) and/or 9.05(g)).

(c) The Revolving Borrowers hereby unconditionally promise to pay in Euros or the relevant Alternate Currency (i) to the Administrative Agent for the account of each Revolving Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date applicable thereto and (ii) to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the Latest Revolving Loan Maturity Date. On the Maturity Date applicable to the Revolving

Credit Commitments of any Class, the Revolving Borrowers shall (A) cancel and return all outstanding Letters of Credit (or alternatively, with respect to each outstanding Letter of Credit, furnish to the Administrative Agent a Cash deposit (or if reasonably satisfactory to the relevant Issuing Bank, a “backstop” bank guarantee or standby letter of credit) equal to 100% of the Euro Equivalent of the LC Exposure (minus the amount then on deposit in the LC Collateral Account) as of such date, (B) cancel all outstanding Bank Guarantees (or alternatively, with respect to each outstanding Bank Guarantee, furnish to the Administrative Agent a Cash deposit (or if reasonably satisfactory to the applicable Guarantee Bank, a backup bank guarantee or standby letter of credit) equal to 100% of the Euro Equivalent of the Bank Guarantee Exposure (minus the amount then on deposit in the Bank Guarantee Collateral Account) as of such date, in each case of clauses (A) and (B), to the extent necessary so that, after giving effect thereto, the aggregate amount of the Revolving Credit Exposure attributable to the Revolving Credit Commitments of any other Class shall not exceed the Revolving Credit Commitments of such other Class then in effect, and (C) make payment in full in Cash of all accrued and unpaid fees and all reimbursable expenses and other Obligations with respect to the Revolving Facility of the applicable Class then due, together with accrued and unpaid interest (if any) thereon.

(d) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrowers to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(e) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class, Type and currency thereof and the Interest Period (if any) applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrowers to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender’s share thereof.

(f) The entries made in the accounts maintained pursuant to paragraph (c) or (d) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein (absent manifest error); provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any manifest error therein shall not in any manner affect the obligation of the Borrowers to repay the Loans in accordance with the terms of this Agreement; provided, further, that in the event of any inconsistency between the accounts maintained by the Administrative Agent pursuant to paragraph (d) of this Section and any Lender’s records, the accounts of the Administrative Agent shall govern.

(g) Any Lender may request that Loans made by it be evidenced by a Promissory Note. In such event, the relevant Borrowers shall prepare, execute and deliver to such Lender a Promissory Note payable to such Lender and its registered assigns. Thereafter, the Loans evidenced by such Promissory Note and interest thereon shall at all times (including after assignment pursuant to Section 9.05) be represented by one or more Promissory Notes in such form payable to the payee named therein and its registered assigns.

Section 2.10. Prepayment of Loans.

(a) Optional Prepayments.

(i) Upon prior notice in accordance with paragraph (a)(iii) of this Section 2.10, the Borrowers shall have the right at any time and from time to time to prepay any Borrowing of Term Loans of one or more Classes (such Class or Classes to be selected by the Lux Borrower in its sole discretion) in whole or in part without premium or penalty (but subject to, in the case of Initial Term Loans only, Sections 2.11(e) and, if applicable, 2.15). Each such prepayment shall be paid to the Lenders in accordance with their respective Applicable Percentages of the relevant Class.

(ii) Upon prior notice in accordance with paragraph (a)(iii) of this Section 2.10, the Revolving Borrowers shall have the right at any time and from time to time to prepay any Borrowing of Revolving Loans of any Class or any Borrowing of Swingline Loans in whole or in part without premium or penalty (but subject to Section 2.15). Prepayments made pursuant to this Section 2.10(a)(ii), first, shall be applied ratably to the Swingline Loans, to outstanding LC Disbursements and to outstanding Bank Guarantee Disbursements and second, shall be applied ratably to the outstanding Revolving Loans of such Class, in each case subject to Section 2.21, 2.23 and 9.02(c). Each such prepayment shall be paid to the Revolving Lenders in accordance with their respective Applicable Percentages of the relevant Class.

(iii) The applicable Borrower (or the Lux Borrower on its behalf) shall notify the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the Swingline Lender) in writing of any prepayment hereunder (A) in the case of a prepayment of a Eurocurrency Rate Borrowing, not later than 1:00 p.m. (London time) three Business Days before the date of prepayment, (B) in the case of a prepayment of an ABR Borrowing, not later than 1:00 p.m. (London time) one Business Day before the date of prepayment or (C) in the case of a prepayment of a Swingline Loan, not later than 1:00 p.m. (London time) on the date of prepayment (or, in the case of clauses (A) and (B), such later time as to which the Administrative Agent may agree). Each such notice shall be irrevocable (except as provided below) and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that a notice of prepayment delivered by any Borrower may state that such notice is conditioned upon the effectiveness of other transactions, in which case such notice may be revoked by such Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Promptly following receipt of any such notice relating to a Borrowing, the Administrative Agent shall advise the relevant Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of a Borrowing of the same Type as provided in Section 2.02(c). Each optional prepayment of a Borrowing of Term Loans made by a Term Borrower pursuant to this Section 2.10(a) shall be applied to the relevant Class of Term Loans as specified by such Borrower (or on behalf of any such Borrower by the Lux Borrower) or, if not so specified on or prior to the date of such optional prepayment, on a pro rata basis to the then outstanding Class of Term Loans incurred by such Term Borrower (based on the outstanding principal amounts thereof and using the Euro Equivalent of amounts in an Alternate Currency). Each prepayment of Term Loans made pursuant to this Section 2.10(a) shall be applied against the remaining

scheduled installments of principal due in respect of the Term Loans of such Class or Classes in the manner specified by the Lux Borrower (on behalf of any Borrower) or, if not so specified on or prior to the date of such optional prepayment, in direct order of maturity.

(b) Mandatory Prepayments.

(i) No later than the fifth Business Day after the date on which the financial statements with respect to each Fiscal Year of the Lux Borrower are required to be delivered pursuant to Section 5.01(b), commencing with the Fiscal Year ending on December 31, 2017, the Borrowers shall prepay the outstanding principal amount of Subject Term Loans in an aggregate principal amount (the “**ECF Prepayment Amount**”) equal to (A) the Excess Cash Flow Percentage of the Excess Cash Flow of the Lux Borrower and its Restricted Subsidiaries for the Fiscal Year then ended, *minus* (B) at the option of the Borrowers (x) the aggregate principal amount of any Term Loans or Revolving Loans prepaid pursuant to Section 2.10(a) prior to such date, (y) the aggregate principal amount of any Incremental Equivalent Debt and Replacement Notes that are pari passu in right of payment and security with the Initial Term Loans prepaid, repurchased, redeemed or otherwise retired prior to such date and (z) the amount of any reduction in the outstanding amount of any Term Loans resulting from any assignment made in accordance with Section 9.05(f)(ii) and/or 9.05(g) of this Agreement (including in connection with any Dutch Auction) prior to such date based upon the actual amount of cash paid in connection with the relevant assignment in each case, (1) excluding any such optional prepayments made during such Fiscal Year that reduced the amount required to be prepaid pursuant to this Section 2.10(b)(i) in the prior Fiscal Year, (2) in the case of any such revolving loans prepaid, to the extent accompanied by a permanent reduction in the relevant commitment, and (3) in the case of all such prepayments, to the extent that such prepayments were not financed with the proceeds of other Indebtedness (other than revolving Indebtedness) of the Borrowers or their Restricted Subsidiaries; provided that no prepayment under this Section 2.10(b) shall be required unless and to the extent that the ECF Prepayment Amount would exceed €5,000,000; provided further that, if at the time that any such prepayment would be required, the Lux Borrower or any of its Restricted Subsidiaries is required to repay or offer to repay or repurchase any other Indebtedness secured on a *pari passu* basis (or any Refinancing Indebtedness in respect thereof that is secured on a *pari passu* basis) with the Initial Term Loans pursuant to the terms of the documentation governing such Indebtedness with any portion of the ECF Prepayment Amount (such other Indebtedness required to be so prepaid or offered to be so repaid or repurchased, “**Other Applicable Indebtedness**”), then the Borrowers may apply such portion of the ECF Prepayment Amount on a pro rata basis (determined on the basis of the aggregate outstanding principal amount of the Loans and Other Applicable Indebtedness at such time; provided, that the portion of such ECF Prepayment Amount applied to the prepayment of the Other Applicable Indebtedness shall not exceed the amount of such ECF Prepayment Amount required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof, and the remaining amount, if any, of such ECF Prepayment Amount shall be allocated to the Term Loans in accordance with the terms hereof) to the prepayment of the Term Loans and to the prepayment of Other Applicable Indebtedness, and the amount of prepayment of the Term Loans that would have otherwise been required pursuant to this Section 2.10(b)(i) shall be reduced accordingly; provided further that, to the extent the holders of Other Applicable

Indebtedness decline to have such indebtedness prepaid with the applicable portion of the ECF Prepayment Amount, the declined amount shall promptly (and in any event within ten (10) Business Days after the date of such rejection) be applied to prepay the Term Loans in accordance with the terms hereof.

(ii) No later than the fifth Business Day following the receipt of Net Proceeds in respect of any Prepayment Asset Sale or Net Insurance/Condemnation Proceeds, in each case, in excess of (x) the greater of €10,000,000 and 2.9% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period in a single transaction or series of related transactions and (y) the greater of €40,000,000 and 11.5% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period in any Fiscal Year, the Borrowers shall apply an amount equal to 100% of the Net Proceeds or Net Insurance/Condemnation Proceeds received with respect thereto in excess of such thresholds (collectively, the “**Subject Proceeds**”) to prepay the outstanding principal amount of Subject Term Loans; provided that if prior to the date any such prepayment is required to be made, the Lux Borrower (on behalf of any Borrower) notifies the Administrative Agent of its intention to reinvest the Subject Proceeds in assets used or useful in the business (other than Cash or Cash Equivalents) of the Lux Borrower or any of its subsidiaries, then so long as no Event of Default then exists, the Borrowers shall not be required to make a mandatory prepayment under this clause (ii) in respect of the Subject Proceeds to the extent the Subject Proceeds are so reinvested within 365 days following receipt thereof, or if the Lux Borrower or any of its subsidiaries has committed to so reinvest the Subject Proceeds during such 365-day period and the Subject Proceeds are so reinvested within 180 days after the expiration of such 365-day period; provided that, if any Subject Proceeds have not been so reinvested prior to the expiration of the applicable period, the Borrowers shall promptly prepay the outstanding principal amount of the Subject Term Loans with the Subject Proceeds not so reinvested as set forth above (without regard to the immediately preceding proviso); provided, further, that if, at the time that any such prepayment would be required hereunder, the Lux Borrower or any of its Restricted Subsidiaries is required to repay or repurchase any Other Applicable Indebtedness (or offer to repurchase such Other Applicable Indebtedness), then the relevant Person may apply the Subject Proceeds on a pro rata basis to the prepayment of the Subject Term Loans and to the repurchase or repayment of the Other Applicable Indebtedness (determined on the basis of the aggregate outstanding principal amount of the Subject Term Loans and the Other Applicable Indebtedness (or accreted amount if such Other Applicable Indebtedness is issued with original issue discount) at such time); it being understood that (1) the portion of the Subject Proceeds allocated to the Other Applicable Indebtedness shall not exceed the amount of the Subject Proceeds required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof, (and the remaining amount, if any, of the Subject Proceeds shall be allocated to the Subject Term Loans in accordance with the terms hereof), and the amount of the prepayment of the Subject Term Loans that would have otherwise been required pursuant to this Section 2.10(b)(ii) shall be reduced accordingly and (2) to the extent the holders of the Other Applicable Indebtedness decline to have such Indebtedness prepaid or repurchased, the declined amount shall promptly (and in any event within ten Business Days after the date of such rejection) be applied to prepay the Subject Term Loans in accordance with the terms hereof.

(iii) In the event that the Lux Borrower or any of its Restricted Subsidiaries shall receive Net Proceeds from the issuance or incurrence of Indebtedness of the Lux Borrower or any of its Restricted Subsidiaries (other than with respect to Indebtedness permitted under Section 6.01, except to the extent constituting Refinancing Indebtedness incurred to refinance all or a portion of any Class of Term Loans pursuant to Section 6.01(p), Replacement Term Loans incurred to refinance Term Loans in accordance with the requirements of Section 9.02(c)), any Incremental Facility incurred to refinance all or a portion of the Loans in accordance with the requirements of Section 2.21 and/or Incremental Equivalent Debt incurred to refinance all or a portion of the Loans in accordance with the requirements of Section 6.01(y)), the Borrowers shall, substantially simultaneously with (and in any event not later than the next succeeding Business Day) the receipt of such Net Proceeds by such Borrower or such Restricted Subsidiary, apply an amount equal to 100% of such Net Proceeds to prepay the outstanding principal amount of Term Loans in accordance with clause (vi) below.

(iv) Notwithstanding any provision under this Section 2.10(b) to the contrary,

(A) the Borrowers shall not be required to prepay any amount that would otherwise be required to be paid pursuant to Sections 2.10(b)(i) or (ii) above to the extent that the relevant affected Excess Cash Flow is generated by any Non-US Subsidiary or the relevant Subject Proceeds are received by any Non-US Subsidiary, as the case may be, for so long as the repatriation to the Borrowers of any such amount would be prohibited under any Requirement of Law or conflict with the fiduciary duties of such Non-US Subsidiary's directors, or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for any officer, director, employee, manager, member of management or consultant of such Non-US Subsidiary (the Borrowers hereby agreeing to cause the applicable Non-US Subsidiary to promptly take all commercially reasonable actions required by applicable Requirements of Law to permit such repatriation); it being understood that if the repatriation of the relevant affected Excess Cash Flow or Subject Proceeds, as the case may be, is permitted under the applicable Requirement of Law and, to the extent applicable, would no longer conflict with the fiduciary duties of such director, or result in, or be reasonably expected to result in, a material risk of personal or criminal liability for the Persons described above, in either case, within 365 days following the end of the applicable Excess Cash Flow Period or the event giving rise to the relevant Subject Proceeds, the relevant Non-US Subsidiary will promptly repatriate the relevant Excess Cash Flow or Subject Proceeds, as the case may be, and the repatriated Excess Cash Flow or Subject Proceeds, as the case may be, will be promptly (and in any event not later than two Business Days after such repatriation) applied (net of additional Taxes payable or reserved against as a result thereof) to the repayment of the Term Loans pursuant to this Section 2.10(b) to the extent required herein (without regard to this clause (iv)),

(B) the Borrowers shall not be required to prepay any amount that would otherwise be required to be paid pursuant to Sections 2.10(b)(i) or (ii) to the extent that the relevant Excess Cash Flow is generated by any joint venture or the relevant Subject Proceeds are received by any joint venture, in each case, for so long as the distribution to the Borrowers of such Excess Cash Flow or Subject

Proceeds would be prohibited under the Organizational Documents governing such joint venture; it being understood that if the relevant prohibition ceases to exist within the 365-day period following the end of the applicable Excess Cash Flow Period or the event giving rise to the relevant Subject Proceeds, the relevant joint venture will promptly distribute the relevant Excess Cash Flow or the relevant Subject Proceeds, as the case may be, and the distributed Excess Cash Flow or Subject Proceeds, as the case may be, will be promptly (and in any event not later than two Business Days after such distribution) applied to the repayment of the Term Loans pursuant to this Section 2.10(b) to the extent required herein (without regard to this clause (iv)), and

(C) if the Lux Borrower determines in good faith that the repatriation to the Borrowers as a distribution or dividend of any amounts required to mandatorily prepay the Term Loans pursuant to Sections 2.10(b)(i) or (ii) above that are attributable to any Restricted Subsidiary would result in a material and adverse Tax liability (including any withholding Tax) (such amount, a "**Restricted Amount**"), the amount that the Borrowers shall be required to mandatorily prepay pursuant to Sections 2.10(b)(i) or (ii) above, as applicable, shall be reduced by the Restricted Amount; provided that to the extent that the repatriation of the relevant Subject Proceeds or Excess Cash Flow from the relevant Non-US Subsidiary would no longer have a material and adverse tax consequence within the 365-day period following the event giving rise to the relevant Subject Proceeds or the end of the applicable Excess Cash Flow Period, as the case may be, an amount equal to the Subject Proceeds or Excess Cash Flow, as applicable and to the extent available, not previously applied pursuant to this clause (C), shall be promptly applied to the repayment of the Term Loans pursuant to Section 2.10(b) as otherwise required above.

(v) Each Lender may elect, by notice to the Administrative Agent at or prior to the time and in the manner specified by the Administrative Agent, prior to any prepayment of Term Loans required to be made by the Borrowers pursuant to this Section 2.10(b), to decline all (but not a portion) of its Applicable Percentage of such prepayment (such declined amounts, the "**Declined Proceeds**"), in which case such Declined Proceeds shall first be applied to any mandatory prepayment required with respect to any Other Applicable Indebtedness; provided that (A) in the event that any lender under such Other Applicable Indebtedness elects to decline receipt of such Declined Proceeds in accordance with the terms thereof, the remaining amount thereof may be retained by the Borrowers; provided, further, that, for the avoidance of doubt, no Lender may reject any prepayment made under Section 2.10(b)(iii) above to the extent constituting Refinancing Indebtedness incurred to refinance all or a portion of the Term Loans pursuant to Section 6.01(p), Replacement Term Loans incurred to refinance Term Loans in accordance with the requirements of Section 9.02(c) and/or any Incremental Facility incurred to refinance all or a portion of the Loans in accordance with the requirements of Section 2.21. If a Lender fails to deliver a notice of election declining receipt of its Applicable Percentage of such mandatory prepayment to the Administrative Agent within the time frame specified by the Administrative Agent, any such failure will be deemed to constitute an acceptance of such Lender's Applicable Percentage of the total amount of such mandatory prepayment of Term Loans.

(vi) Except as otherwise contemplated by this Agreement or provided in, or intended with respect to, any Refinancing Amendment, any Incremental Facility Agreement or any Extension Amendment or any Replacement Notes (provided, that such Refinancing Amendment, Incremental Facility Agreement or Extension Amendment may not provide that the applicable Class of Term Loans receive a greater than pro rata portion of prepayments of Term Loans pursuant to Section 2.10(b) than would otherwise be permitted by this Agreement), in each case effectuated or issued in a manner consistent with this Agreement, (A) each prepayment of Term Loans pursuant to this Section 2.10(b) shall be applied ratably to each Class of Term Loans (based upon the then outstanding principal amounts of the respective Classes of Term Loans) (provided that any prepayment of Term Loans with the Net Proceeds of Refinancing Indebtedness incurred to refinance all or a portion of the Term Loans pursuant to Section 6.01(p), any Incremental Term Facility refinancing or replacing any Term Loans and/or Replacement Term Loans incurred to refinance Term Loans in accordance with the requirements of Section 9.02(c) shall be applied solely to each applicable Class of refinanced or replaced Term Loans), (B) with respect to each Class of Term Loans, all accepted prepayments under Section 2.10(b)(i), (ii) or (iii) shall be applied against the remaining scheduled installments of principal due in respect of such Class of the Term Loans as directed by the Borrowers (or, in the absence of direction from the Borrowers, to the remaining scheduled amortization payments in respect of such Class of the Term Loans in direct order of maturity), and (C) each such prepayment shall be paid to the Term Lenders of such Class in accordance with their respective Applicable Percentage of the applicable Class. If no Lenders exercise the right to decline a prepayment of the Term Loans pursuant to Section 2.10(b)(v), the amount of such mandatory prepayments shall be applied on a *pro rata* basis to the then outstanding Term Loans of such Class being prepaid irrespective of whether such outstanding Loans are ABR Loans or Eurocurrency Rate Loans; provided that the amount thereof shall be applied first to ABR Loans to the full extent thereof before application to the Eurocurrency Rate Loans in a manner that minimizes the amount of any payments required to be made by the Borrowers pursuant to Section 2.15. Any prepayment of Initial Term Loans made on or prior to the date that is 6 months after the Closing Date pursuant to Section 2.10(b)(iii) as part of a Repricing Transaction shall be accompanied by the prepayment premium set forth in Section 2.11(e).

(vii) (A) In the event that on any Revaluation Date (after giving effect to the determination of the Outstanding Amount of each Revolving Loan, Swingline Loan, LC Obligation, Bank Guarantee Obligation and Ancillary Commitment) the Aggregate Revolving Credit Exposure exceeds an amount equal to 105% of the Total Revolving Credit Commitment then in effect, the Lux Borrower shall, within five Business Days of receipt of notice from the Administrative Agent, prepay the Revolving Loans or Swingline Loans and/or reduce LC Exposure and/or Bank Guarantee Exposure (in each case, taking the Euro Equivalent of any amounts in an Alternate Currency), in an aggregate amount sufficient to reduce such Aggregate Revolving Credit Exposure as of the date of such payment to an amount not to exceed 100% of the Total Revolving Credit Commitment then in effect by taking any of the following actions as it shall determine at its sole discretion: (I) prepayment of Revolving Loans or Swingline Loans in accordance with Section 2.10(a)(ii), (II) with respect to such excess LC Exposure, deposit of Cash in the LC Collateral Account or “backstopping” or replacement of such Letters of Credit, in each case, in an amount equal to 100% of such excess LC Exposure (minus the amount

then on deposit in the LC Collateral Account) and/or (III) with respect to such excess Bank Guarantee Exposure, deposit of Cash in the Bank Guarantee Collateral Account or “backstopping” or replacement of such Bank Guarantees, in each case, in an amount equal to 100% of such excess Bank Guarantee Exposure (minus the amount then on deposit in the Bank Guarantee Collateral Account).

(B) Each prepayment of any Revolving Borrowing under this Section 2.10(b)(vii) shall be paid to the Revolving Lenders in accordance with their Applicable Percentage of such Revolving Borrowing of the applicable Class.

(C) Prepayments made under this Section 2.10(b) shall be (I) accompanied by accrued interest as required by Section 2.12, (II) subject to Section 2.15 and (III) in the case of prepayments of Initial Term Loans under clause (b)(iii) above as part of a Repricing Transaction, subject to Section 2.11(e), but shall otherwise be without premium or penalty.

#### Section 2.11. Fees.

(a) The Lux Borrower agrees to pay to the Administrative Agent for the account of each Initial Revolving Lender (other than a Defaulting Lender) a commitment fee, which shall accrue at a rate equal to the Commitment Fee Rate per annum applicable to the Initial Revolving Credit Commitments on the actual daily amount (determined at 5:00 p.m. London time on each day) of the unused Initial Revolving Credit Commitment of such Revolving Lender during the period from and including the Closing Date to the date on which such Initial Revolving Lender's Initial Revolving Credit Commitments terminate. Accrued commitment fees shall be payable in arrears on the last day of each March, June, September and December (commencing with the last day of the first full Fiscal Quarter ended after the Closing Date) for the quarterly period then ended and on the date on which the Initial Revolving Credit Commitments terminate. For purposes of calculating the commitment fee only, the Initial Revolving Credit Commitment of any Initial Revolving Lender shall be deemed to be used to the extent of Initial Revolving Loans of such Class of such Initial Revolving Lender, the LC Exposure of such Initial Revolving Lender attributable to its Initial Revolving Credit Commitment of such Class and the Bank Guarantee Exposure of such Initial Revolving Lender attributable to its Initial Revolving Credit Commitment of such Class, and no portion of the Initial Revolving Credit Commitment shall be deemed used as a result of outstanding Swingline Loans.

(b) The Lux Borrower agrees to pay (i) to the Administrative Agent for the account of each Revolving Lender of any Class (other than a Defaulting Lender) a participation fee with respect to its participations in Standby Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Eurocurrency Rate Revolving Loans of such Class on the daily face amount of such Lender's LC Exposure in respect of Standby Letters of Credit attributable to its Revolving Credit Commitment of such Class (excluding any portion thereof attributable to unreimbursed LC Disbursements), during the period from and including the Closing Date to the earlier of (A) the later of the date on which such Revolving Lender's Revolving Credit Commitment of such Class terminates and the date on which such Revolving Lender ceases to have any LC Exposure in respect of Standby Letters of Credit attributable to its Revolving Credit Commitment of such Class and (B) the Termination Date, (ii) to the Administrative Agent for the account of each Revolving Lender of any Class

(other than a Defaulting Lender) a participation fee with respect to its participations in Commercial Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Eurocurrency Rate Revolving Loans of such Class, on the daily face amount of such Lender's LC Exposure in respect of Commercial Letters of Credit attributable to its Revolving Credit Commitment of such Class (excluding any portion thereof attributable to unreimbursed LC Disbursements), during the period from and including the Closing Date to the earlier of (A) the later of the date on which such Revolving Lender's Revolving Credit Commitment of such Class terminates and the date on which such Revolving Lender ceases to have any LC Exposure in respect of Commercial Letters of Credit attributable to its Revolving Credit Commitment of such Class and (B) the Termination Date, and (iii) to each Issuing Bank, for its own account, a fronting fee, in respect of each Letter of Credit issued by such Issuing Bank for the period from the date of issuance of such Letter of Credit to the earlier of (A) the expiration date of such Letter of Credit, (B) the date on which such Letter of Credit is terminated and (C) the Termination Date, computed at a rate equal to the rate agreed by such Issuing Bank and the Lux Borrower (but in any event not to exceed 0.125% per annum) of the daily face amount of such Letter of Credit, as well as such Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued to but excluding the last Business Day of each March, June, September and December commencing with the last day of the first full Fiscal Quarter ended after the Closing Date shall be payable in arrears for the quarterly period then ended on the last day of such calendar quarter; provided that all such fees shall be payable on the date on which the Revolving Credit Commitments of such Class terminate. In addition, the Lux Borrower or the other applicable Borrower shall pay directly to each Issuing Bank for its own account with respect to each Letter of Credit issued for the account of the Lux Borrower or such Borrower (whether for the benefit of the such Borrower or any subsidiary) the customary and reasonable issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such Issuing Bank relating to Letters of Credit as from time to time in effect, in each case, on the terms and conditions as may be separately agreed between the applicable Issuing Bank and the applicable Borrower. Any other fees payable to any Issuing Bank pursuant to this paragraph shall be payable within thirty (30) days after receipt of a written demand (accompanied by reasonable back-up documentation therefor).

(c) The Lux Borrower agrees to pay to the Administrative Agent, for its own account, the annual administration fee in the amount and at the times separately agreed upon by the Lux Borrower and the Administrative Agent in writing.

(d) Unless otherwise specified, all fees payable hereunder shall be paid on the dates due, in Euros and in immediately available funds, to the Administrative Agent (or to the applicable Issuing Bank or Guarantee Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Revolving Lenders. Fees paid shall not be refundable under any circumstances except as otherwise provided in the Fee Letter.

(e) In the event that, on or prior to the date that is 6 months after the Closing Date, a Borrower (x) prepays, repays, refinances, substitutes or replaces any Initial Term Loans in connection with a Repricing Transaction (including, for the avoidance of doubt, any prepayment made pursuant to Section 2.10(b)(iii) that constitutes a Repricing Transaction), or (y) effects any amendment, modification or waiver of, or consent under, this Agreement resulting in a Repricing Transaction, such Borrower shall pay to the Administrative Agent, for the ratable account of each of the applicable Initial Term Lenders, (I) in the case of clause (x), a premium of 1.00% of the

aggregate principal amount of the Initial Term Loans so prepaid, repaid, refinanced, substituted or replaced and (II) in the case of clause (y), a fee equal to 1.00% of the aggregate principal amount of the Initial Term Loans that are the subject of such Repricing Transaction outstanding immediately prior to such amendment. If, on or prior to the date that is 6 months after the Closing Date, all or any portion of the Initial Term Loans held by any Lender are prepaid, repaid, refinanced, substituted or replaced pursuant to Section 2.18 as a result of, or in connection with, such Lender not agreeing or otherwise consenting to any waiver, consent or amendment referred to in clause (y) above (or otherwise in connection with a Repricing Transaction), such prepayment, repayment, refinancing, substitution or replacement will be made at 101% of the principal amount so prepaid, repaid, refinanced, substituted or replaced. All such amounts shall be due and payable on the date of effectiveness of such Repricing Transaction.

(f) The Lux Borrower agrees to pay (i) to the Administrative Agent for the account of each Revolving Lender of any Class (other than a Defaulting Lender) a participation fee with respect to its participations in Bank Guarantees, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Eurocurrency Rate Revolving Loans of such Class on the daily face amount of such Lender's Bank Guarantee Exposure in respect of Bank Guarantees attributable to its Revolving Credit Commitment of such Class (excluding any portion thereof attributable to unreimbursed Bank Guarantee Disbursements), during the period from and including the Closing Date to the earlier of (A) the later of the date on which such Revolving Lender's Revolving Credit Commitment of such Class terminates and the date on which such Revolving Lender ceases to have any Bank Guarantee Exposure in respect of Bank Guarantees attributable to its Revolving Credit Commitment of such Class and (B) the Termination Date and (ii) to each Guarantee Bank, for its own account, a fronting fee, in respect of each Bank Guarantee issued by such Guarantee Bank for the period from the date of issuance of such Bank Guarantee to the earlier of (A) the expiration date of such Bank Guarantee, (B) the date on which such Bank Guarantee is terminated and (C) the Termination Date, computed at a rate equal to the rate agreed by such Guarantee Bank and the Lux Borrower (but in any event not to exceed 0.125% per annum) of the daily face amount of such Bank Guarantee, as well as such Guarantee Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Bank Guarantee or processing of drawings thereunder. Participation fees and fronting fees accrued to but excluding the last Business Day of each March, June, September and December commencing with the last day of the first full Fiscal Quarter ended after the Closing Date shall be payable in arrears for the quarterly period then ended on the last day of such calendar quarter; provided that all such fees shall be payable on the date on which the Revolving Credit Commitments of such Class terminate. In addition, the Lux Borrower or the other applicable Borrower shall pay directly to each Issuing Bank for its own account with respect to each Bank Guarantee issued for the account of the Lux Borrower or such Borrower (whether for the benefit of the such Borrower or any subsidiary) the customary and reasonable issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such Guarantee Bank relating to Bank Guarantees as from time to time in effect, in each case, on the terms and conditions as may be separately agreed between the applicable Guarantee Bank and the applicable Borrower. Any other fees payable to any Guarantee Bank pursuant to this paragraph shall be payable within thirty (30) days after receipt of a written demand (accompanied by reasonable back-up documentation therefor).

(g) The Lux Borrower hereby agrees to pay to the Administrative Agent for the account of each Initial Term Lender (including each Arranger and its Affiliate that is an Initial Term Lender) who received an allocation with respect to the Initial Term Loans on the Allocation

Date a ticking fee (the “**Ticking Fee**”) in an amount equal to the sum of: (i) to the extent that the Closing Date has not occurred on or prior to the 31st day following the Allocation Date, an amount computed at a rate per annum equal to 50% of the Applicable Ticking Fee Rate on the Initial Term Loan Commitment of such Initial Term Lender for the period from and including the 31st day following the Allocation Date to and until the earlier of (x) the 61st day following the Allocation Date and (y) the Closing Date; *plus* (ii) to the extent that the Closing Date has not occurred on or prior to the 61st day following the Allocation Date, an amount computed at a rate per annum equal to 100% of the Applicable Ticking Fee Rate on the Initial Term Loan Commitment of such Initial Term Lender for the period from and including the 61st day following the Allocation Date to and until the Closing Date; *provided*, that if the Allocation Date has not occurred prior to the 6 month anniversary of the Signing Date, the Allocation Date shall be deemed to occur as of such date and in the event the Allocation Date has not occurred prior to the Closing Date, such Ticking Fee shall be payable on the Closing Date to the Administrative Agent for the account of the Initial Signing Date Lenders and any other Person who is an Initial Term Lender on the Closing Date; *provided, further* that, notwithstanding the foregoing, no such Ticking Fee shall be payable by the Lux Borrower if the Closing Date does not occur. The Ticking Fee payable on such date shall be paid in Euros or the same currency as the applicable Class of Term Loans on which such Ticking Fee is payable.

(h) Unless otherwise indicated herein, all computations of fees shall be made on the basis of a 360-day year and shall be payable for the actual days elapsed (including the first day but excluding the last day). Each determination by the Administrative Agent of the amount of any fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(i) The amount and timing of payments of fees in respect of any Ancillary Facility will be agreed by the relevant Ancillary Lender and the Lux Borrower under such Ancillary Facility based on market rates and terms.

## Section 2.12. Interest.

(a) The Dollar Term Loans and Revolving Loans comprising each ABR Borrowing (including Swingline Loans denominated in Dollars) shall bear interest at the Alternate Base Rate *plus* the Applicable Rate.

(b) The Term Loans and Revolving Loans comprising each Eurocurrency Rate Borrowing shall bear interest at the Adjusted Eurocurrency Rate for the Interest Period in effect for such Borrowing *plus* the Applicable Rate.

(c) Swingline Loans denominated in Euros or an Alternate Currency (other than Dollars) shall bear interest at the Overnight Rate *plus* the Applicable Rate.

(d) Notwithstanding the foregoing, if any principal of or interest on any Term Loan, Revolving Loan or any fee payable by any Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, to the fullest extent permitted by law, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal or interest of any Term Loan or Revolving Loan, 2% *plus* the rate otherwise applicable to such Term Loan or Revolving Loan as provided in the preceding paragraphs of this Section or in the amendment to this Agreement relating thereto or (ii) in the case of any other amount, 2% *plus* the rate applicable to Revolving Loans that are ABR Loans as

provided in paragraph (a) of this Section; provided that no amount shall be payable pursuant to this Section 2.12(d) to a Defaulting Lender so long as such Lender shall be a Defaulting Lender; provided further that no amounts shall accrue pursuant to this Section 2.12(d) on any overdue amount, reimbursement obligation in respect of any LC Disbursement, Bank Guarantee Disbursement or other amount payable to a Defaulting Lender so long as such Lender shall be a Defaulting Lender.

(e) Accrued interest on each Term Loan, Revolving Loan or Swingline Loan shall be payable in arrears on each Interest Payment Date for such Term Loan, Revolving Loan or Swingline Loan and (i) upon the Maturity Date applicable to such Loan, (ii) in the case of Revolving Loans of any Clause, upon termination of the Revolving Credit Commitments of such Class and (iii) in the case of any Swingline Loan, upon termination of all the Revolving Credit Commitments; provided that (i) interest accrued pursuant to paragraph (d) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Term Loan or Revolving Loan (other than a prepayment of an ABR revolving Loan prior to the termination of the relevant revolving Commitments), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurocurrency Rate Loan prior to the end of the current Interest Period therefor, accrued interest on such Term Loan, Revolving Loan or Additional Loan shall be payable on the effective date of such conversion.

(f) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed for ABR Loans based on the Prime Rate or Loans denominated in Pounds Sterling shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or Adjusted Eurocurrency Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; provided that any Loan that is repaid on the same day on which it is made shall bear interest for one day.

(g) The amount and timing of payments of interest in respect of any Ancillary Facility will be agreed by the relevant Ancillary Lender and the applicable Borrower under such Ancillary Facility based on market rates and terms.

Section 2.13. Alternate Rate of Interest. If (x) at least two Business Days prior to the commencement of any Interest Period for a Eurocurrency Rate Borrowing or (y) on the date of determination in the case of any Swingline Loan denominated in an Alternate Currency (other than Dollars):

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Overnight Rate or the Adjusted Eurocurrency Rate, as applicable, for such Interest Period; or

(b) the Administrative Agent is advised by the Required Lenders that the Adjusted Eurocurrency Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for such Interest Period;

then the Administrative Agent shall promptly give notice thereof to the Lux Borrower and the Lenders by telephone or facsimile as promptly as practicable thereafter and, until the Administrative Agent notifies the Lux Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, which the Administrative Agent agrees promptly to do, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurocurrency Rate Borrowing shall be ineffective and such Borrowing shall be converted to an ABR Borrowing (or, in the case of a pending request for a Borrowing denominated in Euros or an Alternate Currency (other than Dollars), the Lux Borrower and the Revolving Lenders shall establish a mutually acceptable alternative rate) on the last day of the Interest Period applicable thereof, and (ii) if any Borrowing Request requests a Eurocurrency Rate Borrowing, such Borrowing shall be made as an ABR Borrowing (or, in the case of a pending request for a Borrowing denominated in Euros or an Alternate Currency (other than Dollars), the Lux Borrower and the Revolving Lenders shall establish a mutually acceptable alternative rate).

Section 2.14. Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted Eurocurrency Rate), Issuing Bank or Guarantee Bank; or

(ii) impose on any Lender, Issuing Bank or Guarantee Bank or the London interbank market any other condition affecting this Agreement or Eurocurrency Rate Loans made by such Lender or any Letter of Credit or Bank Guarantee or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurocurrency Rate Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender, Issuing Bank or Guarantee Bank of participating in, issuing or maintaining any Letter of Credit or Bank Guarantee or to reduce the amount of any sum received or receivable by such Lender, Issuing Bank or Guarantee Bank hereunder (whether of principal, interest or otherwise) in respect of any Eurocurrency Rate Loan, Letter of Credit or Bank Guarantee in an amount deemed by such Lender to be material, then, within thirty (30) days after any Borrower's receipt of the certificate contemplated by paragraph (c) of this Section, the Borrowers will pay to such Lender, Issuing Bank or Guarantee Bank, as applicable, such additional amount or amounts as will compensate such Lender, Issuing Bank or Guarantee Bank, as applicable, for such additional costs incurred or reduction suffered (except for any Taxes, which shall be dealt with exclusively pursuant to Section 2.16); provided that the Borrowers shall not be liable for such compensation if (x) the relevant Change in Law occurs on a date prior to the date such Lender becomes a party hereto, (y) the Lender invokes Section 2.19 or (z) in the case of requests for reimbursement under clause (ii) above resulting from a market disruption, (A) such circumstances are not generally affecting the banking market or (B) such request has not been made by Lenders constituting Required Lenders.

(b) If any Lender, Issuing Bank or Guarantee Bank determines that any Change in Law regarding liquidity or capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's, Issuing Bank's or Guarantee Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit or Bank Guarantees held by, such Lender, or the Letters of

Credit or Bank Guarantees issued by such Issuing Bank or Guarantee Bank, to a level below that which such Lender, Issuing Bank or Guarantee Bank or such Lender's, Issuing Bank's or Guarantee Bank's holding company could have achieved but for such Change in Law other than due to Tax imposed in respect of any payments of principal, interest, fees or any other amount payable hereunder, which, for the avoidance of doubt, are covered by Section 2.16 (taking into consideration such Lender's, Issuing Bank's or Guarantee Bank's policies and the policies of such Lender's, Issuing Bank's or Guarantee Bank's holding company with respect to capital adequacy and liquidity), then within 30 days of receipt by the Lux Borrower of the certificate contemplated by paragraph (c) of this Section 2.14(b), such Borrower will pay to such Lender, Issuing Bank or Guarantee Bank, as applicable, such additional amount or amounts as will compensate such Lender, Issuing Bank or Guarantee Bank or such Lender's, Issuing Bank's or Guarantee Bank's holding company for any such reduction suffered.

(c) Any Lender, Issuing Bank or Guarantee Bank requesting compensation under this Section 2.14 shall be required to deliver a certificate to the applicable Borrower setting forth the amount or amounts necessary to compensate such Lender, Issuing Bank or a Guarantee Bank or its holding company, as applicable, as specified in paragraph (a) or (b) of this Section 2.14 and setting forth in reasonable detail the manner in which such amount or amounts was determined (provided, that such Lender, Issuing Bank or Guarantee Bank need not disclose any information to the extent prohibited by law or regulation) and certifying that such Lender is generally charging such amounts to similarly situated borrowers, which certificate shall be conclusive absent manifest error. The Lux Borrower shall pay such Lender the amount shown as due on any such certificate within 30 days after receipt thereof.

(d) Failure or delay on the part of any Lender, Issuing Bank or Guarantee Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's, Issuing Bank's or Guarantee Bank's right to demand such compensation; provided that no Borrower shall be required to compensate a Lender, an Issuing Bank or a Guarantee Bank pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender, Issuing Bank or Guarantee Bank notifies the Lux Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's, Issuing Bank's or Guarantee Bank's intention to claim compensation therefor; provided further, that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

**Section 2.15. Break Funding Payments.** In the event of (a) the conversion or prepayment of any principal of any Eurocurrency Rate Loan other than on the last day of an Interest Period applicable thereto (whether voluntary, mandatory, automatic, by reason of acceleration or otherwise), (b) the failure to borrow, convert, continue or prepay any Eurocurrency Rate Loan on the date or in the amount specified in any notice delivered pursuant hereto or (c) the assignment of any Eurocurrency Rate Loan of any Lender other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrowers pursuant to Section 2.18, then, in any such event, the Borrowers shall compensate each Lender for the loss, cost and expense attributable to such event (other than loss of profit). In the case of a Eurocurrency Rate Loan, such loss, cost or expense to any Lender shall be the amount reasonably determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Eurocurrency Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which

would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in the applicable currency of a comparable amount and period from other banks in the Eurodollar market (or in respect of (x) an AUD Loan, the Australian interbank market, (y) an NZD Loan, the New Zealand bank bill market and (z) an NRK Loan, the Norwegian interbank market); it being understood that such loss, cost or expense shall in any case exclude any interest rate floor and all administrative, processing or similar fees. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section and the basis therefor and setting forth in reasonable detail the manner in which such amount or amounts was determined shall be delivered to the Borrowers and shall be conclusive absent manifest error. The Borrowers shall pay such Lender the amount shown as due on any such certificate within 30 days after receipt thereof.

Section 2.16. Taxes.

(a) Any and all payments by or on account of any obligation of any Loan Party hereunder shall be made free and clear of and without deduction for any Taxes, except as required by applicable law. If any applicable law requires the deduction or withholding of any Tax from any such payment, then (i) the Loan Party shall pay an additional amount together with such payment as necessary so that after making all required deductions in respect of any Indemnified Tax and/or Other Taxes payable (including deductions applicable to additional amounts payable under this Section) the Administrative Agent, any Lender, Issuing Bank or Guarantee Bank (as applicable) receives an amount equal to the sum it would have received had no such deductions been made, (ii) such Loan Party shall make such deductions and (iii) such Loan Party shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law. If at any time a Loan Party is required by applicable law to make any deduction or withholding from any amount payable hereunder, such Loan Party shall promptly notify the relevant Lender, Issuing Bank or Guarantee Bank and the Administrative Agent upon becoming aware of the same. In addition, each Lender, each Issuing Bank, each Guarantee Bank or the Administrative Agent, as applicable, shall promptly notify a Loan Party upon becoming aware of any circumstances as a result of which a Loan Party is or would be required to make any deduction or withholding from any amount payable hereunder.

(b) In addition, the Loan Parties shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Each Loan Party shall indemnify the Administrative Agent, each Lender, each Issuing Bank and each Guarantee Bank within 30 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes payable or paid by the Administrative Agent or such Lender, Issuing Bank or Guarantee Bank, as applicable, on or with respect to any payment by or any payment on account of any obligation of any Loan Party hereunder (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any penalties (other than any penalties resulting from any action or inaction of such Lender), interest and reasonable expenses arising therefrom or with respect thereto; provided that if the Loan Party reasonably believes that such Taxes were not correctly or legally asserted, the Administrative Agent, Lender, Issuing Bank or Guarantee Bank, as applicable, will use reasonable efforts to cooperate with the Loan Party to obtain a refund of such Taxes (which shall be repaid to the Loan Party in accordance with Section 2.16(g)) so long as such efforts would not, in the sole determination of the Administrative Agent or such Lender, Issuing Bank or Guarantee Bank, result in any additional out-of-pocket costs or expenses not

reimbursed by the Loan Party or be otherwise materially disadvantageous to the Administrative Agent or such Lender, Issuing Bank or Guarantee Bank, as applicable. A certificate setting forth in reasonable detail the basis and calculation of the amount of such payment or liability delivered to each Borrower by a Lender, an Issuing Bank, Guarantee Bank or by the Administrative Agent on its own behalf or on behalf of a Lender, an Issuing Bank or a Guarantee Bank, shall be conclusive absent manifest error. Notwithstanding anything to the contrary contained in this Section, no Borrower shall be required to indemnify the Administrative Agent or any Lender pursuant to this Section for any amount to the extent the Administrative Agent or such Lender fails to notify such Borrower of such possible indemnification claim within 180 days after the Administrative Agent or such Lender receives written notice from the applicable taxing authority of the specific tax assessment giving rise to such indemnification claim.

(d) Each Lender, Issuing Bank and Guarantee Bank shall severally indemnify the Administrative Agent, within 30 days after demand therefor, for (i) any Indemnified Taxes or Other Taxes on or with respect to any payment under any Loan Document attributable to such Lender, Issuing Bank or Guarantee Bank (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes or Other Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's, Issuing Bank's or Guarantee Bank's failure to comply with the provisions of Section 9.05(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, Issuing Bank or Guarantee Bank, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender, Issuing Bank or Guarantee Bank by the Administrative Agent shall be conclusive absent manifest error. Each Lender, Issuing Bank and Guarantee Bank hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender, Issuing Bank or Guarantee Bank under any Loan Document or otherwise payable by the Administrative Agent to the Lender, Issuing Bank or Guarantee Bank under any Loan Document or otherwise payable by the Administrative Agent to the Lender, Issuing Bank or Guarantee Bank from any other source against any amount due to the Administrative Agent under this clause (d).

(e) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by a Loan Party to a Governmental Authority, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to each Borrower and the Administrative Agent, at the time or times reasonably requested by such Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by any Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by any Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable

Requirements of Law or reasonably requested by such Borrower or the Administrative Agent as will enable such Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

- (ii) Without limiting the generality of the foregoing,
  - (A) any Lender that is not a Non-US Lender shall deliver to the US Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the US Borrower or the Administrative Agent), two executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;
  - (B) any Non-US Lender shall deliver to the US Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-US Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the US Borrower or the Administrative Agent), whichever of the following is applicable:
    - (1) in the case of a Non-US Lender claiming the benefits of an income tax treaty to which the U.S. is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;
    - (2) executed originals of IRS Form W-8ECI;
    - (3) in the case of a Non-US Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit N-1 to the effect that such Non-US Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the US Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "**U.S. Tax Compliance Certificate**") and (y) executed originals of IRS Form W-8BEN or W-8BEN-E, as applicable; or
    - (4) to the extent a Non-US Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BEN-E, as applicable, a U.S. Tax Compliance Certificate substantially in the form of Exhibit N-2 or Exhibit N-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Non-US Lender

is a partnership and one or more partners of such Non-US Lender are claiming the portfolio interest exemption, such Non-US Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit N-4 on behalf of each such partner;

(C) any Non-US Lender shall deliver to the US Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-US Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the US Borrower or the Administrative Agent), executed originals of any other form prescribed by applicable Requirements of Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Requirements of Law to permit the US Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to each Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by such Borrower or the Administrative Agent such documentation prescribed by applicable Requirements of Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) as may be necessary for any Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment.

(E) if any Lender, Issuing Bank or Guarantee Bank or the Administrative Agent, as applicable, is falling within the scope of European Union Council Directive 2003/48/EC of June 3, 2003, on taxation of savings income in the form of interest payments (as amended and supplemented from time to time) as implemented into Luxembourg law by the laws dated June 21, 2005, together with several similar agreements concluded between Luxembourg and certain dependent territories of the European Union (the "**Savings Directive**"), including the Luxembourg law of December 23, 2005, the Lender, Issuing Bank or Guarantee Bank or the Administrative Agent, as applicable, shall cooperate in completing any procedural formalities necessary under the Savings Directive for the Loan Parties to be able to make payments under any Loan Document to such Lender, Issuing Bank or Guarantee Bank or the Administrative Agent, as applicable, without a withholding for account of such tax imposed by Luxembourg.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify each Borrower and the Administrative Agent in writing of its legal inability to do so.

(g) If the Administrative Agent, an Issuing Bank, a Guarantee Bank or a Lender determines, in its sole discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by a Loan Party or with respect to which such Loan Party has paid additional amounts pursuant to this Section 2.16, it shall pay over such refund to such Loan Party (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under this Section 2.16 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent, such Lender, Issuing Bank or Guarantee Bank (including any Taxes imposed with respect to such refund), and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that such Loan Party, upon the request of the Administrative Agent, such Lender, Issuing Bank or Guarantee Bank, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, such Lender, Issuing Bank or Guarantee Bank in the event the Administrative Agent, such Lender, Issuing Bank or Guarantee Bank is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the Administrative Agent, a Lender or an Issuing Bank be required to pay any amount to a Loan Party pursuant to this paragraph (g) to the extent that the payment of which would place the Administrative Agent, Lender, Issuing Bank or Guarantee Bank in a less favorable net after-Tax position than the Administrative Agent, Lender, Issuing Bank or Guarantee Bank would have been in if the Tax subject to indemnification had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise to such refund had never been paid. This Section shall not be construed to require the Administrative Agent, any Lender, Issuing Bank or Guarantee Bank to make available its Tax returns (or any other information relating to its Taxes which it deems confidential) to such Loan Party or any other Person.

(h) Survival. Each party's obligations under this Section 2.16 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

#### Section 2.17. Payments Generally; Allocation of Proceeds; Sharing of Payments.

(a) Unless otherwise specified, the Borrowers shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements or Bank Guarantee Disbursements, as applicable, or of amounts payable under Section 2.14, 2.15 or 2.16, or otherwise) prior to the time expressed hereunder or under such Loan Document (or, if no time is expressly required, by 2:00 p.m., London time) on the date when due, in immediately available funds; each such payment shall be made without set-off (except as otherwise provided in Section 2.16) or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent to the applicable account designated to the Borrowers by the Administrative Agent, except payments to be made directly to the applicable Issuing Bank, Guarantee Bank or the Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.14, 2.15 or 2.16 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. Except as provided in Sections 2.18(b) and 2.19, each Borrowing, each payment

or prepayment of principal of any Borrowing, each payment of interest on the Loans of a given Class and each conversion of any Borrowing to or continuation of any Borrowing as a Borrowing of any Type (and of the same Class) shall be allocated pro rata among the Lenders in accordance with their respective Applicable Percentages of the applicable Class. Each Lender agrees that in computing such Lender's portion of any Borrowing to be made hereunder, the Administrative Agent may, in its discretion, round each Lender's percentage of such Borrowing to the next higher or lower whole dollar amount. All payments (including accrued interest) hereunder shall be made in Euros to the extent the Loan, LC Disbursement or Bank Guarantee Disbursement with respect thereto was denominated in Euros, or in the relevant Alternate Currency to the extent the Loan, LC Disbursement or Bank Guarantee Disbursement with respect thereto was denominated in such Alternate Currency. Any payment required to be made by the Administrative Agent hereunder shall be deemed to have been made by the time required if the Administrative Agent shall, at or before such time, have taken the necessary steps to make such payment in accordance with the regulations or operating procedures of the clearing or settlement system used by the Administrative Agent to make such payment. With respect to a Loan Party established in France, the Administrative Agent, the Lenders, the Issuing Bank and the Guarantee Bank shall designate an account opened in a jurisdiction other than a Non-Cooperative Jurisdiction.

(b) Subject in all respects to the provisions of any Acceptable Intercreditor Agreement then in effect, all proceeds of Collateral received by the Administrative Agent while an Event of Default has occurred and is continuing and all or any portion of the Loans shall have been accelerated hereunder pursuant to Section 7.01, shall, upon election by the Administrative Agent or at the direction of the Required Lenders, be applied, first, to the payment of all costs and expenses then due that have been incurred by the Administrative Agent in connection with any collection, sale or realization on Collateral or otherwise in connection with this Agreement, any other Loan Document or any of the Secured Obligations, including all court costs and the fees and expenses of legal counsel, the repayment of all advances made by the Administrative Agent hereunder or under any other Loan Document on behalf of any Loan Party and any other costs or expenses incurred in connection with the exercise of any right or remedy hereunder or under any other Loan Document, second, on a *pro rata* basis, to pay any fees, indemnities, or expense reimbursements then due to the Administrative Agent, Swingline Lender, any Issuing Bank or any Guarantee Bank from the Borrowers constituting Obligations, third, on a *pro rata* basis, to pay any fees or expense reimbursements then due to the Lenders from the Borrowers constituting Obligations, fourth, to pay interest due and payable in respect of any Loans and any Ancillary Obligations, on a *pro rata* basis, fifth, to prepay principal on the Loans, unreimbursed LC Disbursements, unreimbursed Bank Guarantee Disbursements, the Secured Banking Services Obligations, the Secured Hedging Obligations and the Ancillary Obligations, on a *pro rata* basis among the Secured Parties, sixth, to pay an amount to the Administrative Agent equal to 100% of the LC Exposure (minus the amount then on deposit in the LC Collateral Account) and 100% of the Bank Guarantee Exposure (minus the amount then on deposit in the Bank Guarantee Collateral Account) on such date, to be held in the Bank Guarantee Collateral Account as Cash collateral for such Obligations, on a *pro rata* basis, seventh, to the payment of any other Secured Obligation due to the Administrative Agent or any Lender by the Borrowers on a *pro rata* basis, eighth, as provided for under any Acceptable Intercreditor Agreement then in effect and ninth, to the Borrowers or as the Borrowers shall direct.

(c) If any Lender shall obtain payment (whether voluntary, involuntary, through the exercise of any right of set-off or otherwise) in respect of any principal of or interest on any of its Loans of any Class or participations in LC Disbursements, Bank Guarantee Disbursements or

Swingline Loans held by it resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans of such Class and participations in LC Disbursements, Bank Guarantee Disbursements or Swingline Loans and accrued interest thereon than the proportion received by any other Lender with Loans of such Class, then the Lender receiving such greater proportion shall purchase (for Cash at face value) participations in the Loans of such Class and sub-participations in LC Disbursements, Bank Guarantee Disbursements or Swingline Loans of other Lenders of such Class at such time outstanding to the extent necessary so that the benefit of all such payments shall be shared by the Lenders of such Class ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans of such Class and participations in LC Disbursements, Bank Guarantee Disbursements or Swingline Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not apply to (x) any payment made by the Borrowers pursuant to and in accordance with the express terms of this Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any permitted assignee or participant, including any payments made or deemed made in connection with Sections 2.21, 2.22 and 9.02(c). The Borrowers consent to the foregoing and agree, to the extent they may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrowers rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrowers in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.17(c) and will, in each case, notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.17(c) shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

(d) Unless the Administrative Agent shall have received notice from the Borrowers (or the Lux Borrower on behalf of the Borrowers) prior to the date on which any payment is due to the Administrative Agent for the account of any of the Lenders, Issuing Banks or Guarantee Banks hereunder that the Borrowers will not make such payment, the Administrative Agent may assume that the Borrowers have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the applicable Lender, Issuing Bank or Guarantee Bank the amount due. In such event, if the Borrowers have not in fact made such payment, then each applicable Lender, Issuing Bank or Guarantee Bank severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender, Issuing Bank or Guarantee Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate (or, with respect to any amount denominated in Euros or an Alternate Currency (other than Dollars) the Overnight Rate) and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.06(b) or Section 2.17(d), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the

Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

**Section 2.18. Mitigation Obligations; Replacement of Lenders.**

(a) If any Lender requests compensation under Section 2.14 or such Lender determines it can no longer make or maintain Eurocurrency Rate Loans pursuant to Section 2.19, or if any Loan Party is required to indemnify or pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16 or if any amount payable under a Loan Document by a Loan Party established in France becomes not deductible from that Loan Party's taxable income for French tax purposes by reason of that amount being (i) paid or accrued to an Administrative Agent, a Lender, an Issuing Bank or a Guarantee Bank incorporated, domiciled, established or acting through a facility office situated in a Non-Cooperative Jurisdiction or (ii) paid to an account opened in the name of or for the benefit of that Administrative Agent, Lender or Issuing Bank in a financial institution situated in a Non-Cooperative Jurisdiction, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or its participation in any Letter of Credit or Bank Guarantee affected by such event, or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (x) would eliminate or reduce amounts payable pursuant to Section 2.14 or 2.16, as applicable, in the future or mitigate the impact of Section 2.19 or end the non-deductibility for French tax purposes as the case may be, and (y) would not subject such Lender to any material unreimbursed out-of-pocket cost or expense and would not otherwise be disadvantageous to such Lender in any material respect. The Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender requests compensation under Section 2.14 or such Lender determines it can no longer make or maintain Eurocurrency Rate Loans pursuant to Section 2.19, (ii) any Loan Party is required to indemnify or pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, (iii) any Lender is a Defaulting Lender or (iv) in connection with any proposed amendment, waiver or consent requiring the consent of "each Lender", "each Revolving Lender" or "each Lender directly affected thereby" (or any other Class or group of Lenders other than the Required Lenders) with respect to which Required Lender or Required Revolving Lender consent (or the consent of Lenders holding loans or commitments of such Class or lesser group representing more than 50% of the sum of the total loans and unused commitments of such Class or lesser group at such time) has been obtained, as applicable, any Lender is a non-consenting Lender (each such Lender, a "**Non-Consenting Lender**"), then the Borrowers may, at their sole expense and effort, upon notice to such Lender and the Administrative Agent, (x) terminate the applicable Commitments of such Lender, and repay all Obligations of the Borrowers owing to such Lender relating to the applicable Loans and participations held by such Lender as of such termination date or (y) replace such Lender by requiring such Lender to assign and delegate (and such Lender shall be obligated to assign and delegate), without recourse (in accordance with and subject to the restrictions contained in Section 9.05), all its interests, rights and obligations under this Agreement to an Eligible Assignee that shall assume such obligations (which Eligible Assignee may be another Lender, if a Lender accepts such assignment); provided that (i) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and, if applicable, participations in LC Disbursements, Bank Guarantee Disbursements and Swingline Loans, in

each case of such Class of Loans, Commitments and/or Additional Commitments, accrued interest thereon, accrued fees and all other amounts payable to it hereunder with respect to such Class of Loans, Commitments and/or Additional Commitments and (ii) in the case of any assignment resulting from a claim for compensation under Section 2.14 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments and (iii) such assignment does not conflict with applicable Requirements of Law. No Lender (other than a Defaulting Lender) shall be required to make any such assignment and delegation, and the Borrowers may not repay the Obligations of such Lender or terminate its Commitments, if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrowers to require such assignment and delegation cease to apply. Each Lender agrees that if it is replaced pursuant to this Section 2.18, it shall execute and deliver to the Administrative Agent an Assignment Agreement to evidence such sale and purchase and shall deliver to the Administrative Agent any Promissory Note (if the assigning Lender's Loans are evidenced by Promissory Notes) subject to such Assignment Agreement; provided that the failure of any Lender replaced pursuant to this Section 2.18 to execute an Assignment Agreement or deliver such Promissory Notes shall not render such sale and purchase (and the corresponding assignment) invalid and such assignment shall be recorded in the Register and the Promissory Notes shall be deemed cancelled upon such failure. Each Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Lender's attorney-in-fact, with full authority in the place and stead of such Lender and in the name of such Lender, from time to time in the Administrative Agent's discretion, with prior written notice to such Lender, to take any action and to execute any such Assignment Agreement or other instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of this clause (b). To the extent a Lender is replaced pursuant to Section 2.18(b)(iv) in connection with a Repricing Transaction requiring payment of a fee pursuant to Section 2.11(e), the Borrowers shall pay the fee set forth in Section 2.11(e) to each Lender being replaced as a result of such Repricing Transaction.

#### Section 2.19. Illegality.

(a) If any Lender reasonably determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted after the Signing Date that it is unlawful, for such Lender or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to the Overnight Rate or the Adjusted Eurocurrency Rate (whether denominated in Euros or an Alternate Currency), or to determine or charge interest rates based upon the Overnight Rate or the Adjusted Eurocurrency Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Euros or any Alternate Currency in the applicable interbank market, then, on notice thereof by such Lender to the Borrowers (or the Lux Borrower on behalf of the Borrowers) through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurocurrency Rate Loans in the affected currency or currencies or to convert ABR Loans to Eurocurrency Rate Loans shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining ABR Loans the interest rate on which is determined by reference to the Eurocurrency Rate component of the Alternate Base Rate, the interest rate on which ABR Loans of such Lender, shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurocurrency Rate component of the Alternate Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrowers that the circumstances giving rise to such determination no longer exist (which notice such Lender agrees to give promptly).

(b) Upon receipt of such notice, (x) the Borrowers shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, (I) if applicable and such Loans are denominated in Dollars, convert all of such Lender's Eurocurrency Rate Loans to ABR Loans (the interest rate on which ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurocurrency Rate component of the Alternate Base Rate) or (II) if applicable and such Loans (other than Swingline Loans denominated in an Alternate Currency) are denominated in Euros or an Alternate Currency, convert such Loans to Loans bearing interest at an alternative rate mutually acceptable to the Lux Borrower and such Lender, in each case, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurocurrency Rate Loans (in which case the Borrowers shall not be required to make payments pursuant to Section 2.15 in connection with such payment), (y) in the case of Swingline Loans denominated in an Alternate Currency other than Dollars, the applicable interest rate shall be determined on the basis set forth in the proviso to the definition of Overnight Rate and (z) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurocurrency Rate, the Administrative Agent shall during the period of such suspension compute the Alternate Base Rate applicable to such Lender without reference to the Eurocurrency Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurocurrency Rate.

(c) Upon any such prepayment or conversion, the applicable Borrower shall also pay accrued interest on the amount so prepaid or converted.

(d) Each Lender agrees to designate a different lending office if such designation will avoid the need for such notice and will not, in the determination of such Lender, otherwise be materially disadvantageous to such Lender.

Section 2.20. Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Person becomes a Defaulting Lender, then the following provisions shall apply for so long as such Person is a Defaulting Lender:

(a) Fees shall cease to accrue on the unfunded portion of any Commitment of such Defaulting Lender pursuant to Section 2.11(a) and, subject to clause (d)(iv) below, on the participation of such Defaulting Lender in Letters of Credit pursuant to Section 2.11(b) and/or participation of such Defaulting Lender in Bank Guarantees pursuant to Section 2.11(e) and pursuant to any other provisions of this Agreement or other Loan Document.

(b) The Commitments and the Revolving Credit Exposure of such Defaulting Lender shall not be included in determining whether all Lenders, each affected Lender, the Required Lenders, Required Revolving Lenders or such other number of Lenders as shall be required hereby or under any other Loan Document have taken or may take any action hereunder (including any consent to any waiver, amendment or modification pursuant to Section 9.02 except to the extent explicitly set forth therein); provided that any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender which affects such Defaulting Lender disproportionately and adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

(c) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of a Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 2.10, Section 2.14, Section 2.15, Section 2.16, Section 2.17, Article 7, Section 9.06 or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 9.09), shall be applied at such time or times as may be determined by the Administrative Agent and, where relevant, the Lux Borrower as follows: first, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a *pro rata* basis of any amounts owing by that Defaulting Lender to any applicable Issuing Banks, Guarantee Banks and Swingline Lenders hereunder; third, if so reasonably determined by the Administrative Agent or reasonably requested by the applicable Issuing Bank or Guarantee Bank, to be held as Cash collateral for future funding obligations of that Defaulting Lender of any participation in any Letter of Credit or Bank Guarantee; fourth, as the Lux Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement; fifth, if so determined by the Administrative Agent or the Lux Borrower, to be held in a deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Agreement; sixth, to the payment of any amounts owing to the non-Defaulting Lenders, the Issuing Banks, Guarantee Banks or Swingline Lenders as a result of any judgment of a court of competent jurisdiction obtained by any non-Defaulting Lender, any Issuing Bank, any Guarantee Bank or any Swingline Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; seventh, to the payment of any amounts owing to any Borrower as a result of any judgment of a court of competent jurisdiction obtained by any Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and eighth, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans, LC Exposure or Bank Guarantee Exposure in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans, LC Exposure or Bank Guarantee Exposure were made or created at a time when the conditions set forth in Section 4.02 or Section 4.03 were satisfied or waived, such payment shall be applied solely to pay the Loans of, LC Exposure and Bank Guarantee Exposure owed to, all non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of, LC Exposure or Bank Guarantee Exposure owed to, that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash collateral pursuant to this Section 2.20(c) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(d) If any Swingline Exposure, LC Exposure or Bank Guarantee Exposure exists at the time a Lender becomes a Defaulting Lender then:

(i) The Swingline Exposure, LC Exposure and Bank Guarantee Exposure of such Defaulting Lender shall be reallocated among the non-Defaulting Revolving Lenders in accordance with their respective Applicable Percentages but only to the extent the sum of all non-Defaulting Lenders' Revolving Credit Exposures of the relevant Class does not exceed the total of all non-Defaulting Revolving Lenders' Revolving Credit Commitments of such Class;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Lux Borrower shall, without prejudice to any other right or remedy available to it hereunder or under law, within two Business Days following notice by the Administrative Agent, Cash collateralize 100% of such Defaulting Lender's LC Exposure, Bank Guarantee Exposure and any obligations of such Defaulting Lender to fund participations in any Swingline Loan (after giving effect to any partial reallocation pursuant to paragraph (i) above and any Cash collateral provided by the Defaulting Lender or pursuant to Section 2.20(c) above) or make other arrangements reasonably satisfactory to the Administrative Agent and to the applicable Issuing Bank, Guarantee Bank and/or Swingline Lender with respect to such LC Exposure, Bank Guarantee Exposure, Swingline Exposure and obligations to fund participations. Cash collateral (or the appropriate portion thereof) provided to reduce LC Exposure, Bank Guarantee Exposure or other obligations shall be released promptly following (A) the elimination of the applicable LC Exposure, Bank Guarantee Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 2.18)) or (B) the Administrative Agent's good faith determination that there exists excess Cash collateral (including any subsequent reallocation of Swingline Loans, LC Exposure and Bank Guarantee Exposure among non-Defaulting Lenders described in clause (i) above);

(iii) (A) if the LC Exposure or Bank Guarantee Exposure of the non-Defaulting Lenders are reallocated pursuant to this Section 2.20(d), then the fees payable to the Revolving Lenders pursuant to Sections 2.11(a) and (b), as the case may be, shall be adjusted to give effect to such reallocation and (B) if the LC Exposure or Bank Guarantee Exposure of any Defaulting Lender is Cash collateralized pursuant to this Section 2.21(d) then, without prejudice to any rights or remedies of the applicable Issuing Bank and/or Guarantee Bank, any Revolving Lender or the Borrowers hereunder, no letter of credit fees shall be payable under Section 2.12(b) with respect to such Defaulting Lender's LC Exposure or Bank Guarantee Exposure, as applicable; and

(iv) if any Defaulting Lender's LC Exposure or Bank Guarantee Exposure is not Cash collateralized, prepaid or reallocated pursuant to this Section 2.20(d), then, without prejudice to any rights or remedies of the applicable Issuing Bank, Guarantee Bank or any Revolving Lender or the Borrowers hereunder, all letter of credit fees payable under Section 2.11(b) with respect to such Defaulting Lender's LC Exposure or Bank Guarantee Exposure shall be payable to the applicable Issuing Bank or Guarantee Bank until such Defaulting Lender's LC Exposure or Bank Guarantee Exposure, as applicable, is Cash collateralized or reallocated.

(v) Subject to Section 9.26, no reallocation hereunder shall constitute a waiver or release of any claim that any party hereto may have against any Person that is a Defaulting Lender arising from that Person having become a Defaulting Lender, including any claim of a non-Defaulting Lender as a result of such non-Defaulting Lender's increased exposure following such reallocation.

(e) So long as any Revolving Lender is Defaulting Lender, the Swingline Lender shall not be required to fund any Swingline Loan and no Issuing Bank or Guarantee Bank shall be required to issue, extend, create, incur, amend or increase any Letter of Credit or Bank Guarantee, as applicable, unless it is reasonably satisfied that the related exposure will be 100% covered by

the Revolving Credit Commitments of the non-Defaulting Lenders, Cash collateral provided pursuant to Section 2.20(c) and/or Cash collateral will be provided in accordance with Section 2.20(d), and participating interests in any such newly issued, extended or created Letter of Credit, Bank Guarantee or newly made Swingline Loan shall be allocated among non-Defaulting Revolving Lenders in a manner consistent with Section 2.20(d)(i) (and Defaulting Lenders shall not participate therein).

(f) In the event that the Administrative Agent and the Lux Borrower agree that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Swingline Exposure, LC Exposure and Bank Guarantee Exposure of the Revolving Lenders shall be readjusted to reflect the inclusion of such Lender's Revolving Credit Commitment and on such date such Revolving Lender shall purchase at par such of the Revolving Loans of the applicable Class of the other Revolving Lenders (other than Swingline Loans) or participations in Revolving Loans of the applicable Class as the Administrative Agent shall determine may be necessary in order for such Revolving Lender to hold such Revolving Loans or participations in accordance with its Applicable Percentage of the applicable Class. Notwithstanding the fact that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, (x) no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Lux Borrower while that Lender was a Defaulting Lender and (y) except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

#### Section 2.21. Incremental Credit Extensions.

(a) Any Term Borrower organized in Luxembourg, the U.S. or another jurisdiction reasonably acceptable to the Administrative Agent may (with respect to an Incremental Term Facility) or any Borrower may (with respect to an Incremental Revolving Facility), at any time, after the Closing Date on one or more occasions pursuant to an Incremental Facility Agreement (i) add one or more new Classes of term facilities and/or increase the principal amount of the Term Loans of any existing Class (any such new Class or increase, an "**Incremental Term Facility**" and any loans made pursuant to an Incremental Term Facility, "**Incremental Term Loans**") and/or (ii) add one or more new Classes of Incremental Revolving Commitments and/or increase the aggregate amount of the Revolving Credit Commitment of any existing Class (any such new Class or each such increase, an "**Incremental Revolving Facility**" and, together with any Incremental Term Facility, "**Incremental Facilities**"; and the loans thereunder, "**Incremental Revolving Loans**" and, together with any Incremental Term Loans, "**Incremental Loans**") in an aggregate outstanding principal amount not to exceed Incremental Cap; provided that:

(i) Unless the Administrative Agent otherwise agrees, no Incremental Commitment shall be less than €5,000,000 (or the equivalent thereof for any Incremental Commitment denominated in an Alternate Currency),

(ii) except as otherwise separately agreed by the relevant Borrower and any Lender, no Lender shall be obligated to provide any Incremental Commitment and the determination to provide such commitments shall be within the sole and absolute discretion of such Lender,

(iii) the creation or provision of any Incremental Facility or Incremental Loan shall not require the approval of any existing Lender other than any existing Lender providing all or part of any Incremental Commitment,

(iv) except as otherwise permitted herein, (A) the terms of any Incremental Term Facility (other than any terms which are applicable only after the Maturity Date of any then-existing Class of Term Loans) must be substantially consistent with those applicable to any then-existing Term Loans or otherwise reasonably acceptable to the Administrative Agent (it being agreed that (x) any terms which are applicable only after the then-existing Latest Term Loan Maturity Date and (y) terms contained in such Incremental Term Facility that are more favorable to the lenders or the agent of such Incremental Term Facility than those contained in the Loan Documents and are then conformed (or added) to the Loan Documents for the benefit of the Term Lenders or, as applicable, the Administrative Agent (i.e., by conforming or adding a term to the then-outstanding Term Loans pursuant to the applicable Incremental Facility Agreement) shall be deemed satisfactory to the Administrative Agent) and (B) the terms of any Incremental Revolving Facility (other than any terms which are applicable only after the then-existing Latest Revolving Loan Maturity Date) must be substantially consistent with those applicable to any then-existing Revolving Facility or otherwise reasonably acceptable to the Administrative Agent (it being agreed that (x) any terms which are applicable only after the then-existing Latest Revolving Loan Maturity Date and (y) terms contained in such Incremental Revolving Facility that are more favorable to the lenders or the agent of such Incremental Revolving Facility than those contained in the Loan Documents and are then conformed (or added) to the Loan Documents for the benefit of the Revolving Lenders or, as applicable, the Administrative Agent (i.e., by conforming or adding a term to the then-outstanding Revolving Loans pursuant to the applicable Incremental Facility Agreement) shall be deemed satisfactory to the Administrative Agent),

(v) the Effective Yield (and the components thereof) applicable to any Incremental Facility may be determined by the applicable Borrower and the lender or lenders providing such Incremental Facility; provided that, in the case of any Incremental Term Facility incurred pursuant to clause (e) of the definition of "Incremental Cap" that is pari passu with the Initial Term Loans in right of payment and with respect to security (other than customary bridge loans) that is incurred within 12 months after the Closing Date, (i) the Effective Yield applicable thereto may not be more than 0.50% higher than the Effective Yield applicable to each Class of Initial Term Loans denominated in the same currency as such term loans unless the Applicable Rate with respect to such Class of Initial Term Loans in such currency is adjusted to be equal to the Effective Yield with respect to such Incremental Facility, minus 0.50% and (ii) if a Positive Rate Differential exists on the Closing Date, and if the effect of clause (i) is to increase the Applicable Rate with respect to the Initial Term Loans denominated in one currency, the Applicable Rate of the Initial Term Loans denominated in the other currency shall be adjusted solely to the extent necessary to maintain such Positive Rate Differential as in effect on the Closing Date,

(vi) (A) the final maturity date with respect to any Incremental Term Loans shall be no earlier than the Latest Term Loan Maturity Date and (B) no Incremental Revolving Facility may have a final maturity date earlier than (or require scheduled

amortization or mandatory commitment reductions prior to) the Latest Revolving Loan Maturity Date,

(vii) the Weighted Average Life to Maturity of any Incremental Term Facility shall be no shorter than the remaining Weighted Average Life to Maturity of the then-existing Class of Term Loans,

(viii) (A) any Incremental Term Facility or Incremental Revolving Facility may rank pari passu with or junior to any then-existing Class of Term Loans or Revolving Loans, as applicable, in right of payment and/or security or may be unsecured (and to the extent the relevant Incremental Facility is pari passu with or subordinated to any then-existing Class of Term Loans or Revolving Loans, as applicable, in right of payment or security and documented in a separate agreement, it shall be subject to an Acceptable Intercreditor Agreement) and (B) no Incremental Facility may be (x) guaranteed by any Person which is not a Loan Party or (y) secured by any assets other than the Collateral,

(ix) Any prepayment of Incremental Term Loans that are pari passu in right of payment and security with any then existing Term Loans may be made on (x) with respect to voluntary prepayments, a pro rata, lesser than pro rata and/or greater than pro rata basis with such existing Term Loans and (y) with respect to mandatory prepayments, a pro rata and/or less than pro rata basis with such existing Term Loans (but not on a greater than pro rata basis),

(x) except as otherwise agreed by the lenders providing such Incremental Facility in connection with an acquisition or other Investment permitted hereunder, no Event of Default shall exist immediately prior to or after giving effect to the effectiveness of any Incremental Facility,

(xi) (A) any Incremental Term Facility that increases the principal amount of an existing Class of Term Loans shall be on the same terms (including maturity date and interest rates and pursuant to the same documentation (other than the relevant Incremental Facility Agreement) applicable to such Class of Term Loans, and (B) any Incremental Revolving Facility that increases the aggregate amount of the Revolving Credit Commitments of any existing Class shall be on the same terms (including maturity date and interest rate, but excluding upfront fees) and pursuant to the same documentation (other than the relevant Incremental Facility Agreement) applicable to such Class of Revolving Credit Commitments,

(xii) the proceeds of any Incremental Facility may be used by the Borrowers and their respective subsidiaries for working capital and other general corporate purposes and any other use not prohibited by this Agreement, and

(xiii) on the date of the Borrowing of any Incremental Term Loans that will be of the same Class as any then-existing Class of Term Loans, and notwithstanding anything to the contrary set forth in Sections 2.07 or 2.12 above, such Incremental Term Loans shall be added to (and constitute a part of, be of the same Type as and, at the election of the applicable Borrower, have the same Interest Period as) each Borrowing of outstanding Term Loans of such Class on a pro rata basis (based on the relative sizes of

such Borrowings), so that each Term Lender providing such Incremental Term Loans will participate proportionately in each then-outstanding Borrowing of Term Loans of such Class; it being acknowledged that the application of this clause (a)(xii) may result in new Incremental Term Loans having Interest Periods (the duration of which may be less than one month) that begin during an Interest Period then applicable to outstanding Eurocurrency Rate Loans of the relevant Class and which end on the last day of such Interest Period.

(b) Incremental Commitments may be provided by any existing Lender, or by any other Eligible Assignee (any such other lender being called an "**Additional Lender**"); provided that the Administrative Agent (and, in the case of any Incremental Revolving Facility, the Swingline Lender, any Issuing Bank and any Guarantee Bank) shall have a right to consent (such consent not to be unreasonably withheld) to the relevant Additional Lender's provision of Incremental Commitments if such consent would be required under Section 9.05(b) for an assignment of Loans to such Additional Lender; provided, further, that any Additional Lender that is an Affiliated Lender shall be subject to the provisions of Section 9.05(g), *mutatis mutandis*, to the same extent as if the relevant Incremental Commitments and related Obligations had been acquired by such Lender by way of assignment.

(c) Each Lender or Additional Lender providing a portion of any Incremental Commitment shall execute and deliver to the Administrative Agent and the applicable Borrower all such documentation (including the relevant Incremental Facility Agreement) as may be reasonably required by the Administrative Agent to evidence and effectuate such Incremental Commitment. On the effective date of such Incremental Commitment, each Additional Lender shall become a Lender for all purposes in connection with this Agreement.

(d) As a condition precedent to the effectiveness of any Incremental Facility or the making of any Incremental Loans, (i) upon its reasonable request, the Administrative Agent shall have received customary written opinions of counsel, as well as such reaffirmation agreements, supplements and/or amendments as it shall reasonably require, (ii) the Administrative Agent shall have received from each Additional Lender an Administrative Questionnaire and such other documents as it shall reasonably require for an Additional Lender, and the Administrative Agent and Lenders shall have received all fees required to be paid in respect of such Incremental Facility or Incremental Loans, (iii) the Administrative Agent and the relevant Additional Lenders shall be entitled to receive all fees required to be paid in respect of such Incremental Facility or Incremental Loans and (iv) the Administrative Agent shall have received a certificate of the relevant Borrower signed by a Responsible Officer of such Borrower:

(A) certifying and attaching a copy of the resolutions adopted by such Borrower approving or consenting to such Incremental Facility or Incremental Loans, and

(B) to the extent applicable, certifying that the condition set forth in clause (a)(x) above has been satisfied.

(e) Upon the implementation of any Incremental Revolving Facility pursuant to this Section 2.21:

(i) if such Incremental Revolving Facility establishes Revolving Credit Commitments of the same Class as any then-existing Class of Revolving Credit Commitments, (i) each Revolving Lender immediately prior to such increase will automatically and without further act be deemed to have assigned to each relevant Incremental Revolving Facility Lender, and each relevant Incremental Revolving Facility Lender will automatically and without further act be deemed to have assumed a portion of such Revolving Lender's participations hereunder in outstanding Letters of Credit, Bank Guarantees and Swingline Loans such that, after giving effect to each deemed assignment and assumption of participations, all of the Revolving Lenders' (including each Incremental Revolving Facility Lender) (A) participations hereunder in Letters of Credit, (B) participations hereunder in Bank Guarantees and (C) participations hereunder in Swingline Loans shall be held ratably on the basis of their respective Revolving Credit Commitments (after giving effect to any increase in the Revolving Credit Commitment pursuant to Section 2.21) and (ii) the existing Revolving Lenders of the applicable Class shall assign Revolving Loans to certain other Revolving Lenders of such Class (including the Revolving Lenders providing the relevant Incremental Revolving Facility), and such other Revolving Lenders (including the Revolving Lenders providing the relevant Incremental Revolving Facility) shall purchase such Revolving Loans, in each case to the extent necessary so that all of the Revolving Lenders of such Class participate in each outstanding Borrowing of Revolving Loans pro rata on the basis of their respective Revolving Credit Commitments of such Class (after giving effect to any increase in the Revolving Credit Commitment pursuant to this Section 2.21); it being understood and agreed that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to this clause (i); and

(ii) if such Incremental Revolving Facility establishes Revolving Credit Commitments of a new Class, then (A) the borrowing and repayment (except (x) payments of interest and fees at different rates on the Revolving Facilities (and related outstandings), (y) repayments required on the Maturity Date of any Revolving Facility and (z) as provided in clause (C) below) of Revolving Loans with respect to any Revolving Facility after the effective date of such Incremental Revolving Facility shall be made on a pro rata basis or less than pro rata basis with all other Revolving Facilities, (B) all Swingline Loans, Letters of Credit and Bank Guarantees shall be participated on a pro rata basis by all Revolving Lenders and (C) unless the relevant Additional Lenders elect payments and/or Commitment reductions on a less-than-pro rata basis, any permanent repayment of Revolving Loans with respect to, and reduction and termination of Revolving Credit Commitments under, any Revolving Facility after the effective date of such Incremental Revolving Facility shall be made on a pro rata basis or less than pro rata basis with all other Revolving Facilities, or, to the extent such Incremental Revolving Commitments are terminated in full and refinanced or replaced with a Replacement Revolving Facility or Replacement Notes, a greater than pro rata basis.

(f) On the effective date of each increase in the Total Revolving Credit Commitment pursuant to this Section 2.21, the maximum amount of LC Exposure, Bank Guarantee Exposure and Swingline Exposure permitted hereunder shall increase by an amount, if any, agreed upon by Administrative Agent, Issuing Banks, Guarantee Banks and the Lux Borrower.

(g) The Lenders hereby irrevocably authorize the Administrative Agent to enter into any Incremental Facility Agreement and any other amendments to this Agreement and the other Loan Documents with the relevant Borrowers as may be necessary in order to establish new Classes or sub-Classes in respect of Loans or commitments pursuant to this Section 2.21 and such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the relevant Borrowers in connection with the establishment of such new Classes or sub-Classes, in each case on terms consistent with this Section 2.21.

(h) (i) To the extent any Incremental Facility is intended to be secured *pari passu* but cannot be secured *pari passu* with the then-existing Term Loans or Revolving Credit Commitments under the existing Collateral Documents (the “**Initial Collateral Documents**”) in a manner in which the security interests under such Initial Collateral Documents are not first released or amended, without resulting in the application of new Hardening Periods to the enforceability of the Initial Collateral Documents, the Loan Parties agree that such Incremental Facility will (to the extent permitted by applicable law) be secured pursuant to the execution of additional collateral documents (the “**Additional Collateral Documents**”) on a second or lesser-ranking basis.

(ii) Notwithstanding clause (i) above, to the extent permitted by applicable Requirements of Law, any Incremental Facility which is intended to be secured *pari passu* but which does not benefit from the Initial Collateral Documents on a *pari passu* basis with the Credit Facilities will nonetheless be deemed and treated for the purpose of this Agreement and any Acceptable Intercreditor Agreement then in existence as being secured by the Initial Collateral Documents and the Additional Collateral Documents on a *pari passu* basis with other Obligations which would have had the same ranking absent the requirements of clause (i) above.

(i) This Section 2.21 shall supersede any provisions in Section 2.17 or 9.02 to the contrary.

## Section 2.22. Extensions of Loans and Revolving Commitments.

(a) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an “**Extension Offer**”) made from time to time by the relevant Borrower to all Lenders holding Loans of any Class or Commitments of any Class, in each case on a *pro rata* basis (based on the aggregate outstanding principal amount of the respective Loans or Commitments of such Class) and on substantially similar terms to each such Lender, any Borrower is hereby permitted to consummate transactions with individual Lenders that accept the terms contained in such Extension Offers to extend the Maturity Date of each such Lender’s Loans and/or commitments and otherwise modify the terms of such Loans and/or Commitments of such Class pursuant to the terms of the relevant Extension Offer (including by increasing the interest rate or fees payable in respect of such Loans and/or commitments (and related outstandings) and/or modifying the amortization schedule in respect of such Loans) (each, an “**Extension**”), so long as the following terms are satisfied:

(i) except as to (x) interest rates, fees and final maturity (which shall, subject to immediately succeeding clause (iv)(y), be determined by the relevant Borrower and any Lender who agrees to an Extension of its Revolving Credit Commitments and set forth in the relevant Extension Offer), (y) terms applicable to such Extended Revolving

Credit Commitments or Extended Revolving Loans (each as defined below) that are more favorable to the lenders or the agent of such Extended Revolving Credit Commitments or Extended Revolving Loans than those contained in the Loan Documents and are then conformed (or added) to the Loan Documents for the benefit of the Revolving Lenders or, as applicable, the Administrative Agent (*i.e.*, by conforming or adding a term to the then-outstanding Revolving Loans pursuant to the applicable Extension Amendment), and (z) any covenants or other provisions applicable only to periods after the Latest Revolving Loan Maturity Date, the Revolving Credit Commitment of a Lender that agrees to an extension with respect to such Commitments (an “**Extended Revolving Credit Commitment**”; and the Loans thereunder, “**Extended Revolving Loans**”), and the related outstandings, shall be a revolving commitment (or related outstandings, as the case may be) with substantially similar terms (or terms not less favorable to existing Revolving Lenders) as the Class of Revolving Credit Commitments subject to the relevant Extension Offer (and related outstandings) provided hereunder; provided that to the extent more than one Revolving Facility exists after giving effect to any Such Extension, (1) the borrowing and repayment (except for (A) payments of interest and fees at different rates on such revolving facilities (and related outstandings), (B) repayments required upon the Maturity Date of any such Revolving Facility and (C) repayment made in connection with a permanent repayment and termination of Commitments (subject to clause (3) below)) of Extended Revolving Loans after the effective date of such Extended Revolving Credit Commitments shall be made on a *pro rata* basis or less than *pro rata* basis with all other Revolving Facilities, (2) all Swingline Loans, Letters of Credit and Bank Guarantees under any such Extended Revolving Credit Commitment shall be participated on a *pro rata* basis by all Revolving Lenders and (3) the permanent repayment of Loans with respect to, and termination of Commitments under, any such Extended Revolving Credit Commitment after the effective date of such Extended Revolving Credit Commitments shall be made on a *pro rata* basis with all other the Revolving Facilities and any Additional Revolving Facilities, except that the relevant Borrower shall be permitted to permanently repay and terminate commitments of any such revolving facility on a greater than *pro rata* basis (I) as compared with any other revolving facilities with a later Maturity Date than such revolving facility and (II) to the extent refinanced or replaced with a Replacement Revolving Facility or Replacement Notes;

(ii) except as to (x) interest rates, fees, amortization, final maturity date, premiums, required prepayment dates and participation in prepayments (which shall, subject to immediately succeeding clauses (iv)(x), (v) and (vi), be determined by the relevant Borrower and any Lender who agrees to an Extension of its Term Loans and set forth in the relevant Extension Offer) and (y) any covenants or other provisions applicable only to periods after the Latest Term Loan Maturity Date (in each case, as of the date of such Extension), the Term Loans of any Lender extended pursuant to any Extension (any such extended Term Loans, the “**Extended Term Loans**”) shall have substantially similar terms (or terms not less favorable to existing Lenders) as the Class of Term Loans subject to such Extension Offer; provided, however, that with respect to representations and warranties, affirmative and negative covenants (including financial covenants) and events of default applicable to such Class of Extended Term Loans, such provisions may be more favorable to the lenders of the Class of Extended Term Loans than those originally applicable to the Class of Term Loans subject to the Extension Offer, so long as (and only so long as) such provisions also expressly apply to (and for

the benefit of) the Class of Term Loans subject to the Extension Offer and each other Class of Term Loans hereunder;

(iii) (x) the final Maturity Date of any Class of Extended Term Loans shall be no earlier than the then applicable Latest Term Loan Maturity Date at the time of Extension and (y) no Class of Extended Revolving Credit Commitments or Extended Revolving Loans shall have a final Maturity Date earlier than (or require commitment reductions prior to) the then applicable Latest Revolving Loan Maturity Date;

(iv) the Weighted Average Life to Maturity of any Class of Extended Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of any then-existing Term Loans;

(v) any Extended Term Loans that are pari passu in right of payment and security with any then existing Term Loans may be made on (x) with respect to voluntary prepayments, a pro rata, lesser than pro rata and/or greater than pro rata basis with such existing Term Loans and (y) with respect to mandatory prepayments, a pro rata and/or less than pro rata basis with such existing Term Loans (but not on a greater than pro rata basis);

(vi) if the aggregate principal amount of Loans or Commitments, as the case may be, in respect of which Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Loans or Commitments, as the case may be, offered to be extended by the relevant Borrower pursuant to such Extension Offer, then the Loans or commitments, as the case may be, of such Lenders shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed the applicable Lender's actual holdings of record) with respect to which such Lenders have accepted such Extension Offer;

(vii) the Extensions shall be in a minimum amount of €5,000,000 (or the equivalent thereof for any Incremental Commitment denominated in an Alternate Currency);

(viii) any applicable Minimum Extension Condition shall be satisfied or waived by the relevant Borrower; and

(ix) all documentation in respect of such Extension shall be consistent with the foregoing.

(b) With respect to all Extensions consummated by the Borrowers pursuant to this Section 2.22, (i) such Extensions shall not constitute voluntary or mandatory payments for purposes of Section 2.10, (ii) the scheduled amortization payments (in so far as such schedule affects payments due to Lenders participating in the relevant Class) set forth in Section 2.09 shall be adjusted to give effect to any Extension or and (iii) except as set forth in clause (a)(viii) above, no Extension Offer is required to be in any minimum amount or any minimum increment; provided that the relevant Borrower may at its election specify as a condition (a "**Minimum Extension Condition**") to consummating any such Extension that a minimum amount (to be determined and specified in the relevant Extension Offer in the relevant Borrower's sole discretion and which may be waived by the relevant Borrower) of Loans or commitments (as

applicable) of any or all applicable Classes be tendered. The Administrative Agent and the Lenders hereby consent to the transactions contemplated by this Section 2.22 (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Term Loans and/or Extended Revolving Credit Commitments on such terms as may be set forth in the relevant Extension Offer) and hereby waive the requirements of any provision of this Agreement (including Sections 2.09, 2.10 or 2.17) or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section.

(c) No consent of any Lender or the Administrative Agent shall be required to effectuate any Extension, other than (A) the consent of each Lender agreeing to such Extension with respect to one or more of its Loans and/or Commitments of any Class (or a portion thereof) and (B) with respect to any Extension of the Revolving Credit Commitments, the consent of the Issuing Bank to the extent the commitments to provide Letters of Credit is to be extended, the Swingline Lender to the extent the swingline facility is to be extended and the consent of each Guarantee Bank to the extent the commitment to provide Bank Guarantees is to be extended (in each case, which consent shall not be unreasonably withheld or delayed). All Extended Term Loans provided to the Lux Borrower or US Borrower, as applicable, and Extended Revolving Credit Commitments provided to the Lux Borrower and all obligations in respect thereof shall be Secured Obligations under this Agreement and the other Loan Documents that are secured by the Collateral and guaranteed on a *pari passu* basis with all other applicable Secured Obligations under this Agreement and the other Loan Documents. The Lenders hereby irrevocably authorize the Administrative Agent to enter into any Extension Amendments and any amendments to any other Loan Documents with the Loan Parties as may be necessary in order to establish new Classes in respect of Loans or Commitments so extended and such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and such Borrowers in connection with the establishment of such new Classes, in each case on terms consistent with this Section 2.22.

(d) In connection with any Extension, the relevant Borrower shall provide the Administrative Agent at least five Business Days' (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and shall agree to such procedures (including regarding timing, rounding and other adjustments and to ensure reasonable administrative management of the Credit Facilities hereunder after such Extension), if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this Section 2.22.

### Section 2.23. Ancillary Facilities.

#### (a) Availability of Ancillary Facilities.

(i) Any Revolving Lender may, upon the agreement of any Revolving Borrower and such Revolving Lender, provide, directly or indirectly through one or more of its Affiliates (other than any Disqualified Institution), one or more Ancillary Facilities on a bilateral basis in place of all or a portion of such Revolving Lender's unused Revolving Credit Commitment of any Class.

(ii) Any Revolving Borrower may implement any Ancillary Facility by providing, not less than five Business Days prior to the Ancillary Commencement Date with respect thereto (or one Business Day prior in the case of any Ancillary Facility to be

implemented on the Closing Date), written notice to the Administrative Agent that such Ancillary Facility has been established and specifying:

(A) the proposed Ancillary Commencement Date for such Ancillary Facility and the scheduled expiration date thereof;

(B) the proposed type of such Ancillary Facility;

(C) the Ancillary Commitment (including the maximum amount of such Ancillary Facility) and, if such Ancillary Facility is an overdraft facility comprising more than one account, the maximum gross amount (the "Designated Gross Amount") and maximum net amount (the "Designated Net Amount") thereof;

(D) the proposed currency of such Ancillary Facility (if not denominated in Euros);

(E) the identity of the relevant Ancillary Lender (including whether such Ancillary Lender is a Revolving Lender or an Affiliate of a Revolving Lender);

(F) if there is more than one Class of Revolving Credit Commitments, (x) the Class of Revolving Credit Commitments to which such Ancillary Facility relates and (y) if such Ancillary Facility is replacing another Ancillary Facility which relates to another Class of Revolving Credit Commitments.

(iii) The applicable Revolving Borrower shall provide such other customary information as the Administrative Agent may reasonably request in connection with any Ancillary Facility.

(iv) The Administrative Agent shall promptly notify the Revolving Lender proposing to provide such Ancillary Facility and the other Revolving Lenders of the establishment of any Ancillary Facility and, subject to the satisfaction of the requirements set forth in Section 2.23(b) below, (A) the relevant Revolving Lender (or its relevant Affiliate) will constitute an Ancillary Lender and (B) such Ancillary Facility will be deemed to be made available hereunder, in each case as of the Ancillary Commencement Date.

(v) Notwithstanding anything to the contrary herein or in any other Loan Document (including Section 9.02 hereof), no amendment or waiver of any term of any Ancillary Facility shall require the consent of any Lender other than the relevant Ancillary Lender except to the extent that such amendment or waiver otherwise gives rise to a matter that would require an amendment of or waiver under this Agreement (including, for the avoidance of doubt, under this Section 2.23), in which case the provisions of Section 9.02 shall apply thereto.

(b) Terms of Ancillary Facilities.

(i) Except as provided below in this Section 2.23, the terms of any Ancillary Facility will be agreed by the relevant Ancillary Lender and the relevant Revolving Borrower; provided that such terms (A) shall be market terms on the date of determination (as determined in the good faith judgment of the Lux Borrower), (B) may only allow the relevant Borrower to use the Ancillary Facility, (C) may not permit the amount of Ancillary Outstandings under such Ancillary Facility to exceed the Ancillary Commitment with respect to such Ancillary Facility, (D) may not allow the Ancillary Commitment of any Ancillary Lender under such Ancillary to exceed the Unused Revolving Credit Commitment of such Ancillary Lender (before taking into account the effect of the Ancillary Facility on the Unused Revolving Credit Commitment) (with the Ancillary Commitments of a Revolving Lender's Affiliate being deemed "held" by such Revolving Lender for purposes of this clause (D)) and (E) shall require that the Ancillary Commitment in respect of such Ancillary Facility will be reduced to zero, and that all Ancillary Outstandings will be repaid (or cash collateralized or back-stopped by a letter of credit or bank guarantee or otherwise in a manner reasonably satisfactory to the relevant Ancillary Lender, in each case, in an amount equal to 100% of such Ancillary Outstandings, unless the applicable Revolving Borrower otherwise agrees) on or prior to the Maturity Date with respect to the Revolving Facility to which such Ancillary Facility relates (or such date as the Revolving Credit Commitment of the relevant Ancillary Lender (or its Affiliate) is reduced to zero).

(ii) If there is an inconsistency between any term of any Ancillary Facility and any term of this Agreement, this Agreement shall prevail, except for (A) Section 2.11(h) and Section 2.12(f) hereof, which shall be superseded by the terms of the relevant Ancillary Documents for purposes of calculating fees, interest or commissions in respect of the relevant Ancillary Facility, (B) any Ancillary Facility that is a Multi-Account Overdraft Facility where the terms of the relevant Ancillary Documents shall prevail to the extent required to permit the netting of balances in respect of the relevant accounts and (C) where the relevant term of this Agreement would be contrary to, or inconsistent with, the law governing the relevant Ancillary Document, in which case the relevant term of this Agreement shall be superseded by the terms of the relevant Ancillary Document to the extent necessary to eliminate the subject conflict or inconsistency; provided, however, that notwithstanding anything to the contrary herein, unless the applicable Revolving Borrower otherwise agrees (x) no Ancillary Document shall contain any representation or warranty, covenant or event of default that is not set forth in this Agreement (and any such representation or warranty, covenant or event of default not set forth in this Agreement shall be rendered null and void) and (y) all representations and warranties, covenants, events of default, indemnification and similar obligations set forth in any Ancillary Document shall contain standards, qualifications, thresholds and exceptions for materiality or otherwise consistent with those set forth in this Agreement (and, to the extent inconsistent therewith, the relevant Ancillary Documents shall be deemed to automatically incorporate the applicable standards, qualifications, thresholds and exceptions set forth herein without action by any Person).

(c) Repayment of Ancillary Facilities.

(i) Each Ancillary Commitment shall terminate on the Maturity Date with respect to the Revolving Facility to which such Ancillary Facility relates or such earlier

date (A) as provided in the relevant Ancillary Document or (B) on which it is cancelled in accordance with the terms of this Agreement.

(ii) Upon the expiration of any Ancillary Facility in accordance with its terms, the Ancillary Commitment of the relevant Ancillary Lender shall be reduced to zero (and the Revolving Credit Commitment of such Ancillary Lender shall be increased accordingly). Upon the making of one or more Revolving Loans as provided below in an amount sufficient to repay the Ancillary Outstandings under any Ancillary Facility, such Ancillary Facility shall be cancelled upon receipt by the relevant Ancillary Lender of the proceeds thereof.

(iii) No Ancillary Lender may demand repayment, prepayment or cash collateralization of any amounts made available or liabilities incurred by it under any Ancillary Facility (except where the relevant Ancillary Facility is provided on a net limit basis to the extent required to reduce any gross outstandings to the net limit) unless (A) (w) required to reduce the Gross Outstandings of a Multi-Account Overdraft to or towards an amount equal to its Net Outstandings, (x) the Maturity Date with respect to the Revolving Facility to which such Ancillary Facility relates has occurred, (y) the Required Revolving Lenders have accelerated the Revolving Loans and Additional Revolving Loans and terminated the commitments thereunder and demanded repayment of, or otherwise accelerated, the Indebtedness or other obligations thereunder or (z) the expiration date of the relevant Ancillary Facility occurs, (B) it becomes unlawful in any applicable jurisdiction for the relevant Ancillary Lender to perform its obligations under this Agreement or to fund, issue or maintain its participation in the relevant Ancillary Facility or (C) the Ancillary Outstandings (if any) under the relevant Ancillary Facility may be refinanced by a Revolving Loan and the relevant Ancillary Lender provides sufficient notice to permit the refinancing of such Ancillary Outstandings with a Revolving Loan.

(iv) Notwithstanding anything to the contrary herein, for purposes of determining whether or not the Ancillary Outstandings under any Ancillary Facility referenced in clause (c)(iii)(C) above may be refinanced by a Revolving Loan, (A) the Revolving Credit Commitment of the relevant Ancillary Lender will be increased by the amount of its Ancillary Commitment in respect of such Ancillary Facility and (B) unless the circumstances described in clauses (c)(iii)(A)(x) or (y) then exist, each Revolving Lender shall be obligated to make a Revolving Loan to the applicable Revolving Borrower for the purpose of refinancing the relevant Ancillary Outstandings on a pro rata basis in accordance with its Applicable Percentage of the Revolving Credit Commitment (determined for such purpose as if such Ancillary Outstanding had already been repaid) whether or not a Default or Event of Default exists or any other applicable condition precedent is not satisfied and irrespective of whether any Borrower has delivered a Borrowing Request.

(v) With respect to any Ancillary Facility that comprises an overdraft facility in which a Designated Net Amount has been established, for purposes of calculating compliance with the Designated Net Amount, the Ancillary Lender providing such Ancillary Facility shall only be obligated to take into account the credit balances which it is permitted to take into account by then applicable law and regulations relating to its

reporting of exposures to applicable regulatory authorities as netted for capital adequacy purposes.

(d) Ancillary Outstandings. The applicable Revolving Borrower or Revolving Borrowers and each Ancillary Lender agrees with and for the benefit of each Revolving Lender that (i) the Ancillary Outstandings under any Ancillary Facility provided by such Ancillary Lender shall not exceed the Ancillary Commitment applicable to such Ancillary Facility, and where such Ancillary Facility a Multi-Account Overdraft Facility, the Ancillary Outstandings under such Ancillary Facility shall not exceed the Designated Net Amount in respect of such Ancillary Facility and (ii) where all or a portion of any Ancillary Facility is a Multi-Account Overdraft Facility, the Ancillary Outstandings (calculated without giving effect to the parenthetical in clause (a) of the definition of "Ancillary Outstandings") shall not exceed the Designated Gross Amount applicable to such Ancillary Facility.

(e) Information. The applicable Revolving Borrower and each Ancillary Lender shall, promptly upon the request of the Administrative Agent, provide the Administrative Agent with any information relating to the operation of such Ancillary Facility (including the amount of Ancillary Outstandings and Ancillary Commitments) as the Administrative Agent may from time to time reasonably request (subject to compliance with Section 9.13 hereof).

(f) Affiliates of Lenders as Ancillary Lenders.

(i) Subject to the terms of this Agreement, an Affiliate of any Revolving Lender (other than any Disqualified Institution) may become an Ancillary Lender, in which case such Revolving Lender and such Affiliate shall be treated as a single Revolving Lender whose Revolving Credit Commitment is as set forth in the Commitment Schedule or in the Assignment Agreement pursuant to which such Revolving Lender assumed its Revolving Credit Commitment, as the same may be modified in accordance with the terms of clauses (a) through (d) of the definition of "Revolving Credit Commitment"; it being understood that the relevant Revolving Lender's Revolving Credit Commitment will be reduced to the extent of the Ancillary Commitment of such Affiliate.

(ii) An Affiliate of a Lender which becomes an Ancillary Lender shall accede to the Intercreditor Agreement as an Ancillary Lender in accordance with the terms hereof.

(iii) If a Revolving Lender assigns all of its rights and benefits or transfers all of its rights and obligations to another entity (which is not an Affiliate of that Revolving Lender), its Affiliate shall cease to have any obligations under this Agreement or any Ancillary Documents.

(iv) To the extent that this Agreement or any other Loan Document imposes any obligation on any Ancillary Lender and such Ancillary Lender is an Affiliate of a Revolving Lender and not a party thereto, the relevant Revolving Lender shall ensure that such obligation is performed by such Affiliate in compliance with the terms hereof or such other Loan Document.

(v) Each Ancillary Lender, in its capacity as such, hereby appoints the Administrative Agent as its agent for purposes of the Loan Documents.

(vi) Any Affiliate of a Revolving Lender which becomes an Ancillary Lender shall accede to the Intercreditor Agreement as an Ancillary Lender and any Person which so accedes to the Intercreditor Agreement shall, at the same time, become a party thereto as an Ancillary Lender in accordance with Section 6.03 of the Intercreditor Agreement.

(g) Adjustment for Ancillary Facilities.

(i) If any notice of acceleration is delivered pursuant to Section 7.01 (other than a notice declaring Loans, Letters of Credit and/or Bank Guarantees to be due on demand) or Commitments are automatically accelerated under the proviso in Section 7.01, each Revolving Lender and each Ancillary Lender shall promptly adjust (by making or receiving (as the case may be) corresponding transfers of rights and obligations under the Loan Documents and Ancillary Documents relating to Revolving Outstandings) their claims in respect of amounts outstanding to them under the Revolving Facility of any Class and each Ancillary Facility of such Class to the extent necessary to ensure that after such transfers the Revolving Outstandings of each Revolving Lender for such Class bear the same proportion to the Total Revolving Credit Outstandings for such Class as such Revolving Lender's Revolving Credit Commitment of such Class bears to the total Revolving Credit Commitment for such Class, each as at the earlier of (x) the date the notice is served under Section 7.01 or (y) the date of automatic acceleration under the proviso in Section 7.01 (and ignoring, for the purpose of the calculation of a Revolving Lender's Revolving Credit Commitment of such Class and the total Revolving Credit Commitment of such Class for this purpose, any reduction of a Revolving Lender's Revolving Credit Commitment of such Class pursuant to Section 2.23(a)). For purposes of this Section 2.23, (A) "**Revolving Outstandings**" means, in relation to any Revolving Lender of a Class of Revolving Credit Commitments, its (and in the case of Ancillary Facilities, its relevant Affiliates') Revolving Credit Exposure for such Class then outstanding (together with the aggregate amount of all accrued interest, fees and commission owed to it (and in the case of Ancillary Facilities, its Affiliates) as a Revolving Lender or an Ancillary Lender in respect of such Revolving Credit Exposure for such Class); and (B) "**Total Revolving Credit Outstandings**" means the aggregate of all Revolving Outstandings with respect to a Class of Revolving Credit Commitments.

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

(iii) Any transfer of rights and obligations relating to Revolving Outstandings made pursuant to this Section 2.23(g) shall be made for a purchase price in cash, payable at the time of transfer, in an amount equal to such Revolving Outstandings.

(iv) All calculations to be made pursuant to this Section 2.23(g) shall be made by the Administrative Agent based upon information provided to it by the Revolving Lenders and Ancillary Lenders and the Spot Rate for the applicable currency in relation to Euros in effect on the date of determination.

(v) This Section 2.23(g) shall not oblige any Lender to accept the transfer of a claim relating to an amount outstanding under an Ancillary Facility which is not denominated (pursuant to the relevant Ancillary Document) in either Dollars, Pounds Sterling, Japanese yen, Norwegian Krone, New Zealand dollars and Australian dollars, a currency which has been approved as an Alternate Currency for the purpose of the Revolving Facility related to such Ancillary Facility or in another currency which is acceptable to such Lender.

(vi) Prior to the application of the provisions of clause (g)(i) above, an Ancillary Lender that has provided a Multi-Account Overdraft Facility shall set off any Available Credit Balance on any account comprised in such Multi-Account Overdraft Facility.

(h) Unless otherwise agreed between the Ancillary Lender under an Ancillary Facility and the Revolving Borrower(s) thereunder, the provisions of Sections 2.13, 2.14, 2.15, 2.16, 2.18, 2.19, 9.03 and 9.13 shall apply mutatis mutandis to the Ancillary Lenders and the Ancillary Documents to the same extent as they apply to the Lenders and the Loan Documents, respectively.

#### Section 2.24. Additional Revolving Borrowers.

(a) Once an Additional Revolving Borrower has become an Additional Revolving Borrower in accordance with the definition thereof, it shall be a “Revolving Borrower” under the applicable Class of Revolving Facility and will have the right to directly request Revolving Loans in accordance with Article II hereof until the relevant Maturity Date of such Class of Revolving Facility.

(b) For the avoidance of doubt, each Additional Revolving Borrower shall be liable solely for its direct Revolving Loans and interest (including at the Default Rate), any Letter of Credit fees in respect of Letters of Credit requested by such Additional Revolving Borrower, Bank Guarantee fees in respect of Bank Guarantees requested by such Additional Revolving Borrower and any reimbursement obligations to the Administrative Agent, the Swing Line Lender, any Issuing Bank, any Guarantee Bank and the Lenders that may arise in respect of the foregoing, and no Additional Revolving Borrower in its capacity as such shall have any liability whatsoever for any of the obligations of the Lux Borrower or any other Revolving Borrower. Notwithstanding the term “Additional Revolving Borrower”, which is used for convenience only, under no circumstance shall any Additional Revolving Borrower in its capacity as such be deemed to be jointly and severally liable for the Obligations of any other Loan Party under any Loan Document. Notwithstanding anything to the contrary set forth in this Section 2.24(b), this Section 2.24(b) shall in no way limit the obligations of such Additional Revolving Borrower under the applicable Loan Guaranty.

(c) In the event of (x) any sale or disposition of a Revolving Borrower permitted under this Agreement that results in such Revolving Borrower ceasing to be a Restricted

Subsidiary or (y) any release of a Revolving Borrower of its obligations hereunder pursuant to Section 8.01 or Section 9.23, then on or prior to (or substantially contemporaneously with) such sale, disposition or release, such Revolving Borrower shall (i) pay (or have paid) in full in Cash all of its direct Obligations under any Revolving Facility of any Class under which it is a Revolving Borrower and/or (ii) reallocate (or shall have reallocated) to another Revolving Borrower with Revolving Loans and/or Revolving Credit Commitments in the same Class as such Revolving Borrower all of its reimbursement or participation Obligations to another Revolving Borrower with Revolving Loans and/or Revolving Credit Commitments in the same Class in a manner reasonably satisfactory to the Administrative Agent, the Swing Line Lender, any Issuing Bank, any Guarantee Bank and the Revolving Lenders, as applicable.

### ARTICLE 3 REPRESENTATIONS AND WARRANTIES

On the dates and to the extent required pursuant to Sections 4.02 or 4.03 hereof, as applicable, Holdings (solely with respect to Sections 3.01, 3.02, 3.03, 3.07, 3.08, 3.09, 3.14, 3.16 and 3.17) and the Borrowers, on behalf of themselves and their respective Restricted Subsidiaries, represent and warrant to the Lenders that:

Section 3.01. Organization; Powers. Each of the Loan Parties and each of its Restricted Subsidiaries (a) is (i) duly organized, incorporated or registered, as applicable, and validly existing and (ii) in good standing (to the extent such concept exists in the relevant jurisdiction) under the Requirements of Law of its jurisdiction of organization, incorporation or registration, as applicable, (b) has all requisite power and authority to own its property and assets and to carry on its business as now conducted and (c) is qualified to do business in, and is in good standing (to the extent such concept exists in such jurisdiction) in, every jurisdiction where its ownership, lease or operation of properties or conduct of its business requires such qualification; except, in each case referred to in this Section 3.01 (other than clause (a)(i) with respect to the Borrowers and clause (b) with respect to the Loan Parties) where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.02. Authorization; Enforceability. The execution, delivery and performance of each of the Loan Documents are within each applicable Loan Party's corporate or other organizational power and have been duly authorized by all necessary corporate or other organizational action of such Loan Party. Each Loan Document to which any Loan Party is a party has been duly executed and delivered by such Loan Party and is a legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, subject to the Legal Reservations and the Perfection Requirements.

Section 3.03. Governmental Approvals; No Conflicts. The execution and delivery of the Loan Documents by each Loan Party party thereto and the performance by such Loan Party thereof (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except (i) such as have been obtained or made and are in full force and effect, (ii) for the Perfection Requirements and (iii) such consents, approvals, registrations, filings, or other actions the failure to obtain or make which could not be reasonably expected to have a Material Adverse Effect, (b) will not violate any (i) of such Loan Party's Organizational Documents or (ii) any Requirements of Law applicable to such Loan Party which, in the case of this clause (b)(ii), could reasonably be expected to have a Material Adverse Effect and (c) will not violate or result in a default under any other Contractual Obligation of any of the Loan Parties which in the case of this clause (c) could reasonably be expected to result in a Material Adverse Effect.

Section 3.04. Financial Condition; No Material Adverse Effect.

(a) The Lux Borrower has heretofore furnished to the Administrative Agent the combined balance sheet and related consolidated statements of operations and cash flows and parent company's investment of Holdings as of and for (i) the fiscal years ended December 31, 2013 and December 31, 2014, each reported on by KPMG LLP, independent public accountants and (ii) the fiscal quarter ended September 30, 2015. As of the Closing Date, such financial statements together with any financial statements delivered pursuant to Section 4.02(g) present fairly, in all material respects, the financial position and results of operations and cash flows of the Business as of such dates and for such periods in accordance with GAAP, subject to the absence of footnotes, normal year-end adjustments and the exceptions set forth on Schedule 3.04.

(b) Since February 15, 2016, there have been no events, developments or circumstances that have had, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 3.05. Properties.

(a) As of the Closing Date, Schedule 3.05 sets forth the address of each Real Estate Asset (or each set of such assets that collectively comprise one operating property) that is owned in fee simple (or similar concept under any applicable jurisdiction) by any Loan Party.

(b) The Lux Borrower and each of its Restricted Subsidiaries have good and valid fee simple title (or similar concept under any applicable jurisdiction) to or rights to purchase, or valid leasehold interests in, or easements or other limited property interests in, all their respective Real Estate Assets and have good title to their personal property and assets, in each case, except (i) for defects in title that do not materially interfere with their ability to conduct their business as currently conducted or to utilize such properties and assets for their intended purposes or (ii) where the failure to have such title would not reasonably be expected to have a Material Adverse Effect. All such properties and assets are free and clear of Liens, other than Permitted Liens.

(c) The Lux Borrower and its Restricted Subsidiaries own or otherwise have a license or right to use all rights in Patents, Trademarks, Copyrights and other rights in works of authorship (including all copyrights embodied in software) and all other similar intellectual property rights ("IP Rights") used to conduct the businesses of the Lux Borrower and its Restricted Subsidiaries as presently conducted without, to the knowledge of the Lux Borrower, any infringement or misappropriation of the IP Rights of third parties, except to the extent such failure to own or license or have rights to use would not, or where such infringement or misappropriation would not, have, individually or in the aggregate, a Material Adverse Effect.

Section 3.06. Litigation and Environmental Matters.

(a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Lux Borrower, threatened in writing against or affecting the Loan Parties or any of their Restricted Subsidiaries which would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(b) Except for any matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, (i) no Loan Party nor any of its Restricted Subsidiaries has received notice of any claim with respect to any Environmental Liability or knows of any basis that could reasonably be expected to result in any Environmental Liability and (ii) no Loan Party nor any of its Restricted Subsidiaries (A) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law or (B) has become subject to any Environmental Liability.

(c) Neither any Loan Party nor any of their Restricted Subsidiaries has treated, stored, transported or disposed of Hazardous Materials at or from any currently or formerly operated real estate or facility relating to its business in a manner that would reasonably be expected to have a Material Adverse Effect.

Section 3.07. Compliance with Laws. Each Borrower and its Restricted Subsidiaries is in compliance with all Requirements of Law applicable to it or its property, except, in each case, where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect; it being understood and agreed that this Section 3.07 shall not apply to the Requirements of Law covered by Section 3.17 below.

Section 3.08. Investment Company Status. No Loan Party is an “investment company” as defined in, or is required to be registered under, the Investment Company Act of 1940.

Section 3.09. Taxes. Each of Holdings, the Borrowers and their Restricted Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it that are due and payable, except (a) Taxes that are being contested in good faith by appropriate proceedings and for which such Loan Party or such Restricted Subsidiary, as applicable, has set aside on its books adequate reserves in accordance with GAAP or (b) to the extent that the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.10. ERISA; Non-U.S. Plans.

(a) Each Plan is in compliance in form and operation with its terms and with ERISA and the Code and all other applicable laws and regulations, except where any failure to comply would not reasonably be expected to result in a Material Adverse Effect.

(b) No ERISA Event or Non-U.S. Plan Event has occurred in the five-year period prior to the date on which this representation is made or deemed made and is continuing or is reasonably expected to occur that, when taken together with all other such ERISA Events or Non-U.S. Plan Events for which liability is reasonably expected to occur, would reasonably be expected to result in a Material Adverse Effect.

(c) Each Non-U.S. Plan has been maintained in compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders and has been maintained, where required, in good standing with applicable regulatory authorities, except as would not reasonably be expected to result in a Material Adverse Effect. Neither the Lux Borrower nor any of its Restricted Subsidiaries has incurred any obligation in connection with the

termination of, or withdrawal from, any Non-U.S. Plan, except as would not result in a Material Adverse Effect.

Section 3.11. Disclosure.

(a) As of the Closing Date, and with respect to information relating to the Target and its subsidiaries, to the knowledge of the Lux Borrower, all written information (other than the Projections, other forward-looking information and information of a general economic or industry-specific nature) that has been made available concerning Holdings, the Borrowers and their Restricted Subsidiaries, the Transactions and otherwise prepared by or on behalf of the foregoing or their respective representatives and made available to any Lender or the Administrative Agent in connection with the Transactions on or before the Closing Date, when taken as a whole, did not, when furnished, contain any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made (after giving effect to all supplements and updates thereto from time to time).

(b) The Projections have been prepared in good faith based upon assumptions believed by the Lux Borrower to be reasonable at the time furnished (it being recognized that such Projections are not to be viewed as facts and are subject to significant uncertainties and contingencies many of which are beyond the Lux Borrower's control, that no assurance can be given that any particular financial projections will be realized, that actual results may differ from projected results and that such differences may be material).

Section 3.12. Solvency.

As of the Closing Date, immediately after the consummation of the Transactions to occur on the Closing Date and the incurrence of Indebtedness and obligations on the Closing Date in connection with this Agreement and the Transactions, (i) the sum of the debt (including contingent liabilities) of the Lux Borrower and its Restricted Subsidiaries, taken as a whole, does not exceed the fair value of the present assets of the Lux Borrower and its Restricted Subsidiaries, taken as a whole; (ii) the present fair saleable value of the assets of the Lux Borrower and its Restricted Subsidiaries, taken as a whole, is not less than the amount that will be required to pay the probable liabilities (including contingent liabilities) of the Lux Borrower and its Restricted Subsidiaries, taken as a whole, on their debts as they become absolute and matured; (iii) the capital of the Lux Borrower and its Restricted Subsidiaries, taken as a whole, is not unreasonably small in relation to the business of the Lux Borrower and its Restricted Subsidiaries, taken as a whole, contemplated as of the Closing Date; and (iv) the Lux Borrower and its Restricted Subsidiaries, taken as a whole, do not intend to incur, or believe that they will incur, debts (including current obligations and contingent liabilities) beyond their ability to pay such debt as they mature in the ordinary course of business. For the purposes hereof, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

Section 3.13. Capitalization and Subsidiaries. Part A of Schedule 3.13 sets forth, in each case as of the Closing Date, (a) a correct and complete list of the name of each subsidiary of the Lux Borrower and the ownership interest therein held by the Lux Borrower or its applicable subsidiary, and (b) the type of entity of the Lux Borrower and each of its subsidiaries.

Section 3.14. Security Interest in Collateral. Subject to the terms of the last paragraph of Section 4.02, the Legal Reservations, the Perfection Requirements, the provisions of this Agreement and the other relevant Loan Documents, the Collateral Documents create legal, valid and enforceable Liens on all of the Collateral in favor of the Administrative Agent, for the benefit of itself and the other Secured Parties, and, subject to the Perfection Requirements, such Liens constitute perfected Liens (with the priority each Lien is expressed to have within the relevant Collateral Document) on the Collateral (to the extent such security interest is required to be perfected under the terms of the Loan Documents) securing the Secured Obligations, in each case as and to the extent set forth therein.

Section 3.15. Labor Disputes. As of the Closing Date, except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes, lockouts or slowdowns against any Borrower or any of its Restricted Subsidiaries pending or, to the knowledge of the Lux Borrower or any of its Restricted Subsidiaries, threatened and (b) the hours worked by and payments made to employees of any Borrower and its Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Requirements of Law dealing with such matters.

Section 3.16. Federal Reserve Regulations. No part of the proceeds of any Loan, Letter of Credit or Bank Guarantee will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that results in a violation of the provisions of Regulation U or Regulation X.

Section 3.17. Anti-Corruption Laws and Sanctions.

(a) (i) None of Holdings, any Borrower, any other Loan Party or any of their respective subsidiaries, officers, employees, or Affiliates, and no joint venture of any Loan Party or any subsidiary thereof, nor, to the knowledge of the Lux Borrower, any agent of any of the foregoing is a Sanctioned Person and (ii) none of Holdings, any Borrower, any Loan Party will (and will ensure that none of their respective subsidiaries, officers, employees, Affiliates or joint ventures will), directly or indirectly use the proceeds of the Loans, Letters of Credit or Bank Guarantees or otherwise make available such proceeds to any Person for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or in any other manner that will result in a violation by any Person a party hereto, of Sanctions.

(b) To the extent applicable, each Loan Party and each of its subsidiaries (and any controlled joint ventures of the Loan Parties and any of their subsidiaries) is in compliance with all applicable Sanctions.

(c) To the extent applicable, each Loan Party and each of its subsidiaries (and any controlled joint ventures of the Loan Parties and any of their subsidiaries) is in compliance, in all material respects, with the USA PATRIOT Act.

(d) No part of the proceeds of any Loan, any Letter of Credit or any Bank Guarantee will be used, directly or, to the knowledge of the Borrowers, indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting for or on behalf of any of the above in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the U.S. Foreign Corrupt Practices Act of 1977 (“FCPA”).

(e) The representations and warranties contained in this Section 3.17 made by or on behalf of any Non-US Subsidiary, as the case may be, under the Loan Guaranty, and, in the case of a Foreign Subsidiary incorporated under the laws of Germany, also with respect to its Restricted Subsidiaries, are subject to any Requirements of Law applicable to such Non-US Subsidiary in particular with respect to a violation of or conflict with or liability under section 7 of the German Foreign Trade Regulation (*Außenwirtschaftsverordnung, AWV*) (in conjunction with section 4 and section 19 paragraph 3 no. 1 a) of the German Foreign Trade Act (*Außenwirtschaftsgesetz, AWG*)), any provision of Council Regulation (EC) 2271/96 or any similar applicable anti-boycott law or regulation).

(f) To the extent any Non-US Subsidiary (or any Borrower on behalf of a Non-US Subsidiary) cannot make any of the representations or warranties contained in clauses (a), (b) or (c) above, then such Non-US Subsidiary shall be in compliance in all material respects with the equivalent Requirements of Law, if any, relating to anti-terrorism, anti-corruption or money laundering applicable to such Non-US Subsidiary in its local jurisdiction.

## ARTICLE 4 CONDITIONS

Section 4.01. Signing Date. This Agreement and the Commitments hereunder shall not become effective until the date on which the Administrative Agent (or its counsel) shall have received an executed counterpart (or written evidence satisfactory to the Administrative Agent (which may include a facsimile or other electronic transmission)) that such party has signed a counterpart of:

(a) this Agreement by Holdings, each Borrower, the Swingline Lender, the Issuing Bank, the Guarantee Bank, the Administrative Agent and the Initial Signing Date Lenders; and

(b) the Fee Letter by Holdings and the Arrangers (and any lending affiliates thereof, as applicable, that are party thereto).

Section 4.02. Closing Date. The obligations of the Lenders to make Loans, any Issuing Bank to issue Letters of Credit hereunder and any Guarantee Bank to issue Bank Guarantees hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) Loan Documents. (i) The Administrative Agent (or its counsel) shall have received from each of the Closing Date Loan Parties party thereto a counterpart (or written evidence satisfactory to the Administrative Agent (which may include a facsimile or other electronic transmission) that such party has signed a counterpart) of (A) the Intercreditor Agreement signed by the Original Investor named therein and each Closing Date Loan Party and (B) each Promissory Note signed by the applicable Borrower (to the extent requested at least three Business Days prior to the Closing Date), (ii) the Administrative Agent shall have received a Borrowing Request as required by Section 2.03 and (iii) subject to the last paragraph of this Section 4.02, the requirements under clause (a)(i) of the definition of "Collateral and Guarantee Requirement" which by its terms have to be satisfied on the Closing Date, shall have been satisfied.

(b) Legal Opinions. The Administrative Agent shall have received, on behalf of itself, the Lenders, each Issuing Bank and each Guarantee Bank on the Closing Date, a customary written opinion of (i) Weil, Gotshal & Manges LLP, special counsel for Holdings, the Borrowers

and each other Closing Date Loan Party and (ii), subject to the last paragraph of this Section 4.02 local or other counsel for Holdings, the Borrowers and each other Closing Date Loan Party reasonably satisfactory to the Administrative Agent as specified on Schedule 4.02(b), in each case, (A) dated the Closing Date and (B) addressed to the Administrative Agent, the Lenders, each Issuing Bank and each Guarantee Bank.

(c) Closing Certificates; Certified Charters; Good Standing Certificates. The Administrative Agent shall have received (i) a certificate of each Closing Date Loan Party (other than Bidco), dated no earlier than two Business Days prior to the Closing Date and executed by a Responsible Officer, which shall (A) certify that attached thereto is a true and complete copy of the resolutions, written consents or extracts of minutes of a meeting, as applicable, of its board of directors, board of managers, supervisory board, shareholders, members or other governing body (as the case may be and in each case, to the extent required) authorizing the execution, delivery and performance of the Loan Documents to which it is a party (including, (x) in the case of Holdings, Allnex Holdings and the Lux Borrower, a certificate of non-inscription of judicial decision (*certificats de non-inscription d'une décision judiciaire*) issued not later than two Business Days prior to the Closing Date by the Luxembourg Companies Register and (y) in the case of any Closing Date Loan Party organized under the laws of Belgium, a copy of a resolution of the shareholder(s) of such Closing Date Loan Party approving Section 7.01(j) and any other change of control clause or clause having equivalent effect in accordance with article 556 of the Belgian Company Code (*Wetboek van vennootschappen / Code des sociétés* dated 7 May 1999, as amended from time to time)) and, in the case of the Borrowers, the borrowings hereunder, and that such resolutions or written consents have not been modified, rescinded or amended and are in full force and effect, (B) identify by name and title and bear the signatures of the Responsible Officer or authorized signatory of such Closing Date Loan Party authorized to sign the Loan Documents to which it is a party on the Signing Date or the Closing Date, as applicable and (C) certify (I) that attached thereto is a true and complete copy of the certificate or articles of incorporation or organization (or memorandum of association, articles of association or other equivalent thereof) of each Closing Date Loan Party (in the case of any US Loan Party that is a Closing Date Loan Party, certified by the relevant authority of the jurisdiction of organization of such Loan Party) and a true and correct copy of its by-laws or operating, management, partnership or similar agreement (to the extent applicable) and, with respect to any Dutch Loan Party that is a Closing Date Loan Party, an up-to-date excerpt of the Dutch Chamber of Commerce and (II) that such documents or agreements have not been amended (except as otherwise attached to such certificate and certified therein as being the only amendments thereto as of such date), (ii) with respect to Bidco, a certificate from a director thereof, in customary form and attaching the shareholder resolutions and entitled persons agreement referred to therein, and (iii) a good standing certificate (to the extent such concept is known and customary in the relevant jurisdiction, and which (x) in the case of each of Holdings, Allnex Holdings and the Lux Borrower, shall be an excerpt of the Luxembourg Companies Register, dated not later than one day prior to the Closing Date as of a recent date for each such Closing Date Loan Party from its jurisdiction of organization and (y) in the case of any Closing Date Loan Party organized under the laws of Belgium, a non-insolvency certificate from the clerk of the competent commercial court relating to such Loan Party.

(d) Representations and Warranties. The (i) Specified Acquisition Agreement Representations shall be true and correct as required by the terms of the definition thereof and (ii) the Specified Representations shall be true and correct in all material respects on and as of the Closing Date; provided that, in the case of any Specified Representation which expressly relates

to a given date or period, such representation and warranty shall be true and correct in all material respects as of the respective date or for the respective period, as the case may be; provided, further, that if any of the Specified Representations are qualified by or subject to a “material adverse effect”, “material adverse change” or similar term or qualification, the definition thereof shall be a Closing Date Material Adverse Effect for purposes of any such representations and warranties made or deemed made on, or as of, the Closing Date (or any date prior thereto).

(e) Fees. Concurrently with the closing of the Acquisition, the Administrative Agent shall have received (i) all fees required to be paid by the Borrowers on the Closing Date pursuant to the Fee Letter and (ii) all expenses for which invoices have been presented at least three Business Days prior to the Closing Date (including the reasonable fees and expenses of legal counsel), in each case on or before the Closing Date, which amounts may be offset against the proceeds of the Loans.

(f) Refinancing; Indebtedness as of the Closing Date. Prior to or substantially concurrently with the initial funding of the Loans hereunder, (i) the Refinancing shall have occurred and (ii) none of Holdings, the Lux Borrower nor any of its Restricted Subsidiaries shall have any third party Indebtedness for borrowed money other than Indebtedness pursuant to the Loan Documents, Indebtedness listed on Schedule 6.01 hereto and other Indebtedness permitted under Section 6.01.

(g) Financial Statements. The Administrative Agent shall have received (i) an audited consolidated balance sheet and audited consolidated statements of income and cash flows of Holdings and its Subsidiaries, for the Fiscal Year ended December 31, 2015, and (ii) the unaudited consolidated balance sheets and related consolidated statements of income and cash flows of Holdings and its Subsidiaries, for the most recent fiscal quarters after December 31, 2015 and ended at least 60 days prior to the Closing Date.

(h) Solvency. The Administrative Agent shall have received a certificate dated as of the Closing Date in substantially the form of Exhibit Q from a Responsible Officer of the Lux Borrower certifying as to the matters set forth therein.

(i) Perfection Certificate. Subject to the last paragraph of this Section 4.02, the Administrative Agent shall have received a completed Perfection Certificate with respect to each US Loan Party, dated the Closing Date and signed by a Responsible Officer of US Holdco, together with all attachments contemplated thereby.

(j) Filings, Registrations and Recordings. Subject to the last paragraph of this Section 4.02, each document (including any UCC (or similar) financing statement) required by the applicable Collateral Documents listed on Schedule 1.01(e) or under law to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral required to be delivered pursuant to Section 4.02(a)(iii), prior and superior in right to any other Person (other than with respect to Permitted Liens), shall be in proper form for filing, registration or recordation.

(k) Transactions. Substantially concurrently with the initial funding of the Loans hereunder, the Acquisition shall have been consummated in accordance with the terms of the Approved Acquisition Agreement, but without giving effect to any amendments, waivers, agreements or consents by Bidco (or any of its Affiliates) that are materially adverse to the

interests of the Arrangers and their respective Affiliates that are party hereto as Initial Signing Date Lenders in their respective capacities as such without the consent of the Initial Signing Date Lenders, such consent not to be unreasonably withheld, delayed or conditioned (it being understood that (a) any decrease in the purchase price shall not be materially adverse to the interests of the Arrangers (or such Affiliates) so long as such decrease is allocated to reduce the Term Facility, (b) any increase in the purchase price shall not be materially adverse to the Arrangers (or such Affiliates) so long as such increase is funded from sources other than proceeds of Indebtedness, (c) any changes to the definition of "Material Adverse Change" in the Acquisition Agreement shall be deemed to be materially adverse to the Initial Signing Date Lenders and (d) the granting of any consent under the Acquisition Agreement that is not materially adverse to the interests of the Arrangers (or such Affiliates) shall not otherwise constitute an amendment or waiver).

(l) Closing Date Material Adverse Effect. No Closing Date Material Adverse Effect shall have occurred between February 15, 2016 and 8.00 a.m. (New Zealand time) on the Implementation Date (New Zealand time).

(m) USA PATRIOT Act. No later than three days in advance of the Closing Date, the Administrative Agent shall have received all documentation and other information reasonably requested by it with respect to each Closing Date Loan Party in writing at least ten days in advance of the Closing Date, to the extent such documentation or other information is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

(n) Change of Control. No Change of Control shall have occurred.

(o) Escrow Deed. The Escrow Deed, in form and substance consistent with the form attached to the Approved Acquisition Agreement (with such changes to such Escrow Deed as the Initial Signing Date Lenders may approve, such approval not to be unreasonably withheld, delayed or conditioned), shall be duly executed and delivered by each party thereto.

For purposes of determining whether the conditions specified in this Section 4.02 have been satisfied, the Administrative Agent shall, on request from the Lux Borrower, confirm the current status of the conditions in this Section 4.02 in writing, and by any event, by funding its Loans hereunder (or in connection with any Assignment Agreement), the Administrative Agent and each Lender that has executed this Agreement (or such Assignment Agreement) shall be deemed to have consented to, approved or accepted, or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to the Administrative Agent or such Lender, as the case may be.

Upon the satisfaction or waiver of the conditions specified in this Section 4.02 (other than those conditions that shall be satisfied substantially concurrently with the closing of the Acquisition or the initial Borrowings hereunder on the Closing Date), the Administrative Agent shall (and each Lender expressly authorizes the Administrative Agent to) immediately deliver any notice required under the Escrow Deed to authorize the release of the funds thereunder in accordance with Section 3.2(c) of the Escrow Deed.

Notwithstanding anything to the contrary herein, including this Article 4 and Article 2, the initial funding of the Loans hereunder shall be accomplished in a manner agreed by the Lux Borrower, the

Initial Signing Date Lenders and the Administrative Agent (in each case, not to be unreasonably withheld, conditioned or delayed), taking into account all time zone and other logistical considerations relevant to closing the Acquisition and consummating the Refinancing and the other Transactions (and in any event including deposit and/or escrow arrangements reasonably satisfactory to the Lux Borrower, each Initial Signing Date Lender and the Administrative Agent that will provide for the pre-funding of a portion of the proceeds of the Loans into an escrow or other account maintained in New Zealand at least one New Zealand business day prior to the expected closing date of the Acquisition for the purpose of consummating the Acquisition), as further described in the Funding and Logistics Memorandum; it being understood and agreed that any action taken pursuant to the steps and other arrangements described in the Funding and Logistics Memorandum in connection with the Closing Date shall be deemed permitted by the provisions of Article 6 hereof and shall not constitute a breach or default under this Agreement or any other Loan Document.

Notwithstanding anything to the contrary contained herein, (a) none of the making of any representation under Article 3 (except as expressly set forth in Section 4.02(d)), the accuracy of any such representation or any supplement thereto (except as expressly set forth in Section 4.02(d)) nor (b) the absence of any breach of any covenant hereunder or the absence of any occurrence of any Default or Event of Default hereunder, shall constitute a condition precedent to the availability and/or initial funding of the Credit Facilities on the Closing Date, and the only conditions (express or implied) to the availability of the Credit Facilities on the Closing Date are those expressly set forth in this Section 4.02, and such conditions shall be subject in all respects to the provisions of this Section 4.02, including the paragraph below.

Notwithstanding the foregoing, to the extent any Loan Guaranty or Collateral (including the creation or perfection of any security interest) is not or cannot be provided on the Closing Date (other than, (i) the Loan Guaranties executed by the Closing Date Loan Parties, (ii) a Lien on Collateral of the Closing Date Loan Parties that may be perfected solely by the filing of a financing statement under the UCC and the NZ PPSA and (iii) a pledge of the Capital Stock of the Closing Date Loan Parties (other than Holdings) with respect to which a Lien may be perfected on the Closing Date by the delivery of a stock or equivalent certificate (or entry in a stock register or equivalent)) after the Lux Borrower's use of commercially reasonable efforts to do so without undue burden or expense, then the provision of any such Loan Guaranty or Lien search and the provision and/or perfection of such Collateral (and, in the case of any such Loan Guaranty or Collateral, any legal opinion or other deliverables with respect thereto required under Sections 4.02(b) and (c)) shall not constitute a condition precedent to the availability and initial funding of the Loans on the Closing Date but may, if required, instead be delivered and/or perfected in accordance with Section 5.14 hereof.

**Section 4.03. Each Credit Extension.** After the Closing Date, the obligation of each Revolving Lender to make a Credit Extension is subject to the satisfaction of the following conditions:

- (a) (i) In the case of a Borrowing, the Administrative Agent shall have received a Borrowing Request as required by Section 2.03, (ii) in the case of the issuance of a Letter of Credit, the applicable Issuing Bank and the Administrative Agent shall have received a notice requesting the issuance of such Letter of Credit as required by Section 2.05(a)(ii), (ii) in the case of the issuance of a Bank Guarantee, the applicable Guarantee Bank and the Administrative Agent shall have received a notice requesting the issuance of such Bank Guarantee as required by Section 2.05(b)(ii) or (iv) in the case of a Swingline Borrowing, the Swingline Lender and the Administrative Agent shall have received a request as required by Section 2.04(a).

(b) The representations and warranties of the Loan Parties set forth in this Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the date of any such Credit Extension with the same effect as though such representations and warranties had been made on and as of the date of such Credit Extension; provided that to the extent that a representation and warranty specifically refers to an earlier date, it shall be true and correct in all material respects as of such earlier date.

(c) At the time of and immediately after giving effect to the applicable Credit Extension, no Event of Default or Default shall have occurred and be continuing.

Each Credit Extension after the Closing Date shall be deemed to constitute a representation and warranty by the Lux Borrower on the date thereof as to the matters specified in paragraphs (b) and (c) (if applicable) of this Section 4.03; provided, however, that the conditions set forth in paragraphs (b) and (c) of this Section 4.03 shall not apply to (A) any Incremental Loan made in connection with any acquisition or other Investment and/or (B) any Credit Extension under any Refinancing Amendment unless in each case the lenders in respect thereof have required satisfaction of the same in the applicable Incremental Facility Agreement or Refinancing Amendment, as applicable.

## ARTICLE 5 AFFIRMATIVE COVENANTS

From the Closing Date (other than with respect Section 5.16, which shall be in effect as of the Signing Date) and until the date that all the Revolving Credit Commitments and any Additional Commitments have expired or terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document (other than contingent indemnification obligations for which no claim or demand has been made) have been paid in full in Cash and all Letters of Credit and Bank Guarantees have expired or have been terminated (or have been collateralized or back-stopped by a letter of credit or otherwise in a manner reasonably satisfactory to the Administrative Agent and the Issuing Banks or Guarantee Banks, as applicable), all LC Disbursements and Bank Guarantee Disbursements shall have been reimbursed and all Ancillary Obligations under Ancillary Documents have been paid in full in Cash (or arrangements reasonably satisfactory to the applicable Ancillary Lender shall have been made) (such date, the “**Termination Date**”), each of the Borrowers hereby covenants and agrees with the Lenders that:

Section 5.01. Financial Statements and Other Reports. The Lux Borrower will deliver to the Administrative Agent for delivery by the Administrative Agent to each Lender:

(a) Quarterly Financial Statements. Commencing with the first full Fiscal Quarter after the Closing Date, as soon as available, and in any event within 60 days (or (x) 75 days in the case of the two Fiscal Quarters following the Closing Date and (y) 90 days in the case of the Fiscal Quarter during which a conversion to IFRS in accordance with Section 1.04 occurs and the subsequent two Fiscal Quarters thereafter) after the end of each of the first three Fiscal Quarters of each Fiscal Year, the consolidated balance sheet of the Lux Borrower as at the end of such Fiscal Quarter and the related consolidated statements of operations and cash flows of the Lux Borrower for such Fiscal Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter, setting forth (commencing after the completion of the second full Fiscal Quarter ended after the Closing Date; provided that comparisons to balance sheets dated prior to the Closing Date shall not be required) in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year, all in reasonable detail, together with a Responsible Officer Certification (with respect thereto; provided, however,

that such financial statements shall not be required to reflect purchase accounting adjustments relating to the Acquisition or any other consummated acquisition until the delivery of annual financial statements pursuant to Section 5.01(b) with respect to the Fiscal Year in which the Acquisition or such other acquisition, as applicable, were consummated;

(b) Annual Financial Statements. As soon as available, and in any event within 120 days (or (x) 150 days in the case of the first Fiscal Year following the Closing Date and (y) 150 days in the case of the first Fiscal Year during which a conversion to IFRS in accordance with Section 1.04 occurs) after the end of each Fiscal Year, (i) the consolidated balance sheet of the Lux Borrower as at the end of such Fiscal Year and the related consolidated statements of operations, stockholders' equity and cash flows of the Lux Borrower for such Fiscal Year, setting forth (commencing after the completion of the second full Fiscal Year ended after the Closing Date) in comparative form the corresponding figures for the previous Fiscal Year, in reasonable detail and (ii) with respect to such consolidated financial statements, a report thereon of an independent certified public accountant of recognized national standing (which report shall be unqualified as to "going concern" and scope of audit (except for qualifications pertaining to debt maturities occurring within 15 months of such audit or a breach or anticipated breach of any financial covenant), and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of the Lux Borrower as at the dates indicated and the results of its operations and cash flows for the periods indicated in conformity with GAAP;

(c) Compliance Certificate and Narrative Report. Together with each delivery of financial statements of the Lux Borrower pursuant to Sections 5.01(a) and 5.01(b), (i) a duly executed and completed Compliance Certificate, (ii) a summary of the pro forma adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such financial statements and (iii) a Narrative Report;

(d) Statements of Reconciliation After Change in Accounting Principles. If, as a result of any change in accounting principles and policies from those used in the preparation of the consolidated financial statements of the Lux Borrower for the Fiscal Year ended December 31, 2015 (including any change to IFRS pursuant to Section 1.04(a)), the consolidated financial statements of the Lux Borrower delivered pursuant to Section 5.01(a) or 5.01(b) will differ in any material respect from the consolidated financial statements that would have been delivered pursuant to such Sections had no such change in accounting principles and policies been made, then, together with the first delivery of such financial statements after such change, one or more statements of reconciliation with respect to such financial statements that would have otherwise been delivered, including with respect to the calculations of Consolidated Net Income and Consolidated Adjusted EBITDA;

(e) Notice of Default. Promptly upon any Responsible Officer of Holdings or any Borrower obtaining knowledge (i) of any Default or Event of Default or (ii) of the occurrence of any event or change that has caused or evidences or would reasonably be expected to cause or evidence, either in any case or in the aggregate, a Material Adverse Effect, a reasonably-detailed notice specifying the nature and period of existence of such condition, event or change and what action the Borrowers have taken, are taking and propose to take with respect thereto;

(f) Notice of Litigation. Promptly upon any Responsible Officer of any Borrower obtaining knowledge of (i) the institution of, or threat of, any Adverse Proceeding not previously

disclosed in writing by the Loan Parties to the Lenders, or (ii) any material development in any Adverse Proceeding that, in the case of either clauses (i) or (ii), could reasonably be expected to have a Material Adverse Effect, written notice thereof together with such other non-privileged information as may be reasonably available to the Loan Parties to enable the Lenders and their counsel to evaluate such matters;

(g) ERISA. Promptly upon any Responsible Officer of any Borrower becoming aware of the occurrence of any ERISA Event or Non-U.S. Plan Event that could reasonably be expected to have a Material Adverse Effect, a written notice specifying the nature thereof;

(h) Financial Plan. As soon as available and in any event no later than 120 days after the beginning of each Fiscal Year ending after the Closing Date, an annual operating budget prepared by management of the Lux Borrower for such Fiscal Year;

(i) Information Regarding Collateral. (i) The Lux Borrower will furnish to the Administrative Agent prompt (and in any event within 105 days of the relevant change) written notice of any change (A) in any US Loan Party's legal name, (B) in any US Loan Party's type of organization, (C) in any US Loan Party's jurisdiction of organization or (D) in any US Loan Party's organizational identification number, to the extent necessary to enable the Administrative Agent to perfect or maintain the perfection and priority of the Administrative Agent's security interest in the Collateral and (ii) the Lux Borrower will furnish to the Administrative Agent prompt (and in any event within the time period required by any applicable Requirements of Law written notice of any change analogous to the changes described in clause (i) above with respect to any Non-US Loan Party to the extent that information regarding such change is necessary to enable the Administrative Agent to perfect or maintain the perfection and priority of its security interest in the Collateral of the relevant Non-US Loan Party;

(j) Annual Collateral Verification. (i) Together with the delivery of each Compliance Certificate provided with the financial statements required to be delivered pursuant to Section 5.01(b), a Perfection Certificate Supplement, either confirming that there has been no change in such information with respect to the Collateral owned by any US Loan Party since the date of the Perfection Certificate delivered on the Closing Date or the date of the most recent certificate or most recent report delivered pursuant to this Section and/or identifying such changes and (ii) subject to the Agreed Security Principles, together with the delivery of each Compliance Certificate delivered with the financial statements required to be delivered pursuant to Section 5.01(b) (or at more frequent intervals if and only to the extent (A) required by local law or (B) during the continuance of an Event of Default, upon the reasonable request of the Administrative Agent), the Lux Borrower shall provide to the Administrative Agent any information with respect to the Collateral owned by Holdings or any other Non-US Loan Party solely to the extent required by local law to perfect, register or enforce the security interests of the Secured Parties therein;

(k) Certain Reports. Promptly upon their becoming available and without duplication of any obligations with respect to any such information that is otherwise required to be delivered under the provisions of any Loan Document, copies of (i) following an initial public offering, all financial statements, reports, notices and proxy statements sent or made available generally by the Lux Borrower to its security holders acting in such capacity and (ii) all regular and periodic reports and all registration statements (other than on Form S-8 or similar form) and prospectuses, if any, filed by the Lux Borrower or any of its Restricted Subsidiaries with any

securities exchange or with the SEC or any analogous governmental or private regulatory authority; and

(l) Other Information. Such other certificates, reports and information (financial or otherwise) as the Administrative Agent may reasonably request from time to time regarding the Borrowers' or their Restricted Subsidiaries' financial condition or business; provided, however, that no Borrower nor any Restricted Subsidiary shall be required to disclose or provide any information (a) that constitutes non-financial trade secrets or non-financial proprietary information of any Borrower or any of its subsidiaries or any of their respective customers and/or suppliers, (b) in respect of which disclosure to the Administrative Agent or any Lender, Issuing Bank or Guarantee Bank (or any of their respective representatives) is prohibited by any applicable Requirement of Law, (c) that is subject to attorney-client or similar privilege or constitutes attorney work product or (d) in respect of which any Borrower or any Restricted Subsidiary owes confidentiality obligations to any third party (provided such confidentiality obligations were not entered into in contemplation of the requirements of this Section 5.01(l)).

Documents required to be delivered pursuant to this Section 5.01 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Lux Borrower (x) posts such documents or (y) provides a link thereto on the Lux Borrower's website on the Internet at the website address listed on Schedule 9.01; provided that, other than with respect to items required to be delivered pursuant to Section 5.01(k) above, the Lux Borrower shall promptly notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents on the Lux Borrower's website and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents; (ii) on which such documents are delivered by the Lux Borrower to the Administrative Agent for posting on the Lux Borrower's behalf on IntraLinks/SyndTrak or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); (iii) on which executed certificates or other documents are faxed to the Administrative Agent (or electronically mailed to an address provided by the Administrative Agent); or (iv) in respect of the items required to be delivered pursuant to Section 5.01(k) above in respect of information filed by the Lux Borrower or any of its Restricted Subsidiaries with any securities exchange or with the SEC or any analogous governmental or private regulatory authority, such items have been made available on the SEC website or the website of the relevant analogous governmental or private regulatory authority or securities exchange.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 5.01 may be satisfied with respect to any financial statements of the Lux Borrower by furnishing (A) the applicable financial statements of Holdings (or any other Parent Company) or (B) the Lux Borrower's or Holdings' (or any Parent Company), as applicable, Form 10-K or 10-Q, as applicable, filed with the SEC or any securities exchange, in each case, within the time periods specified in such paragraphs; provided that, with respect to each of clauses (A) and (B), (i) to the extent such financial statements relate to any Parent Company, such financial statements shall be accompanied by consolidating information that explains in reasonable detail the differences between the information relating to such Parent Company, on the one hand, and the information relating to the Lux Borrower on a standalone basis, on the other hand, which consolidating information shall be certified by a Responsible Officer of the Lux Borrower as having been fairly presented and (ii) to the extent such statements are in lieu of statements required to be provided under Section 5.01(b), such statements shall be accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing, which report shall be unqualified as to "going concern" and scope of audit (except for qualifications pertaining to debt maturities occurring within 15 months of such audit or a breach or anticipated breach of any financial covenant), and shall

state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of such Parent Company as at the dates indicated and the results of operations and cash flows for the periods indicated in conformity with GAAP).

Section 5.02. Existence. Except as otherwise permitted under Section 6.07, each Borrower will, and will cause each of its Restricted Subsidiaries to, at all times preserve and keep in full force and effect its existence and all rights and franchises, licenses and permits material to its business except to the extent (other than with respect to the preservation of existence of the Borrowers) failure to do so could not reasonably be expected to result in a Material Adverse Effect; provided that no Borrower or any of its Restricted Subsidiaries shall be required to preserve any such existence (other than with respect to the preservation of existence of the Borrowers), right or franchise, licenses and permits if a Responsible Officer of such Person or such Person's board of directors (or similar governing body) shall determine that the preservation thereof is no longer desirable in the conduct of the business of such Person, and that the loss thereof is not disadvantageous in any material respect to such Person or to the Lenders.

Section 5.03. Payment of Taxes. Holdings and each Borrower will, and will cause each of its Restricted Subsidiaries to, pay all Taxes imposed upon it or any of its properties or assets or in respect of any of its income or businesses or franchises before any penalty or fine accrues thereon; provided that no such Tax need be paid if (a) it is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as (i) adequate reserves or other appropriate provisions, as shall be required in conformity with GAAP, shall have been made therefor, and (ii) in the case of a Tax which has or may become a Lien against any of the Collateral, such contest proceedings conclusively operate to stay the sale of any portion of the Collateral to satisfy such Tax or claim or (b) failure to pay or discharge the same could not reasonably be expected to result in a Material Adverse Effect.

Section 5.04. Maintenance of Properties. Each Borrower will, and will cause each of its Restricted Subsidiaries to, maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear and casualty and condemnation excepted, all property reasonably necessary to the normal conduct of business of the Borrowers and their respective Restricted Subsidiaries and from time to time will make or cause to be made all needed and appropriate repairs, renewals and replacements thereof except as expressly permitted by this Agreement or where the failure to maintain such properties could not reasonably be expected to have a Material Adverse Effect.

Section 5.05. Insurance. Except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, the Borrowers will maintain or cause to be maintained, with financially sound and reputable insurers, such insurance coverage with respect to liabilities, losses or damage in respect of the assets, properties and businesses of the Borrowers and their respective Restricted Subsidiaries as may customarily be carried or maintained under similar circumstances by Persons of established reputation engaged in similar businesses, in each case in such amounts (giving effect to self-insurance), with such deductibles, covering such risks and otherwise on such terms and conditions as shall be customary for such Persons, including flood insurance with respect to each Flood Hazard Property, in each case in compliance with the Flood Insurance Laws. Each such policy of insurance maintained by any US Loan Party shall, in each case subject to the Agreed Security Principles, to the extent available from such insurance carrier and only to the extent that the respective insurance and any claims thereunder does not qualify as Excluded Assets, shall (i) name the Administrative Agent on behalf of the Lenders as an additional insured thereunder as its interests may appear and (ii) in the case of each casualty insurance policy (including any business interruption insurance policy), contain a loss payable clause or endorsement to the extent available from such insurance carrier that names the Administrative Agent, on behalf of the Lenders as the loss payee thereunder and, to the extent available, provides for at least 30

days' prior written notice to the Administrative Agent of any modification or cancellation of such policy (or 10 days' prior written notice in the case of the failure to pay any premiums thereunder); it being understood that with respect to any such policies existing on the Closing Date, the requirements under this sentence shall be deemed satisfied if completed within the time periods set forth in Schedule 5.14. Notwithstanding anything to the contrary herein, with respect to Non-US Subsidiaries and Collateral located outside of the United States, the requirements of this Section 5.05 shall be subject to the Agreed Security Principles and to the extent applicable, deemed satisfied if the applicable Loan Party obtains insurance policies that are customary and appropriate for the applicable jurisdiction.

#### Section 5.06. Inspections.

Each Borrower will, and will cause each of its Restricted Subsidiaries to, permit any authorized representatives designated by Administrative Agent to visit and inspect any of the properties of any such Borrower and any of its respective Restricted Subsidiaries at which the principal financial records and executive officers of the applicable Person are located, to inspect, copy and take extracts from its and their financial and accounting records, and to discuss its and their affairs, finances and accounts with its and their Responsible Officers and, to the extent permitted by local law, independent public accountants (provided that the Borrowers may, if they so choose, be present at or participate in any such discussion), all upon reasonable notice and at such reasonable times during normal business hours; provided that, excluding such visits and inspections during the continuation of an Event of Default, (x) only the Administrative Agent on behalf of the Lenders may exercise the rights of the Administrative Agent and the Lenders under this Section 5.06, (y) the Administrative Agent shall not exercise such rights more often than one time during any calendar year and (z) only one such time per calendar year shall be at the expense of Borrowers; provided, further, that when an Event of Default exists, the Administrative Agent (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrowers at any time during normal business hours and upon reasonable advance notice; provided that notwithstanding anything to the contrary herein, neither the Lux Borrower nor any Restricted Subsidiary shall be required to disclose, permit the inspection, examination or making of copies or abstracts of, or any discussion of, any document, information, or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by applicable law, (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product or (iv) in respect of which any Borrower or any Restricted Subsidiary owes confidentiality obligations to any third party (provided such confidentiality obligations were not entered into in contemplation of the requirements of this Section 5.06).

Section 5.07. Maintenance of Book and Records. Each Borrower will, and will cause its Restricted Subsidiaries to, maintain proper books of record and account, in which entries that are full, true and correct in all material respects and permit the preparation of consolidated financial statements in accordance with GAAP shall be made of all material financial transactions and matters involving the assets and business of each Borrower and its Restricted Subsidiaries, as the case may be.

Section 5.08. Compliance with Laws. Each Borrower will comply, and shall cause each of its Restricted Subsidiaries to comply, with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including all Environmental Laws, Sanctions and U.S. Foreign Corrupt Practices Act of 1977 if and to the extent applicable to the relevant Borrower or its Restricted Subsidiaries), except to the extent the failure of such Borrower or such Restricted Subsidiary to comply could not reasonably be expected to have a Material Adverse Effect; provided that the covenants in this Section 5.08 as it applies to compliance by any Person (other than any Domestic Subsidiary) with

Sanctions and U.S. Foreign Corrupt Practices Act of 1977 are subject to and limited by any Requirement of Law applicable to such Non-US Subsidiary in its relevant local jurisdiction.

Section 5.09. Environmental.

(a) Environmental Disclosure. The Lux Borrower will deliver to the Administrative Agent as soon as practicable following the sending or receipt thereof by the Lux Borrower or any of its Restricted Subsidiaries, a copy of any and all written communications with respect to (A) any Environmental Claim that, individually or in the aggregate, have a reasonable possibility of giving rise to a Material Adverse Effect, (B) any Release required to be reported by the Lux Borrower or any of its Restricted Subsidiaries to any federal, state, provincial or local governmental or regulatory agency that reasonably could be expected to have a Material Adverse Effect and (C) such other documents and information as from time to time may be reasonably requested by the Administrative Agent in relation to any matters disclosed pursuant to this Section 5.09(a).

(b) Hazardous Materials Activities, Etc. Each Loan Party shall promptly take, and shall cause each of its Restricted Subsidiaries promptly to take, any and all actions necessary to (i) cure any violation of applicable Environmental Laws by such Loan Party or its Restricted Subsidiaries, and address with appropriate corrective or remedial action any Release or threatened Release of Hazardous Materials at or from any Facility, in each case, that could reasonably be expected to have a Material Adverse Effect and (ii) make an appropriate response to any Environmental Claim against such Loan Party or any of its Restricted Subsidiaries and discharge any obligations it may have to any Person thereunder, in each case, where failure to do so could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) Borrower's Acknowledgment. The Borrower hereby acknowledges and agrees that none of the Administrative Agent, any Lender nor any other Secured Party or any of their respective officers, directors, employees, attorneys, agents and representatives (i) is now, or has ever been, in control of any Real Estate Asset or any Loan Party's affairs, and (ii) has the capacity or the authority (other than through the provisions of the Loan Documents) to control, direct or influence any (A) Loan Party's conduct with respect to the ownership, operation or management of any Real Estate Asset, (B) undertaking, work or task performed by any employee, agent or contractor of any Loan Party or the manner in which such undertaking, work or task may be carried out or performed, or (C) compliance by any Loan Party with Environmental Laws or Governmental Authorizations.

Section 5.10. Designation of Subsidiaries. The Lux Borrower may at any time designate (or redesignate) any subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; provided that (i) no Borrower (or its direct parent company) may be designated as an Unrestricted Subsidiary, (ii) prior to the Closing Date, Bidco may not be designated as an Unrestricted Subsidiary, (iii) Allnex Belgium and Allnex Holdings may not be designated as an Unrestricted Subsidiary, (iv) immediately before and after such designation, no Event of Default shall have occurred and be continuing (including after giving effect to the reclassification of Investments in, Indebtedness of and Liens on, the applicable Restricted Subsidiary or Unrestricted Subsidiary)and (v) as of the date of the designation thereof after the Closing Date, no Unrestricted Subsidiary shall own any Capital Stock in any Borrower or its Restricted Subsidiaries or hold any Indebtedness of, or any Lien on any property of any Borrower or its Restricted Subsidiaries. The designation of any subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Lux Borrower therein at the date of designation in an amount equal

to the portion of the fair market value of the net assets of such Restricted Subsidiary attributable to the Lux Borrower's equity interest therein as reasonably estimated by the Lux Borrower (and such designation shall only be permitted to the extent such Investment is permitted under Section 6.06). The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence or making at the time of designation of any Investments, Indebtedness or Liens of such Restricted Subsidiary existing at such time; provided that upon a re-designation of such Unrestricted Subsidiary as a Restricted Subsidiary, the Lux Borrower shall be deemed to continue to have an Investment in a Restricted Subsidiary in an amount (if positive) equal to (a) the Lux Borrower's "Investment" in such Restricted Subsidiary at the time of such re-designation, *less* (b) the portion of the fair market value of the net assets of such Restricted Subsidiary attributable to the Lux Borrower's equity therein at the time of such re-designation. As of the Closing Date, the subsidiaries listed on Schedule 5.10 hereto have been designated as Unrestricted Subsidiaries.

**Section 5.11. Use of Proceeds.** The Lux Borrower shall use the proceeds of the Revolving Loans and advances or other extensions of credit under any Ancillary Facility (a) on the Closing Date, in an aggregate principal amount of up to €80,000,000 to finance a portion of the Transactions (including working capital and/or purchase price adjustments and the payment of Transaction Costs) and for working capital needs and other general corporate purposes and (b) after the Closing Date, to finance the working capital needs and other general corporate purposes of the Lux Borrower and its subsidiaries (including for capital expenditures, acquisitions, working capital and/or purchase price adjustments, the payment of transaction fees and expenses (in each case, including in connection with the Acquisition), other Investments, Restricted Payments and any other purpose not prohibited by the terms of the Loan Documents). Letters of Credit and Bank Guarantees may be issued (a) on the Closing Date in the ordinary course of business and to replace or provide credit support for any letters of credit, bank guarantees and/or surety, customs, performance or similar bonds of the Target, its subsidiaries or any affiliate or guarantees of any of the foregoing Persons and/or to replace cash collateral posted by any of the foregoing Persons and (b) after the Closing Date, for general corporate purposes of the Lux Borrower and its subsidiaries. Each Borrower shall use proceeds of the Term Loans solely to finance a portion of the Transactions (including working capital and/or purchase price adjustments payable on the Closing Date and the payment of Transaction Costs) and any other purpose not prohibited by the terms of the Loan Documents).

**Section 5.12. Covenant to Guarantee Obligations and Give Security.**

(a) After the Closing Date, if, as of the last day of any Fiscal Year for which financial statements have been delivered pursuant to Section 5.01(b) and the last day of any Fiscal Quarter ending June 30, for which financial statements have been delivered pursuant to Section 5.01(a), as applicable, the Collateral Coverage Requirement is not then satisfied, the Lux Borrower shall, 90 days (or 60 days to the extent such Restricted Subsidiary is organized in a jurisdiction where another Loan Party is organized) after the date on which the Compliance Certificate for such Fiscal Year or Fiscal Quarter, as applicable, is delivered pursuant to Section 5.01(c) (or such longer period as the Administrative Agent may reasonably agree), cause one or more Restricted Subsidiaries (other than any Excluded Subsidiary) organized in a Permitted Jurisdiction to become Collateral Coverage Parties, in each case to the extent necessary such that the Collateral Coverage Requirement would have been satisfied on a Pro Forma Basis as of the last day of such Fiscal Year or such Fiscal Quarter, as applicable, if the relevant Restricted Subsidiary or Restricted Subsidiaries had been a Loan Party at such time.

(b) Prior to the date on which any Restricted Subsidiary becomes an Additional Revolving Borrower, the Lux Borrower shall cause any such Restricted Subsidiary to execute and deliver a Revolving Borrower Joinder and comply with the requirements set forth in the definition of "Additional Revolving Borrower" and clause (b) of the definition of Collateral and Guarantee Requirement.

(c) Within 90 days (or 60 days to the extent such Restricted Subsidiary is organized in a jurisdiction where another Loan Party is organized) (or in each case, such longer period as the Administrative Agent may reasonably agree) after (w) the formation or acquisition after the Signing Date (it being agreed that any such entity formed or acquired prior to the Closing Date shall be deemed to be formed or acquired on the Closing Date) of any Restricted Subsidiary that is not an Excluded Subsidiary, (x) the designation of any Unrestricted Subsidiary as a Restricted Subsidiary (provided that, such designated Subsidiary is not otherwise an Excluded Subsidiary), (y) the date on which any Restricted Subsidiary that was an Excluded Subsidiary ceases to be an Excluded Subsidiary or (z) the Lux Borrower designates any Restricted Subsidiary as a Discretionary Guarantor, the Lux Borrower shall cause any such Restricted Subsidiary organized in a Permitted Jurisdiction to comply with the requirements set forth in clause (b) of the definition of Collateral and Guarantee Requirement.

(d) Within 90 days after the acquisition by any Loan Party of any Material Real Estate Asset that constitutes Collateral (or such longer period as the Administrative Agent may reasonably agree), the Lux Borrower shall cause such Loan Party to comply with the requirements set forth in clause (c) of the definition of Collateral and Guarantee Requirement; it being understood and agreed that, with respect to any Material Real Estate Asset owned by any Restricted Subsidiary at the time such Restricted Subsidiary is required to become, or becomes, a Loan Party under Section 5.12(c) above, such Material Real Estate Asset shall be deemed to have been acquired by such Restricted Subsidiary on the day on which it became a Loan Party under Section 5.12(c) and, within 90 days thereof (or such longer period as the Administrative Agent may reasonably agree), the Lux Borrower shall cause such Loan Party to comply with the requirements set forth in clause (c) of the definition of Collateral and Guarantee Requirement.

Notwithstanding anything to the contrary herein or in any other Loan Document, (i) any joinder or supplement to any Loan Guaranty, any Collateral Document or any other Loan Document executed by any Restricted Subsidiary required to become a Loan Party pursuant to this Section 5.12 may include such schedules as may be necessary to qualify any representation or warranty set forth in any Loan Document to the extent necessary to ensure that such representation or warranty is true and correct to the extent required thereby or by the terms of any other Loan Document and (ii) the Administrative Agent may grant extensions of time for the creation and perfection of liens on and/or security interests in, and/or obtaining of legal opinions, Mortgage Polices, surveys/Zip Maps/Express Maps or other deliverables with respect to, particular assets or the provision of any Loan Guaranty by any Restricted Subsidiary (including extensions beyond the Closing Date or in connection with assets acquired, or Restricted Subsidiaries formed or acquired, after the Closing Date) where it reasonably determines, in consultation with the Lux Borrower, that such action cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required to be accomplished by this Agreement, any Loan Guaranty or the Collateral Documents, and each Lender hereby consents to any such extension of time.

For the avoidance of doubt, (i) the requirement to take any action required under this Section 5.12 and/or the Collateral and Guarantee Requirement shall be subject, in all respects, to the Agreed Security Principles, (ii) no Loan Party shall be required under the terms of this Agreement or any other Loan

Document to cause any Excluded Subsidiary (other than any Immaterial Subsidiary that is an Excluded Subsidiary solely pursuant to clause (b) of such defined term) to comply with the provisions of Sections 5.12(a), (b), (c) or (d), even if, in the case of Section 5.12(a), compliance by such Excluded Subsidiary with the Collateral and Guarantee Requirement would be necessary to satisfy the Collateral Coverage Requirement and such failure to satisfy the Collateral Coverage Requirement shall not constitute or give rise to a Default or Event of Default hereunder or under any other Loan Document and (iii) each Loan Guaranty and each Collateral Document shall be subject in all respects to the Agreed Security Principles.

Section 5.13. Maintenance of Ratings. The Lux Borrower shall use commercially reasonable efforts to maintain public corporate credit and public corporate family ratings from each of S&P and Moody's; provided that in no event shall the Lux Borrower be required to maintain any specific rating with any such agency.

Section 5.14. Post-Closing Items.

(a) No later than 10 days after the Closing Date (or such longer period as set forth on Part 1(a) of Schedule 5.14 or as the Administrative Agent may agree to in its sole discretion), the items set forth on Part 1(a) of Schedule 5.14, which items relate to the Target Revolving Facility, shall be satisfied.

(b) No later than 90 days after the Closing Date (or such longer period as set forth on Part 1(b) of Schedule 5.14 or as the Administrative Agent may agree to in its sole discretion), the items set forth on Part 1(b) of Schedule 5.14, which items relate to the Target USPP Facility, shall be satisfied.

(c) No later than 90 days after the Closing Date (or such longer period as set forth on Part 2(a) of Schedule 5.14 or as the Administrative Agent may agree to in its sole discretion), the items set forth on Part 2(a) of Schedule 5.14 shall be satisfied.

(d) No later than 10 Business Days after the Closing Date (or such longer period as set forth on Part 2(b) of Schedule 5.14 or as the Administrative Agent may agree to in its sole discretion), the items set forth on Part 2(b) of Schedule 5.14 shall be satisfied.

(e) No later than 120 days after the Closing Date (or such longer period as set forth on Part 3 of Schedule 5.14 or as the Administrative Agent may agree to in its sole discretion), the items set forth on Part 3 of Schedule 5.14, which items relate to (i) certain existing Restricted Subsidiaries of the Lux Borrower (prior to giving effect to the Acquisition) and (ii) the Target and its subsidiaries, shall be satisfied.

(f) No later than 180 days after the Closing Date (or such longer period as set forth on Part 4 of Schedule 5.14 or as the Administrative Agent may agree to in its sole discretion), the items set forth on Part 4 of Schedule 5.14, which items relate to assets subject to transfer pursuant to the post-closing steps expressly contemplated by the E&Y Steps Memo (where such transfer is reasonably likely to require the release of and retaking of Collateral), shall be satisfied.

(g) No later than 8 Business Days after the Closing Date (or such longer period as set forth on Part 5 of Schedule 5.14 or as the Administrative Agent may agree to in its sole discretion), the items set forth on Part 5 of Schedule 5.14 shall be satisfied.

(h) As soon as reasonably practicable after the closing of the Acquisition (and in any case, within 5 Business Days of the Closing Date (or such longer period as the Administrative Agent may agree to in its sole discretion)), Bidco shall consummate the Post-Acquisition Transactions.

Section 5.15. Further Assurances. Promptly upon request of the Administrative Agent and subject to the limitations described in Section 5.12, including those under the Agreed Security Principles and Collateral Coverage Requirement:

(a) Each of Holdings and the Borrowers will, and will cause each Subsidiary Guarantor to, execute any and all further documents, financing statements, agreements, instruments, certificates, notices and acknowledgments and take all such further actions (including the filing and recording of financing statements, fixture filings, Mortgages and/or amendments thereto and other documents), that may be required under any applicable law and the Administrative Agent may request, to cause the Collateral and Guarantee Requirement to be and remain satisfied as and at the times required by this Agreement, all at the expense of the Loan Parties.

(b) Promptly, upon the reasonable request by the Administrative Agent, each of Holdings and the Borrowers will, and will cause each Subsidiary Guarantor to, (i) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral and (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Collateral Documents.

Section 5.16. Scheme Related Information. Bidco shall (a) promptly upon reasonable request from the Administrative Agent (at the direction of the Required Initial Signing Date Lenders), update the Administrative Agent as to the status of and progress (in reasonable detail) with respect to, the Scheme and the Scheme Documents and (b) provide notice to the Administrative Agent as to when the Implementation Date will occur as soon as practicable after that date is known to BidCo. Notwithstanding the foregoing, nothing in this Section 5.16 shall require Bidco to provide any information or notices to the extent restricted by contract, any Requirement of Law, is subject to attorney-client or other privilege or could result in the disclosure of any trade secrets of third parties or violate any obligation with respect to confidentiality.

## ARTICLE 6 NEGATIVE COVENANTS

Until the Termination Date has occurred, each of Holdings (solely with respect to Section 6.14(a) and 6.16) and the Borrowers covenant and agree with the Lenders that:

Section 6.01. Indebtedness. Prior to the initial Borrowings on the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, directly or indirectly, create, incur, assume or otherwise become or remain liable with respect to any Indebtedness unless not in violation of Section 6.01 of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a manner that is not less restrictive than this Section 6.01) or except as otherwise permitted by the exceptions to, or not prohibited by, this Section 6.01 as set forth below. From and after the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted

Subsidiaries to, directly or indirectly, create, incur, assume or otherwise become or remain liable with respect to any Indebtedness, except:

- (a) the Secured Obligations (including any Additional Term Loans and any Additional Revolving Loans);
- (b) Indebtedness of any Borrower and/or any Restricted Subsidiary owed to any Borrower or any Restricted Subsidiary; provided that, subject to complying with Section 5.12 and Section 5.14, in the case of any Indebtedness of a Restricted Subsidiary that is not a Loan Party owing to any Borrower or any Restricted Subsidiary that is a Loan Party, such Indebtedness shall be permitted as an Investment by Section 6.06; provided, further, that all such Indebtedness of any Loan Party owed to any Restricted Subsidiary that is not a Loan Party shall comply with the requirements of an Acceptable Intercreditor Agreement;
- (c) intercompany Indebtedness among Holdings, the Borrowers and their subsidiaries as expressly contemplated by the E&Y Steps Memo; provided that all such Indebtedness of any Loan Party owed to any Restricted Subsidiary that is not a Loan Party shall comply with the requirements of an Acceptable Intercreditor Agreement;
- (d) Indebtedness arising from agreements providing for indemnification, adjustment of purchase price or similar obligations (including contingent earn-out obligations) incurred in connection with any Disposition permitted hereunder, any acquisitions permitted hereunder or consummated prior to the Closing Date or other purchases of assets or Capital Stock, and Indebtedness arising from guaranties, letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments securing the performance of any such Borrower or any such Restricted Subsidiary pursuant to such agreements;
- (e) Indebtedness of any Borrower or any Restricted Subsidiary (i) pursuant to any tenders, statutory obligations, bids, leases, governmental contracts, trade contracts, surety, stay, customs, appeal, performance and return of money bonds or other similar obligations incurred in the ordinary course of business and (ii) in respect of any letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments to support any of the foregoing items;
- (f) Indebtedness of any Borrower or any Restricted Subsidiary in respect of commercial credit cards, stored value cards, purchasing cards and treasury management services, including Banking Services Obligations, and other netting services, overdraft protections, automated clearing-house arrangements, employee credit card programs, controlled disbursement, ACH transactions, return items, interstate depository network services, dealer incentive, supplier finance or similar programs, Society for Worldwide Interbank Financial Telecommunication transfers, cash pooling and operational foreign exchange management, and, in each case, similar arrangements and otherwise in connection with Cash management, including Cash management arrangements among the Lux Borrower and its Restricted Subsidiaries, and Deposit Accounts;
- (g) (i) guaranties by any Borrower or any Restricted Subsidiary of the obligations of suppliers, customers and licensees in the ordinary course of business, (ii) Indebtedness incurred in the ordinary course of business in respect of obligations of any Borrower or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services and (iii) Indebtedness in respect of any letter of credit,

bankers' acceptance, bank guaranty or similar instrument supporting trade payables, warehouse receipts or similar facilities entered into in the ordinary course of business;

(h) Guarantees by any Borrower or any Restricted Subsidiary of Indebtedness or other obligations of any Borrower or any Restricted Subsidiary and/or any joint venture with respect to Indebtedness otherwise permitted to be incurred pursuant to this Section 6.01 or obligations not prohibited by this Agreement; provided that (i) in the case of any Guarantees by a Loan Party of the obligations of a non-Loan Party or any joint venture that is not a Loan Party, the related Investment is permitted under Section 6.06 and (ii) any Guarantee by any non-Loan Party in respect of any Indebtedness under Sections 6.01(q) or (v) (or any Refinancing Indebtedness in respect thereof) shall be subject to the limitations on such Indebtedness incurred by a Non-Loan Party pursuant to Sections 6.01(q) and (v);

(i) Indebtedness of any Borrower or any Restricted Subsidiary existing, or pursuant to commitments existing, on the Closing Date and described on Schedule 6.01, intercompany Indebtedness of the Lux Borrower and its subsidiaries outstanding on the Closing Date and any other Indebtedness permitted to be incurred pursuant to the Acquisition Agreement in connection with the Transactions;

(j) Indebtedness of Restricted Subsidiaries that are not Loan Parties; provided that the aggregate outstanding principal amount of such Indebtedness shall not exceed the greater of €150,000,000 and 43.2% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period;

(k) Indebtedness of any Borrower or any Restricted Subsidiary consisting of obligations owing under incentive, supply, license or similar agreements entered into in the ordinary course of business;

(l) Indebtedness of any Borrower or any Restricted Subsidiary consisting of (i) the financing of insurance premiums, (ii) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business and/or (iii) obligations to reacquire assets or inventory in connection with customer financing arrangements in the ordinary course of business;

(m) Indebtedness of any Borrower and/or any Restricted Subsidiary with respect to Capital Leases and purchase money Indebtedness in an aggregate outstanding principal amount not to exceed the greater of €50,000,000 and 14.4% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period;

(n) Indebtedness of a Person that becomes a Restricted Subsidiary or Indebtedness assumed in connection with an acquisition permitted hereunder after the Closing Date; provided that (i) such Indebtedness (A) existed at the time such Person became a Restricted Subsidiary or the assets subject to such Indebtedness were acquired and (B) was not created in anticipation thereof, (ii) no Event of Default exists or would result from the consummation of such acquisition and (iii) either (A) the Lux Borrower is in compliance with Section 6.15(a) (whether or not then in effect) calculated on a Pro Forma Basis as of the last day of the most recently ended Test Period prior to the date of the execution of the definitive agreement governing such acquisition or (B) such Indebtedness is in an aggregate principal amount outstanding not to exceed the greater

of €20,000,000 and 5.8% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period;

(o) Indebtedness consisting of promissory notes issued by Holdings, any Borrower or any Restricted Subsidiary to any stockholders of any Parent Company or any current or former directors, officers, employees, members of management, managers or consultants of any Parent Company, any Borrower or any subsidiary (or their Immediate Family Members) to finance the purchase or redemption of Capital Stock of any Parent Company permitted by Section 6.04(a)(ii);

(p) the Borrowers and their Restricted Subsidiaries may become and remain liable for any Indebtedness refinancing, refunding or replacing any Indebtedness permitted under clauses (a), (i), (j), (m), (n), (q), (u), (v), (x), (y) and (gg) of this Section 6.01 (in any case, including any refinancing Indebtedness incurred in respect thereof, “**Refinancing Indebtedness**”) and any subsequent Refinancing Indebtedness in respect thereof; provided that

(i) the principal amount of such Indebtedness does not exceed the principal amount of the Indebtedness being refinanced, refunded or replaced, except (A) by an amount equal to unpaid accrued interest and premiums (including tender premiums) thereon plus underwriting discounts, other reasonable and customary fees, commissions and expenses (including upfront fees, original issue discount or initial yield payments) incurred in connection with such refinancing or replacement, (B) by an amount equal to any existing commitments unutilized thereunder and (C) by utilizing additional amounts permitted to be incurred pursuant to this Section 6.01 (so long as such additional Indebtedness referenced in this clause (C) meets the other applicable requirements of this definition and, if secured, Section 6.02),

(ii) other than in the case of Refinancing Indebtedness with respect to clauses (i), (j), (m), (n), (u) and/or (x), (A) such Indebtedness has a final maturity on or later than (and, in the case of revolving Indebtedness, shall not require mandatory commitment reductions, if any, prior to) the final maturity of the Indebtedness being refinanced, refunded or replaced and (B) other than with respect to revolving Indebtedness, a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of the Indebtedness being refinanced, refunded or replaced,

(iii) the terms of such Refinancing Indebtedness with an original principal amount in excess of the Threshold Amount (excluding pricing, fees, premiums, rate floors, optional prepayment or redemption terms (and, if applicable, subordination terms) and, with respect to Refinancing Indebtedness with respect to Indebtedness permitted under clause (a) above, security), are not, taken as a whole (as reasonably determined by the Lux Borrower), more favorable to the lenders providing such Indebtedness than those applicable to the Indebtedness being refinanced, refunded or replaced (other than any covenants or any other provisions applicable only to periods after the Latest Maturity Date as of such date or any covenants or provisions which are on then-current market terms for the applicable type of Indebtedness),

(iv) except in the case of Refinancing Indebtedness with respect to Indebtedness permitted under clause (a) of this Section 6.01, such Indebtedness, if secured, is secured only by Permitted Liens at the time of such refinancing, refunding or

replacement (it being understood that secured Indebtedness may be refinanced with unsecured Indebtedness),

(v) except in the case of Refinancing Indebtedness with respect to Indebtedness permitted under clause (a) of this Section 6.01, such Indebtedness is incurred by the obligor or obligors in respect of the Indebtedness being refinanced, refunded or replaced, except to the extent otherwise permitted pursuant to Sections 6.01, 6.02 and 6.06,

(vi) if the Indebtedness being refinanced, refunded or replaced was originally contractually subordinated to the Obligations in right of payment (or the Liens securing such Indebtedness were originally contractually subordinated to the Liens on the Collateral securing the Initial Term Loans or such Indebtedness was unsecured), such Refinancing Indebtedness is contractually subordinated to the Obligations in right of payment (or the Liens securing such Refinancing Indebtedness shall be subordinated to the Liens on the Collateral securing the Initial Term Loans or such Refinancing Indebtedness shall be unsecured, as applicable) on terms not materially less favorable (as reasonably determined by the Lux Borrower), taken as a whole, to the Lenders than those applicable to the Indebtedness (or Liens, as applicable) being refinanced, refunded or replaced, taken as a whole,

(vii) except in the case of Refinancing Indebtedness with respect to Indebtedness permitted under clause (a) of this Section 6.01, as of the date of the incurrence of any such Refinancing Indebtedness and after giving effect thereto, no Event of Default shall exist or have occurred and be continuing,

(viii) in the case of Replacement Notes, (A) such Refinancing Indebtedness shall be *pari passu* or junior in right of payment and be secured by the Collateral on a *pari passu* or junior basis with respect to security, the remaining Obligations hereunder, or shall be unsecured; provided that any such Indebtedness that is *pari passu* or junior with respect to the Collateral (or as otherwise required by the last sentence of this Section 6.01) shall be subject to an Acceptable Intercreditor Agreement, (B) if such Refinancing Indebtedness being refinanced, refunded or replaced is secured, it shall not be secured by any assets other than the Collateral, (C) if such Refinancing Indebtedness being refinanced, refunded or replaced is Guaranteed, it shall not be Guaranteed by any Person other than a Loan Party and (D) such Refinancing Indebtedness is incurred under (and pursuant to) documentation other than this Agreement;

(ix) in the case of Refinancing Indebtedness with respect to clauses (j), (m), (u), and (x) (but only to the extent such Refinancing Indebtedness is incurred to refinance Indebtedness in connection with Sale and Lease-Back Transactions permitted pursuant to clause (C)(3) of the proviso set forth in Section 6.08) of this Section 6.01, the incurrence of such Refinancing Indebtedness shall be without duplication of any amounts outstanding under such clauses; and

(x) any such Refinancing Indebtedness that are *pari passu* in right of payment and security with any then existing Term Loans may be made on (x) with respect to voluntary prepayments, a pro rata, lesser than pro rata and/or greater than pro rata basis with such existing Term Loans and (y) with respect to mandatory prepayments,

a pro rata and/or less than pro rata basis with such existing Term Loans (but not on a greater than pro rata basis);

(q) Indebtedness incurred to finance acquisitions permitted hereunder after the Closing Date; provided that:

(i) no Event of Default exists (or would result therefrom),

(ii) after giving effect to such acquisition on a Pro Forma Basis:

(1) if such Indebtedness is secured by a Lien on the Collateral that is *pari passu* with the Lien on the Collateral securing the Secured Obligations that are secured on a first lien basis, the First Lien Leverage Ratio does not exceed the greater of (x) 3.55:1.00 and (y) the First Lien Leverage Ratio as of the last day of the most recently ended Test Period (in each case, without netting the proceeds of such Indebtedness in the calculation thereof),

(2) if such Indebtedness is secured by a Lien on the Collateral that is junior to the Lien on the Collateral securing the Secured Obligations that are secured on a first lien basis, the Secured Leverage Ratio does not exceed the greater of (x) 3.80:1.00 and (y) the Secured Leverage Ratio as of the last day of the most recently ended Test Period (in each case, without netting the proceeds of such Indebtedness in the calculation thereof) or

(3) if such Indebtedness is unsecured, at the election of the Lux Borrower, either (x) the Total Leverage Ratio does not exceed the greater of (I) 4.05:1.00 and (II) the Total Leverage Ratio as of the last day of the most recently ended Test Period or (y) the Interest Coverage Ratio is not less than the lesser of (I) 1.75:1.00 and (II) the Interest Coverage Ratio as of the last day of the most recently ended Test Period (in each case, without netting the proceeds of such Indebtedness in the calculation thereof),

(iii) in the case of any such Indebtedness incurred pursuant to this clause (q) that is in the form of term loans that are *pari passu* with the Initial Term Loans in right of payment and with respect to security (other than customary bridge loans) and incurred or implemented, as applicable, prior to the date that is 12 months after the Closing Date, (i) the Effective Yield applicable thereto may not be more than 0.50% higher than the Effective Yield applicable to each Class of Initial Term Loans denominated in the same currency as such term loans unless the Applicable Rate with respect to such Class of Initial Term Loans in such currency is adjusted to be equal to the Effective Yield with respect to such Incremental Facility, minus 0.50% and (ii) if a Positive Rate Differential exists on the Closing Date, and if the effect of clause (i) is to increase the Applicable Rate with respect to the Initial Term Loans denominated in one currency, the Applicable Rate of the Initial Term Loans denominated in the other currency shall be adjusted solely to the extent necessary to maintain such Positive Rate Differential as in effect on the Closing Date and

- (iv) if such Indebtedness is subordinated to the Obligations or secured by the Collateral (or as otherwise required by the last sentence of this Section 6.01), the holders of such Indebtedness (or an agent, trustee or other representative on their behalf) shall have entered into an Acceptable Intercreditor Agreement and
- (v) such Indebtedness is not secured by any assets that do not constitute Collateral;
- (r) Indebtedness in an aggregate principal or face amount at any time outstanding not to exceed the greater of €20,000,000 and 5.8% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period in respect of letters of credit, bank guaranties, surety bonds, performance bonds and similar instruments issued for general corporate purposes and denominated in currencies other than Dollars or any Alternate Currency;
- (s) Indebtedness of any Borrower or any Restricted Subsidiary under any Derivative Transaction not entered into for speculative purposes;
- (t) [reserved];
- (u) Indebtedness of any Borrower or any Restricted Subsidiary in an aggregate outstanding principal amount not to exceed the greater of €100,000,000 and 28.8% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period;
- (v) additional Indebtedness of the Lux Borrower and/or any Restricted Subsidiary so long as,
  - (i) after giving effect thereto, including the application of the proceeds thereof,
    - (A) if such Indebtedness is secured by a Lien on the Collateral that is *pari passu* with the Lien on the Collateral securing the Secured Obligations on a first lien basis, the First Lien Leverage Ratio does not exceed 3.55:1.00 (in each case, without netting the proceeds of such Indebtedness in the calculation thereof),
    - (B) if such Indebtedness is secured by a Lien on the Collateral that is junior to the Lien on the Collateral securing the Secured Obligations that are secured on a first lien basis, the Secured Leverage Ratio does not exceed 3.80:1.00 (in each case, without netting the proceeds of such Indebtedness in the calculation thereof) or
    - (C) if such Indebtedness is unsecured, at the election of the Lux Borrower, either (x) the Total Leverage Ratio does not exceed 4.05:1.00 or (y) the Interest Coverage Ratio is not less than 2.00:1.00 (in each case, without netting the proceeds of such Indebtedness in the calculation thereof),
  - (ii) if such Indebtedness is subordinated to the Obligations or secured by the Collateral (or as otherwise required by the last sentence of this Section 6.01), the holders

of such Indebtedness (or an agent, trustee or other representative on their behalf) shall have entered into an Acceptable Intercreditor Agreement,

(iii) in the case of any such Indebtedness incurred pursuant to this clause (v) that is in the form of term loans that are pari passu with the Initial Term Loans in right of payment and with respect to security (other than customary bridge loans) and incurred or implemented, as applicable, prior to the date that is 12 months after the Closing Date, (i) the Effective Yield applicable thereto may not be more than 0.50% higher than the Effective Yield applicable to each Class of Initial Term Loans denominated in the same currency as such term loans unless the Applicable Rate with respect to such Class of Initial Term Loans in such currency is adjusted to be equal to the Effective Yield with respect to such Incremental Facility, minus 0.50% and (ii) if a Positive Rate Differential exists on the Closing Date, and if the effect of clause (i) is to increase the Applicable Rate with respect to the Initial Term Loans denominated in one currency, the Applicable Rate of the Initial Term Loans denominated in the other currency shall be adjusted solely to the extent necessary to maintain such Positive Rate Differential as in effect on the Closing Date and

(iv) such Indebtedness is not secured by any assets that do not constitute Collateral;

provided that the aggregate outstanding principal amount of such Indebtedness of Restricted Subsidiaries that are not Loan Parties shall not exceed the greater of €150,000,000 and 43.2% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period;

(w) to the extent constituting Indebtedness, obligations arising under the Acquisition Agreement;

(x) Indebtedness of any Borrower or any Restricted Subsidiary incurred in connection with Sale and Lease-Back Transactions permitted pursuant to Section 6.08;

(y) Incremental Equivalent Debt; provided that, subject to the last sentence of this Section 6.01, the holders of such Indebtedness (or an agent, trustee or other representative on their behalf) shall have entered into an Acceptable Intercreditor Agreement;

(z) Indebtedness (including obligations in respect of letters of credit, bank guarantees, surety bonds, performance bonds or similar instruments with respect to such Indebtedness) incurred by any Borrower or any Restricted Subsidiary in respect of workers compensation claims, unemployment insurance (including premiums related thereto), other types of social security, pension obligations, vacation pay, health, disability or other employee benefits (including under section 8a of the German Partial Retirement Act (*Altersteilzeitgesetz*) or section 7e of the Fourth Book of the German Social Security Code (*SGB IV*));

(aa) Indebtedness of any Borrower or any Restricted Subsidiary representing (i) deferred compensation to directors, officers, employees, members of management, managers, and consultants of any Parent Company, any Borrower or any Restricted Subsidiary in the ordinary course of business and (ii) deferred compensation or other similar arrangements in connection with the Transactions, any Permitted Acquisition or any other Investment permitted hereby;

(bb) Indebtedness of any Borrower or any Restricted Subsidiary in respect of any letter of credit or bank guarantee issued in favor of any Issuing Bank, Guarantee Bank or Swingline Lender to support any Defaulting Lender's participation in Letters of Credit issued, Bank Guarantees issued or Swingline Loans made, hereunder;

(cc) Indebtedness of any Restricted Subsidiary supported by a Letter of Credit or Bank Guarantee;

(dd) customer deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business;

(ee) unfunded pension fund and other employee benefit plan obligations and liabilities incurred by any Borrower or any Restricted Subsidiary in the ordinary course of business to the extent that such unfunded amounts would not otherwise cause an Event of Default under Section 7.01(i);

(ff) without duplication of any other Indebtedness, all premiums (if any), interest (including post-petition interest and payment in kind interest), accretion or amortization of original issue discount, fees, expenses and charges with respect to Indebtedness of any Borrower or any Restricted Subsidiary hereunder;

(gg) [reserved];

(hh) Indebtedness with respect to any Permitted Receivables Financing;

(ii) any liability arising under a declaration of joint and several liability (*hoofdelijke aansprakelijkheid*) as referred to in Article 2:403 of the Dutch Civil Code;

(jj) any liability arising by operation of law as a result of the existence of a fiscal unity (*fiscale eenheid*) of which a Dutch Loan Party is a member;

(kk) Subject to compliance with the obligations under Section 5.14, Indebtedness under the Target Revolving Facility and Target USPP Facility.

Notwithstanding anything to the contrary in this Agreement, it is understood and agreed that Indebtedness that is unsecured or secured by Liens on assets that do not constitute Collateral, in each case, that is (x) incurred in reliance on Sections 6.01(a) (with respect to Additional Loans added pursuant to Sections 2.21, 2.22 or 9.02), 6.01(q), 6.01(v), 6.01(y) or (y) incurred in reliance on Section 6.01(p) (in respect of the refinancing, refunding or replacement of any Indebtedness under this Agreement or that is incurred as contemplated by clause (x) or incurred under Section 6.01(p) that was originally incurred as contemplated by clause (x) or this Agreement), shall in each case of clauses (x) and (y), be subject to an Acceptable Intercreditor Agreement unless, after giving effect to such incurrence, the aggregate outstanding principal amount of all such Indebtedness not subject to an Acceptable Intercreditor Agreement shall be equal to or less than €200,000,000.

Section 6.02. Liens. Prior to the initial Borrowings on the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, create, incur, assume or permit or suffer to exist any Lien on or with respect to any property of any kind owned by it, whether now owned or hereafter acquired, or any income or profits therefrom unless not in violation of Section 6.02 of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a

manner that is not less restrictive than this Section 6.02) or except as otherwise permitted by the exceptions to, or not prohibited by, this Section 6.02 as set forth below. From and after the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, create, incur, assume or permit or suffer to exist any Lien on or with respect to any property of any kind owned by it, whether now owned or hereafter acquired, or any income or profits therefrom, except:

- (a) Liens created pursuant to the Loan Documents securing the Secured Obligations;
- (b) Liens for Taxes which are (i) not then due or, if due, obligations with respect to such Taxes that are not at such time required to be paid pursuant to Section 5.03 or (ii) which are being contested in accordance with Section 5.03;
- (c) statutory Liens (and rights of set-off) of landlords, banks, carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by any applicable Requirement of Law, in each case incurred in the ordinary course of business (i) for amounts not yet overdue by more than 30 days, (ii) for amounts that are overdue by more than 30 days and that are being contested in good faith by appropriate proceedings, so long as such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made for any such contested amounts or (iii) with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect;
- (d) Liens incurred (i) in the ordinary course of business in connection with workers' compensation, unemployment insurance, part-time retirement and other types of social security laws and regulations, (ii) in the ordinary course of business to secure the performance of tenders, statutory obligations, surety, stay, customs and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money), (iii) pursuant to pledges and deposits of Cash or Cash Equivalents in the ordinary course of business securing (x) any liability for reimbursement or indemnification obligations of insurance carriers providing property, casualty, liability or other insurance to Holdings and its subsidiaries or (y) leases or licenses of property otherwise permitted by this Agreement and (iv) to secure obligations in respect of letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments posted with respect to the items described in clauses (i) through (iii) above;
- (e) easements, rights-of-way, restrictions, encroachments, and other minor defects or irregularities in title, in each case which do not, in the aggregate, materially interfere with the ordinary conduct of the business of the Lux Borrower and its Restricted Subsidiaries, taken as a whole, or the use of the affected property for its intended purpose;
- (f) any (i) interest or title of a lessor or sub-lessor under any lease of real estate permitted hereunder, (ii) landlord lien permitted by the terms of any lease, (iii) restriction or encumbrance to which the interest or title of such lessor or sub-lessor may be subject or (iv) subordination of the interest of the lessee or sub-lessee under such lease to any restriction or encumbrance referred to in the preceding clause (iii);
- (g) Liens solely on any Cash earnest money deposits made by the Lux Borrower or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement with respect to any Investment permitted hereunder;

(h) purported Liens evidenced by the filing of UCC financing statements or equivalent filings, if any, under local law, relating solely to operating leases or consignment or bailee arrangements entered into in the ordinary course of business;

(i) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(j) Liens in connection with any zoning, building or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any or dimensions of real property or the structure thereon;

(k) Liens securing Indebtedness permitted pursuant to Section 6.01(p) (solely with respect to the permitted refinancing of Indebtedness permitted pursuant to Sections 6.01(a), (i), (j), (m), (n), (q), (u), (v), and (y)); provided that (i) any such Lien does not extend to any asset not covered by the Lien securing the Indebtedness that is refinanced (it being understood that individual financings of the type permitted under Section 6.01(m) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates) and (ii) if the Indebtedness being refinanced was subject to intercreditor arrangements, then (A) subject to the last sentence of Section 6.01, any refinancing Indebtedness in respect thereof shall be subject to intercreditor arrangements not materially less favorable to the Secured Parties, taken as a whole, than the intercreditor arrangements governing the Indebtedness that is refinanced or (B) the intercreditor arrangements governing the Lien securing the relevant refinancing Indebtedness shall be set forth in an Acceptable Intercreditor Agreement;

(l) Liens described on Schedule 6.02 and any modifications, replacements, refinancings, renewals or extensions thereof; provided that (i) no such Lien extends to any additional property other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien or financed by Indebtedness permitted under Section 6.01 and (B) proceeds and products thereof, accessions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section 6.01(m) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates) and (ii) the modification, replacement, refinancing, renewal or extension of the obligations secured or benefited by such Liens, if constituting Indebtedness, is permitted by Section 6.01;

(m) Liens arising out of Sale and Lease-Back Transactions permitted under Section 6.08;

(n) Liens securing Indebtedness permitted pursuant to Section 6.01(m); provided that any such Lien shall encumber only the asset acquired with the proceeds of such Indebtedness and proceeds and products thereof, accessions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section 6.01(m) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates);

(o) (i) Liens securing Indebtedness permitted pursuant to Section 6.01(n) on assets acquired or on the Capital Stock and assets of the relevant newly acquired Restricted Subsidiary; provided that such Lien (x) does not extend to or cover any other assets (other than the proceeds or products thereof, accessions or additions thereto and improvements thereon) and (y) was not

created in contemplation of the applicable acquisition of assets or Capital Stock, and (ii) Liens on the Collateral securing Indebtedness incurred pursuant to Section 6.01(q); provided, that any Lien that is granted in reliance on this clause (o)(ii) and is *pari passu* or junior to the Lien securing the Secured Obligations shall be subject to an Acceptable Intercreditor Agreement;

(p) Liens (i) that are contractual rights of setoff relating to (A) the establishment of depositary relations with banks not given in connection with the issuance of Indebtedness, (B) pooled deposit or sweep accounts of any Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of any Borrower or any Restricted Subsidiary, (C) purchase orders and other agreements entered into with customers of any Borrower or any Restricted Subsidiary in the ordinary course of business and (D) commodity trading or other brokerage accounts incurred in the ordinary course of business, (ii) encumbering reasonable customary initial deposits and margin deposits, (iii) granted in the ordinary course of business by any Non-US Subsidiary to any bank with whom it maintains accounts or deposits to the extent required or customary by the relevant bank's (or custodian or trustee's, as applicable) standard terms and conditions and (iv) on the proceeds of any Indebtedness incurred in connection with any transaction permitted hereunder, which proceeds have been deposited into an escrow account on customary terms to secure such Indebtedness pending the application of such proceeds to finance such transaction;

(q) Liens on assets and Capital Stock of Restricted Subsidiaries that are not Loan Parties (including Capital Stock owned by such Persons) securing Indebtedness of Restricted Subsidiaries that are not Loan Parties permitted pursuant to Section 6.01;

(r) Liens securing obligations (other than obligations representing Indebtedness for borrowed money) under operating, reciprocal easement or similar agreements entered into in the ordinary course of business of the Lux Borrower and its Restricted Subsidiaries;

(s) Liens disclosed in the Mortgage Policies delivered pursuant to Sections 5.12, 5.14 and 5.15 with respect to any Material Real Estate Asset and any replacement, extension or renewal of any such Lien; provided that such replacement, extension or renewal Lien shall not cover any property other than the property that was subject to such Lien prior to such replacement, extension or renewal (and additions thereto, improvements thereon and the proceeds thereof);

(t) Liens on the Collateral securing Indebtedness incurred pursuant to Sections 6.01(y), subject to an Acceptable Intercreditor Agreement;

(u) other Liens on assets securing Indebtedness or other obligations in an aggregate principal amount at any time outstanding not to exceed the greater of €50,000,000 and 14.4% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period; provided that any such Lien on the Collateral that is *pari passu* with or junior to the Lien securing the Secured Obligations shall be subject to an Acceptable Intercreditor Agreement;

(v) Liens on assets securing judgments, awards, attachments or decrees not constituting an Event of Default under Section 7.01(h);

(w) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business which do not (i) interfere in any material respect with the business of Holdings and its Restricted Subsidiaries (other than an Immaterial Subsidiary) or (ii) secure any Indebtedness;

(x) Liens on Securities that are the subject of repurchase agreements constituting Investments permitted under Section 6.06 arising out of such repurchase transaction;

(y) Liens securing obligations in respect letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments permitted under Sections 6.01(d), (e), (g), (r), (bb) and (cc);

(z) Liens arising (i) out of conditional sale, title retention (including extended retention of title), consignment or similar arrangements for the sale of any assets or property in the ordinary course of business and permitted by this Agreement or (ii) by operation of law under Article 2 of the UCC (or similar Requirement of Law);

(aa) Liens (i) in favor of any Loan Party (other than Holdings) and (ii) granted by any non-Loan Party in favor of any other non-Loan Party, in the case of each of clauses (i) and (ii), securing intercompany Indebtedness permitted under Section 6.01;

(bb) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(cc) Liens on specific items of inventory or other goods and the proceeds thereof securing such Person's obligations in respect of documentary letters of credit or banker's acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or goods;

(dd) Liens securing (i) obligations under Hedge Agreements in connection with any Derivative Transaction of the type described in Section 6.01(s) and (ii) obligations of the type described in Section 6.01(f);

(ee) (i) Liens on Capital Stock of joint ventures or Unrestricted Subsidiaries securing capital contributions to, or obligations of, such Persons and (ii) customary rights of first refusal and tag, drag and similar rights in joint venture agreements and agreements with respect to non-Wholly Owned Subsidiaries;

(ff) Liens on the assets of any Borrower or Restricted Subsidiary permitted to be incurred pursuant to the Acquisition Agreement in connection with the Transactions (but excluding, for the avoidance of doubt, after the completion of the Post-Acquisition Transactions, any Lien over any Capital Stock of the Target or the proceeds thereof);

(gg) Liens on accounts receivable and related assets incurred in connection with a Permitted Receivables Financing;

(hh) Liens securing the Target Revolving Facility to the extent permitted under Section 6.01(kk);

(ii) Liens on the Collateral securing Indebtedness incurred in reliance on, and subject to the provisions set forth in, Section 6.01(v); provided, that any Lien that is granted in reliance

on this clause (ii) and is *pari passu* or junior to the Lien securing the Secured Obligations shall be subject to an Acceptable Intercreditor Agreement;

(jj) Liens in connection with (i) a lease for a term of more than one year (as defined in the NZ PPSA) in respect of which the relevant Borrower or Restricted Subsidiary is the lessee; (ii) a transfer of an account receivable or chattel paper (in each case as defined in the NZ PPSA) in respect of which the relevant Borrower or Restricted Subsidiary is transferor or vendor; or (iii) commercial consignment (as defined in the NZ PPSA) in respect of which the relevant Borrower or Restricted Subsidiary is consignee, that does not secure payment or performance of an obligation; and

(kk) Liens arising under Section 12(3) of the Australian PPSA which do not secure payment or performance of an obligation for borrowed money.

Section 6.03. [Reserved].

Section 6.04. Restricted Payments; Restricted Debt Payments.

(a) Prior to the initial Borrowings on the Closing Date, the Lux Borrower shall not pay or make, directly or indirectly, any Restricted Payment unless not in violation of Section 6.04(a) of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a manner that is not less restrictive than this Section 6.04(a)) or except as otherwise permitted by the exceptions to, or not prohibited by, this Section 6.04(a) as set forth below and from and after the Closing Date, the Lux Borrower shall not pay or make, directly or indirectly, any Restricted Payment, except that:

(i) the Lux Borrower may make Restricted Payments to the extent necessary to permit any Parent Company:

(A) to pay general administrative costs and expenses (including corporate overhead, legal or similar expenses and customary salary, bonus and other benefits payable to directors, officers, employees, members of management and/or consultants of any Parent Company) and franchise fees and Taxes and similar fees, Taxes and expenses required to maintain the organizational existence of such Parent Company, in each case, which are reasonable and customary and incurred in the ordinary course of business, plus any reasonable and customary indemnification claims made by directors, officers, members of management, managers, employees or consultants of any Parent Company, in each case, to the extent attributable to the ownership or operations of any Parent Company (but excluding, for the avoidance of doubt, the portion of any such amount, if any, attributable to the ownership or operations of any subsidiary of any Parent Company other than Holdings, the Borrowers and/or their subsidiaries), the Borrowers and/or their subsidiaries;

(B) to discharge the consolidated, combined, unitary or similar Tax liabilities of such Parent Company and its subsidiaries when and as due, to the extent such liabilities are attributable to the ownership or operations of any Parent Company (but excluding, for the avoidance of doubt, the portion of any such Tax liabilities, if any, attributable to the ownership or operations of any

subsidiary of any Parent Company other than Holdings, the Borrowers and/or their subsidiaries), the Lux Borrower and its subsidiaries; provided that the amount paid by the Lux Borrower pursuant to this paragraph (B) shall not exceed the Tax liabilities that would be due if the Lux Borrower and each subsidiary were (x) standalone companies or (y) members of a standalone group of companies filing income and similar Tax returns on a consolidated, combined, unitary or similar basis with the Lux Borrower as the common parent of such affiliated group (calculated at the highest combined applicable federal, state, provincial, local and foreign Tax rate);

(C) to pay audit and other accounting and reporting expenses at such Parent Company to the extent attributable to any Parent Company (but excluding, for the avoidance of doubt, the portion of any such expenses, if any, attributable to the ownership or operations of any subsidiary of any Parent Company other than Holdings, the Borrowers and/or their subsidiaries), the Lux Borrower and its subsidiaries;

(D) for the payment of insurance premiums to the extent attributable to any Parent Company (but excluding, for the avoidance of doubt, the portion of any such premiums, if any, attributable to the ownership or operations of any subsidiary of any Parent Company other than Holdings, the Borrowers and/or their subsidiaries), the Lux Borrower and its subsidiaries;

(E) to pay (x) fees and expenses related to debt or equity offerings, investments or acquisitions permitted or not restricted by this Agreement (whether or not consummated) and (y) after the consummation of an initial public offering or the issuance of public debt Securities, Public Company Costs;

(F) to finance any Investment permitted under Section 6.06 (provided that (x) such Restricted Payments under this clause (a)(i)(F) shall be made substantially concurrently with the closing of such Investment and (y) such Parent Company shall, promptly following the closing thereof, cause all such property acquired to be contributed to the Lux Borrower or one of its Restricted Subsidiaries, or the merger, consolidation or amalgamation of the Person formed or acquired into the Lux Borrower or one of its Restricted Subsidiaries, in order to consummate such Investment in compliance with the applicable requirements of Section 6.06 as if undertaken as a direct Investment by the Lux Borrower or such Restricted Subsidiary); and

(G) to pay customary salary, bonus, severance and other benefits payable to current or former directors, officers, members of management, managers, employees or consultants of any Parent Company (or any Immediate Family Member of any of the foregoing) to the extent such salary, bonuses and other benefits are attributable and reasonably allocated to the operations of the Lux Borrower and/or its subsidiaries, in each case, so long as such Parent Company applies the amount of any such Restricted Payment for such purpose;

(ii) the Lux Borrower may pay (or make Restricted Payments to allow any Parent Company to pay) for the repurchase, redemption, retirement or other acquisition or

retirement for value of Capital Stock of any Parent Company held by any future, present or former employee, director, member of management, officer, manager or consultant (or any Affiliate or Immediate Family Member thereof) of any Parent Company, the Lux Borrower or any subsidiary:

(A) in accordance with the terms of notes issued pursuant to Section 6.01(o), so long as the aggregate amount of all Cash payments made in respect of such notes, together with the aggregate amount of Restricted Payments made pursuant to clause (D) of this clause (ii) below, does not exceed €20,000,000 in any Fiscal Year, which, if not used in any Fiscal Year, may be carried forward to the next two succeeding Fiscal Years;

(B) with the proceeds of any sale or issuance of the Capital Stock of the Lux Borrower or any Parent Company (to the extent such proceeds are contributed in respect of Qualified Capital Stock to the Lux Borrower (or loaned or advanced in the form of Subordinated Shareholder Debt to the Lux Borrower));

(C) with the net proceeds of any key-man life insurance policies; or

(D) with Cash and Cash Equivalents in an amount not to exceed, together with the aggregate amount of all cash payments made pursuant to clause (A) of this clause (ii) in respect of notes issued pursuant to Section 6.01(o), €20,000,000 in any Fiscal Year, which, if not used in any Fiscal Year, may be carried forward to the next two succeeding Fiscal Years;

(iii) the Lux Borrower may make additional Restricted Payments in an amount not to exceed (A) the portion, if any, of the Available Amount on such date that the Lux Borrower elects to apply to this clause (iii)(A) and/or (B) the portion, if any, of the Available Excluded Contribution Amount on such date that the Lux Borrower elects to apply to this clause (iii)(B);

(iv) the Lux Borrower may make Restricted Payments (i) to any Parent Company to enable such Parent Company to make Cash payments in lieu of the issuance of fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock of such Parent Company and (ii) consisting of (A) payments made or expected to be made in respect of withholding or similar Taxes payable by any future, present or former officers, directors, employees, members of management, managers or consultants of the Lux Borrower, any Restricted Subsidiary or any Parent Company or any of their respective Immediate Family Members and/or (B) repurchases of Capital Stock in consideration of the payments described in clause (A), including demand repurchases in connection with the exercise of stock options;

(v) the Lux Borrower may repurchase (or make Restricted Payments to any Parent Company to enable it to repurchase) Capital Stock upon the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock if such Capital Stock represents all or a portion of the exercise price of such warrants, options or

other securities convertible into or exchangeable for Capital Stock as part of a “cashless” exercise;

(vi) the Lux Borrower may make Restricted Payments, the proceeds of which are applied (A) solely to effect the consummation of the Transactions and (B) on and after the Closing Date, to satisfy any payment obligations owing under the Acquisition Agreement (as in effect on the Closing Date) and the payment of any other Transaction Costs;

(vii) so long as no Event of Default shall have occurred and be continuing, following the consummation of the first Qualifying IPO, the Lux Borrower may (or may make Restricted Payments to any Parent Company to enable it to) make Restricted Payments with respect to any Capital Stock in an amount of up to 6% per annum of the net Cash proceeds received by or contributed to the Lux Borrower from any such Qualifying IPO;

(viii) the Lux Borrower may make Restricted Payments to (i) redeem, repurchase, retire or otherwise acquire any (A) Capital Stock (“**Treasury Capital Stock**”) of the Lux Borrower or any Restricted Subsidiary or (B) Capital Stock of any Parent Company, in the case of each of subclauses (A) and (B), in exchange for, or out of the proceeds of the substantially concurrent sale (other than to the Lux Borrower) of Qualified Capital Stock of the Lux Borrower or any Parent Company to the extent contributed to the capital of the Lux Borrower in respect of Qualified Capital Stock (including any Subordinated Shareholder Debt) (“**Refunding Capital Stock**”) and (ii) declare and pay dividends on the Treasury Capital Stock out of the proceeds of the substantially concurrent sale (other than to the Lux Borrower) of any Refunding Capital Stock;

(ix) to the extent constituting a Restricted Payment, the Lux Borrower may consummate any transaction permitted by Section 6.06 (other than Sections 6.06(j) and (t), Section 6.07 (other than Section 6.07(g)) and Section 6.09 (other than Sections 6.09(a), 6.09(d), 6.09(j) and 6.09(q));

(x) so long as no Default or Event of Default shall have occurred and be continuing, the Lux Borrower may make additional Restricted Payments in an aggregate amount not to exceed the greater of €50,000,000 and 14.4% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the last Test Period *minus* the amount of (x) Restricted Debt Payments made in reliance on Section 6.04(b)(iv)(B) and (y) outstanding Investments made in reliance on Section 6.06(q)(C);

(xi) the Lux Borrower may make additional Restricted Payments so long as the Total Leverage Ratio, calculated on a Pro Forma Basis, would not exceed 2.55:1.00; and

(xii) during the period commencing on the Business Day immediately following the Closing Date to and until the 18 month anniversary of the Closing Date, the Lux Borrower may make additional Restricted Payments in an aggregate amount not to exceed €130,000,000 minus the amount of Investments made in reliance on Section

6.06(gg); provided that (i) any such Restricted Payments shall be funded from Internally Generated Cash (ii) no Event of Default exists or would result therefrom and (iii) if the aggregate amount of Investments made in reliance on Section 6.06(gg) equals or exceeds €130,000,000, the amount available under this clause (xii) shall be zero.

(b) The Borrowers shall not, nor shall they permit any Restricted Subsidiary to, make any payment in Cash on or in respect of principal of or interest on (x) any Junior Lien Indebtedness or (y) any Junior Indebtedness (such Indebtedness under clauses (x) and (y), the “**Restricted Debt**”), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Restricted Debt more than one year prior to the scheduled maturity date thereof (collectively, “**Restricted Debt Payments**”), except:

(i) the purchase, defeasance, redemption, repurchase or other acquisition, retirement or repayment of Restricted Debt made by exchange for, or out of the proceeds of, Refinancing Indebtedness or other refinancing Indebtedness permitted by Section 6.01;

(ii) payments as part of an “applicable high yield discount obligation” catch-up payment;

(iii) payments of regularly scheduled interest and payments of fees, expenses and indemnification obligations as and when due in respect of any Restricted Debt (other than payments with respect to Subordinated Indebtedness prohibited by the subordination provisions thereof);

(iv) so long as no Event of Default then exists or would result therefrom, additional Restricted Debt Payments in an aggregate amount not to exceed:

(A) the greater of €50,000,000 and 14.4% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period *minus* the amount of outstanding Investments made in reliance on Section 6.06(q)(B); plus

(B) the greater of €50,000,000 and 14.4% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period *minus* the amount of (x) Restricted Payments made in reliance on Section 6.04(a)(x) and (y) outstanding Investments made in reliance on Section 6.06(q)(C);

(v) (A) payments of any Restricted Debt in exchange for, or with proceeds of any issuance of, Capital Stock of any Parent Company or Qualified Capital Stock of the Lux Borrower and/or any Subordinated Shareholder Debt of the Lux Borrower, and/or any capital contribution in respect of Qualified Capital Stock of the Lux Borrower, (B) Restricted Debt Payments as a result of the conversion of all or any portion of Restricted Debt into Capital Stock of any Parent Company or Qualified Capital Stock of the Lux Borrower or any Restricted Subsidiary and (C) payments of interest in respect of Restricted Debt in the form of payment-in-kind interest with respect to such Indebtedness permitted under Section 6.01;

(vi) Restricted Debt Payments in an aggregate amount not to exceed (A) the portion, if any, of the Available Amount on such date that the Lux Borrower elects to apply to this clause (vi)(A) and (B) the portion, if any, of the Available Excluded Contribution Amount on such date that the Lux Borrower elects to apply to this clause (vi)(B);

(vii) additional Restricted Debt Payments; provided that the Total Leverage Ratio would not exceed 2.80:1.00 calculated on a Pro Forma Basis as of the last day of the most recently ended Test Period; and

(viii) mandatory prepayments of any Indebtedness (and related payments of interest) made with Declined Proceeds (it being understood that any Declined Proceeds applied to make Restricted Debt Payments in reliance on this Section 6.04(b)(viii) shall not increase the amount available under clause (a)(viii) of the definition of “Available Amount” to the extent so applied)

Section 6.05. Burdensome Agreements. Except as provided herein or in any other Loan Document, Ancillary Document, any document with respect to any “Incremental Equivalent Debt” and/or in agreements with respect to refinancings, renewals or replacements of such Indebtedness that are permitted by Section 6.01, (I) prior to the initial Borrowings on the Closing Date the Lux Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to, enter into or cause to exist any agreement restricting the ability of (x) any Restricted Subsidiary of the Lux Borrower to pay dividends or other distributions to the Lux Borrower or any Loan Party (other than Holdings), (y) any Restricted Subsidiary to make cash loans or advances to the Lux Borrower or any Loan Party (other than Holdings) or (z) any Loan Party to create, permit or grant a Lien on any of its properties or assets to secure the Secured Obligations unless not in violation of Section 6.05 of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a manner that is not less restrictive than this Section 6.05) or except as otherwise permitted by the exceptions to, or not prohibited by, this Section 6.05 as set forth below and (II) from and after the Closing Date, the Lux Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to, enter into or cause to exist any agreement restricting the ability of (x) any Restricted Subsidiary of the Lux Borrower to pay dividends or other distributions to the Lux Borrower or any Loan Party (other than Holdings), (y) any Restricted Subsidiary to make cash loans or advances to the Lux Borrower or any Loan Party (other than Holdings) or (z) any Loan Party to create, permit or grant a Lien on any of its properties or assets to secure the Secured Obligations, except restrictions:

(a) set forth in any agreement evidencing (i) Indebtedness of a Restricted Subsidiary that is not a Loan Party permitted by Section 6.01, (ii) Indebtedness permitted by Section 6.01 that is secured by a Permitted Lien if the relevant restriction applies only to the Person obligated under such Indebtedness and its Restricted Subsidiaries or the assets intended to secure such Indebtedness and (iii) Indebtedness permitted pursuant to clauses (m), (p) (as it relates to Indebtedness in respect of clauses (a), (m), (q), (r), (u), (v) and/or (y) of Section 6.01), (q), (r), (u), (y), (hh) and/or (kk) of Section 6.01;

(b) arising under customary provisions restricting assignments, subletting or other transfers (including the granting of any Lien) contained in leases, subleases, licenses, sublicenses, joint venture agreements and other agreements entered into in the ordinary course of business;

(c) that are or were created by virtue of any Lien granted upon, transfer of, agreement to transfer or grant of, any option or right with respect to any assets or Capital Stock not otherwise prohibited under this Agreement;

(d) that are assumed in connection with any acquisition of property or the Capital Stock of any Person, so long as the relevant encumbrance or restriction relates solely to the Person and its subsidiaries (including the Capital Stock of the relevant Person or Persons) and/or property so acquired and was not created in connection with or in anticipation of such acquisition;

(e) set forth in any agreement for any Disposition of any Restricted Subsidiary (or all or substantially all of the assets thereof) that restricts the payment of dividends or other distributions or the making of cash loans or advances by such Restricted Subsidiary pending such Disposition;

(f) set forth in provisions in agreements or instruments which prohibit the payment of dividends or the making of other distributions with respect to any class of Capital Stock of a Person other than on a pro rata basis;

(g) imposed by customary provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements;

(h) on Cash, other deposits or net worth or similar restrictions imposed by any Person under any contract entered into in the ordinary course of business or for whose benefit such Cash, other deposits or net worth or similar restrictions exist;

(i) set forth in documents which exist on the Closing Date and were not created in contemplation thereof;

(j) arising pursuant to an agreement or instrument relating to any Indebtedness permitted to be incurred after the Closing Date if the relevant restrictions, taken as a whole, are not materially less favorable to the Lenders than the restrictions contained in this Agreement, taken as a whole (as determined in good faith by the Lux Borrower);

(k) arising under or as a result of applicable Requirements of Law or the terms of any license, authorization, concession or permit;

(l) arising in any Hedge Agreement and/or any agreement relating to any Banking Services Obligation;

(m) relating to any asset (or all of the assets) of and/or the Capital Stock of the Lux Borrower and/or any Restricted Subsidiary which is imposed pursuant to an agreement entered into in connection with any Disposition of such asset (or assets) and/or all or a portion of the Capital Stock of the relevant Person that is permitted or not restricted by this Agreement;

(n) set forth in any agreement relating to any Permitted Lien that limit the right of the Lux Borrower or any Restricted Subsidiary to Dispose of or encumber the assets subject thereto; and/or

(o) imposed by any amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing of any contract, instrument or obligation referred to in clauses (a) through (n) above; provided that no such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing is, in the good faith judgment of the Lux

Borrower, more restrictive with respect to such restrictions, taken as a whole, than those in existence prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 6.06. Investments. Prior to the initial Borrowings on the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, make or own any Investment in any other Person unless not in violation of Section 6.06 of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a manner that is not less restrictive than this Section 6.06) or except as otherwise permitted by the exceptions to, or not prohibited by, this Section 6.06 as set forth below. From and after the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, make or own any Investment in any other Person except:

- (a) Cash or Investments that were Cash Equivalents at the time made;
- (b) (i) Investments existing on the Closing Date in any Borrower or any subsidiary, (ii) Investments made after the Closing Date among the Lux Borrower and the Restricted Subsidiaries that are Loan Parties and (iii) Investments by a Loan Party or any Restricted Subsidiary that is not a Loan Party in the form of any contribution or Disposition of the Capital Stock of any Person which is not a Loan Party;
- (c) Investments (i) constituting deposits, prepayments and other credits to suppliers, (ii) made in connection with obtaining, maintaining or renewing client and customer contracts and (iii) in the form of advances made to distributors, suppliers, licensors and licensees, in each case, in the ordinary course of business or, in the case of clause (iii), to the extent necessary to maintain the ordinary course of supplies to the Lux Borrower or any Restricted Subsidiary;
- (d) Investments (i) by any Restricted Subsidiary that is not a Loan Party in any other Restricted Subsidiary that is not a Loan Party, (ii) by any Restricted Subsidiary that is not a Loan Party in any Loan Party (other than Holdings) and (iii) by any Borrower or any Subsidiary Guarantor in any Restricted Subsidiary that is not a Loan Party so long as, in the case of this clause (iii), the aggregate amount of any such Investments in any Restricted Subsidiary that is not a Loan Party outstanding at any time does not exceed the greater of €90,000,000 and 25.9% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period;
- (e) (i) Permitted Acquisitions and (ii) Investments in any Restricted Subsidiary that is not a Loan Party in an amount required to permit such Restricted Subsidiary to consummate a Permitted Acquisition;
- (f) Investments existing on, or contractually committed to as of, the Closing Date and described on Schedule 6.06 or consisting of intercompany Investments outstanding on the Closing Date and any modification, replacement, renewal or extension thereof so long as such modification, renewal or extension thereof does not increase the amount of such Investment except by the terms thereof or as otherwise permitted by this Section 6.06;
- (g) Investments received in lieu of Cash in connection with any Disposition permitted by Section 6.07;

(h) loans or advances to present or former employees, directors, members of management, officers, managers or consultants or independent contractors (or their respective Immediate Family Members) of any Parent Company, the Lux Borrower or its subsidiaries and/or any joint venture to the extent permitted by Requirements of Law, in connection with such Person's purchase of Capital Stock of any Parent Company, either (i) in an aggregate principal amount not to exceed €5,000,000 at any one time outstanding or (ii) so long as the proceeds of such loan or advance are substantially contemporaneously contributed to the Lux Borrower for the purchase of such Capital Stock;

(i) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business;

(j) Investments consisting of (or resulting from) Indebtedness permitted under Section 6.01 (other than Indebtedness permitted under Sections 6.01(b) and (h)), Permitted Liens, Restricted Payments permitted under Section 6.04 (other than Section 6.04(a)(ix)), Restricted Debt Payments permitted by Section 6.04 and mergers, consolidations, amalgamations, liquidations, windings up, dissolutions or Dispositions permitted by Section 6.07 (other than Section 6.07(a) (if made in reliance on subclause (ii)(y) of the proviso thereto), Section 6.07(b) (if made in reliance on clause (ii) therein), Section 6.07(c)(ii) (if made in reliance on clause (B) therein) and Section 6.07(g));

(k) Investments in the ordinary course of business consisting of endorsements for collection or deposit and customary trade arrangements with customers;

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

(m) loans and advances of payroll payments or other compensation to present or former employees, directors, members of management, officers, managers or consultants of any Parent Company (to the extent such payments or other compensation relate to services provided to such Parent Company (but excluding, for the avoidance of doubt, the portion of any such amount, if any, attributable to the ownership or operations of any subsidiary of any Parent Company other than Holdings, the Borrowers and/or their subsidiaries)), the Lux Borrower or any subsidiary in the ordinary course of business;

(n) Investments to the extent that payment for such Investments is made solely with Capital Stock of any Parent Company or Capital Stock (other than Disqualified Capital Stock) of any Restricted Subsidiary, in each case, to the extent not resulting in a Change of Control;

(o) (i) Investments of a Restricted Subsidiary acquired after the Closing Date, or of any Person acquired by, or merged into or consolidated or amalgamated with, any Borrower or any Restricted Subsidiary after the Closing Date, in each case pursuant to an Investment otherwise permitted by this Section 6.06 to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation

and were in existence on the date of such acquisition, merger, amalgamation or consolidation and (ii) any modification, replacement, renewal or extension of any Investment permitted under clause (i) of this Section 6.06(o) so long as any such modification, replacement, renewal or extension thereof does not increase the amount of such Investment except as otherwise permitted by this Section 6.06;

(p) Investments made in connection with the Transactions (including for the avoidance of doubt, Investments expressly contemplated by the E&Y Steps Memo;

(q) Investments made after the Closing Date by the Lux Borrower and/or any of its Restricted Subsidiaries in an aggregate amount at any time outstanding not to exceed:

(A) the greater of €125,000,000 and 36.0% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period;

(B) the greater of €50,000,000 and 14.4% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period *minus* the amount of Restricted Debt Payments made in reliance on Section 6.04(b)(iv)(A); plus

(C) the greater of €50,000,000 and 14.4% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period *minus* the amount of (x) Restricted Payments made in reliance on Section 6.04(a)(x) and (y) Restricted Debt Payments made in reliance on Section 6.04(b)(iv)(B);

(D) in the event that (A) the Lux Borrower or any of its Restricted Subsidiaries makes any Investment after the Closing Date in any Person that is not a Restricted Subsidiary and (B) such Person subsequently becomes a Restricted Subsidiary, an amount equal to 100.0% of the fair market value of such Investment as of the date on which such Person becomes a Restricted Subsidiary;

(r) Investments made after the Closing Date by the Lux Borrower and/or its Restricted Subsidiaries in an aggregate outstanding amount not to exceed (i) the portion, if any, of the Available Amount on such date that the Lux Borrower elects to apply to this clause (r)(i) and (ii) the portion, if any, of the Available Excluded Contribution Amount on such date that the Lux Borrower elects to apply to this clause (r)(ii);

(s) (i) Guarantees of leases (other than Capital Leases) or of other obligations not constituting Indebtedness and (ii) Guarantees of the lease obligations of suppliers, customers, franchisees and licensees, in each case, of the Lux Borrower and/or its Restricted Subsidiaries in the ordinary course of business;

(t) Investments in any Parent Company in amounts and for purposes for which Restricted Payments to such Parent Company are permitted under Section 6.04(a); provided that (i) any Investments made by any Restricted Subsidiary in reliance on this clause (t) shall be deemed to be for purposes of, and compliance with the requirements of, this clause (t) and

Section 6.04(a) as having been made by the Lux Borrower and (ii) any such Investments made as provided above in lieu of such Restricted Payments shall reduce availability under the applicable Restricted Payment basket under Section 6.04(a) (determined by giving effect to the immediately preceding clause (i));

(u) Investments made by any Restricted Subsidiary that is not a Loan Party to the extent such Investments are made with the proceeds received by such Restricted Subsidiary from a substantially contemporaneous Investment made by a Loan Party in such Restricted Subsidiary pursuant to this Section 6.06 (other than investments made pursuant to Section 6.06(e)(ii), Section 6.06(v), Section 6.06(x)(ii) or Section 6.06(aa);

(v) Investments in any subsidiary in connection with reorganizations and/or restructurings and activities related to tax planning; provided that, after giving effect to any such reorganization, restructuring or activity, the security interest of the Administrative Agent in the Collateral, taken as a whole, is not materially impaired or after giving effect to such Investment, the Borrowers shall otherwise be in compliance with Sections 5.12 and 5.15;

(w) Investments arising under or in connection with any Derivative Transaction of the type permitted to be entered into under Section 6.01(s);

(x) Investments (i) in joint ventures and Unrestricted Subsidiaries in an aggregate outstanding amount not to exceed the greater of €65,000,000 and 18.7% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the most recently ended Test Period; and (ii) in any Restricted Subsidiary that is not a Loan Party in an amount required to permit such Restricted Subsidiary to consummate such Investment specified in the preceding clause (i);

(y) Investments made in joint ventures or non-Wholly-Owned Subsidiaries as required by, or made pursuant to, buy/sell arrangements between the joint venture parties set forth in joint venture agreements and similar binding arrangements entered into in the ordinary course of business;

(z) unfunded pension fund and other employee benefit plan obligations and liabilities to the extent that they are permitted to remain unfunded under applicable Requirements of Law;

(aa) Investments in Holdings, the Lux Borrower and/or any subsidiary in connection with intercompany cash management arrangements and related activities in the ordinary course of business;

(bb) additional Investments so long as the Total Leverage Ratio, calculated on a Pro Forma Basis, would not exceed 3.55:1.00;

(cc) Investments consisting of the licensing or contribution of IP Rights pursuant to joint marketing arrangements with other Persons;

(dd) any Investment made by any Unrestricted Subsidiary prior to the date on which such Unrestricted Subsidiary is designated as a Restricted Subsidiary so long as the relevant Investment was not made in contemplation of the designation of such Unrestricted Subsidiary as a Restricted Subsidiary;

(ee) Investments in any Restricted Subsidiary that is not a Loan Party and is organized under the laws of Brazil, China, Malaysia, South Korea or Taiwan, so long as the aggregate amount of any such Investments outstanding at any time does not exceed the greater of €35,000,000 and 10.1% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period;

(ff) Investments made or deemed made with respect to, or in connection with, any Permitted Receivables Financing; and

(gg) during the period commencing on the Business Day immediately following the Closing Date to and until the 18 month anniversary of the Closing Date, Investments made by the Lux Borrower and/or any of its Restricted Subsidiaries in an aggregate amount not to exceed €160,000,000 minus the amount of Restricted Payments made in reliance on Section 6.04(a)(xii); provided that (i) such Investments shall be funded from Internally Generated Cash and (ii) no Event of Default exists or would result therefrom.

Section 6.07. Fundamental Changes; Disposition of Assets. Prior to the initial Borrowings on the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, enter into any transaction of merger, consolidation or amalgamation, or liquidate, wind up or dissolve themselves (or suffer any liquidation or dissolution), or make any Disposition of any assets having a fair market value in excess of €10,000,000, in a single transaction or in a related series of transactions unless not in violation of Section 6.07 of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a manner that is not less restrictive than this Section 6.07) or except as otherwise permitted by the exceptions to, or not prohibited by, this Section 6.07 hereof as set forth below. From and after the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, enter into any transaction of merger, consolidation or amalgamation, or liquidate, wind up or dissolve themselves (or suffer any liquidation or dissolution), or make any Disposition of any assets having a fair market value in excess of €10,000,000, in a single transaction or in a related series of transactions, except:

(a) any Borrower or Restricted Subsidiary may be merged, consolidated or amalgamated with or into any other Person or otherwise dispose of all or substantially all of its assets to another Person; provided that (i) in the case of such a merger, consolidation or amalgamation with or into any Borrower or sale of all or substantially all assets by the Borrower, (A) a Borrower shall be the continuing or surviving Person (or, in the case of any such transaction involving (x) a Borrower and the Lux Borrower, the Lux Borrower shall be the continuing or surviving Person or (y) a Borrower (other than the Lux Borrower) and the US Borrower, the US Borrower shall be the continuing or surviving Person) or (B) if the Person formed by or surviving any such merger, consolidation or amalgamation or the Person to which such Disposition will have been made is not a Borrower hereunder at such time, any such Person (the “**Successor Borrower**”) (x) shall be an entity organized or existing under the laws of (I) in the case of the US Borrower, the U.S., any state thereof or the District of Columbia, (II) in the case of the Lux Borrower, Luxembourg or The Netherlands (or another jurisdiction reasonably acceptable to the Administrative Agent) or (III) in the case of any other Borrower, the U.S., any state thereof or the District of Columbia, Luxembourg, The Netherlands, any other jurisdiction where any other Borrower with Loans and/or Commitments in the same Class as such Borrower is formed or any other jurisdiction reasonably acceptable to the Administrative Agent, (y) such Person shall expressly assume the Obligations of such Borrower and a first priority perfected Lien shall have been granted to the Collateral Agent on behalf of the Secured Parties over all of the Capital Stock

of such Successor Borrower and, in the case of a Successor Borrower to the Lux Borrower, over all of the Capital Stock of Allnex Holding (or Successor Intermediate Holdco) in a manner reasonably satisfactory to the Administrative Agent and (z) except as the Administrative Agent may otherwise agree, each Guarantor, unless it is the other party to such merger, consolidation, amalgamation or Disposition, shall have executed and delivered a reaffirmation agreement with respect to its obligations under the Loan Guaranty and the other Loan Documents; provided that if the foregoing conditions under clauses (x) through (z) are satisfied, the Successor Borrower will succeed to, and be substituted for, the respective Borrower under this Agreement and the other Loan Documents, (ii) in the case of such a merger, consolidation or amalgamation with or into Allnex Holdings or sale of all or substantially all assets by Allnex Holdings, (A) Allnex Holdings shall be the continuing or surviving Person or (B) if the Person formed by or surviving any such merger, consolidation or amalgamation or the Person to which such Disposition will have been made is not Allnex Holdings, any such Person (the “**Successor Intermediate Holdco**”) (x) shall be an entity organized or existing under the laws of Luxembourg, The Netherlands or any other jurisdiction reasonably acceptable to the Administrative Agent, (y) such Person shall expressly assume the Obligations of Allnex Holdings (or the existing Successor Intermediate Holdco and a first priority perfected Lien shall have been granted to the Collateral Agent on behalf of the Secured Parties over all of the Capital Stock of such Successor Intermediate Holdco) in a manner reasonably satisfactory to the Administrative Agent and (z) except as the Administrative Agent may otherwise agree, each Guarantor, unless it is the other party to such merger, consolidation, amalgamation or Disposition, shall have executed and delivered a reaffirmation agreement with respect to its obligations under the Loan Guaranty and the other Loan Documents; provided that if the foregoing conditions under clauses (x) through (z) are satisfied, the Successor Intermediate Holdco will succeed to, and be substituted for, Allnex Holdings (or the existing Successor Intermediate Holdco) under this Agreement and the other Loan Documents and (iii) in the case of such a merger, consolidation or amalgamation with or into any Subsidiary Guarantor or sale of all or substantially all of the assets of any Subsidiary Guarantor, either (x) such Subsidiary Guarantor shall be the continuing or surviving Person or the continuing or Surviving Person or the Person to which such Disposition will have been made shall assume the guarantee obligations of the Subsidiary Guarantor in a manner reasonably satisfactory to the Administrative Agent or (y) such transaction shall be treated as an Investment and shall comply with Section 6.06;

(b) Dispositions among the Lux Borrower and its Restricted Subsidiaries (upon voluntary liquidation or otherwise); provided that any such Disposition by a Loan Party to a Person that is not a Loan Party shall be (i) for fair market value (as reasonably determined by such Person) and at least 75% of the consideration for such Disposition consists of Cash or Cash Equivalents at the time of such Disposition or (ii) treated as an Investment and otherwise made in compliance with Section 6.06 (other than in reliance on clause (j) thereof);

(c) (i) the liquidation or dissolution of any Restricted Subsidiary of Allnex Holdings (or Successor Intermediate Holdco) (other than a Borrower) if the Lux Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrowers, is not materially disadvantageous to the Lenders (taken as a whole) and either a Borrower or a Restricted Subsidiary receives any assets of such dissolved or liquidated Restricted Subsidiary; provided that (x) in the case of any liquidation or dissolution of a Loan Party that results in a distribution of assets to a Restricted Subsidiary that is not a Loan Party, such distribution shall be treated as an Investment and shall comply with Section 6.06 (other than Section 6.06(j)) and (y) the Lux Borrower shall maintain the Collateral Coverage Requirement pursuant to Section

5.12(ii); (ii) any merger, amalgamation, dissolution, liquidation or consolidation of any Restricted Subsidiary of Allnex Holdings (or Successor Intermediate Holdco) (other than a Borrower), the purpose of which is to effect (A) a Disposition otherwise permitted under this Section 6.07 (other than clause (a), clause (b) or this clause (c)) or (B) an Investment permitted under Section 6.06; and (iii) the change in form of entity of (x) any Subsidiary organized under the laws of Belgium as a *Société Anonyme* or a *Naamloze Vennootschap* into another form of Belgian entity, (y) any Subsidiary organized under the laws of Japan as a *Kabushiki Kaisha* into a *Gōdō Gaisha* and (z) any Borrower or any other Restricted Subsidiary into any other form of entity in the same jurisdiction or, in the case of any such Restricted Subsidiary that is not also a Borrower, another Permitted Jurisdiction, in each case, so long as (A) such conversion does not result in a breach of the Collateral Coverage Requirement, if any, provided hereunder to secure the relevant Secured Obligations (it being understood that such Loan Guaranties and/or Collateral may be required to be released and retaken in connection with such conversion) and (B) in the case of a Borrower, is not materially adverse to the Lenders, taken as a whole, holding Loans or Commitments of such Borrower;

(d) (x) Dispositions of inventory or equipment in the ordinary course of business (including on an intercompany basis) and (y) the leasing or subleasing of real property in the ordinary course of business;

(e) Dispositions of (i) surplus, obsolete, used or worn out property or other property that, in the reasonable judgment of the Lux Borrower, is (A) no longer useful in its business (or in the business of any of its Restricted Subsidiaries) or (B) otherwise economically impractical to maintain and (ii) any assets acquired in connection with the acquisition of another Person or a division or line of business of such Person which the Lux Borrower reasonably determines are surplus assets;

(f) Dispositions of Cash and Cash Equivalents or other assets that were Cash Equivalents when the original Investment was made;

(g) Dispositions, mergers, amalgamations, consolidations or conveyances that constitute Investments permitted pursuant to Section 6.06 (other than Section 6.06(j)), Permitted Liens, Restricted Payments permitted by Section 6.04(a) (other than Section 6.04(a)(ix)) and Sale-Leaseback Transactions permitted by Section 6.08;

(h) Dispositions for fair market value; provided that with respect to any such Disposition with a purchase price in excess of the greater of €20,000,000 and 5.8% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period, at least 75% of the consideration for such Disposition shall consist of Cash or Cash Equivalents (provided that for purposes of the 75% Cash consideration requirement (w) the amount of any Indebtedness or other liabilities (other than Indebtedness or other liabilities that are subordinated to the Obligations or that are owed to the Lux Borrower or a Restricted Subsidiary) of any Borrower or any Restricted Subsidiary (as shown on such person's most recent balance sheet or in the notes thereto) that are assumed by the transferee of any such assets and for which the Lux Borrower and its Restricted Subsidiaries shall have been validly released by all relevant creditors in writing, (x) the amount of any trade-in value applied to the purchase price of any replacement assets acquired in connection with such Disposition, (y) any Securities received by the Lux Borrower or any Restricted Subsidiary from such transferee that are converted by such Person into Cash or Cash Equivalents (to the extent of

the Cash or Cash Equivalents received) within 180 days following the closing of the applicable Disposition and (z) any Designated Non-Cash Consideration received in respect of such Disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (z) and Section 6.08(C)(1) that is at that time outstanding, not in excess of the greater of €40,000,000 and 11.5% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period, in each case, shall be deemed to be Cash); provided, further, that (i) immediately prior to and after giving effect to such Disposition, as determined on the date on which the agreement governing such Disposition is executed, no Event of Default shall exist and (ii) the Net Proceeds of such Disposition shall be applied and/or reinvested as (and to the extent) required by Section 2.10(b)(ii);

(i) to the extent that (i) the relevant property or assets are exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of the relevant Disposition are promptly applied to the purchase price of such replacement property;

(j) Dispositions of Investments in joint ventures or any Subsidiary that is not a Wholly-Owned Subsidiary to the extent required by, or made pursuant to, buy/sell arrangements between the joint venture or similar parties set forth in joint venture arrangements and similar binding arrangements;

(k) Dispositions, discounting or forgiveness of accounts receivable in the ordinary course of business or in connection with the collection or compromise thereof;

(l) Dispositions and/or terminations of leases, subleases, licenses or sublicenses (including the provision of software under an open source license), which (i) do not materially interfere with the business of the Borrowers and their Restricted Subsidiaries or (ii) relate to closed facilities or the discontinuation of any product line;

(m) (i) termination of leases in the ordinary course of business, (ii) the expiration of any option agreement in respect of real or personal property and (iii) any surrender or waiver of contractual rights or the settlement, release or surrender of contractual rights or other litigation claims in the ordinary course of business;

(n) Dispositions of property subject to foreclosure, casualty, eminent domain or condemnation proceedings (including in lieu thereof or any similar proceeding);

(o) Dispositions or consignment of equipment, inventory or other assets (including leasehold interests in real property) with respect to facilities that are temporarily not in use, held for sale or closed;

(p) Dispositions in connection with the Transactions (including, for the avoidance of doubt, the transactions expressly contemplated by the E&Y Steps Memo);

(q) Dispositions of non-core assets and sales of Real Estate Assets acquired in an acquisition permitted hereunder which, within 90 days of the date of the acquisition, are designated in writing to the Administrative Agent as being held for sale and not for the continued operation of the Lux Borrower or any of its Restricted Subsidiaries or any of their respective

businesses; provided that no Event of Default exists on the date on which the definitive agreement governing the relevant Disposition is executed;

(r) exchanges or swaps, including transactions covered by Section 1031 of the Code (or any comparable provision of any foreign jurisdiction), of property or assets so long as the exchange or swap is made for fair value (as reasonably determined by the Lux Borrower) for like property or assets; provided that upon the consummation of such exchange or swap, in the case of any Loan Party and to the extent such property received does not constitute an Excluded Asset, the Administrative Agent has a perfected Lien having the same priority as any Lien held on the Real Estate Assets so exchanged or swapped;

(s) other Dispositions for fair market value in an aggregate amount since the Closing Date of not more than the greater of €25,000,000 and 7.2% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period;

(t) (i) licensing and cross-licensing arrangements involving any technology, intellectual property or IP Rights of the Lux Borrower or any Restricted Subsidiary in the ordinary course of business and (ii) Disposition, abandonment, cancellation or lapse of IP Rights, or any issuances or registrations, or applications for issuances or registrations, of any IP Rights, which, in the reasonable good faith determination of the Lux Borrower, are not material to the conduct of the business of the Lux Borrower or its Restricted Subsidiaries, or are no longer economical to maintain in light of its use;

(u) terminations or unwinds of Derivative Transactions;

(v) Dispositions of Capital Stock of, or sale of Indebtedness or other Securities of, Unrestricted Subsidiaries;

(w) Dispositions of Real Estate Assets and related assets in the ordinary course of business in connection with relocation activities for directors, officers, employees, members of management, managers or consultants of any Parent Company, the Lux Borrower or any Restricted Subsidiary;

(x) Dispositions made to comply with any order of any Governmental Authority or any applicable Requirement of Law;

(y) Dispositions for Cash (other than in connection with the capitalization of any special purpose entity used to effect any such Permitted Receivables Financing) of accounts receivable in connection with any Permitted Receivables Financing;

(z) any merger, consolidation, Disposition or conveyance the sole purpose of which is to reincorporate or reorganize (i) any Domestic Subsidiary in another jurisdiction in the U.S. or (ii) any Non-US Subsidiary (other than a Borrower or Allnex Holdings (or Successor Intermediate Holdco)) in the U.S. or any other jurisdiction so long as, in the case of any Non-US Subsidiary that is a Loan Party, such reincorporation or reorganization does not result in a breach of the Collateral Coverage Requirement, if any, provided hereunder to secure the Secured Obligations (it being understood that such Loan Guaranties and/or Collateral may be required to

be released and retaken in connection with such reincorporation or reorganization), shall be permitted;

(aa) Dispositions by the Lux Borrower or any Restricted Subsidiary of assets in connection with the closing or sale of an office in the ordinary course of business of the Lux Borrower and/or its Restricted Subsidiaries, which consist of leasehold interests in the premises of such office, the equipment and fixtures located at such premises and the books and records relating exclusively and directly to the operations of such office; provided that as to each and all such sales and closings, (i) no Event of Default shall result therefrom and (ii) such sale shall be on commercially reasonable prices and terms in a bona fide arm's-length transaction;

(bb) the sale of motor vehicles and information technology equipment purchased at the end of an operating lease and resold thereafter;

(cc) other Disposition of assets that do not constitute Collateral for fair market value;

(dd) and Dispositions for fair market value specified on Schedule 6.07.

To the extent that any Collateral is Disposed of as expressly permitted by this Section 6.07 to any Person other than a Loan Party, such Collateral shall be sold free and clear of the Liens created by the Loan Documents, which Liens shall be automatically released upon the consummation of such Disposition; it being understood and agreed that the Administrative Agent shall be authorized to take, and shall take, any actions reasonably requested by the Lux Borrower in order to effect the foregoing in accordance with Article 8 hereof.

Section 6.08. Sales and Lease-Backs. The Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, directly or indirectly, become or remain liable as lessee or as a guarantor or other surety with respect to any lease of any property (whether real, personal or mixed), whether now owned or hereafter acquired, which such Borrower or Restricted Subsidiary (a) has sold or transferred or is to sell or to transfer to any other Person (other than the Lux Borrower or any of its Restricted Subsidiaries) and (b) intends to use for substantially the same purpose as the property which has been or is to be sold or transferred by such Borrower or Restricted Subsidiary to any Person (other than the Lux Borrower or any of its Restricted Subsidiaries) in connection with such lease (such a transaction described herein, a "**Sale and Lease-Back Transaction**"); provided that any Sale and Lease-Back Transaction shall (I) prior to the initial Borrowings on the Closing Date, be permitted so long as such Sale and Lease-Back Transaction is not in violation of Section 6.08 of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a manner that is not less restrictive than this Section 6.08) or is otherwise permitted by the exceptions to, or not prohibited by, this Section 6.08 set forth herein and (II) from and after the Closing Date, be permitted so long as such Sale and Lease-Back Transaction is either (A) the resulting Indebtedness is permitted by Section 6.01, (B) described on Schedule 6.08 hereto or (C)(1) made for cash consideration (provided that for purposes of the foregoing cash consideration requirement, (w) the amount of any Indebtedness or other liabilities (other than Indebtedness or other liabilities that are subordinated to the Obligations or that are owed to the Lux Borrower or any Restricted Subsidiary) of the Lux Borrower or any Restricted Subsidiary (as shown on such Person's most recent balance sheet or statement of financial position (or in the notes thereto) that are assumed by the transferee of any such assets and for which the Lux Borrower and/or its applicable Restricted Subsidiary have been validly released by all relevant creditors in writing, (x) the amount of any trade-in value applied to the purchase price of any replacement assets acquired in connection with such Disposition, (y) any Securities received by the Lux Borrower or any Restricted Subsidiary from such

transferee that are converted by such Person into Cash or Cash Equivalents (to the extent of the Cash or Cash Equivalents received) within 180 days following the closing of the applicable Disposition and (z) any Designated Non-Cash Consideration received in respect of the relevant Sale and Leaseback Transaction having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (z) and Section 6.07(h)(z) that is at that time outstanding, not in excess of the greater of €40,000,000 and 11.53% of Consolidated Total Assets of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period, in each case, shall be deemed to be Cash), (2) the Lux Borrower or its applicable Restricted Subsidiary would otherwise be permitted to enter into, and remain liable under, the applicable underlying lease and (3) the aggregate fair market value of the assets sold subject to all Sale and Lease-Back Transactions under this clause (C) shall not exceed the greater of €60,000,000 and 17.3% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period.

Section 6.09. Transactions with Affiliates. The Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, enter into any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) involving payment in excess of €15,000,000 with any of their Affiliates on terms that are less favorable to such Borrower or such Restricted Subsidiary, as the case may be (as reasonably determined by the Lux Borrower), than those that might be obtained at the time in a comparable arm's-length transaction from a Person who is not an Affiliate; provided that (I) prior to the initial Borrowings on the Closing Date, the foregoing restriction shall not apply to the extent not in violation of Section 6.09 of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a manner that is not less restrictive than this Section 6.09) or as otherwise permitted by exceptions to, or not prohibited by, this Section 6.09 as set forth below and (II) from and after the Closing Date, the foregoing restriction shall not apply to:

(a) any transaction between or among Holdings, any Borrower and/or one or more Restricted Subsidiaries (or any entity that becomes a Restricted Subsidiary as a result of such transaction) to the extent permitted or not restricted by this Agreement;

(b) any issuance, sale or grant of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of employment arrangements, stock options and stock ownership plans approved by the board of directors (or equivalent governing body) of any Parent Company or of the Lux Borrower or any Restricted Subsidiary;

(c) (i) any collective bargaining, employment, severance agreements or compensatory (including profit sharing) arrangements entered into by any Borrower or any of the Restricted Subsidiaries with their respective current or former officers, directors, members of management, managers, employees, consultants or independent contractors or those of any Parent Company, (ii) any subscription agreement or similar agreement pertaining to the repurchase of Capital Stock pursuant to put/call rights or similar rights with current or former officers, directors, members of management, managers, employees, consultants or independent contractors and (iii) transactions pursuant to any employee compensation, benefit plan, stock option plan or arrangement, any health, disability or similar insurance plan which covers current or former officers, directors, members of management, managers, employees, consultants or independent contractors or any employment contract or arrangement;

(d) (i) transactions permitted by Sections 6.01(d), (o) and (ee), 6.04 and 6.06(h), (m), (o), (t), (u) (v), (x), (y), (aa) and (bb) and (ii) issuances of Capital Stock and issuances and incurrences of Indebtedness not restricted by this Agreement;

(e) transactions in existence on the Closing Date and described on Schedule 6.09 and any amendment thereto to the extent such amendment is not adverse to the Lenders in any material respect;

(f) (i) so long as no Event of Default under Sections 7.01(a), 7.01(f) or 7.01(g) then exists or would result therefrom, the payment of management, monitoring, consulting, advisory and similar fees to any Investor in amount not to exceed the greater of €2,000,000 and 0.6% of Consolidated Adjusted EBITDA of the Lux Borrower and its Restricted Subsidiaries as of the last day of the most recently ended Test Period and (ii) the payment of all indemnities and expenses owed to any Investor and each of their respective directors, officers, members of management, managers, employees and consultants, in each case of clauses (i) and (ii) whether currently due or paid in respect of accruals from prior periods;

(g) the Transactions, including the payment of Transaction Costs;

(h) customary compensation to Affiliates in connection with any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities and other transaction fees, which payments are approved by the majority of the members of the board of directors (or similar governing body) or a majority of the disinterested members of the board of directors (or similar governing body) of the Lux Borrower in good faith;

(i) Guarantees permitted by Section 6.01 or Section 6.06;

(j) loans and other transactions to the extent permitted under this Article 6;

(k) the payment of customary fees, reasonable out of pocket costs to and indemnities provided on behalf of, members of the board of directors (or similar governing body), officers, employees, members of management, managers, consultants and independent contractors of Holdings, the Lux Borrower and its Restricted Subsidiaries in the ordinary course of business and, in the case of payments to such Person in such capacity on behalf of any Parent Company, to the extent attributable to the operations of the Lux Borrower and its Restricted Subsidiaries;

(l) transactions with customers, clients, suppliers or joint ventures for the purchase or sale of goods and services entered into in the ordinary course of business, which are fair to the Lux Borrower and/or its applicable Restricted Subsidiary in the good faith determination of the board of directors (or similar governing body) of the Lux Borrower or the senior management thereof;

(m) (i) the payment of reasonable out-of-pocket costs and expenses related to registration rights and customary indemnities provided to shareholders under any shareholder agreement and (ii) the payment of annual dividends by Surface Specialties Holding GmbH to WP Invest GmbH;

(n) (i) any purchase by Holdings of the Capital Stock of (or contribution to the equity capital of) the Lux Borrower and (ii) the making of any intercompany loans by Holdings to the Lux Borrower in the form of Subordinated Shareholder Debt;

(o) any transaction in respect of which the Lux Borrower delivers to the Administrative Agent a letter addressed to the board of directors (or equivalent governing body) of the Lux Borrower from an accounting, appraisal or investment banking firm of nationally

recognized standing stating that such transaction is on terms that are no less favorable to the Lux Borrower or the applicable Restricted Subsidiary than might be obtained at the time in a comparable arm's length transaction from a Person who is not an Affiliate;

(p) sales of accounts receivables and/or related assets, or participations therein, in connection with any Permitted Receivables Financing; and

(q) the incurrence of (or payment of obligations under) any Subordinated Shareholder Debt.

Section 6.10. Conduct of Business. Prior to the initial Borrowings on the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, engage in any material line of business that is in violation of Section 6.10 of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a manner that is not less restrictive than this Section 6.10) except as otherwise not prohibited by this Section 6.10 as set forth herein. From and after the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, engage in any material line of business other than (a) the businesses engaged in by any Borrower or Restricted Subsidiary on the Closing Date and similar, incidental, complementary, ancillary or related businesses and (b) such other lines of business as may be consented to by the Administrative Agent.

Section 6.11. Amendments or Waivers of Organizational Documents. Prior to the initial Borrowings on the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, amend or modify their respective Organizational Documents, in each case unless not in a manner that is in violation of Section 6.11 of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a manner that is not less restrictive than this Section 6.11) or as except otherwise not prohibited by this Section 6.11 as set forth herein. From and after the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, amend or modify their respective Organizational Documents, in each case in a manner that is materially adverse to the Lenders (in their capacities as such) without obtaining the prior written consent of the Administrative Agent (not to be unreasonably withheld or delayed); provided that, for purposes of clarity, it is understood and agreed that the Borrowers and/or any Subsidiary Guarantor may, without the prior written consent of the Administrative Agent or any other Person, effect a change to its organizational form and/or consummate any other transaction that is permitted under Section 6.07 and consummate the Transactions.

Section 6.12. Amendments of or Waivers with Respect to Restricted Debt. Prior to the initial Borrowings on the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, amend or otherwise change the terms of any Restricted Debt (or the documentation governing any such Restricted Debt) unless not in violation of Section 6.12 of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a manner that is not less restrictive than this Section 6.12) or except as otherwise not prohibited by this Section 6.12 as set forth herein. From and after the Closing Date, the Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to, amend or otherwise change the terms of any Restricted Debt (or the documentation governing any such Restricted Debt) (a) if the effect of such amendment or modification, together with all other amendments or modifications made thereto, is materially adverse to the interests of the Lenders (in their capacities as such) or (b) in violation of any Acceptable Intercreditor Agreement related to such debt entered into with the Administrative Agent or the subordination terms set forth in the definitive documentation governing any Restricted Debt; provided that, for purposes of clarity, it is understood and agreed that the foregoing limitation shall not otherwise prohibit Refinancing Indebtedness

or any other replacement, refinancing, amendment, supplement, modification, extension, renewal, restatement or funding, in each case, permitted under Section 6.01 in respect thereof.

Section 6.13. Fiscal Year. Prior to the initial Borrowings on the Closing Date, the Lux Borrower shall not change its Fiscal Year-end to a date other than December 31 unless not in violation of Section 6.13 of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a manner that is not less restrictive than this Section 6.13) or except as otherwise not prohibited by Section 6.13 as set forth herein. From and after the Closing Date, the Lux Borrower shall not change its Fiscal Year-end to a date other than December 31; provided, that, the Lux Borrower may, upon written notice to the Administrative Agent, change its Fiscal Year-end to any other date, in which case the Lux Borrower and the Administrative Agent will, and are hereby authorized to, make any adjustments to this Agreement that are necessary to reflect such change in Fiscal Year.

Section 6.14. Permitted Activities of Holdings and the Lux Borrower. (a) Prior to the initial Borrowings on the Closing Date, Holdings shall not take any action unless not in violation of Section 6.14 of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a manner that is not less restrictive than this Section 6.14) or except as otherwise permitted by the exceptions to, or not prohibited by, this Section 6.14 hereof as set forth below, and from and after the Closing Date, Holdings shall not:

- (i) incur, create, assume or otherwise become or remain liable for any Indebtedness for borrowed money or any Guaranty thereof other than (A) the Secured Obligations, (B) any Permitted Holdings Unsecured Indebtedness, (C) Guarantees of Indebtedness or other obligations of the Borrowers and/or their Restricted Subsidiaries permitted hereunder and/or (D) intercompany loans made by the Lux Borrower or any of its Restricted Subsidiaries to the extent permitted under the Loan Documents;
- (ii) create or suffer to exist any Lien upon any property or assets now owned or hereafter acquired by it other than (A) the Liens created under the Collateral Documents to which it is a party, (B) any other Lien created in connection with the Transactions, (C) Permitted Liens on the Collateral that are secured on a *pari passu* or junior basis with the Secured Obligations, so long as such Permitted Liens secure Guarantees permitted under clause (i)(C) above and the underlying Indebtedness subject to such Guarantee is permitted to be secured on the same basis pursuant to, and in accordance with, Section 6.02 and (D) Liens of the type permitted under Section 6.02 (other than in respect of debt for borrowed money or any Guaranty thereof);
- (iii) engage in any business activity or own any material assets other than (A) holding (x) the Capital Stock of the Lux Borrower (or any Successor Borrower) and Allnex Belgium and/or (y) in connection with any Permitted Acquisition or other Investment permitted or not prohibited hereunder, the Capital Stock and/or assets of any target company thereunder, provided that such Capital Stock and/or assets are contributed to the Lux Borrower and/or its Restricted Subsidiaries as soon as reasonably practicable following the consummation of such transaction; (B) performing its obligations under the Loan Documents and any other Indebtedness, Liens (including the granting of Liens) and Guarantees permitted under clauses (i) and (ii); (C) issuing its own Capital Stock (including, for the avoidance of doubt, the making of any dividend or distribution on account of, or any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value of, any shares of any class of Capital Stock) and/or

Subordinated Shareholder Debt; (D) filing Tax reports, paying Taxes and other customary obligations in the ordinary course and contesting any Taxes; (E) preparing reports to Governmental Authorities and to its shareholders; (F) holding director and shareholder meetings, preparing organizational records and other organizational activities required to maintain its separate organizational structure or to comply with applicable Requirements of Law; (G) effecting any initial public offering of its Capital Stock; (H) holding Cash and other assets received in connection with Restricted Payments received from, or Investments made by, the Borrowers and their subsidiaries or contributions to the capital of, or proceeds from the issuance of, Capital Stock of Holdings, and/or Subordinated Shareholder Debt, in each case, pending the application thereof; (I) providing indemnification for its officers, directors, members of management, managers, employees and advisors or consultants; (J) participating in tax, accounting and other administrative matters; (K) the making of any payment of the type permitted under Section 6.09(f) and the performance of its obligations under the Acquisition Agreement and the other documents, agreements and Investments contemplated by the Transactions or otherwise not prohibited under this clause (a); (L) complying with applicable Requirements of Law (including with respect to the maintenance of its existence) and activities incidental to the foregoing and (M) activities incidental to any of the foregoing; or

(iv) consolidate or amalgamate with, or merge with or into, or convey, sell or otherwise transfer all or substantially all of its assets to, any Person; provided that, so long as (I) first priority perfected Liens shall have been granted to the Collateral Agent on behalf of the Secured Parties over all of the Capital Stock of the Lux Borrower (or its Successor Borrower) by such Successor Holdings, (II) no Default or Event of Default exists or would result therefrom and (III) such consolidation, amalgamation, merger, conveyance or sale does not result in a breach of the Collateral Coverage Requirement, if any, provided hereunder to secure the relevant Secured Obligations, (A) Holdings may consolidate or amalgamate with, or merge with or into, any other Person (other than the Lux Borrower and any of its subsidiaries) so long as (1) Holdings shall be the continuing or surviving Person or (2) if the Person formed by or surviving any such consolidation, amalgamation or merger is not Holdings, (w) the successor Person shall expressly assume all the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a party pursuant to a supplement hereto and/or thereto in a form reasonably satisfactory to the Administrative Agent, (x) the successor Person shall be an entity organized or existing under the laws of Luxembourg or The Netherlands (or another jurisdiction reasonably acceptable to the Administrative Agent), (y) the successor Person shall, immediately following such merger, consolidation or amalgamation, directly or indirectly own all subsidiaries owned by Holdings immediately prior to such merger and (z) the Lux Borrower shall deliver a certificate of a Responsible Officer with respect to the satisfaction of the conditions under clauses (2)(w), (2)(x) and (2)(y) hereof and (B) Holdings may convey, sell or otherwise transfer all or substantially all of its assets to any other Person (other than the Lux Borrower and any of its subsidiaries) so long as (v) no Change of Control shall result therefrom, (w) the Person acquiring such assets shall expressly assume all of the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings, is a party pursuant to a supplement hereto and/or thereto in a form reasonably satisfactory to the Administrative Agent, (x) the Person acquiring such assets shall be an entity organized or existing under the laws of Luxembourg or The Netherlands (or another jurisdiction reasonably acceptable to the

Administrative Agent), (y) the Person acquiring such assets shall, immediately following such conveyance, sale or transfer, directly or indirectly, own all or substantially all of its assets owned by Holdings immediately prior to such conveyance, sale or transfer, and (z) the Lux Borrower shall deliver a certificate of a Responsible Officer with respect to the satisfaction of the conditions under clauses (B)(w) and (B)(v) hereof; provided, further, that (1) if the conditions set forth in the preceding proviso are satisfied, the successor to Holdings will succeed to, and be substituted for, Holdings under this Agreement and (2) it is understood and agreed that Holdings may convert into another form of entity in Luxembourg or The Netherlands so long as (i) a first priority perfected Lien shall have been granted to the Collateral Agent on behalf of the Secured Parties over all of the Capital Stock of the Lux Borrower (or its Successor Borrower) and (ii) such conversion not result in a breach of the Collateral Coverage Requirement and is not materially adverse to the Lenders (taken as a whole or the Class of Lenders to the Lux Borrower taken as a whole).

(b) The Lux Borrower shall not

(i) incur create, assume or otherwise become or remain liable for any third party Indebtedness for borrowed money other than the Indebtedness permitted to be incurred by the Lux Borrower under the Loan Documents;

(ii) create or suffer to exist any Lien upon any property or assets now owned or hereafter acquired by it other than (A) the Liens created under the Collateral Documents to which it is a party, (B) any other Lien created in connection with the Transactions, (C) Permitted Liens on the Collateral that are secured on a pari passu or junior basis with the Secured Obligations, so long as the underlying Indebtedness is permitted to be secured on the same basis pursuant to Section 6.02 and (D) Liens of the type permitted under, and in accordance with, Section 6.02 (other than in respect of debt for borrowed money);

(iii) engage in any business activity or own any material assets other than (A) holding (x) the Capital Stock of the Allnex Holdings (or any Successor Intermediate Holdco) and/or (y) in connection with any Permitted Acquisition or other Investment permitted or not prohibited hereunder, the Capital Stock and/or assets of any target company thereunder, provided that such Capital Stock and/or assets are contributed to the Allnex Holdings (or Successor Intermediate Holdco) and/or its Restricted Subsidiaries as soon as reasonably practicable following the consummation of such transaction; (B) performing its obligations under the Loan Documents and any other Indebtedness, Liens (including the granting of Liens) and Guarantees permitted hereunder; (C) issuing its own Capital Stock (including, for the avoidance of doubt, the making of any dividend or distribution on account of, or any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value of, any shares of any class of Capital Stock) and/or Subordinated Shareholder Debt; (D) filing Tax reports, paying Taxes and other customary obligations in the ordinary course and contesting any Taxes; (E) preparing reports to Governmental Authorities and to its shareholders; (F) holding director and shareholder meetings, preparing organizational records and other organizational activities required to maintain its separate organizational structure or to comply with applicable Requirements of Law; (G) effecting any initial public offering of its Capital Stock; (H) holding Cash and other assets received in connection with

Restricted Payments received from, or Investments made by, the Borrowers and their subsidiaries or contributions to the capital of, or proceeds from the issuance of, Capital Stock of Holdings, and/or Subordinated Shareholder Debt; (I) providing indemnification for its officers, directors, members of management, managers, employees and advisors or consultants; (J) participating in tax, accounting and other administrative matters; (K) the making of any payment of the type permitted under Section 6.09(f) and the performance of its obligations under the Acquisition Agreement and the other documents, agreements and Investments contemplated by the Transactions or otherwise not prohibited under this clause (b); (L) complying with applicable Requirements of Law (including with respect to the maintenance of its existence) and activities incidental to the foregoing and (M) activities incidental to any of the foregoing; or

(iv) consolidate or amalgamate with, or merge with or into, or convey, sell or otherwise transfer all or substantially all of its assets to, any Person except as permitted under Section 6.07.

#### Section 6.15. Financial Covenant.

(a) First Lien Leverage Ratio. Commencing with the first full Fiscal Quarter ending after the Closing Date, on the last day of any Test Period on which the Revolving Facility Test Condition is then satisfied, the Lux Borrower shall not permit the First Lien Leverage Ratio to be greater than 5.46:1.00.

(b) Financial Cure. Notwithstanding anything to the contrary in this Agreement (including Article 7), upon the Lux Borrower's failure to comply with Section 6.15(a) above for any Fiscal Quarter, the Lux Borrower shall have the right (the "**Cure Right**") (at any time during such Fiscal Quarter or thereafter until the date that is fifteen (15) Business Days after the date that financial statements for such Fiscal Quarter are required to be delivered pursuant to Section 5.01(a) or (b), as applicable) to issue Qualified Capital Stock or other equity (such other equity to be on terms reasonably acceptable to the Administrative Agent) for Cash or otherwise receive Cash contributions in respect of Qualified Capital Stock (the "**Cure Amount**"), and thereupon the Lux Borrower's compliance with Section 6.15(a) shall be recalculated giving effect to the following pro forma adjustment: Consolidated Adjusted EBITDA shall be increased (notwithstanding the absence of an addback in the definition of "Consolidated Adjusted EBITDA"), solely for the purpose of determining compliance with Section 6.15(a) hereof, as of the end of such Fiscal Quarter and for such Fiscal Quarter (including for any subsequent Test Periods that includes such Fiscal Quarter), by an amount equal to the Cure Amount. If, after receipt of the Cure Amount and giving effect to the foregoing recalculations (but not, for the avoidance of doubt, taking into account any immediate repayment of Indebtedness in connection therewith), the requirements of Section 6.15(a) would be satisfied, then the requirements of Section 6.15(a) shall be deemed satisfied as of the end of the relevant Fiscal Quarter with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach of Section 6.15(a) that had occurred shall be deemed cured for the purposes of this Agreement. Notwithstanding anything herein to the contrary, (i) in each four consecutive Fiscal Quarter period of the Lux Borrower there shall be at least two Fiscal Quarters (which may be consecutive) in which the Cure Right is not exercised, (ii) during the term of this Agreement, the Cure Right shall not be exercised more than five times, (iii) the Cure Amount shall be no greater than the amount required for the purpose of causing compliance with Section 6.15(a), (iv) upon the Administrative Agent's receipt of a written notice from the Lux Borrower that it intends

to exercise the Cure Right (a “**Notice of Intent to Cure**”), until the 15th Business Day following the date that financial statements for the Fiscal Quarter to which such Notice of Intent to Cure relates are required to be delivered pursuant to Section 5.01(a) or (b), as applicable, neither the Administrative Agent (or any sub-agent therefor) nor any Lender shall exercise any right to accelerate the Loans or terminate the Revolving Credit Commitments, and none of the Administrative Agent (or any sub-agent therefor) nor any Lender or Secured Party shall exercise any right to foreclose on or take possession of the Collateral or any other right or remedy under the Loan Documents solely on the basis of the relevant failure to comply with Section 6.15(a), (v) there shall be no pro forma or other reduction of the amount of Indebtedness by the amount of any Cure Amount for purposes of determining compliance with Section 6.15(a) for the Fiscal Quarter in respect of which the Cure Right was exercised (other than, with respect to any future period, to the extent of any portion of such Cure Amount that is actually applied to repay Indebtedness), (vi) during any Test Period in which any Cure Amount is included in the calculation of Consolidated Adjusted EBITDA as a result of any exercise of the Cure Right, such Cure Amount shall be disregarded for purposes of determining (x) whether any financial ratio-based condition to the availability of any carve-out set forth in Article 6 of this Agreement has been satisfied, (y) the Applicable Rate or the Commitment Fee Rate or (z) the Excess Cash Flow Percentage, (vii) no Revolving Lender, Issuing Bank or Guarantee Bank shall be required to make any Revolving Loan, issue any Letter of Credit or issue any Bank Guarantee from and after such time as the Administrative Agent has received the Notice of Intent to Cure unless and until the Cure Amount is actually received and (viii) the portion of the proceeds of any Cure Amount shall not be included for the purpose of determining compliance with Section 6.15(a) for any Fiscal Quarter to the extent such portion was previously applied in reliance on the Available Amount or any Available Excluded Contribution Amount.

Section 6.16. Change in Center of Main Interests. Other than in connection with any fundamental change, Disposition or other transaction not prohibited by this Agreement and provided that to do so would not reasonably be expected to be materially prejudicial to the interests of the Lenders (taken as a whole) under the Loan Documents, Holdings, the Lux Borrower and Allnex Holdings shall not change its centre of main interest (as that term is used in Article 3(1) of the EU Regulation 1346/2000 of May 29, 2000, on insolvency proceedings) or its jurisdiction of incorporation, in each case, (I) prior to the initial Borrowings on the Closing Date, unless not in violation of Section 6.16 of the Existing Credit Agreement (as amended, supplemented or otherwise modified from time to time in a manner that is not less restrictive than this Section 6.16) or except as otherwise permitted or not prohibited by this Section 6.16 and (II) from and after the Closing Date without the consent of the Administrative Agent.

## ARTICLE 7 EVENTS OF DEFAULT

Section 7.01. Events of Default. If any of the following events (each, an “**Event of Default**”) shall occur:

- (a) Failure To Make Payments When Due. Failure by the Borrowers to pay (i) when due any installment of principal of any Loan, whether at stated maturity, by acceleration, by notice of voluntary prepayment, by mandatory prepayment or otherwise; or (ii) any interest on any Loan (for purposes hereof, including any interest owed to the Initial Signing Date Lenders pursuant to the terms of the Transaction Settlement Agreement) and/or any fee or any other amount due hereunder, in each case, within five Business Days after the date due; or

(b) Default in Other Agreements. (i) Failure of any Loan Party or any of its Restricted Subsidiaries to pay when due any principal of or interest on or any other amount payable in respect of one or more items of Indebtedness (other than Indebtedness referred to in clause (a) above) with an aggregate outstanding principal amount exceeding the Threshold Amount, in each case beyond the grace period, if any, provided therefor; or (ii) breach or default by any Loan Party with respect to any other term of (A) one or more items of Indebtedness with an aggregate outstanding principal amount exceeding the Threshold Amount or (B) any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Indebtedness (other than, with respect to Indebtedness consisting of Hedge Agreements, termination events or equivalent events pursuant to the terms of such Hedge Agreements and which is not as a result of any default or event of default thereunder by any Loan Party or any Restricted Subsidiary), in each case beyond the grace period, if any, provided therefor, if the effect of such breach or default is to cause, or to permit the holder or holders of that Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, that Indebtedness to become or be declared due and payable (or redeemable) prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be; provided that clause (ii) of this paragraph (b) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property securing such Indebtedness if such sale or transfer is permitted hereunder; provided, further, that (x) any such failure under clauses (i) or (ii) is unremedied and is not waived by the holders of such Indebtedness prior to any termination of the Commitments or acceleration of the Loans pursuant to Article 7 and (y) notwithstanding the foregoing, no default or event of default (or any acceleration or right to accelerate as a result thereof) under the Target USPP Facility arising as a result of the steps, actions, events and/or other transactions and/or reorganizations and corporate restructurings, in each case, expressly contemplated by the E&Y Steps Memo (or any action or intermediate transactions necessary to implement each of the foregoing) shall give rise to a Default or Event of Default under this Section 7.01(b); or

(c) Breach of Certain Covenants. Failure of the Borrowers or any Loan Party, as required by the relevant provision, to perform or comply with any term or condition contained in Section 5.01(e)(i), Section 5.02 (as it applies to the preservation of the existence of the Borrowers), Section 5.11, Section 5.14(a), Section 5.14(b) or Article 6; provided that, notwithstanding this clause (c), a breach or default by any Loan Party under Section 6.15(a) will not constitute a Default or an Event of Default with respect to the Term Loans unless and until the Required Revolving Lenders have accelerated the Revolving Loans and terminated the commitments thereunder and demanded repayment of, or otherwise accelerated, the Indebtedness or other obligations thereunder (the “**Financial Covenant Standstill**”); it being understood and agreed that any breach or failure to comply with the terms of Section 6.15(a) is subject to cure as provided therein, and, if a Cure Right is then available, no Default or Event of Default may arise under Section 6.15(a) until the 15th Business Day after the day on which financial statements are required to be delivered for the relevant Fiscal Quarter under Sections 5.01(a) or (b), as applicable, and then only to the extent the Cure Amount has not been received on or prior to such date; or

(d) Breach of Representations, Etc. Any representation, warranty or certification made or deemed made by any Loan Party in any Loan Document or in any certificate required to be delivered in connection herewith or therewith (including, for the avoidance of doubt, any Perfection Certificate and any Perfection Certificate Supplement) shall be untrue in any material respect as of the date made or deemed made, subject, in the case of representations and warranties

that are capable of being cured, to a grace period of 30 days following the Lux Borrower's receipt of written notice of the inaccuracy of the relevant representation, warranty or certification; or

(e) Other Defaults Under Loan Documents. Any Loan Party shall default in the performance of or compliance with any term contained herein or any of the other Loan Documents, other than any such term referred to in any other Section of this Article 7, and such default shall not have been remedied or waived within thirty (30) days after receipt by the Lux Borrower of written notice from the Administrative Agent of such default; or

(f) Involuntary Bankruptcy; Appointment of Receiver, Etc. (i) A court of competent jurisdiction shall enter a decree or order for relief in respect of Holdings, the Borrowers or any of their respective Restricted Subsidiaries (other than an Immaterial Subsidiary) in an involuntary case or proceeding under any Debtor Relief Law now or hereafter in effect, which decree or order is not stayed; or any other similar relief shall be granted under any applicable federal, state, provincial or local law; or (ii) an involuntary case or proceeding shall be commenced against Holdings, the Borrowers or any of their respective Restricted Subsidiaries (other than an Immaterial Subsidiary) under any Debtor Relief Law; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, receiver and manager, liquidator, sequestrator, trustee, custodian, monitor or other officer having similar powers over Holdings, the Borrowers or any of their respective Restricted Subsidiaries (other than its Immaterial Subsidiaries), or over all or a substantial part of its property, shall have been entered; or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of Holdings, the Borrowers or any of their respective Restricted Subsidiaries (other than its Immaterial Subsidiaries) for all or a substantial part of its property; and any such event described in this clause (ii) shall continue for 60 consecutive days without having been dismissed, unvacated, bonded or discharged; or

(g) Voluntary Bankruptcy; Appointment of Receiver, Etc. (i) Holdings, any Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall have an order for relief entered with respect to it or shall commence a voluntary case or proceeding under any Debtor Relief Law, or shall consent to the entry of an order for relief in an involuntary case or proceeding, or to the conversion of an involuntary case or proceeding to a voluntary case or proceeding, under any such law, or shall consent to the appointment of or taking possession by a receiver, receiver and manager, trustee, monitor or other custodian for all or a substantial part of its property; or (ii) Holdings, any Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall make a general assignment for the benefit of creditors; or (iii) Holdings, any Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall admit in writing its inability to pay its debts as such debts become due; or

(h) Judgments and Attachments. Any one or more final money judgments, writs or warrants of attachment or similar process against the Lux Borrower or any of its Restricted Subsidiaries or any of their respective assets involving in the aggregate at any time an amount in excess of the Threshold Amount (in either case to the extent not adequately covered by self-insurance (if applicable) or by insurance as to which a third party insurance company has been notified and not denied coverage) shall be entered or filed against the Lux Borrower or any of its Restricted Subsidiaries or any of their respective assets and shall remain unpaid, undischarged, unvacated, unbonded or unstayed pending appeal for a period of 60 days; or

(i) Employee Benefit Plans. There shall occur one or more ERISA Event or Non-U.S. Plan Event, which individually or in the aggregate result in liability of the Borrowers or any of their respective Restricted Subsidiaries in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect; or

(j) Change of Control. A Change of Control shall occur; or

(k) Guaranties, Collateral Documents and Other Loan Documents. At any time after the execution and delivery thereof, in each case subject to the Legal Reservations, (i) any material Loan Guaranty for any reason, other than the occurrence of the Termination Date, shall cease to be in full force and effect (other than in accordance with its terms) or shall be declared to be null and void or any Loan Guarantor shall repudiate in writing its obligations thereunder (other than as a result of the discharge of such Loan Guarantor in accordance with the terms thereof), (ii) this Agreement or any material Collateral Document ceases to be in full force and effect (other than by reason of a release of Collateral in accordance with the terms hereof or thereof or the occurrence of the Termination Date or any other termination of such Collateral Document in accordance with the terms thereof) or shall be declared null and void, (iii) the Administrative Agent shall not have or shall cease to have a valid and perfected Lien in any Collateral purported to be covered by the Collateral Documents with the priority required by and subject to such limitations and restrictions as are set forth by the relevant Collateral Document (except to the extent (x) any such loss of perfection or priority results from the failure of the Administrative Agent or any Secured Party to take any action within its control, (y) such loss is covered by a lender's title insurance policy as to which the insurer has been notified of such loss and does not deny coverage and the Administrative Agent shall be reasonably satisfied with the credit of such insurer or (z) such loss of perfected security interest may be remedied by the filing of appropriate documentation without the loss of priority) and any such failure of such Lien to be valid and perfected shall have continued for a period of 30 consecutive days or (iv) any Loan Party shall contest the validity or enforceability of any material provision of any Loan Document in writing or deny in writing that it has any further liability (other than by reason of the occurrence of the Termination Date), including with respect to future advances by the Lenders, under any Loan Document to which it is a party; it being understood and agreed that the failure of the Administrative Agent to maintain possession of any Collateral actually delivered to it or file any UCC (or equivalent) continuation statement shall not result in an Event of Default under this clause (k) or any other provision of any Loan Document; or

(l) Subordination. The Obligations shall cease to constitute senior indebtedness under the subordination provisions of any document or instrument evidencing any permitted Subordinated Indebtedness in excess of the Threshold Amount or such subordination provision shall be invalidated or otherwise cease, for any reason, to be valid, binding and enforceable obligations of the parties thereto;

then, after the occurrence of the Closing Date, and in every such event (other than any Event of Default arising under Section 6.15(a)), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Lux Borrower, take any of the following actions, at the same or different times: (i) terminate the Revolving Credit Commitments and/or any Ancillary Commitments, and thereupon such Commitments and/or Ancillary Commitments shall terminate immediately, (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be

due and payable, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers, (iii) declare the obligations under any Ancillary Facility then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the obligations under any Ancillary Facility so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers, and (iv)(x) require that the Borrowers deposit in the LC Collateral Account an additional amount in Cash as reasonably requested by the Issuing Banks (not to exceed 100% of the relevant face amount) of the then outstanding LC Exposure (minus the amount then on deposit in the LC Collateral Account) or (y) require that the Borrowers deposit in the Bank Guarantee Collateral Account an additional amount in Cash as reasonably requested by the Guarantee Banks (not to exceed 100% of the relevant face amount) of the then outstanding Bank Guarantee Exposure (minus the amount then on deposit in the Bank Guarantee Collateral Account); provided that after the occurrence of the Closing Date (A) upon any Event of Default specified in clauses (f) or (g) above occurring or continuing with respect to a Borrower under the Bankruptcy Code or any Debtor Relief Laws of the United States, any such Commitments and/or Ancillary Commitments to such Borrower shall automatically terminate and the principal of the Loans and obligations under any Ancillary Facility owing by such Borrower then outstanding, together with accrued interest thereon and all fees and other obligations of such Borrower accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by such Borrower, and the obligation of such Borrower to Cash collateralize the outstanding Letters of Credit or Bank Guarantees as aforesaid shall automatically become effective, in each case without further action of the Administrative Agent or any Lender and (B) during the continuance of any Event of Default arising under Section 6.15(a), (X) upon the request of the Required Revolving Lenders (but not the Required Lenders or any other Lender or group of Lenders), the Administrative Agent shall, by notice to the Lux Borrower, (1) terminate the Revolving Credit Commitments, and thereupon such Revolving Commitments shall terminate immediately, (2) declare the Revolving Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Revolving Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers and (3)(a) require that the Borrowers deposit in the LC Collateral Account an additional amount in Cash as reasonably requested by the Issuing Banks (not to exceed 100% of the relevant face amount) of the then outstanding LC Exposure (minus the amount then on deposit in the LC Collateral Account) or (b) require that the Borrowers deposit in the Bank Guarantee Collateral Account an additional amount in Cash as reasonably requested by the Guarantee Banks (not to exceed 100% of the relevant face amount) of the then outstanding Bank Guarantee Exposure (minus the amount then on deposit in the Bank Guarantee Collateral Account) and (Y) subject to the Financial Covenant Standstill, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Lux Borrower, declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent may after the occurrence of the Closing Date, and at the request of the Required Lenders shall,

exercise any rights and remedies provided to the Administrative Agent under the Loan Documents or at law or equity, including all remedies provided under the UCC, or equivalent Requirement of Law, as applicable.

Notwithstanding any other provision in this Agreement or the other Loan Documents, until the initial Borrowings of the Loans hereunder have been made on the Closing Date, no Arranger nor any Lender or other Secured Party shall be entitled (except as provided for in Section 2.08(a)) to: (a) cancel any of its Commitments in respect of any Credit Facility, (b) other than on or prior to the Closing Date, to the extent the conditions precedent set forth in Section 4.02 have not been satisfied, refuse to participate in or make available any Loan, (c) exercise any right of set-off or counterclaim, rescission, termination or cancellation in respect of any Loan Document (including any Loan or utilizations thereunder) or any Credit Facility or exercise any similar right or remedy or take any action or make or enforce any claim under or in respect of the Loan Documents, (d) cancel, accelerate or cause repayment or prepayment of any amounts owing under the Loan Documents, or declare any such amount payable on demand and/or (e) take any action or make or enforce (or instruct the Administrative Agent and/or the Collateral Agent to take any action, make or enforce) any Collateral under the Loan Documents.

**Section 7.02. Clean-Up Period.** For the purpose of this Agreement, during the period (a) with respect to the Acquisition, commencing on the Closing Date until the date that is one hundred and twenty (120) days after the Closing Date or (b) with respect to a Permitted Acquisition, commencing on the date of closing of such Permitted Acquisition until the date that is ninety (90) days after the date of the consummation of such Permitted Acquisition (the applicable period, the “**Clean-Up Period**”), the occurrence of any event that would be a Default or Event of Default will be deemed not to be a Default or Event of Default under any Loan Document to the extent that such event (x) would have been a Default or Event of Default but for the provisions of this Section 7.02 and (y) relates solely to the Target and any of its subsidiaries (or in the case of a Permitted Acquisition, the relevant target and its subsidiaries); provided that such Default and/or Event of Default (i) is capable of being remedied within the Clean-Up Period and the Lux Borrower or its applicable Restricted Subsidiary is taking appropriate steps to remedy such Default or Event of Default, (ii) does not have a Material Adverse Effect; and (iii) was not procured or approved by the Lux Borrower or its Affiliates. For the avoidance of doubt, if the relevant event is continuing after the expiration of the Clean-Up Period, there shall be an Event of Default, as the case may be (without prejudice to any rights and remedies of the Administrative Agent and/or the Lenders).

## ARTICLE 8 THE ADMINISTRATIVE AGENT

### Section 8.01. The Administrative Agent.

Each of the Lenders, Issuing Banks and Guarantee Banks hereby irrevocably appoints ING Bank N.V. London Branch (or any successor appointed pursuant hereto) as Administrative Agent and authorizes the Administrative Agent to take such actions on its behalf hereunder and under any other Loan Document, including execution of the other Loan Documents, and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto.

Any Person serving as Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated, unless the context otherwise requires or unless such Person is in fact not a Lender, include each Person serving as Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may

accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Loan Parties or any subsidiary of a Loan Party or other Affiliate thereof as if it were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders. The Lenders acknowledge that, pursuant to such activities, the Administrative Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Administrative Agent shall not be under any obligation to provide such information to them.

The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing and without limiting the generality of the foregoing, the use of the term "agent" herein and in the other Loan Documents with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Requirements of Law; it is understood that such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary power, except discretionary rights and powers (1) that are expressly contemplated hereby or by the other Loan Documents and (2) that the Administrative Agent is required to exercise as directed in writing by the Required Lenders or Required Revolving Lenders (or such other number or percentage of the Lenders as shall be necessary under the relevant circumstances as provided in Section 9.02 and/or any Acceptable Intercreditor Agreement); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Requirements of Law, and (c) except as expressly set forth herein or in the other Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Restricted Subsidiaries or any of their respective Affiliates that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable to the Lenders or any other Secured Party for any action taken or not taken by it with the consent or at the request of the Required Lenders or Required Revolving Lenders (or such other number or percentage of the Lenders as is necessary, or as the Administrative Agent believes in good faith shall be necessary, under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein. The Administrative Agent shall not be deemed to have knowledge of any Default or Event of Default unless and until written notice thereof is given to the Administrative Agent by any Borrower or any Lender, and the Administrative Agent shall not be responsible (or have any liability) for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or in connection with any Loan Document, (iii) the performance or observance of any covenant, agreement or other term or condition set forth in any Loan Document or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the creation, perfection or priority of any Lien on the Collateral or the existence, value or sufficiency of the Collateral or to assure that the Liens granted to the Administrative Agent pursuant to this Agreement or any other Loan Document have been or will continue to be properly or sufficiently or lawfully created, perfected or enforced or are entitled to any particular priority or for any failure to monitor or maintain any portion of the Collateral, (vi) the satisfaction of any condition set forth in Article 4 or elsewhere in this

Agreement or any other Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent, (vii) the properties, books or records of any Loan Party or any Affiliate thereof or (viii) compliance by Affiliated Lenders with any term hereof relating to Affiliated Lenders.

The Administrative Agent, in its capacity as such, shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions (other than with respect to updating the list with names of Disqualified Institutions provided in writing to the Administrative Agent in accordance with the definition of "Disqualified Institution" or providing the list (with such updates) upon request in accordance with this Section 9.05). Without limiting the generality of the foregoing, the Administrative Agent, in its capacity as such, shall not (i) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Institution or whether any Lender has entered into an Obligations Derivative Instrument with a Disqualified Institution or (ii) have any liability with respect to or arising out of (x) any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Institution or (y) entry by a Lender into a Obligations Derivative Instrument with any Disqualified Institution.

Each Lender, Issuing Bank and Guarantee Bank acknowledges and agrees that neither such Lender, Issuing Bank and Guarantee Bank nor any of their respective Affiliates, participants or assignees, may rely on the Administrative Agent to carry out such Lender's, Issuing Bank's, Guarantee Bank's, Affiliate's, participant's or assignee's customer identification program, or other obligations required or imposed under or pursuant to any anti-terrorism Law, including any programs involving any of the following items relating to or in connection with the Loan Guarantors or their respective Subsidiaries, any of their respective Affiliates or agents, the Loan Documents or the transactions hereunder: (a) any identity verification procedures, (b) any record keeping, (c) any comparisons with government lists, (d) any customer notices or (e) any other procedures required under any anti-terrorism Law.

Each Lender agrees that, except with the written consent of the Administrative Agent, it will not take any enforcement action hereunder or under any other Loan Document, accelerate the Obligations under any Loan Document, or exercise any right that it might otherwise have under applicable Requirements of Law or otherwise to credit bid at any foreclosure sale, UCC sales (or comparable sales under applicable local Requirements of Law), any sale under Section 363 of the Bankruptcy Code (or comparable provisions under applicable Debtor Relief Laws) or other similar Dispositions of Collateral. Notwithstanding the foregoing, however, a Lender may take action to preserve or enforce its rights against a Loan Party where a deadline or limitation period is applicable that would, absent such action, bar enforcement of the Obligations held by such Lender, including the filing of proofs of claim in a case under the Bankruptcy Code (or comparable provisions under applicable Debtor Relief Laws).

Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, each of the Borrowers, the Administrative Agent and each Secured Party agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Loan Guaranty, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by the Administrative Agent, on behalf of the Secured Parties in accordance with the terms hereof and all powers, rights and remedies under the other Loan Documents may be exercised solely by the Administrative Agent, and (ii) in the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale or in the event of any other Disposition (including pursuant to Section 363 of the Bankruptcy Code (or comparable provisions under applicable Debtor Relief Laws)), (A) the Administrative Agent, as agent for and representative of the Secured Parties, shall be entitled, for

the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale, to use and apply all or any portion of the Obligations as a credit on account of the purchase price for any Collateral payable by the Administrative Agent at such Disposition and (B) the Administrative Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such Disposition.

No holder of Secured Hedging Obligations, Secured Banking Services Obligations or Ancillary Obligations, in its respective capacity as such, shall have any rights in connection with the management or release of any Collateral or of the obligations of any Loan Guarantor under this Agreement or any other Loan Document (other than as permitted in any Acceptable Intercreditor Agreement).

Each of the Lenders hereby irrevocably authorizes (and by entering into a Hedge Agreement with respect to Secured Hedging Obligations, by entering into documentation in connection with Secured Banking Services Obligations and/or by entering into any Ancillary Document in connection with any Ancillary Obligation, each of the other Secured Parties hereby authorizes and shall be deemed to authorize) the Administrative Agent, on behalf of all Secured Parties, subject to the terms of any applicable Intercreditor Agreement, to take any of the following actions upon the instruction of the Required Lenders:

- (a) consent to the Disposition of all or any portion of the Collateral free and clear of the Liens securing the Secured Obligations in connection with any such Disposition or other transfer pursuant to the applicable provisions of the Bankruptcy Code, including Section 363 thereof or otherwise pursuant to applicable Debtor Relief Laws;
- (b) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any Disposition of all or any portion of the Collateral pursuant to the applicable provisions of the Bankruptcy Code, including under Section 363 thereof or otherwise pursuant to applicable Debtor Relief Laws;
- (c) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any Disposition of all or any portion of the Collateral pursuant to the applicable provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC or the applicable provisions of applicable local Requirements of Law;
- (d) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any foreclosure or other Disposition conducted in accordance with applicable Requirements of Law following the occurrence of an Event of Default, including by power of sale, judicial action or otherwise; and/or
- (e) estimate the amount of any contingent or unliquidated Secured Obligations of such Lender or other Secured Party;

it being understood that no Lender shall be required to fund any amount in connection with any purchase of all or any portion of the Collateral by the Administrative Agent pursuant to the foregoing clauses (b), (c) or (d) without its prior written consent.

Each Lender and each other Secured Party agrees that the Administrative Agent is under no obligation to credit bid any part of the Secured Obligations or to purchase or retain or acquire any portion of the Collateral; provided that, in connection with any credit bid or purchase described under clause (b), (c) or (d) of the preceding paragraph, the Secured Obligations owed to all of the Secured Parties (other than with respect to contingent or unliquidated liabilities as set forth in the next succeeding paragraph) shall be entitled to be, and shall be, credit bid by the Administrative Agent on a ratable basis.

With respect to each contingent or unliquidated claim that is a Secured Obligation, the Administrative Agent is hereby authorized, but is not required, to estimate the amount of any such claim for purposes of any credit bid or purchase described in the second preceding paragraph so long as the estimation of the amount, fixing or liquidation of such claim would not unduly delay the ability of the Administrative Agent to credit bid the Secured Obligations or purchase the Collateral at such Disposition. In the event that the Administrative Agent, in its sole and absolute discretion, elects not to estimate any such contingent or unliquidated claim or any such claim cannot be estimated without unduly delaying the ability of the Administrative Agent to consummate any credit bid or purchase in accordance with the second preceding paragraph, then any contingent or unliquidated claims not so estimated shall be disregarded, shall not be credit bid, and shall not be entitled to any interest in the portion or the entirety of the Collateral purchased by means of such credit bid.

Subject in all respects to the provisions of any applicable Acceptable Intercreditor Agreement then in effect, each Secured Party whose Secured Obligations are credit bid under clauses (b), (c) or (d) of the third preceding paragraph shall be entitled to receive interests in the Collateral or other asset or assets acquired in connection with such credit bid (or in the Capital Stock of the acquisition vehicle or vehicles that are used to consummate such acquisition) on a ratable basis in accordance with the percentages obtained by dividing (x) the amount of the Secured Obligations of such Secured Party that were credit bid in such credit bid or other Disposition by (y) the aggregate amount of all Secured Obligations that were credit bid in such credit bid or other Disposition.

In addition, in case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, each Secured Party agrees that the Administrative Agent (irrespective of whether the principal of any Loan, LC Exposure or Bank Guarantee Exposure shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on any Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, LC Exposure or Bank Guarantee Exposure and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks, the Guarantee Banks and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Banks, the Guarantee Banks and the Administrative Agent and their respective agents and counsel and all other amounts to the extent due to the Lenders and the Administrative Agent under Sections 2.11 and 9.03) allowed in such judicial proceeding;

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and

(c) any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender, Issuing Bank and Guarantee Bank to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, the Issuing Banks and the Guarantee Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amount to the extent due to the Administrative Agent under Sections 2.11 and 9.03.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender, Issuing Bank or Guarantee Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender, Issuing Bank or Guarantee Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender, Issuing Bank or Guarantee Bank in any such proceeding.

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, the issuance of a Letter of Credit or the issuance of a Bank Guarantee, that by its terms must be fulfilled to the satisfaction of a Lender, the applicable Issuing Bank or the applicable Guarantee Bank, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender, Issuing Bank or Guarantee Bank prior to the making of such Loan, the issuance of such Letter of Credit or the issuance of such Bank Guarantee. The Administrative Agent may consult with legal counsel (who may be counsel for any Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder and under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of their respective duties and exercise their respective rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Administrative Agent. The Administrative Agent shall not be responsible for the gross negligence or willful misconduct of any sub-agent except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agent.

The Administrative Agent may resign at any time by giving ten days written notice to the Lenders, the Issuing Banks, the Guarantee Banks and the Lux Borrower. If the Administrative Agent is a Defaulting Lender or an Affiliate of a Defaulting Lender, either the Required Lenders or the Lux Borrower may, upon ten days' written notice, remove the Administrative Agent. Upon receipt of any such written notice of resignation or delivery of such written notice of removal, the Required Lenders shall have the right, with the consent of the Lux Borrower (not to be unreasonably withheld or delayed),

to appoint a successor Administrative Agent which shall be a commercial bank or trust company with an office in the U.S. having combined capital and surplus in excess of \$1,000,000,000; provided that during the existence and continuation of an Event of Default under Section 7.01(a) or, with respect to any Borrower, Section 7.01(f) or (g), no consent of the Lux Borrower shall be required. If no successor (i) shall have been so appointed as provided above and (ii) shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation or the Administrative Agent receives notice of removal, then (a) in the case of a retirement, the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Lenders, the Issuing Banks and the Guarantee Banks, appoint a successor Administrative Agent meeting the qualifications set forth above (including, for the avoidance of doubt, the Lux Borrower consent, if required) or (b) in the case of a removal, the Lux Borrower may, after consulting with the Required Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that (x) in the case of a retirement, if the Administrative Agent shall notify the Lux Borrower, the Lenders, the Issuing Banks and the Guarantee Banks that no qualifying Person has accepted such appointment or (y) in the case of a removal, the Lux Borrower notifies the Required Lenders that no qualifying Person has accepted such appointment, then, in each case, such resignation or removal shall nonetheless become effective in accordance with such written notice and (A) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent in its capacity as collateral agent for the Secured Parties for purposes of maintaining the perfection of the Lien on the Collateral securing the Secured Obligations, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (B) all payments, communications and determinations required to be made by, to or through the Administrative Agent shall instead be made by or to each Lender, Issuing Bank and Guarantee Bank directly (and each Lender, Issuing Bank and Guarantee Bank will cooperate with the Borrowers to enable the Borrowers to take such actions), until such time as the Required Lenders or the Lux Borrower, as applicable, appoint a successor Administrative Agent, as provided for above in this Article 8. Upon the acceptance of its appointment as Administrative Agent hereunder as a successor Administrative Agent, such successor Administrative Agent shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring (or retired) or removed Administrative Agent (other than any rights to indemnity payments owed to the retiring Administrative Agent), and the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under each other Loan Document. The fees payable by any Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Lux Borrower and such successor Administrative Agent. After the Administrative Agent's resignation or removal hereunder, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any action taken or omitted to be taken by any of them while the relevant Person was acting as Administrative Agent (including for this purpose holding any collateral security following the retirement or removal of the Administrative Agent). Notwithstanding anything to the contrary herein, no Disqualified Institution (nor any Affiliate thereof) may be appointed as a successor Administrative Agent.

Each Lender, each Issuing Bank, each Guarantee Bank and each Ancillary Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender, each Issuing Bank, each Guarantee Bank and each Ancillary Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their respective Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to

make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or related agreement or any document furnished hereunder or thereunder (including with respect to any Additional Agreement). Except for notices, reports and other documents expressly required to be furnished to the Lenders, the Issuing Banks, the Guarantee Banks and Ancillary Lenders by the Administrative Agent herein, the Administrative Agent shall not have any duty or responsibility to provide any Lender, Issuing Bank, Guarantee Bank or Ancillary Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of the Administrative Agent or any of its Related Parties.

Anything herein to the contrary notwithstanding, the Arrangers and the joint bookrunners shall not have any right, power, obligation, liability, responsibility or duty under this Agreement (other than as set forth in Section 9.13 hereof), except in their respective capacities as the Administrative Agent, an Issuing Bank, a Guarantee Bank or a Lender hereunder, as applicable.

Subject to the terms of any Acceptable Intercreditor Agreement, each Secured Party irrevocably authorizes and instructs the Administrative Agent to, and the Administrative Agent shall,

(a) release any Lien on any property granted to or held by Administrative Agent under any Loan Document (i) upon the occurrence of the Termination Date, (ii) that is sold or to be sold or transferred as part of or in connection with any Disposition permitted under the Loan Documents to a Person that is not a Loan Party, (iii) that does not constitute (or ceases to constitute) Collateral, (iv) if the property subject to such Lien is owned by a Subsidiary Guarantor, upon the release of such Subsidiary Guarantor from its Loan Guaranty otherwise in accordance with the Loan Documents, (v) as required under clause (d) below or (vi) if approved, authorized or ratified in writing by the Required Lenders in accordance with Section 9.02; provided that no such release under clause (a)(iv) shall occur if such Subsidiary Guarantor is a Revolving Borrower, unless such Subsidiary Guarantor complies (or has complied) with Section 2.24(c) substantially contemporaneously therewith;

(b) release any Subsidiary Guarantor (other than Allnex Holdings) from its obligations under the Loan Guaranty (i) if such Person ceases to be a Restricted Subsidiary (or becomes an Excluded Subsidiary) as a result of a single transaction or related series of transactions permitted hereunder; provided that, no such release under this clause (b) shall occur if such Subsidiary Guarantor is a Revolving Borrower, unless such Subsidiary Guarantor complies (or has complied) with Section 2.24(c) substantially contemporaneously therewith; and/or (ii) upon the occurrence of the Termination Date (this clause (b), together with clause (a) above, collectively, the “**Release Provisions**”); provided that, if such Subsidiary Guarantor becomes an Excluded Subsidiary solely because it qualifies as an Excluded Subsidiary of the type described in clause (a) of the definition thereof, the release of such Subsidiary Guarantor from its obligations under the Loan Guaranty shall only be permitted to the extent that (1) after such Subsidiary Guarantor becomes such an Excluded Subsidiary solely of such type, the Lux Borrower so elects, (2) after giving effect to such release, the Lux Borrower shall be in compliance with the Collateral Coverage Requirement on a Pro Forma Basis and (3) to the extent any Restricted Subsidiary became a Subsidiary Guarantor in order to consummate a merger, consolidation or amalgamation permitted under clause (iii)(x) of the proviso to Section 6.07(a), any such release under clause (i) hereof shall constitute an Investment as if such merger, consolidation or amalgamation had been consummated pursuant to clause (iii)(y) of the proviso to Section 6.07(a) as of the date of such release; provided further that, no such release shall occur if

such Subsidiary Guarantor continues to be a guarantor in respect of any Incremental Equivalent Debt or any permitted refinancing in respect of any of the foregoing;

(c) subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02(d), 6.02(e), 6.02(g), 6.02(l), 6.02(m), 6.02(n), 6.02(o)(i), 6.02(q) (in each case, other than any Lien on the Capital Stock of such Restricted Subsidiaries granted to the Administrative Agent for the benefit of the Secured Parties unless such Lien is necessary to remain in compliance with the Collateral Coverage Requirement), 6.02(r), 6.02(s), 6.02(u) (to the extent the relevant Lien is of the type to which the Lien of the Administrative Agent is otherwise required to be subordinated under this clause (c) pursuant to any of the other exceptions to Section 6.02 that are expressly included in this clause (c) (other than Section 6.02(ii))), 6.02(x), 6.02(y), 6.02(z)(i), 6.02(bb), 6.02(cc), 6.02(dd) (in the case of clause (i), to the extent the relevant Lien covers cash collateral posted to secure the relevant obligation), 6.02(ee), 6.02(gg) and/or 6.02(ii) (to the extent that relevant Lien is of the type to which the Lien of the Administrative Agent is otherwise required to be subordinated under this clause (c) pursuant to any of the other exceptions to Section 6.02 that are expressly included in this clause (c) (other than Section 6.02(u))) (and any Refinancing Indebtedness in respect of any of the foregoing to the extent permitted to be secured under Section 6.02(k)); provided that, the subordination of any Lien on any property granted to or held by the Administrative Agent shall only be required with respect to any Lien on such property that is permitted by Sections 6.02(l), 6.02(o)(i), 6.02(q), 6.02(r), 6.02(s), 6.02(u) and/or 6.02(bb) to the extent that the Lien of the Administrative Agent with respect to such property is required to be subordinated to the relevant Permitted Lien in accordance with the documentation governing the Indebtedness that is secured by such Permitted Lien; and

(d) enter into subordination, intercreditor and/or similar agreements with respect to (i) Indebtedness that is (x) required or permitted to be subordinated hereunder and/or (y) secured by Liens, and which Indebtedness and/or Liens, this Agreement contemplates an intercreditor, subordination, collateral trust agreement or similar agreement and/or (ii) any Capital Stock or Subordinated Shareholder Debt; it being agreed that

Upon the request of the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release, share or subordinate its interest in particular types or items of property, or to release any Loan Guarantor from its obligations under the Loan Guaranty or its Lien on any Collateral pursuant to this Article 8 hereunder. In each case as specified in this Article 8, the Administrative Agent will (and each Lender, Issuing Bank and Guarantee Bank hereby authorizes the Administrative Agent to), at the Borrowers' expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents or to share and/or subordinate its interest in such item, or to release such Loan Guarantor from its obligations under the Loan Guaranty, in each case in accordance with the terms of the Loan Documents and this Article 8; provided that, upon the request of the Administrative Agent, the Lux Borrower shall deliver a certificate of a Responsible Officer certifying that the relevant transaction has been consummated in compliance with the terms of this Agreement.

The Administrative Agent is authorized to enter into any Acceptable Intercreditor Agreement and/or any other intercreditor or similar agreement contemplated hereby with respect to any (a) Indebtedness (i) that is (A) required or permitted to be subordinated hereunder, (B) secured by Liens and/or (C) otherwise required hereto to be subject to an Acceptable Intercreditor Agreement and (ii) with

respect to which Indebtedness and/or Liens, this Agreement contemplates an intercreditor, subordination, collateral trust or similar agreement and/or (b) Secured Hedging Obligations and/or Secured Banking Services Obligations, whether or not constituting Indebtedness (any such other intercreditor, subordination, collateral trust agreement or similar agreement, an “**Additional Agreement**”), and the parties hereto acknowledge that any Additional Agreement is binding upon them. Each Lender, Issuing Bank and Guarantee Bank (a) hereby consents to the subordination of the Liens on the Collateral securing the Secured Obligations on the terms set forth in any Additional Agreement, (b) hereby agrees that it will be bound by and will take no actions contrary to the provisions of any Additional Agreement and (c) hereby authorizes and instructs the Administrative Agent to enter into any Additional Agreement and to subject the Liens on the Collateral securing the Secured Obligations to the provisions thereof. The foregoing provisions are intended as an inducement to the Secured Parties to extend credit to the Borrowers and such Secured Parties are intended third-party beneficiaries of such provisions and the provisions of any Additional Agreement.

To the extent the Administrative Agent (or any affiliate thereof) is not reimbursed and indemnified by the Borrowers, the Lenders will reimburse and indemnify the Administrative Agent (and any affiliate thereof) in proportion to their respective Applicable Percentage (determined as if there were no Defaulting Lenders) for and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, costs, expenses or disbursements of whatsoever kind or nature which may be imposed on, asserted against or incurred by the Administrative Agent (or any affiliate thereof) in performing its duties hereunder or under any other Loan Document or in any way relating to or arising out of this Agreement or any other Loan Document or the execution or delivery of the Cashless Settlement Letter by the Administrative Agent and/or the performance by the Administrative Agent of all obligations thereunder or transactions contemplated thereby; provided that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent’s (or such affiliate’s) gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision).

The Administrative Agent and the Initial Signing Date Lenders acknowledge and agree that (i) until notice to release the funds held in the Debt Escrow Account (as defined in the Escrow Deed) has been delivered to Computershare (as defined in the Escrow Deed) in accordance with Section 3.2(c) of the Escrow Deed, each Initial Signing Date Lender shall retain all of its respective right, title and interest in and with respect to its respective portion (based on the amount contributed by such Initial Signing Date Lender) of the Debt Escrow Amount (as defined in the Escrow Deed) (including any interest earned and dividends, distributions or other returns received in respect of such Debt Escrow Account) deposited by such Initial Signing Date Lender, directly or indirectly, with Computershare (as defined in the Escrow Deed) and (ii) the Administrative Agent, acting in its capacity as such, shall have no right, title or interest in the Debt Escrow Amount. Notwithstanding anything to the contrary contained herein, the Administrative Agent agrees that (x) it will not take any action (or omit to take any action) under the Escrow Deed prior to receiving written instructions from the Initial Signing Date Lenders with respect to such actions (or omissions) and (y) it will not omit to take any action under the Escrow Deed after receipt of written instructions from the Initial Signing Date Lenders with respect to such actions. The Administrative Agent further agrees that upon its receipt of the Debt Amount (as defined in the Escrow Deed) or any other amounts held in the Debt Account (as defined in the Escrow Deed), from the Hedge Bank (as defined in the Funding and Logistics Memorandum) after the Debt Amount has been converted from New Zealand dollars to a combination of Dollars and Euros in accordance with the Transaction Settlement Agreement, it shall immediately distribute such amounts to the Initial Signing Date Lenders (or any Initial Signing Date Lender that is a fronting bank on their behalf) in an amount equal to such

Initial Signing Date Lender's (or such Initial Signing Date Lender that is a fronting bank's) proportionate share thereof. In addition, the Administrative Agent agrees that upon its receipt of any reimbursement payment, indemnification payment or payment of any other amounts received under the Transaction Settlement Agreement, it shall immediately distribute such amounts to the Initial Signing Date Lenders (or any Initial Signing Date Lender that is a fronting bank on their behalf) in an amount equal to such Initial Signing Date Lender's (or such Initial Signing Date Lender that is a fronting bank's) proportionate share thereof. Upon the satisfaction or waiver of the conditions specified in Section 4.02 (other than those conditions that shall be satisfied substantially concurrently with the closing of the Acquisition or the initial Borrowings hereunder on the Closing Date), each Initial Signing Date Lender hereby agrees to immediately deliver any notice required under this Agreement to authorize the Administrative Agent to send the notice authorizing release of the funds under the Escrow Deed in accordance with Section 3.2(c) of the Escrow Deed.

Section 8.02. German Agency Provisions. For the purposes of any German Security (where "**German Security**" means any security interest created under the Collateral Documents governed by German law), in addition to the provisions set out above in this Article 8, the specific provisions set out in clauses (a) through (f) below of this paragraph shall be applicable. With respect to German Security, in the case of any inconsistency, the provisions set forth in this paragraph shall prevail. The provisions set out in clauses (a) through (f) below of this paragraph shall not constitute a trust pursuant to the laws of the State of New York. Subject to clauses (a) through (f) below, the Administrative Agent shall hold any German Security as security trustee for the Secured Parties.

(a) With respect to any German Security constituted by non-accessory (*nicht akzessorische*) security interests, the Administrative Agent shall hold, administer and, as the case may be, enforce or release such German Security in its own name, but for the account of the Secured Parties.

(b) In the case of German Security constituted by accessory (*akzessorische*) security interests created by way of pledge or other accessory instruments, the Administrative Agent shall administer and, as the case may be, enforce or release such German Security in the name of and for and on behalf of the Secured Parties and hold (with regard to its own rights under Section 9.21) such German Security in its own name on the basis of the abstract acknowledgement of indebtedness pursuant to Section 9.21.

(c) With regard to any Collateral Document creating any accessory (*akzessorische*) German Security and for the purposes of entering into any such Collateral Document, performing the rights and obligations thereunder, amending, enforcing and/or releasing such Collateral Document, each Secured Party hereby instructs and authorizes the Administrative Agent to act as its agent (*Stellvertreter*), and releases the Administrative Agent from the restrictions imposed by Section 181 German Civil Code (*Bürgerliches Gesetzbuch*) and similar restrictions applicable to it pursuant to any other applicable law, in each case to the extent legally possible to such Secured Party. A Secured Party which is barred by its constitutional documents or by-laws from granting such exemption shall notify the Administrative Agent accordingly.

(d) At the request of the Administrative Agent, each Secured Party shall provide the Administrative Agent with a separate written power of attorney (*Spezialvollmacht*) for the purposes of executing any German Security on their behalf. Each Secured Party hereby ratifies and approves all acts previously done by the Administrative Agent on such Secured Party's behalf with respect to any German Security.

(e) The Administrative Agent accepts its appointment as agent and administrator of the German Security on the terms and subject to the conditions set out in this Agreement and the Secured Parties (other than the Administrative Agent), the Administrative Agent and all other parties to this Agreement agree that, in relation to the German Security, no Secured Party (other than the Administrative Agent) shall exercise any independent power to enforce any German Security or take any other action in relation to the enforcement of the German Security, or make or receive any declarations in relation thereto.

(f) Each Secured Party (other than the Administrative Agent) hereby instructs the Administrative Agent (with the right of sub-delegation) to enter into any documents evidencing German Security and to make and accept all declarations and take all actions it considers necessary or useful in connection with any German Security on behalf of such Secured Party (other than the Administrative Agent). The Administrative Agent shall further be entitled to rescind, release, amend and/or execute new and different documents securing the German Security.

Section 8.03. Italian Agency Provisions. For the purposes of any Italian Security (where “**Italian Security**” means any security interest created under the Collateral Documents governed by Italian law), in addition to the provisions set out above in this Article 8, the specific provisions set out in clauses (a) through (d) below of this paragraph shall be applicable. With respect to Italian Security, in the case of any inconsistency, the provisions set forth in this paragraph shall prevail. Each of the Secured Parties hereby:

(a) appoints, in all cases of conflict of interest and self-dealing, in accordance with Article 1394 of the Italian Civil Code, and with the express consent pursuant to article 1395 (*Contratto con se stesso*) of the Italian Civil Code, the Administrative Agent to be its agent (*mandatario con rappresentanza*) for the purpose of executing in the name and on behalf of Secured Parties any Collateral Document to which it is a party and which is expressed to be governed by Italian law;

(b) grants the Administrative Agent the power to negotiate and approve the terms and conditions of such Collateral Document which is expressed to be governed by Italian law and any amendment thereof, execute any other agreement or instrument, give or receive any notice or declaration, identify and specify to third parties the names of the Secured Parties at any given date, and take any other action in relation to the creation, perfection, maintenance, enforcement and release of the security created thereunder in the name and on behalf of the Secured Parties;

(c) confirms that in the event that any security created under the Collateral Documents which are expressed to be governed by Italian law remains registered in the name of a Secured Party after it has ceased to be a Secured Party then the Administrative Agent shall remain empowered to execute a release of such security in its name and on its behalf; and

(d) undertakes to ratify and approve any such action taken in the name and on behalf of the Secured Parties by the Administrative Agent acting in its appointed capacity.

Section 8.04. Austrian Agency Provisions. For the purposes of any Security governed by Austrian law which is pledged (*verpfändet*) or otherwise transferred to any Secured Party under an accessory security right (*akzessorische Sicherheit*) (the “**Austrian Security**”), in addition to the provisions set out above in this Article 8, the specific provisions set out in clauses (a) through (d) below of this paragraph shall be applicable. With respect to Austrian Security, in the case of any inconsistency, the provisions set forth in this paragraph shall prevail; further, in case of interpretation, the German text shall prevail.

(a) The Administrative Agent shall administer any Austrian Security as agent (*Auftragnehmer*) of the other Secured Parties, and each Secured Party (other than the Administrative Agent) unconditionally releases the Administrative Agent from any restriction of self-contracting (*In-Sich-Geschäft*) and/or double representation (*Doppelvertretung*) under Austrian law, both of which is herewith explicitly approved by the respective Secured Party.

(b) The Administrative Agent shall hold (with regard to its own rights under Section 9.21), administer and, as the case may be, enforce or release such Austrian Security in the name of and for and on behalf of the Secured Parties and in its own name on the basis of the abstract acknowledgement of indebtedness pursuant to Section 9.21(b).

(c) Each Secured Party (other than the Administrative Agent) hereby authorises the Administrative Agent (whether or not by or through employees or agents): (i) to exercise such rights, remedies, powers and discretions as are specifically delegated to or conferred upon the Administrative Agent under the Collateral Documents in connection with any Austrian Security together with such powers and discretions as are reasonably incidental thereto; (ii) to take such action on its behalf as may from time to time be authorized under or in accordance with the Collateral Documents in connection with any Austrian Security; and (iii) to accept and enter into as its representative (*Stellvertreter*) any pledge or other creation of any accessory security right granted in favor of such Secured Party in connection with any Austrian Security, negotiate, sign and accept as authorized representative (*Stellvertreter*) of each Secured Party (other than the Administrative Agent) any Austrian Security, and agree to and execute on its behalf as its representative (*Stellvertreter*) any amendments, confirmations and/or alterations to any Collateral Documents governed by Austrian law.

(d) The Administrative Agent accepts its appointment as agent and administrator of the Austrian Security on the terms and subject to the conditions set out in this Agreement and the Secured Parties (other than the Administrative Agent), the Administrative Agent and all other parties to this Agreement agree that, in relation to the Austrian Security, no Secured Party (other than the Administrative Agent) shall exercise any independent power to enforce any Austrian Security or take any other action in relation to the enforcement of the Austrian Security, or make or receive any declarations in relation thereto.

Section 8.05. Canadian Agency Provision. For the purposes of any security interest created under the Collateral Documents governed by Canadian Law, it is understood and agreed by the parties hereto that, as part of its duties and functions, the Administrative Agent shall serve as the hypothecary representative for all present and future Secured Parties, as contemplated by Article 2692 of the Civil Code of the Province of Québec.

## ARTICLE 9 MISCELLANEOUS

### Section 9.01. Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or email, as follows:

(i) if to any Loan Party, to such Loan Party in the care of the Lux Borrower at:

ALLNEX S.À R.L.  
Square Marie Curie 11  
1070 Brussels, Belgium  
Attn: Duncan Taylor  
Tel.: 32-2560-4571  
Fax: 32-2560-4521  
Email: duncan.taylor@allnex.com

with copy to (which shall not constitute notice to any Loan Party):

ALLNEX S.À R.L.  
Square Marie Curie 11  
1070 Brussels, Belgium  
Attn: Marie VanIn  
Tel: 32-2560-4661  
Fax: 32-2560-4523  
Email: marie.vanin@allnex.com

ALLNEX S.À R.L.  
Square Marie Curie 11  
1070 Brussels, Belgium  
Attn: Frederic Gadenne  
Tel.: 32-2560-4658  
Fax: 32-2560-4521  
Email: frederic.gadenne@allnex.com

ALLNEX USA INC.  
C/O ALLNEX S.À R.L.  
Square Marie Curie 11  
1070 Brussels, Belgium  
Attn: Frederic Gadenne  
Tel.: 32-2560-4658  
Fax: 32-2560-4521  
Email: frederic.gadenne@allnex.com

AI GLOBAL INVESTMENTS & CY S.C.A.  
Corporate Manager

2-4 rue Beck  
L-1222 Luxembourg  
Attn: Laurent Henen  
Tel : +352 266 388 113  
Fax : +352 266 388 199  
E-mail: lhenen@aiglbl.lu

Weil, Gotshal & Manges, LLP  
767 5th Avenue  
New York, NY 10153  
Attn: Allison Liff  
Tel.: (212) 310-8118  
Fax: (212) 310-8007  
Email: allison.liff@weil.com

(ii) if to the Administrative Agent, at:

ING BANK N.V., LONDON BRANCH  
8-10 Moorgate, London,  
EC2R 6DA  
Tel: + 44 20 7767 5617  
Fax: + 44 20 7767 7324  
Email: craig.baker@uk.ing.com

(iii) if to any other Lender, to it at its address or facsimile number set forth in its Administrative Questionnaire.

All such notices and other communications (A) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof or three Business Days after dispatch if sent by certified or registered mail, in each case, delivered, sent or mailed (properly addressed) to such party as provided in this Section 9.01 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 9.01 or (B) sent by facsimile shall be deemed to have been given when sent and when receipt has been confirmed by telephone; provided that, notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, such notices or other communications shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in clause (b) below shall be effective as provided in such clause (b).

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications (including e-mail and Internet or Intranet websites) pursuant to procedures set forth herein or otherwise approved by the Administrative Agent. The Administrative Agent or the Lux Borrower (on behalf of any Loan Party) may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures set forth herein or otherwise approved by it (it being agreed that the Administrative Agent shall accept notices by email for notices delivered pursuant to Section 2.07 in connection with Term Loans); provided that approval of such procedures may be limited to particular notices or communications. All such notices and other communications (i) sent to an

e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that if not given during the normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day for the recipient, and (ii) posted to an Internet or Intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (b)(i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto; it being understood and agreed that the Borrowers may provide any such notice to the Administrative Agent as recipient on behalf of itself, the Swingline Lender, each Issuing Bank and each Lender.

#### Section 9.02. Waivers; Amendments.

(a) No failure or delay by the Administrative Agent, any Issuing Bank, any Guarantee Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks, the Guarantee Banks and the Lenders hereunder and under any other Loan Document are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any party hereto therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 9.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, to the extent permitted by applicable Requirements of Law, the making of a Loan, issuance of a Letter of Credit or issuance of a Bank Guarantee shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Administrative Agent, any Lender, Issuing Bank or Guarantee Bank may have had notice or knowledge of such Default or Event of Default at the time.

(b) Subject to clauses (A), (B), (C) and (D) of this Section 9.02(b) and Sections 9.02(c) and (d) below and the terms of any Acceptable Intercreditor Agreement, neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified, except (i) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrowers and the Required Lenders (or the Administrative Agent with the consent of the Required Lenders) or (ii) in the case of any other Loan Document (other than any such waiver, amendment or modification to effectuate any modification thereto expressly contemplated by the terms of such other Loan Documents), pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, with the consent of the Required Lenders; provided that, notwithstanding the foregoing:

(A) the written consent of each Lender directly and adversely affected thereby (but without the necessity of obtaining the consent of the Required Lenders) shall be required for any waiver, amendment or modification that:

(1) increases the Commitment of such Lender (other than with respect to any Incremental Facility pursuant to Section 2.21 in respect of which such Lender has agreed to be an Additional Lender); it being understood that no amendment, modification or waiver of, or consent to departure from, any condition precedent, representation, warranty, covenant, Default, Event of Default, mandatory prepayment or mandatory reduction of the Commitments shall constitute an increase of any Commitment of such Lender;

(2) reduces or forgives the principal amount of any Loan owed to such Lender or reduces or forgives any amount due on any Loan Installment Date;

(3) (x) extends the scheduled final maturity of any Loan, or (y) postpones any Loan Installment Date, any Interest Payment Date with respect to any Loan held by such Lender or the date of any scheduled payment of any fee or premium payable hereunder to such Lender (in each case, other than extension for administrative reasons agreed by the Administrative Agent);

(4) reduces the rate of interest (other than to waive any Default or Event of Default and/or obligations of the Borrowers to pay interest at the default rate of interest under Section 2.12(d), which shall only require the consent of the Required Lenders) or the amount of any fee or premium owed to such Lender; it being understood that any change in the definition of "First Lien Leverage Ratio" or any other ratio used in the calculation of the Applicable Rate or the Commitment Fee Rate, or the calculation of any other interest, fee or premium due hereunder (including any component definition thereof) shall not constitute a reduction in any rate of interest or fees hereunder;

(5) extends the expiry date of such Lender's Commitments; it being understood that no amendment, modification or waiver of, or consent to departure from, any condition precedent, representation, warranty, covenant, Default, Event of Default, mandatory prepayment or mandatory reduction of the Commitments shall constitute an extension of any Commitment of any Lender;

(6) waives, amends or modifies the provisions of Sections 2.17(b) or 2.17(c) of this Agreement in a manner that would by its terms alter the *pro rata* sharing of payments required thereby (except in connection with transactions permitted under Sections 2.21, 2.22, 9.02(c), 9.05(f)(ii) and/or 9.05(g) or as otherwise provided in this Section 9.02);

(7) change the currency in which any Obligation is due and payable to such Lender; and

(B) no such agreement shall:

(1) change (x) any of the provisions of Section 9.02(a) or Section 9.02(b) or the definition of "Required Lenders" to reduce any of the voting percentages required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the prior written consent of each Lender or (y) the definition of "Required Revolving Lenders", without the prior written consent of each Revolving Lender (it being understood that neither the consent of the Required Lenders nor the consent of any other Lender shall be required in connection with any change to the definition of "Required Revolving Lenders");

(2) release all or substantially all of the Collateral from the Lien granted pursuant to the Loan Documents (except as otherwise permitted herein or in the other Loan Documents, including pursuant to Article 8 or Section 9.23 hereof), without the prior written consent of each Lender;

(3) release all or substantially all of the value of the Guarantees under the Loan Guaranty (except as otherwise permitted herein or in the other Loan Documents, including pursuant to Section 9.23 hereof), without the prior written consent of each Lender; or

(4) amend or waive any condition precedent to a Credit Extension under the Revolving Facility without the prior written consent of the Required Revolving Lenders;

(C) solely with the written consent of the Required Revolving Lenders (but without the necessity of obtaining the consent of the Required Lenders or any other Lender), any such agreement may waive, amend or modify (1) Section 6.15 (or the definition of First Lien Leverage Ratio or any component definition thereof, in each case, as any such definition is used for purposes of such Section 6.15) for purposes of determining compliance or observance of such Section 6.15 (other than, in the case of Section 6.15(a), for purposes of determining compliance with such Section as a condition to taking any action under this Agreement) and (2) any condition precedent set forth in Section 4.03 as it pertains to any Revolving Loan, Letter of Credit or Bank Guarantee; and

(D) solely with the written consent of the relevant Issuing Bank and Guarantee Bank, and in the case of clause (x), the Administrative Agent, any such agreement may (x) increase or decrease the Letter of Credit and Bank Guarantee Sublimit or (y) waive, amend or modify any condition precedent set forth in Section 4.03 hereof as it pertains to the issuance of any Letter of Credit or Bank Guarantee;

provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, any Issuing Bank, Guarantee Bank or the Swingline Lender hereunder without the prior written consent of the Administrative Agent, such Issuing Bank,

Guarantee Bank or the Swingline Lender, as the case may be. The Administrative Agent may also amend the Commitment Schedule to reflect assignments entered into pursuant to Section 9.05, Commitment reductions or terminations pursuant to Section 2.08, the incurrence of Additional Commitments or Additional Loans pursuant to Sections 2.21, 2.22 or 9.02(c) and the reduction or termination of any such Additional Commitments or Additional Loans. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitments of such Lender may not be increased without the consent of such Lender (it being understood that any Commitment or Loan held or deemed held by any Defaulting Lender shall be excluded from a vote of the Lenders hereunder requiring any consent of the Lenders, except as expressly provided in Section 2.20(b)). Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrowers (i) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the relevant benefits of this Agreement and the other Loan Documents and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders on substantially the same basis as the Lenders prior to such inclusion.

(c) Notwithstanding the foregoing, this Agreement may be amended:

(i) with the written consent of the relevant Borrower and the Lenders providing the relevant Replacement Term Loans to permit the refinancing or replacement of all or any portion of the outstanding Term Loans or any then-existing Additional Term Loans under the applicable Class (such loans being refinanced or replaced, the “**Replaced Term Loans**”) with one or more replacement term loans hereunder (“**Replacement Term Loans**”) pursuant to a Refinancing Amendment; provided that

(A) the aggregate principal amount of such Replacement Term Loans shall not exceed the aggregate principal amount of such Replaced Term Loans (*plus* (x) any additional amounts permitted to be incurred under Section 6.01 and, to the extent any such additional amounts are secured, the related Liens are permitted under Section 6.02 and *plus* (y) the amount of accrued interest and premium (including tender premium) thereon and underwriting discounts, fees (including upfront fees and original issue discount), commissions and expenses associated therewith),

(B) such Replacement Term Loans have a final maturity date equal to or later than the final maturity date of, and have a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, such Replaced Term Loans at the time of such refinancing,

(C) any Class of Replacement Term Loans may be *pari passu* with or junior to any then-existing Class of Term Loans in right of payment and *pari passu* with or junior to such Class of Term Loans with respect to the Collateral or may be unsecured (provided that, subject to the last paragraph of Section 6.01, such Replacement Term Loans shall be subject to an Acceptable Intercreditor Agreement and may be, at the option of the Administrative Agent and the relevant Borrower, documented in a separate agreement or agreements),

(D) if any such Replacement Term Loans are secured, they shall not be secured by any assets other than the Collateral,

(E) if any such Replacement Term Loans are guaranteed, they shall not be guaranteed by any Person other than one or more Loan Parties,

(F) any Replacement Term Loans that are pari passu in right of payment and security with any then existing Term Loans may be made on (x) with respect to voluntary prepayments, a pro rata, lesser than pro rata and/or greater than pro rata basis with such existing Term Loans and (y) with respect to mandatory prepayments, a pro rata and/or less than pro rata basis with such existing Term Loans (but not on a greater than pro rata basis),

(G) such Replacement Term Loans shall have pricing (including interest, fees and premiums) and, subject to preceding clause (F), optional prepayment and redemption terms as may be agreed to by the relevant Borrower and the lenders providing such Replacement Term Loans,

(H) no Event of Default under Sections 7.01(a), 7.01(f) or 7.01(g) shall exist immediately prior to or after giving effect to the effectiveness of such replacement, and

(I) the other terms and conditions of such Replacement Term Loans (excluding pricing, interest, fees, rate floors, premiums, optional prepayment or redemption terms, security and maturity date, subject to preceding clauses (B), (C), (D), (E), (F) and (G)) shall be (i) substantially identical to, or (taken as a whole) no more favorable (as reasonably determined by the relevant Borrower) to the lenders providing such Replacement Term Loans than those applicable to the Replaced Term Loans (other than any covenants or other provisions applicable only to periods after the Latest Term Loan Maturity Date (in each case, as of the date of incurrence of such Replacement Term Loans)), (ii) on then-current market terms for such type of Indebtedness (as reasonably determined by the relevant Borrower) or (iii) reasonably acceptable to the Administrative Agent (it being agreed that terms and conditions of such Replacement Term Loans that are more favorable to the lenders or the agent of such Replacement Term Loans than those contained in the Loan Documents and are then conformed (or added) to the Loan Documents for the benefit of the Term Lenders or, as applicable, the Administrative Agent (i.e., by conforming or adding a term to the then-outstanding Term Loans pursuant to an amendment) shall be deemed satisfactory to the Administrative Agent), and

(ii) with the written consent of the Lux Borrower and the Lenders providing the relevant Replacement Revolving Facility to permit the refinancing or replacement of all or any portion of the Revolving Credit Commitment or any Additional Revolving Commitments under the applicable Class (a “**Replaced Revolving Facility**”) with a replacement revolving facility hereunder (a “**Replacement Revolving Facility**”) pursuant to a Refinancing Amendment; provided that:

(A) the aggregate principal amount of such Replacement Revolving Facility shall not exceed the aggregate principal amount of such Replaced Revolving Facility (*plus* (x) any additional amounts permitted to be incurred under Section 6.01 and, to the extent any such additional amounts are secured, the related Liens are permitted under Section 6.02 and *plus* (y) the amount of accrued interest and premium thereon, any committed but undrawn amounts and underwriting discounts, fees (including upfront fees and original issue discount), commissions and expenses associated therewith),

(B) no Replacement Revolving Facility shall have a final maturity date (or require commitment reductions) prior to the final maturity date of such Replaced Revolving Facility at the time of such refinancing,

(C) any Class of Replacement Revolving Facility may be *pari passu* with or junior to any then-existing Class of Revolving Credit Commitments in right of payment and *pari passu* with or junior to any then-existing Class of Revolving Facility with respect to the Collateral with the remaining portion of the relevant Revolving Credit Commitments or may be unsecured (provided that, subject to the last paragraph of Section 6.01, such Replacement Revolving Facility shall be subject to an Acceptable Intercreditor Agreement and may be, at the option of the Administrative Agent and the Lux Borrower, documented in a separate agreement or agreements),

(D) if any such Replacement Revolving Facility is secured, it shall not be secured by any assets other than the Collateral,

(E) if any such Replacement Revolving Facility is guaranteed, it shall not be guaranteed by any Person other than one or more Loan Parties,

(F) any such Replacement Revolving Facility shall be subject to the same “ratability” provisions applicable to Extended Revolving Credit Commitments and Extended Revolving Loans provided for in the proviso in clause (ii) of Section 2.22(a), *mutatis mutandis*, to the same extent as if fully set forth herein,

(G) such Replacement Revolving Facilities shall have pricing (including interest, fees and premiums) and, subject to preceding clause (F), optional prepayment and redemption terms as may be agreed to by the Lux Borrower and the lenders providing such Replacement Revolving Facilities,

(H) no Event of Default under Sections 7.01(a), 7.01(f) or 7.01(g) shall exist immediately prior to or after giving effect to the effectiveness of such replacement, and

(I) the other terms and conditions of such Replacement Revolving Facility (excluding pricing, interest, fees, rate floors, premiums, optional prepayment or redemption terms, security and maturity date, subject to preceding clauses (B), (C), (D), (E), (F) and (G)) shall be (i) substantially identical to, or (taken as a whole) no more favorable (as reasonably determined by the relevant

Borrower) to the lenders providing such Replacement Revolving Facility than those applicable to the Replaced Revolving Facility (other than any covenants or other provisions applicable only to periods after the Latest Revolving Loan Maturity Date (in each case, as of the date of incurrence of such Replacement Revolving Facility)), (ii) on then-current market terms for such type of Indebtedness (as reasonably determined by the relevant Borrower) or (iii) reasonably acceptable to the Administrative Agent (it being agreed that terms and conditions of such Replacement Revolving Facility that are more favorable to the lenders or the agent of such Replacement Revolving Facility than those contained in the Loan Documents and are then conformed (or added) to the Loan Documents for the benefit of the Revolving Lenders or, as applicable, the Administrative Agent (i.e., by conforming or adding a term to the then-outstanding Revolving Loans pursuant to an amendment) shall be deemed satisfactory to the Administrative Agent), and

(J) the Replaced Revolving Facility commitments shall be terminated, and all fees in connection therewith shall be paid, on the date such Replacement Revolving Facility is issued, incurred or obtained;

provided, further, that, in respect of each of clauses (i) and (ii) above, any Non-Debt Fund Affiliate and Debt Fund Affiliate shall (x) be permitted (without Administrative Agent consent) to provide such Replacement Term Loans, it being understood that in connection with such Replacement Term Loans, any such Non-Debt Fund Affiliate or Debt Fund Affiliate, as applicable, shall be subject to the restrictions applicable to such Persons under Section 9.05 as if such Replacement Term Loans were Term Loans and (y) Debt Fund Affiliates (but not Non-Debt Fund Affiliates) may provide any Replacement Revolving Facility.

Each of the parties hereto hereby agrees that, upon the effectiveness of any Refinancing Amendment, this Agreement shall be amended by the relevant Borrower, the Administrative Agent and the lenders providing the relevant Replacement Term Loans or the Replacement Revolving Facility, as applicable, to the extent (but only to the extent) necessary to reflect the existence and terms of the Replacement Term Loans or the Replacement Revolving Facility, as applicable, incurred pursuant thereto (including any amendments necessary to treat the loans and commitments subject thereto as a separate “tranche” and “Class” of Loans and commitments hereunder). It is understood that any Lender approached to provide all or a portion of Replacement Term Loans or a Replacement Revolving Facility may elect or decline, in its sole discretion, to provide such Replacement Term Loans or Replacement Revolving Facility.

To the extent any Replacement Term Loans or Replacement Revolving Facility cannot be secured *pari passu* with the then-existing Term Loans or Revolving Credit Commitments under the Initial Collateral Documents in a manner in which the security interests under such Initial Collateral Documents are not first released or amended, without resulting in the application of new Hardening Periods to the enforceability of the Initial Collateral Documents, the Loan Parties agree that such Replacement Term Loans or Replacement Revolving Facility will (to the extent permitted by applicable Requirements of Law) be secured pursuant to the execution of Additional Collateral Documents on a second or lesser-ranking basis. Notwithstanding the immediately preceding sentence, to the extent permitted by applicable law, any Replacement Term Loans or Replacement Revolving Facility which does not benefit from the Initial Collateral Documents on a *pari passu* basis with the Credit Facilities will nonetheless be deemed and treated for the purpose of this Agreement and any Additional Agreement as being secured by the

Initial Collateral Documents and the Additional Collateral Documents *pari passu* with other Obligations which would otherwise have the same ranking.

(d) Notwithstanding anything to the contrary contained in this Section 9.02 or any other provision of this Agreement or any other Loan Document, (i) guaranties, collateral security agreements, pledge agreements and related documents (if any) executed by the Loan Parties in connection with this Agreement and/or any provision of this Agreement may be amended, supplemented and/or waived with the consent of the Administrative Agent at the request of the Borrowers (or the Lux Borrower on behalf of Borrowers) without the input or need to obtain the consent of any other Lenders to (x) comply with Requirements of Law or advice of local counsel or (y) in the case of such guaranties, collateral security agreements, pledge agreements or other documents, be consistent with this Agreement and the other Loan Documents, (ii) the Borrowers and the Administrative Agent may, without the input or consent of any other Lender (other than the relevant Lenders providing Loans under such Sections), effect amendments to this Agreement and the other Loan Documents as may be necessary in the reasonable opinion of the Borrowers and the Administrative Agent to (x) effect the provisions of Sections 2.21, 2.22, 5.12, 6.13 or 9.02(c), or any other provision specifying that any waiver, amendment or modification may be made with the current or approval of the Administrative Agent and/or (y) to add terms (including representations and warranties, conditions, prepayments, covenants or events of default), in connection with the addition of any Indebtedness permitted hereunder, that are favorable to the then-existing Lenders, as reasonably determined by the Administrative Agent, (iii) if the Administrative Agent and the Borrowers have jointly identified any ambiguity, mistake, defect, inconsistency, obvious error or any error or omission of a technical nature or any necessary or desirable technical change, in each case, in any provision of any Loan Document, then the Administrative Agent and the Borrowers shall be permitted to amend such provision solely to address such matter as reasonably determined by them acting jointly, (iv) any Acceptable Intercreditor Agreement and any other subordination, collateral trust, intercreditor and/or similar agreements entered into in connection with this Agreement, may be amended, supplemented and/or waived with the consent of the Administrative Agent at the request of the Lux Borrower without need to obtain the consent of any other Lender (x) as provided therein or (y) to (1) comply with Requirements of Law or the advice of counsel or (2) give effect thereto or to carry out the purposes thereof and to reflect amendments, supplements, waivers and/or other modifications with respect to the treatment of any Capital Stock (including all Qualified Capital Stock) or Indebtedness to address any change in the methodology applied by any ratings agency in providing a rating of Holdings and its subsidiaries, any Parent Company or the debt of any of the foregoing Persons (including with respect to any methodology or approach applied in any rating agency in its treatment of Capital Stock, shareholder debt or other similar instruments) so long as such amendment, supplement, waiver or modification is not materially adverse to the Lenders; provided that, for purposes of clarity, it is understood and agreed that any amendment, supplement or waiver effecting a change to permit transactions permitted under Section 6.04 and/or Section 6.07 hereof shall not be deemed to be adverse to the Lenders, (v) no amendment, modification or waiver of any provision of any Ancillary Document shall require the consent of any Lender other than the relevant Ancillary Lender, (vi) on or prior to the Closing Date (except with respect to (I) those matters set forth in Section 9.02(b)(A) through (D) above, which shall be subject to the requirements set forth therein and (II) any amendment, modification or waiver of any provision with respect to the Funding and Logistics Memorandum or any other document relating to the funding of the Loans on the Closing Date, which shall require the consent of each Initial Signing Date Lender (such consent not to be unreasonably withheld, conditioned or delayed)), this Agreement and the other Loan Documents (including any exhibits and/or

schedules thereto) may be amended solely with the consent of the Lux Borrower and the Required Initial Signing Date Lenders (and without the consent of the Administrative Agent, any other Arranger, any Lender, any Issuing Bank, any Guarantee Bank, the Swingline Lender and/or any other Person); provided that, with respect to any exhibits and/or schedules which are not attached as of the Signing Date, such Exhibits and/or Schedules shall (x) be negotiated in good faith to finalize such exhibits and/or schedules as promptly as reasonably practicable and, if applicable, be based on and no less favorable to the Borrowers as the corresponding exhibits and/or schedules of those under the documentation governing the Existing Credit Agreement or otherwise provided for in the Fee Letter (in each case, after giving effect to the (I) the operational and strategic requirements of the Lux Borrower and its subsidiaries in light of their consolidated capital structure, size, industry and practices (including, without limitation, the leverage profile and projected free cash flow generation of the Lux Borrower and its subsidiaries), in each case, after giving effect to the Transactions, (II) the Projections and (III) the Agreed Security Principles) and (y) be attached as exhibits and schedules hereto once agreed between (1) in the case of all exhibits and schedules (other than the Funding and Logistics Memorandum) the Lux Borrower and the Required Initial Signing Date Lenders (without the consent of the Administrative Agent, any other Arranger, any Lender, any Issuing Bank, any Guarantee Bank, the Swingline Lender and/or any other Person) and (2) in the case of the Funding and Logistics Memorandum, the Lux Borrower, the Administrative Agent and each Initial Signing Date Lender and (vii) after the Closing Date and prior to the date that is 60 days after the Closing Date, the Lux Borrower and the Required Initial Signing Date Lenders may, without the consent of the Administrative Agent, any other Arranger, any Lender, any Issuing Bank, any Guarantee Bank, the Swingline Lender and/or any other Person, effect amendments to this Agreement and the other Loan Documents (including any exhibits and/or schedules thereto) as may be necessary in the reasonable opinion of the Lux Borrower and the Required Initial Signing Date Lenders to add or amend terms that are favorable to the then-existing Lenders, as reasonably determined by the Required Initial Signing Date Lenders.

#### Section 9.03. Expenses; Indemnity.

(a) The Borrowers shall pay (i) if the Closing Date occurs, all reasonable and documented out-of-pocket expenses incurred by each Arranger, the Administrative Agent and their respective Affiliates (but limited, in the case of legal fees and expenses, to the actual reasonable and documented out-of-pocket fees, disbursements and other charges of one firm of outside counsel to all such persons taken as a whole and, if necessary, of one local counsel in any relevant jurisdiction to such Persons, taken as a whole) in connection with the syndication and distribution (including via the Internet or through a service such as Intralinks) of the Credit Facilities, the preparation, execution, delivery and administration of the Loan Documents and related documentation on and prior to the Closing Date, including in connection with any amendments, modifications or waivers of the provisions of any Loan Documents (whether or not the transactions contemplated thereby shall be consummated, but only to the extent such amendments, modifications or waivers were requested by the Borrowers to be prepared) on and prior to the Closing Date, (ii) after the Closing Date, all reasonable and documented out-of-pocket expenses incurred by each Arranger, the Administrative Agent and their respective Affiliates (but limited, in the case of legal fees and expenses, to the actual reasonable and documented out-of-pocket fees, disbursements and other charges of one firm of outside counsel to all such persons taken as a whole and, if necessary, of one local counsel in any relevant jurisdiction to such Persons, taken as a whole) in connection with the preparation, execution, delivery and administration of the Loan Documents and related documentation, including in connection with

any amendments, modifications or waivers of the provisions of any Loan Documents after the Closing Date (whether or not the transactions contemplated thereby shall be consummated, but only to the extent such amendments, modifications or waivers were requested by the Borrowers to be prepared) and (iii) after the Closing Date, all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, the Arrangers, the Issuing Banks, the Guarantee Banks or the Lenders and each of their respective Affiliates (but limited, in the case of legal fees and expenses, to the actual reasonable and documented out-of-pocket fees, disbursements and other charges of one firm of outside counsel to all such persons taken as a whole and, if necessary, of one local counsel in any relevant jurisdiction to such persons, taken as a whole) in connection with the enforcement, collection or protection of each of their rights in connection with the Loan Documents, including each of their rights under this Section, or in connection with the Loans made and/or Letters of Credit or Bank Guarantees issued hereunder. Other than to the extent required to be paid on the Closing Date, all amounts due under this paragraph (a) shall be payable by the Borrowers within 30 days of receipt of an invoice relating thereto, setting forth such expenses in reasonable detail and together with backup documentation supporting such reimbursement requests.

(b) The Borrowers shall indemnify each Arranger, the Administrative Agent, each Issuing Bank, each Guarantee Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (but limited, in the case of legal fees and expenses, to the actual reasonable and documented out-of-pocket fees, disbursements and other charges of one counsel to all Indemnitees taken as a whole and, solely in the case of an actual or perceived conflict of interest, one additional counsel to all affected Indemnitees, taken as a whole, and, if reasonably necessary, one local counsel in any relevant jurisdiction to all Indemnitees, taken as a whole and, solely in the case of a conflict of interest, one additional local counsel to all affected Indemnitees, taken as a whole), incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the syndication and distribution (including through a service such as Intralinks) of the Credit Facilities, the execution or delivery of the Loan Documents or any agreement or instrument contemplated thereby, the performance by the parties hereto of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated hereby or thereby (except for any Taxes, which shall be governed exclusively by Section 2.16), (ii) the use of the proceeds of the Loans, any Letter of Credit or any Bank Guarantee, (iii) any actual or alleged Release or presence of Hazardous Materials on, at, under or from any property currently or formerly owned, leased or operated by the Borrower, any of its Restricted Subsidiaries or any other Loan Party or any Environmental Liability related to the Borrower, any of its Restricted Subsidiaries or any other Loan Party, (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto (and regardless of whether such matter is initiated by a third party or by the Borrowers, any other Loan Party or any of their respective Affiliates) or (v) with respect to the Administrative Agent only, the execution or delivery of the Cashless Settlement Letter by the Administrative Agent and/or the performance by the Administrative Agent of all obligations thereunder or transactions contemplated thereby; provided that such indemnity shall not, as to any Indemnitee (including, for the avoidance of doubt, the Administrative Agent as an Indemnitee under clause (v) above), be available to the extent that such losses, claims, damages, liabilities or related expenses (i) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee or of any

Affiliate of such Indemnitee or, to the extent such judgment finds such losses, claims, damages, liabilities or related expenses to have resulted from such Indemnitee's material breach of the Loan Documents or (ii) arise out of any claim, litigation, investigation or proceeding brought by such Indemnitee (or its Related Parties) against another Indemnitee (or its Related Parties) (other than any claim, litigation, investigation or proceeding brought by or against the Administrative Agent or any Arranger, acting in its capacity as the Administrative Agent or as an Arranger) that does not involve any act or omission of the Sponsor, Holdings, the Lux Borrower or any of their Subsidiaries. Each Indemnitee shall be obligated to refund or return any and all amounts paid by any Borrower pursuant to this Section 9.03(b) to such Indemnitee for any fees, expenses, or damages to the extent such Indemnitee is not entitled to payment of such amounts in accordance with the terms hereof. All amounts due under this paragraph (b) shall be payable by the Borrowers within 30 days (x) after written demand thereof, in the case of any indemnification obligations and (y) in the case of reimbursement of costs and expenses, after receipt of an invoice relating thereto, setting forth such expenses in reasonable detail and together with backup documentation supporting such reimbursement requests. This Section 9.03(b) shall not apply to Taxes other than any Taxes that represent losses, claims, damages or liabilities in respect of a non-Tax claim.

(c) The Borrowers shall not be liable for any settlement of any proceeding effected without the written consent of the Lux Borrower (which consent shall not be unreasonably withheld, delayed or conditioned), but if any proceeding is settled with the written consent of the Lux Borrower, or if there is a final judgment against any Indemnitee in any such proceeding, the Borrowers agree to indemnify and hold harmless each Indemnitee to the extent and in the manner set forth above. The Borrowers shall not, without the prior written consent of the affected Indemnitee (which consent shall not be unreasonably withheld, conditioned or delayed), effect any settlement of any pending or threatened proceeding in respect of which indemnity could have been sought hereunder by such Indemnitee unless (i) such settlement includes an unconditional release of such Indemnitee from all liability or claims that are the subject matter of such proceeding and (ii) such settlement does not include any statement as to any admission of fault or culpability.

**Section 9.04. Waiver of Claim.** To the extent permitted by applicable law, no party to this Agreement shall assert, and each hereby waives, any claim against any other party hereto or any Related Party thereof, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan, Letter of Credit or Bank Guarantee or the use of the proceeds thereof, except, in the case of a claim by any Indemnitee against any of the Borrowers, to the extent such damages would otherwise be subject to indemnification pursuant to the terms of Section 9.03.

**Section 9.05. Successors and Assigns.**

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby; provided that (i)(A) prior to the Closing Date, the Borrowers may not assign or otherwise transfer any of their rights or obligations hereunder without the prior written consent of each Initial Signing Date Lender (not to be unreasonably withheld, delayed or conditioned) (and any attempted assignment or transfer by any Borrower without such consent shall be null and void) and (B) after the Closing Date, except as provided under Section 6.07, the Borrowers may not assign or otherwise transfer

any of their rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by any Borrower without such consent shall be null and void), (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section (any attempted assignment or transfer not complying with the terms of this Section shall be null and void) and (iii) no assignment or other transfer of an Initial Signing Date Lender's rights or obligations hereunder shall be effective until the Closing Date. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Arrangers, the Administrative Agent, the Issuing Banks, the Guarantee Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of the Loans or Additional Commitments added pursuant to Section 2.21, 2.22 or 9.02(c) at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Lux Borrower; provided that, after the Closing Date, the Lux Borrower shall have been deemed to have consented to any assignment of Term Loans or Term Commitments unless it shall have objected thereto by written notice to the Administrative Agent within fifteen (15) Business Days after receiving written notice thereof; provided, further, that no consent of the Lux Borrower shall be required for an assignment to, in the case of the Term Facility or any Additional Term Facility, another Lender, an Affiliate of a Lender, an Approved Fund or, in either case, if an Event of Default under Section 7.01(a) or Section 7.01(f) or (g) (solely with respect to any Borrower) has occurred and is continuing, any other Eligible Assignee (but in any case, excluding any Disqualified Institution);

(B) the Administrative Agent; and

(C) in the case of the Revolving Facility or any Additional Revolving Facility, any Issuing Bank, Guarantee Bank and the Swingline Lender.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to another Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Loans or commitments of any Class, the principal amount of Loans or commitments of the assigning Lender subject to each such assignment (determined as of the date the Assignment Agreement with respect to such assignment is delivered to the Administrative Agent and determined on an aggregate basis in the event of concurrent assignments to Related Funds or by Related Funds (as defined below)) shall not be less than \$1,000,000 in the case of Term Loans (or €1,000,000 in the case of any Tranche B-1 Term Loans or other Term Loans denominated in Euros) and €5,000,000 in

the case of the Revolving Facility unless each of the Lux Borrower and the Administrative Agent otherwise consent;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent the applicable Assignment Agreement via an electronic settlement system acceptable to the Administrative Agent (or, if previously agreed with the Administrative Agent, manually), and, unless the Administrative Agent agrees otherwise in its sole discretion and excluding an assignment or transfer (i) to an Affiliate of a Lender, (ii) to a Related Fund or (iii) made in connection with the primary syndication of the Initial Term Loans, the assignee shall, on or before the date upon which each assignment takes effect pursuant to this Section 9.05(b), pay (or shall have caused payment) to the Administrative Agent (for its own account) a processing and recordation fee of \$3,500 (the "**Assignment Fee**"); provided that for concurrent assignments or transfers to two or more Related Funds such Assignment Fee shall only be required to be paid once at the time of such assignment or transfers;

(D) the Eligible Assignee, if it shall not be a Lender, shall deliver on or prior to the effective date of such assignment, to the Administrative Agent (1) an Administrative Questionnaire and (2) any Internal Revenue Service forms required under Section 2.16; and

(E) no assignment or transfer may be made to a person incorporated or acting through a facility office located in a Non-Cooperative Jurisdiction.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section 9.05 and in all cases to the provisions of Section 9.05(a)(iii), from and after the effective date specified in each Assignment Agreement, the Eligible Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment Agreement, have the rights and obligations of a Lender under this Agreement (including with respect to any Ancillary Facility), and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment Agreement, be released from its obligations under this Agreement (and, in the case of an Assignment Agreement covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 9.03 with respect to facts and circumstances occurring on or prior to the effective date of such assignment and subject to its obligations thereunder and under Section 9.13). If any such assignment by a Lender holding a Promissory Note hereunder occurs after the issuance of any Promissory Note hereunder to such Lender, the assigning Lender shall, upon the effectiveness of such assignment or as promptly thereafter as practicable, surrender such Promissory Note to the Administrative Agent for cancellation, and thereupon the applicable Borrower shall issue and deliver a new Promissory Note, if so requested by the assignee and/or assigning Lender, to such assignee and/or to such assigning Lender, with appropriate insertions, to reflect the new commitments and/or outstanding Loans of the assignee and/or the

assigning Lender. Notwithstanding anything to the contrary in this Agreement, no Initial Signing Date Lender shall be relieved, released or novated from its obligations hereunder (including its obligation to fund its Applicable Percentage (determined as of the Signing Date) of the Initial Revolving Facility and the Initial Term Loans on the Closing Date if the conditions set forth in Section 4.02 are satisfied or waived) in connection with any syndication, assignment, participation or other transfer until after the initial funding of the Initial Revolving Loans (if any) and the Initial Term Loans on the Closing Date.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrowers, shall maintain at one of its offices a copy of each Assignment Agreement delivered to it and a register for the recordation of the names and addresses of the Lenders and their respective successors and assigns, and the commitment of, and principal amount of and interest on the Loans, LC Disbursements and Bank Guarantee Disbursements owing to, each Lender, Issuing Bank or Guarantee Bank pursuant to the terms hereof from time to time (the “**Register**”). Failure to make any such recordation, or any error in such recordation, shall not affect the Borrowers’ obligations in respect of such Loans, LC Disbursements and Bank Guarantee Disbursements. The entries in the Register shall be conclusive, absent manifest error, and the Borrowers, the Administrative Agent, the Issuing Banks, the Guarantee Banks and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers, the Issuing Banks, the Guarantee Banks and any Lender (but only as to its own holdings), at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment Agreement executed by an assigning Lender and an Eligible Assignee, the Eligible Assignee’s completed Administrative Questionnaire and tax certifications required by Section 9.05(b)(ii)(D)(2) (unless the assignee shall already be a Lender hereunder), the Assignment Fee, if applicable, and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall promptly accept such Assignment Agreement and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(vi) By executing and delivering an Assignment Agreement, the assigning Lender thereunder and the Eligible Assignee thereunder shall be deemed to confirm and agree with each other and the other parties hereto as follows: (A) such assigning Lender warrants that it is the legal and beneficial owner of the interest being assigned thereby free and clear of any adverse claim and that its commitments, and the outstanding balances of its Loans, in each case without giving effect to assignments thereof which have not become effective, are as set forth in such Assignment Agreement, (B) except as set forth in clause (A) above, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement, or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto, or the financial condition of the Borrowers or any Restricted Subsidiary or the performance or

observance by the Borrowers or any Restricted Subsidiary of any of its obligations under this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto; (C) such assignee represents and warrants that it is an Eligible Assignee, legally authorized to enter into such Assignment Agreement; (D) such assignee confirms that it has received a copy of this Agreement and any Additional Agreement then in existence, together with copies of the most recent financial statements referred to in Section 3.04(a) or delivered pursuant to Section 5.01 and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment Agreement; (E) such assignee will independently and without reliance upon the Administrative Agent, such assigning Lender or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (F) such assignee appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent, by the terms hereof, together with such powers as are reasonably incidental thereto; and (G) such assignee agrees that it will perform in accordance with their terms all the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(c) (i) Any Lender may, without the consent of any Borrower, the Administrative Agent, the Issuing Banks, the Guarantee Banks, the Swingline Lender or any other Lender, sell participations to one or more banks or other entities (other than to any Disqualified Institution, any natural Person or, other than with respect to participations to Debt Fund Affiliates (any such participations to Debt Fund Affiliates being subject to the limitations set forth in Section 9.05(g)), the Borrowers or any of their Affiliates) (a “**Participant**”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its commitments and the Loans owing to it); provided that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrowers, the Administrative Agent, the Issuing Banks, the Guarantee Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in (x) clause (A) to the first proviso to Section 9.02(b) that directly and adversely affects the Loans or commitments in which such Participant has an interest and (y) clauses (B)(1), (2) or (3) to the first proviso to Section 9.02(b). Subject to paragraph (c)(ii) of this Section, the Borrowers agree that each Participant shall be entitled to the benefits of Sections 2.14, 2.15 and 2.16 (subject to the limitations and requirements of such Sections) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.09 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.17(c) as though it were a Lender.

(ii) No Participant shall be entitled to receive any greater payment under Section 2.14, 2.15 or 2.16 than the applicable participating Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale

of the participation to such Participant is made with the Lux Borrower's prior written consent expressly acknowledging such Participant may receive a greater benefit. A Participant that would be a Non-US Lender if it were a Lender shall not be entitled to the benefits of Section 2.16 unless the Lux Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrowers, to comply with Section 2.16(f) as though it were a Lender and deliver the tax forms required to claim an exemption from or reduction of withholding Tax with respect to payments made under any Loan document and then only to the extent of any amount to which such Lender would be entitled in the absence of any such participation. No Participant shall be incorporated or acting through a facility office located in a Non-Cooperative Jurisdiction.

Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and their respective successors and assigns, the principal amounts and stated interest of each Participant's interest in the Loans or other obligations under the Loan Documents (the "**Participant Register**"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans, Letters of Credit, Bank Guarantees or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the U.S. Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(d) (i) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (other than to any Disqualified Institution or natural person) to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank or other central bank having jurisdiction over such Lender, and this Section 9.05 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(ii) No Lender, acting in its capacity as a Lender (or any Affiliate or other Person acting on such Lender's behalf) may at any time enter into a total return swap, total rate of return swap, credit default swap or other derivative instrument under which any Secured Obligation is the sole reference obligation (or a reference obligation constituting at least 25% of the weight in any bucket of such derivative instruments) (any such swap or other derivative instrument, an "**Obligations Derivative Instrument**") if:

(A) in respect of a total return swap or total rate of return swap, such Obligations Derivative Instrument is with any Disqualified Institution and the Lender (or any of its Affiliates or any other Person acting on such Lender's behalf) has acted as the swap provider; or

(B) in respect of a credit default swap, any Disqualified Institution has acted as the swap provider;

provided that, for the avoidance of doubt, nothing in this clause shall prohibit the activities of a Lender that occur on the public side of an information barrier unless such person is acting in its capacity as a Lender or on behalf of an entity which is acting in its capacity as Lender; and provided further that, (x) notwithstanding the foregoing, in no event shall Confidential Information be shared with any counterparty to an Obligations Derivatives Instrument that is a Disqualified Institution and each Lender shall be required to comply with the provisions of Section 9.13 hereof in connection with any transactions involving Obligations Derivative Instruments and (y) in the event of any Obligations Derivative Instrument in violation of the foregoing, the Lux Borrower has the right to require the unwind of the applicable Obligations Derivative Instrument at the sole cost and expense of the applicable Lender.

(e) Notwithstanding anything to the contrary contained herein, any Lender (a “**Granting Lender**”) may grant to a special purpose funding vehicle (an “**SPC**”), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Lux Borrower, the option to provide to the Borrowers all or any part of any Loan that such Granting Lender would otherwise be obligated to make to the Borrowers pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to make any Loan, (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof and (iii) in no event may any Lender grant any option to provide to the Borrowers all or any part of any Loan that such Granting Lender would have otherwise been obligated to make to the Borrowers pursuant to this Agreement to any Disqualified Institution. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrowers under this Agreement (including its obligations under Section 2.14, 2.15 or 2.16) and no SPC shall be entitled to any greater amount under Section 2.12, 2.13 or 2.14 or any other provision of this Agreement or any other Loan Document that the Granting Lender would have been entitled to receive, (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender) and (iii) the Granting Lender shall for all purposes including approval of any amendment, waiver or other modification of any provision of the Loan Documents, remain the Lender of record hereunder. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the U.S. or any State thereof; provided that (i) in the case of the Borrowers, such SPC’s Granting Lender is in compliance in all material respects with its obligations to the Borrowers hereunder and (ii) each Lender designating any SPC hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such SPC during such period of forbearance. In addition, notwithstanding anything to the contrary contained in this Section 9.05, any SPC may (i) with notice to, but

without the prior written consent of, the Lux Borrower or the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guaranty or credit or liquidity enhancement to such SPC.

(f) (i) Any assignment, participation or, subject to Section 9.05(d)(ii), entry into an Obligations Derivative Instrument by a Lender without the Lux Borrower's consent (A) to or with any Disqualified Institution or (B) to the extent the Lux Borrower's consent is required under this Section 9.05, to any other Person, shall be null and void, and the Lux Borrower shall be entitled to seek specific performance to unwind any such assignment or participation in addition to any other remedies available to the Lux Borrower at law or in equity; it being understood and agreed that Holdings, the Lux Borrower and its subsidiaries will suffer irreparable harm if any Lender breaches any obligation under this Section 9.05 as it relates to any assignment, participation or pledge of any Loan or Commitment to any Disqualified Institution or any other Person to whom the Lux Borrower's consent is required but not obtained. Upon the request of any Lender, the Lux Borrower shall make available to such Lender the list of Disqualified Institutions provided to the Arrangers prior to the Signing Date, along with any additions to such list provided to the Administrative Agent and the Arrangers after the Signing Date pursuant to the definition of "Disqualified Institution" and such Lender or the Administrative Agent may provide the list to any potential assignee or participant or counterparty to an Obligations Derivative Instrument on a confidential basis in accordance with Section 9.13 for the purpose of verifying whether such Person is a Disqualified Institution.

(ii) If any assignment or participation under this Section 9.05 is made to any Affiliate of any Disqualified Institution (other than any Bona Fide Debt Fund) without the Lux Borrower's prior written consent (any such person, a "**Disqualified Person**"), then the Lux Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Person and the Administrative Agent, (A) terminate any Commitment of such Disqualified Person and repay all obligations of the Borrowers owing to such Disqualified Person, (B) in the case of any outstanding Term Loans, held by such Disqualified Person, purchase such Term Loans by paying the lesser of (x) par and (y) the amount that such Disqualified Person paid to acquire such Term Loans, plus accrued interest thereon, accrued fees and all other amounts payable to it hereunder and/or (C) require such Disqualified Person to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 9.05), all of its interests, rights and obligations under this Agreement to one or more Eligible Assignees; provided that (I) in the case of clause (B), the applicable Disqualified Person has received payment of an amount equal to the lesser of (1) par and (2) the amount that such Disqualified Person paid for the applicable Loans and participations in Letters of Credit, Bank Guarantees and Swingline Loans, plus accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the Borrowers, (II) in the case of clauses (A) and (B), the Borrowers shall be liable to the relevant Disqualified Person under Section 2.15 if any Eurocurrency Rate Loan owing to such Disqualified Person is repaid or purchased other than on the last day of the Interest Period relating thereto and (III) in the case of clause (C), the relevant assignment shall otherwise comply with this Section 9.05 (except that (x) no registration and processing fee required under this Section 9.05 shall be required with any assignment pursuant to this paragraph and (y) any Term Loan acquired by any Affiliated Lender pursuant to this paragraph will not be included in calculating

compliance with the Affiliated Lender Cap for a period of 90 days following such transfer; provided that, to the extent the aggregate principal amount of Term Loans held by Affiliated Lenders exceeds the Affiliated Lender Cap on the 91st day following such transfer, then such excess amount shall either be (x) contributed to Holdings, the Borrowers or any of their subsidiaries and retired and cancelled immediately upon such contribution or (y) automatically cancelled)). Nothing in this Section 9.05(f) shall be deemed to prejudice any right or remedy that Holdings or the Borrowers may otherwise have at law or equity.

(g) Notwithstanding anything to the contrary contained herein, any Lender may, at any time, assign all or a portion of its rights and obligations under this Agreement in respect of its Term Loans to an Affiliated Lender on a *non-pro rata* basis (A) through Dutch Auctions open to all Lenders holding the Term Loans, on a *pro rata* basis or (B) through open market purchases, in each case with respect to clauses (A) and (B), without the consent of the Administrative Agent; provided that:

(i) any Term Loans acquired by Holdings, any Borrower or any of their respective Restricted Subsidiaries shall, to the extent permitted by applicable Requirements of Law, be retired and cancelled immediately upon the acquisition thereof; provided that upon such cancellation of Indebtedness, the aggregate outstanding principal amount of the Term Loans, as applicable, shall be deemed reduced by the full par value of the aggregate principal amount of the Term Loans so cancelled, and each principal repayment installment with respect to the Term Loans pursuant to Section 2.09(a) shall be reduced pro rata by the full par value of the aggregate principal amount of Term Loans so cancelled;

(ii) any Term Loans acquired by any Non-Debt Fund Affiliate may (but shall not be required to) be contributed to Holdings, the Borrowers or any of their subsidiaries for purposes of cancellation of such Indebtedness (it being understood that such Term Loans shall be retired and cancelled immediately upon such contribution); provided that upon such cancellation of Indebtedness, the aggregate outstanding principal amount of the Term Loans, as applicable, shall be deemed reduced, as of the date of such contribution, by the full par value of the aggregate principal amount of the Term Loans so contributed and cancelled, and each principal repayment installment with respect to the Term Loans pursuant to Section 2.09(a) shall be reduced *pro rata* by the full par value of the aggregate principal amount of Term Loans so contributed and cancelled;

(iii) the relevant Affiliated Lender and assigning Lender shall have executed an Affiliated Lender Assignment and Assumption;

(iv) after giving effect to such assignment and to all other assignments to all Affiliated Lenders, the aggregate principal amount of all Term Loans then held by all Affiliated Lenders shall not exceed 25% of the aggregate principal amount of the Term Loans then outstanding (after giving effect to any substantially simultaneous cancellations thereof) (the "**Affiliated Lender Cap**"); provided that each of the parties hereto agrees and acknowledges that the Administrative Agent shall not be liable for any losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements of any kind or nature whatsoever incurred or suffered by any Person in connection with any compliance or non-compliance with this clause (g)(iv) or any

purported assignment exceeding such percentage (it being understood and agreed that the cap set forth in this clause (iv) is intended to apply to any Loans made available by Affiliated Lenders by means other than formal assignment (e.g., as a result of an acquisition of another Lender (other than a Debt Fund Affiliate) by an Affiliated Lender or the provision of Additional Term Loans by an Affiliated Lender); provided, further, that to the extent that any assignment to an Affiliated Lender would result in the aggregate principal amount of all Term Loans held by Affiliated Lenders exceeding the Affiliated Lender Cap (after giving effect to any substantially simultaneous cancellations thereof), the assignment of such excess amount shall be null and void;

(v) in connection with any assignment effected pursuant to a Dutch Auction and/or open market purchase conducted by Holdings, any Borrower or any of their subsidiaries, (A) Indebtedness incurred under any Revolving Facility shall not be utilized to fund such assignment and (B) no Event of Default shall have occurred and be continuing at the time of acceptance of bids for the Dutch Auction or the confirmation of such open market purchase;

(vi) by its acquisition of Term Loans, an Affiliated Lender shall be deemed to have acknowledged and agreed that:

(A) the Term Loans held by such Affiliated Lender shall be disregarded in both the numerator and denominator in the calculation of Required Lenders or any other Lender vote (and the Term Loans held by such Affiliated Lender shall be deemed to be voted *pro rata* along with the other Lenders that are not Affiliated Lenders); provided that such Affiliated Lender shall have the right to vote (and the Term Loans held by such Affiliated Lender shall not be so disregarded) with respect to any amendment, modification, waiver, consent or other action that requires the vote of all Lenders or all Lenders directly and adversely affected thereby, as the case may be; provided further that no amendment, modification, waiver, consent or other action shall (1) disproportionately affect such Affiliated Lender in its capacity as a Lender as compared to other Lenders of the same Class that are not Affiliated Lenders or (2) deprive any Affiliated Lender of its share of any payments which the Lenders are entitled to share on a *pro rata* basis hereunder, in each case without the consent of such Affiliated Lender; and

(B) Affiliated Lenders, solely in their capacity as an Affiliated Lender, will not be entitled to (i) attend (including by telephone) or participate in any meeting or discussions (or portion thereof) among the Administrative Agent or any Lender or among Lenders to which the Loan Parties or their representatives are not invited or (ii) receive any information or material prepared by the Administrative Agent or any Lender or any communication by or among the Administrative Agent and one or more Lenders, except to the extent such information or materials have been made available by the Administrative Agent or any Lender to any Loan Party or its representatives (and in any case, other than the right to receive notices of Borrowings, prepayments and other administrative notices in respect of its Term Loans required to be delivered to Lenders pursuant to Article 2); and

(vii) no Affiliated Lender shall be required to represent or warrant that it is not in possession of material non-public information with respect to Holdings and/or its Restricted Subsidiaries and/or their respective securities in connection with any assignment permitted by this Section 9.05(g).

Notwithstanding anything to the contrary contained herein, any Lender may, at any time, assign all or a portion of its rights and obligations under this Agreement in respect of its Term Loans or Revolving Credit Commitments to a Debt Fund Affiliate, and any Debt Fund Affiliate may, from time to time, purchase Term Loans or Revolving Credit Commitments (x) on a *non-pro rata* basis through Dutch Auctions open to all applicable Lenders or (y) on a *non-pro rata* basis through open market purchases without the consent of the Administrative Agent, in each case, without the necessity of meeting the requirements set forth in subclauses (i) through (vii) of this clause (g); provided that the Term Loans, Additional Term Loans and unused commitments and other Loans of any Debt Fund Affiliate shall not account for more than 49.9% of the amounts included in determining whether the Required Lenders or Required Revolving Lenders have (A) consented to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, or subject to the immediately succeeding paragraph, any plan of reorganization pursuant to the Bankruptcy Code, (B) otherwise acted on any matter related to any Loan Document or (C) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document; it being understood and agreed that the portion of the Loan and/or Commitments that accounts for more than 49.9% of the relevant Required Lender or Required Revolving Lender action shall be deemed to be voted *pro rata* along with other Lenders that are not Debt Fund Affiliates. Any Term Loans acquired by any Debt Fund Affiliate may (but shall not be required to) be contributed to Holdings, the Borrowers or any of their subsidiaries for purposes of cancellation of such Indebtedness (it being understood that such Term Loans shall be retired and cancelled immediately upon such contribution); provided that upon such cancellation of Indebtedness, the aggregate outstanding principal amount of the Term Loans shall be deemed reduced, as of the date of such contribution, by the full par value of the aggregate principal amount of the Term Loans so contributed and cancelled, and each principal repayment installment with respect to the Term Loans pursuant to Section 2.09(a) shall be reduced *pro rata* by the full par value of the aggregate principal amount of Term Loans so contributed and cancelled.

Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, each Affiliated Lender hereby agrees that, if a proceeding under any Debtor Relief Law shall be commenced by or against any Borrower or any other Loan Party at a time when such Lender is an Affiliated Lender, such Affiliated Lender irrevocably authorizes and empowers the Administrative Agent to vote on behalf of such Affiliated Lender with respect to the Term Loans held by such Affiliated Lender in any manner in the Administrative Agent's sole discretion, unless the Administrative Agent instructs such Affiliated Lender to vote, in which case such Affiliated Lender shall vote with respect to the Term Loans held by it as the Administrative Agent directs; provided that (a) such Affiliated Lender shall be entitled to vote in accordance with its sole discretion (and not in accordance with the direction of the Administrative Agent) and (b) the Administrative Agent shall not be entitled to vote on behalf of such Affiliated Lender, in each case, in connection with any matter to the extent any such matter proposes to treat any Obligations held by such Affiliated Lender in a manner that is different than the proposed treatment of similar Obligations held by Lenders that are not Affiliates of the Lux Borrower. Each Affiliated Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Affiliated Lender's attorney-in-fact, with full authority in the place and stead of such Affiliated Lender and in the name of such Affiliated Lender (solely in respect of Term Loans and participations therein and not in respect of any other claim or status such Affiliated Lender may otherwise have), from time to time in the

Administrative Agent's discretion to take any action and to execute any instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of (but subject to the limitations set forth in) this paragraph.

(h) Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, in case of assignment, transfer or novation by any Lender to a new lender or a participant, of all or any part of its rights and obligations under this Agreement or any other Loan Document, the Lenders and the new lender or participant shall agree that, for the purposes of Article 1278 and/or Article 1281 of the Luxembourg Civil Code (to the extent applicable), with respect to any assignment, transfer and/or novation of such rights and obligations and the amendment of this Agreement or any other Loan Document with respect thereto permitted under, and made in accordance with the provisions of this Agreement or any other Loan Document to which a Lux Party is a party, any security created or Loan Guaranty provided under any Loan Document shall be preserved and continued in full force and effect to the benefit of such new lender or participant.

(i) For the purposes of Article 1407, paragraph 1, of the Italian Civil Code, each of the Parties provides its consent to the transfer (cessione), in whole or in part, by any Lender of its rights and obligations under this Agreement and the other Collateral Documents (including as a secured creditor (*creditore garantito*) under the Italian Security) in favor of any Assignee provided that, and only to the extent that, such transfer is completed in accordance with the provisions of Section 9.05(b). Each party to this Agreement agrees that upon completion of an assignment or a transfer in accordance with Section 9.05(a) and Section 9.05(b), the Guaranty and the Collateral created under the Collateral Documents shall be preserved, without novation (*novazione*), for the benefit of the relevant Assignee.

(j) Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, (i) a new Lender, in case of an assignment of rights by a Lender hereunder, if it considers it necessary to make such transfer effective as against third parties, arrange for the Assignment Agreement to be notified to each Loan Party organized under French law by bailiff (*signification par huissier*) in accordance with article 1690 of the French Code civil. In addition, the Administrative Agent shall provide a copy of the Assignment Agreement to the Lux Borrower which may at its own costs, arrange such Assignment Agreement to be so notified to any or all Loan Party organized under French law on behalf of such new Lender; and (ii) in case of any assignment or other transfer by any Lender to a new lender or a participant, of all or any part of its rights and obligations under this Agreement or any other Loan Document which could be construed as a novation within the meaning of articles 1271 et seq. of the French Code civil, the Lenders and the new lender or participant shall agree that, for the purposes of Article 1278 of the French Code civil (to the extent applicable), with respect to such assignment or other transfer, any security created or Loan Guaranty provided under any Loan Document shall be preserved and continued in full force and effect to the benefit of such new lender or participant.

(k) Each party to this Agreement agrees for the purpose of Article 1278 of the Belgian Civil Code (*Burgerlijk Wetboek / Code Civil*, as amended from time to time) that in case of an assignment pursuant to this Section 9.05, the Liens created by the Collateral Documents shall be preserved for the benefit of the Administrative Agent, the transferee and the other Secured Parties.

Section 9.06. **Survival.** All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit or Bank Guarantees, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect until the Termination Date. The provisions of Sections 2.14, 2.15, 2.16, 9.03 and 9.13 and Article 8 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit, the Bank Guarantees and the Revolving Credit Commitment or any Additional Commitments, the occurrence of the Termination Date or the termination of this Agreement or any provision hereof but in each case, subject to the limitations set forth in this Agreement.

Section 9.07. **Counterparts; Integration; Effectiveness.** This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and the Fee Letter constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement shall become effective when the conditions precedent set forth in Section 4.01 have been satisfied, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or by email as a ".pdf" or ".tiff" attachment shall be effective as delivery of a manually executed counterpart of this Agreement. The parties hereto agree that, simultaneously with the effectiveness of this Agreement, any prior offers on the part of the Initial Signing Date Lenders to provide financing to the Borrowers in connection with the Transactions (including pursuant to the Credit Agreement dated as of April 4, 2016) shall be automatically terminated, and of no further force and effect, and replaced by this Agreement.

Section 9.08. **Severability.** To the extent permitted by law, any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 9.09. **Right of Setoff.** If an Event of Default shall have occurred and be continuing, upon the written consent of the Administrative Agent, each Issuing Bank, each Guarantee Bank and each Lender is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations (in any currency) at any time owing by the Administrative Agent, such Issuing Bank, such Guarantee Bank or such Lender or Affiliate (including by branches and agencies of the Administrative Agent, such Issuing Bank, such Guarantee Bank or such Lender, wherever located) to or for the credit or the account of any Borrower or any Loan Guarantor against any of and all the Secured Obligations held by the Administrative Agent, such Issuing Bank, such Guarantee Bank or such Lender or Affiliate, irrespective of whether or not the Administrative Agent, such Issuing Bank, such Guarantee Bank or such Lender or Affiliate shall have made any demand under the Loan Documents and although such obligations may be contingent or unmatured or are owed to a branch or office of such Lender, such Issuing Bank or such Guarantee Bank different than the branch or office holding such deposit or

obligation on such Indebtedness. Any applicable Lender, Issuing Bank, Guarantee Bank or Affiliate thereof shall promptly notify the Lux Borrower and the Administrative Agent of such set-off or application; provided that any failure to give or any delay in giving such notice shall not affect the validity of any such set-off or application under this Section. The rights of each Lender, each Issuing Bank, each Guarantee Bank, the Administrative Agent and each Affiliate under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender, Issuing Bank, Guarantee Bank, Administrative Agent or Affiliate may have.

Section 9.10. Governing Law; Jurisdiction; Consent to Service of Process.

(a) THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN OTHER LOAN DOCUMENTS) AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN THE OTHER LOAN DOCUMENTS), WHETHER IN TORT, CONTRACT (AT LAW OR IN EQUITY) OR OTHERWISE, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK; PROVIDED, THAT (I) THE INTERPRETATION OF THE DEFINITION OF "CLOSING DATE MATERIAL ADVERSE EFFECT", THE DEFINITION OF "IMPLEMENTATION DATE" AND THE DETERMINATION OF WHETHER A CLOSING DATE MATERIAL ADVERSE EFFECT HAS OCCURRED, (II) THE DETERMINATION OF THE ACCURACY OF ANY SPECIFIED ACQUISITION AGREEMENT REPRESENTATION AND WHETHER AS A RESULT OF ANY INACCURACY THEREOF, THE LUX BORROWER OR ITS APPLICABLE AFFILIATE HAS A RIGHT TO TERMINATE ITS OBLIGATIONS UNDER THE ACQUISITIONS AGREEMENT OR DECLINE TO CONSUMMATE THE ACQUISITION AND (III) THE DETERMINATION OF WHETHER THE ACQUISITION HAS BEEN CONSUMMATED IN ACCORDANCE WITH THE TERMS OF THE ACQUISITION AGREEMENT AND, IN ANY CASE, ANY CLAIM OR DISPUTE ARISING OUT OF ANY SUCH INTERPRETATION OR DETERMINATION OR ANY ASPECT THEREOF, SHALL IN EACH CASE BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF NEW ZEALAND REGARDLESS OF THE LAWS THAT MIGHT OTHERWISE GOVERN UNDER APPLICABLE PRINCIPLES OF CONFLICTS OF LAWS.

(b) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF ANY U.S. FEDERAL OR NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK (OR ANY APPELLATE COURT THEREFROM) OVER ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING SHALL (EXCEPT AS PERMITTED BELOW) BE HEARD AND DETERMINED IN SUCH NEW YORK STATE OR, TO THE EXTENT PERMITTED BY LAW, FEDERAL COURT; PROVIDED THAT WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE ACQUISITION AGREEMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY AND WHICH DO NOT INVOLVE ANY CLAIMS AGAINST THE ARRANGERS, THE ISSUING BANKS OR THE LENDERS, THIS SENTENCE SHALL

NOT OVERRIDE ANY JURISDICTION PROVISION IN THE ACQUISITION AGREEMENT. THE PARTIES HERETO AGREE THAT SERVICE OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENT BY REGISTERED MAIL ADDRESSED TO SUCH PERSON SHALL BE EFFECTIVE SERVICE OF PROCESS AGAINST SUCH PERSON FOR ANY SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE ADMINISTRATIVE AGENT RETAINS THE RIGHT TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION SOLELY IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY COLLATERAL DOCUMENT.

(c) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CLAIM OR DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION, SUIT OR PROCEEDING IN ANY SUCH COURT.

(d) TO THE EXTENT PERMITTED BY LAW, EACH PARTY TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL (OR ANY SUBSTANTIALLY SIMILAR FORM OF MAIL) DIRECTED TO IT AT ITS ADDRESS FOR NOTICES AS PROVIDED FOR IN SECTION 9.01. EACH PARTY TO THIS AGREEMENT HEREBY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY LOAN DOCUMENT THAT SERVICE OF PROCESS WAS INVALID AND INEFFECTIVE. NOTHING IN THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT WILL AFFECT THE RIGHT OF ANY PARTY TO THIS AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

(e) IF A DUTCH LOAN PARTY IS REPRESENTED BY AN ATTORNEY IN CONNECTION WITH THE SIGNING OF THIS AGREEMENT OR ANY OTHER DEED, AGREEMENT OR DOCUMENT REFERRED TO IN THIS AGREEMENT OR MADE PURSUANT TO THIS AGREEMENT, IT IS HEREBY EXPRESSLY ACKNOWLEDGED AND ACCEPTED BY THE OTHER PARTIES THAT THE EXISTENCE AND EXTENT OF THE ATTORNEY'S AUTHORITY AND THE EFFECTS OF THE ATTORNEY'S EXERCISE OR PURPORTED EXERCISE OF HIS AUTHORITY SHALL BE GOVERNED BY THE LAWS OF THE NETHERLANDS.

Section 9.11. Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING OR

COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (a) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (b) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 9.12. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 9.13. Confidentiality. The Administrative Agent, each Lender, each Issuing Bank, each Guarantee Bank and each Arranger agrees (and each Lender agrees to cause its SPC, if any) to maintain the confidentiality of the Confidential Information (as defined below), except that Confidential Information may be disclosed (a) to its and its Affiliates' directors (or equivalent managers), officers, employees, independent auditors, or other experts and advisors, including accountants, legal counsel and other advisors (collectively, the "**Representatives**") on a "need to know" basis solely in connection with the transactions contemplated hereby and who are informed of the confidential nature of such Confidential Information and are or have been advised of their obligation to keep such Confidential Information of this type confidential; provided that such Person shall be responsible for its Affiliates' and their Representatives' compliance with this paragraph; provided, further, that unless the Lux Borrower otherwise consents, no such disclosure shall be made by the Administrative Agent, any Issuing Bank, any Guarantee Bank, any Arranger, any Lender or any Affiliate or Representative thereof to any Affiliate or Representative of the Administrative Agent, any Issuing Bank, any Guarantee Bank, any Ancillary Lender, any Arranger, or any Lender that (i) is engaged as a principal primarily in private equity, mezzanine financing or venture capital or (ii) is a Disqualified Institution, (b) upon the demand or request of any regulatory (including any self-regulatory body) or governmental authority, including the Federal Reserve Bank or any other central bank purporting to have jurisdiction over such Person or its Affiliates (in which case such Person shall, except with respect to any audit or examination conducted by bank accountants or any Governmental Authority or regulatory or self-regulatory authority exercising examination or regulatory authority, to the extent permitted by law, inform the Lux Borrower promptly in advance thereof), (c) to the extent compelled by legal process in, or reasonably necessary to, the defense of such legal, judicial or administrative proceeding, in any legal, judicial or administrative proceeding or otherwise as required by applicable Requirements of Law, rule or regulation (in which case such Person shall (i) to the extent permitted by law, inform the Lux Borrower promptly in advance thereof and (ii) use commercially reasonable efforts to ensure that any such information so disclosed is accorded confidential treatment), (d) to any other party to this Agreement, (e) subject to an acknowledgment and agreement by such recipient that such information is being disseminated on a confidential basis (on substantially the terms set forth in this paragraph or as is otherwise reasonably acceptable to the Lux Borrower and the Administrative Agent) in accordance with the standard syndication process of the Arrangers or market standards for dissemination of such type of information, which shall in any event require "click through" or other affirmative action on the part of the recipient to access such Confidential Information and acknowledge its confidentiality obligations in respect thereof, to (i) any Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement, including any SPC (in each case other than a Disqualified Institution), (ii) any pledgee referred to in Section 9.05, (iii) any actual or prospective, direct or indirect contractual

counterparty (or its advisors) to any Derivative Transaction (including any credit default swap, total return swap or total rate of return swap) or similar derivative product relating to the Loan Parties and their obligations and (iv) subject to the Lux Borrower's prior approval of the information to be disclosed (not to be unreasonably withheld), to Moody's or S&P on a confidential basis in connection with obtaining ratings for the Borrowers to the extent required under Section 5.13, (f) with the prior written consent of the Lux Borrower and (g) to the extent such Confidential Information becomes publicly available other than as a result of a breach of this Section by such Person, its Affiliates or their respective Representatives. For the purposes of this Section, "**Confidential Information**" means all information relating to the Company, the Target, Holdings, the Borrowers or any of their subsidiaries or their businesses, the Sponsor or the Transactions (including any information obtained by the Administrative Agent, any Issuing Bank, any Guarantee Bank, any Ancillary Lender, Lender or Arranger, or any of their Affiliates or Representatives, based on a review of the books and records relating to the Company, the Target, Holdings, the Borrowers or any of their subsidiaries or Affiliates from time to time, including prior to the date hereof) other than any such information that is publicly available to the Administrative Agent or any Arranger, Issuing Bank, Guarantee Bank or Lender on a non-confidential basis prior to disclosure by the Company, the Target, Holdings, the Borrowers or any of their subsidiaries. For the avoidance of doubt, in no event shall any disclosure of such Confidential Information be made to any Disqualified Institution (which was a Disqualified Institution at the time such disclosure was made).

Section 9.14. No Fiduciary Duty. Each of the Administrative Agent, the Arrangers, each Lender, each Issuing Bank, each Guarantee Bank and their respective Affiliates (collectively, solely for purposes of this paragraph, the "Lenders"), may have economic interests that conflict with those of the Loan Parties, their stockholders and/or their respective affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and any Loan Party, its respective stockholders or its respective affiliates, on the other. The Loan Parties acknowledge and agree that: (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Lenders, on the one hand, and each Loan Party, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary responsibility in favor of any Loan Party, its respective stockholders or its respective affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise any Loan Party, its respective stockholders or its respective Affiliates on other matters) or any other obligation to any Loan Party except the obligations expressly set forth in the Loan Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of such Loan Party, its respective management, stockholders, creditors or any other Person. Each Loan Party acknowledges and agrees that such Loan Party has consulted its own legal, tax and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto.

Section 9.15. Several Obligations; Violation of Law. The respective obligations of the Lenders hereunder are several and not joint and the failure of any Lender to make any Loan, issue any Letter of Credit, issue any Bank Guarantee or perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder.

Section 9.16. USA PATRIOT Act. Each Lender that is subject to the requirements of the USA PATRIOT Act hereby notifies the Loan Parties that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Borrower and

Loan Guarantor, which information includes the name and address of each Loan Party and other information that will allow such Lender to identify the Loan Parties in accordance with the USA PATRIOT Act.

Section 9.17. Disclosure. Each Loan Party, each Issuing Bank, each Guarantee Bank and each Lender hereby acknowledges and agrees that the Administrative Agent and/or its Affiliates from time to time may hold investments in, make other loans to or have other relationships with any of the Loan Parties and their respective Affiliates.

Section 9.18. Appointment for Perfection. Each Lender hereby appoints each other Lender, Issuing Bank and Guarantee Bank as its agent for the purpose of perfecting Liens, for the benefit of the Administrative Agent, the Issuing Banks, the Guarantee Banks and the Lenders, in assets which, in accordance with Article 9 of the UCC or any other applicable law can be perfected only by possession. Should any Lender, Issuing Bank or Guarantee Bank (other than the Administrative Agent) obtain possession of any such Collateral, such Lender, Issuing Bank or Guarantee Bank shall notify the Administrative Agent thereof; and, promptly upon the Administrative Agent's request therefor shall deliver such Collateral to the Administrative Agent or otherwise deal with such Collateral in accordance with the Administrative Agent's instructions.

Section 9.19. Interest Rate Limitation. (a) Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, Letter of Credit or Bank Guarantee, together with all fees, charges and other amounts which are treated as interest on such Loan, Letter of Credit or Bank Guarantee under applicable law (collectively the "**Charged Amounts**"), shall exceed the maximum lawful rate (the "**Maximum Rate**") which may be contracted for, charged, taken, received or reserved by the Lender, Issuing Bank or Guarantee Bank holding such Loan, Letter of Credit or Bank Guarantee in accordance with applicable law, the rate of interest payable in respect of such Loan, Letter of Credit or Bank Guarantee hereunder, together with all Charged Amounts payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charged Amounts that would have been payable in respect of such Loan, Letter of Credit or Bank Guarantee but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charged Amounts payable to such Lender, Issuing Bank or Guarantee Bank in respect of other Loans, Letters of Credit or Bank Guarantees or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender, Issuing Bank or Guarantee Bank.

(b) In this Agreement, where it relates to an Loan Guarantor which is incorporated under the laws of Italy:

(i) the rate of interest applicable to any Loan under this Agreement (including the relevant component of any applicable fee and expense and, for the avoidance of any doubt, any amount paid under this Section 2.12) determined as at the Signing Date is considered in good faith by the relevant Loan Guarantor to be in compliance with Italian Usury Law;

(ii) in any event, if, pursuant to a Change in Law or change in the official interpretation of Italian Usury Law, the rate of interest applicable to a Loan or the default rate of interest at any time during the life of this Agreement is deemed to exceed the maximum rate permitted by Italian Usury Law, then the relevant interest rate or default rate applicable to such Loan Guarantor shall immediately be reduced to the maximum

admissible interest rate pursuant to such legislation, for the period during which it is not possible to apply the interest rate as originally agreed in this Agreement; and

(iii) the amount of interest on overdue amounts payable by an Italian law incorporated Loan Guarantor under this Agreement shall not be compounded unless in accordance with, and to the extent permitted by, article 1283 of the Italian Civil Code, article 120 of the Italian Banking Act and any relevant implementing regulation, each as amended, supplemented or implemented from time to time.

(c) For purposes of the Interest Act (Canada) and with respect to any Canadian Loan Party, (i) whenever any interest or fee under this Agreement is calculated using a rate based on a year of 360 days or any other period of time that is less than a calendar year, the rate determined pursuant to such calculation when expressed as an annual rate, is equivalent to (x) the applicable rate based on a year of 360 days or such other number of days in such period, (y) multiplied by the actual number of days in the calendar year in which the period for which such interest or fee is payable (or compounded) ends and (z) divided by 360 or such other number of days in such period, (ii) the principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement and (iii) the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

Section 9.20. Intercreditor Agreement. REFERENCE IS MADE TO THE INTERCREDITOR AGREEMENT. ON AND AFTER THE CLOSING DATE, EACH LENDER, ISSUING BANK AND GUARANTEE BANK HEREUNDER (AND, BY ITS ACCEPTANCE OF THE BENEFITS OF ANY COLLATERAL DOCUMENT, EACH OTHER SECURED PARTY) ACKNOWLEDGES THAT IT HAS RECEIVED A COPY OF THE INTERCREDITOR AGREEMENT, AGREES THAT IT WILL BE BOUND BY AND WILL TAKE NO ACTIONS CONTRARY TO THE PROVISIONS OF THE INTERCREDITOR AGREEMENT AND HEREBY AUTHORIZES AND INSTRUCTS THE ADMINISTRATIVE AGENT TO ENTER INTO THE INTERCREDITOR AGREEMENT AS "FIRST LIEN COLLATERAL AGENT" AND ON BEHALF OF SUCH LENDER, ISSUING BANK, GUARANTEE BANK OR EACH OTHER SECURED PARTY. THE PROVISIONS OF THIS SECTION 9.20 ARE NOT INTENDED TO SUMMARIZE ALL RELEVANT PROVISIONS OF THE INTERCREDITOR AGREEMENT, THE FORM OF WHICH IS ATTACHED AS AN EXHIBIT TO THIS AGREEMENT. REFERENCE MUST BE MADE TO THE INTERCREDITOR AGREEMENT ITSELF TO UNDERSTAND ALL TERMS AND CONDITIONS THEREOF. EACH LENDER, ISSUING BANK, GUARANTEE BANK AND EACH OTHER SECURED PARTY IS RESPONSIBLE FOR MAKING ITS OWN ANALYSIS AND REVIEW OF THE INTERCREDITOR AGREEMENT AND THE TERMS AND PROVISIONS THEREOF, AND NEITHER THE ADMINISTRATIVE AGENT NOR ANY OF ITS AFFILIATES MAKES ANY REPRESENTATION TO ANY LENDER, ISSUING BANK, GUARANTEE BANK OR EACH OTHER SECURED PARTY AS TO THE SUFFICIENCY OR ADVISABILITY OF THE PROVISIONS CONTAINED IN THE INTERCREDITOR AGREEMENT.

Section 9.21. Parallel Debt (Covenant to pay the Administrative Agent).

(a) Notwithstanding any other provision of any Loan Document, each Loan Party, by way of an independent payment obligation, hereby irrevocably and unconditionally undertakes to pay to the Administrative Agent, as creditor in its own right and not as representative of the other Secured Parties, sums equal to and in the currency of each amount payable by such Loan Party to each of the Secured Parties under each of the Loan Documents as and when that amount falls due

for payment under the relevant Loan Document or would have fallen due but for any discharge from failure of another Secured Party to take appropriate steps, in insolvency proceedings affecting that Loan Party, to preserve its entitlement to be paid that amount.

(b) Each Loan Party and the Administrative Agent acknowledge that the obligations of each Loan Party under paragraph (a) are several and are separate and independent from, and shall not in any way limit or affect, the corresponding obligations of that Loan Party to any Secured Party under any Loan Document (its "**Corresponding Debt**") nor shall the amounts for which each Loan Party is liable under paragraph (a) (its "**Parallel Debt**") be limited or affected in any way by its Corresponding Debt provided that: (x) the Administrative Agent shall not demand payment with regard to the Parallel Debt of each Loan Party to the extent that such Loan Party's Corresponding Debt has been irrevocably paid or (in the case of Guarantee obligations) discharged and (y) neither the Administrative Agent nor any Secured Party shall demand payment with regard to the Corresponding Debt of each Loan Party to the extent that such Loan Party's Parallel Debt has been irrevocably paid or (in the case of guarantee obligations) discharged.

(c) The Administrative Agent acts in its own name and not as trustee and it shall have its own independent right to demand payment of the amounts payable by each Loan Party under this Section 9.21, irrespective of any discharge of such Loan Party's obligation to pay those amounts to the other Secured Parties resulting from failure by them to take appropriate steps, in insolvency proceedings affecting that Loan Party, to preserve their entitlement to be paid those amounts.

(d) Any amount due and payable by a Loan Party to the Administrative Agent under this Section 9.21 shall be decreased to the extent that the other Secured Parties have received (and are able to retain) payment of the corresponding amount under the other provisions of the Loan Documents and any amount due and payable by a Loan Party to the other Secured Parties under those provisions shall be decreased to the extent that the Administrative Agent has received (and is able to retain) payment of the corresponding amount under this Section 9.21.

(e) The rights of the Secured Parties (other than the Administrative Agent) to receive payment of amounts payable by each Loan Party under the Loan Documents are several and are separate and independent from, and without prejudice to, the rights of the Administrative Agent to receive payment under this Section 9.21.

(f) Without limiting or affecting the Administrative Agent's rights against the Loan Parties (whether under this Section 9.21 or under any other provision of the Loan Documents), each Loan Party acknowledges that: (x) nothing in this Section 9.21 shall impose any obligation on the Administrative Agent to advance any sum to any Loan Party or otherwise under any Loan Document, except in its capacity as lender thereunder and (y) for the purpose of any vote taken under any Loan Document, the Administrative Agent shall not be regarded as having any participation or commitment other than those which it has in its capacity as a lender.

(g) For the avoidance of doubt, to the extent not applicable, this Section 9.21 shall not apply to any Loan Party organized under the laws of Italy.

(h) For the avoidance of doubt, this Section 9.21 shall not operate and may not be construed as operating to disapply, suspend or circumvent any guarantee and/or indemnity limitations in relation to any claim of a Secured Party set out in any Loan Document.

Section 9.22. Conflicts. Notwithstanding anything to the contrary contained herein or in any other Loan Document (but excluding any Additional Agreement), in the event of any conflict or inconsistency between this Agreement and any other Loan Document (excluding any Additional Agreement), the terms of this Agreement shall govern and control; provided that in the case of any conflict or inconsistency between any Additional Agreement and any other Loan Document, the terms of such Additional Agreement shall govern and control.

Section 9.23. Release of Loan Guarantors. Notwithstanding anything in Section 9.02(b) to the contrary, a Subsidiary Guarantor shall automatically be released from its obligations hereunder and its Loan Guaranty shall be automatically released (a) upon the consummation of any transaction or related series of transactions permitted hereunder if as a result thereof such Subsidiary Guarantor shall cease to be a Restricted Subsidiary (or becomes an Excluded Subsidiary) or (b) upon the occurrence of the Termination Date; provided that (i) no such release under clause (a) hereof shall occur solely because a Subsidiary Guarantor has become an Immaterial Subsidiary or a non-Wholly-Owned Subsidiary unless (x) the Lux Borrower so elects and (y) after giving effect to such release, the Lux Borrower shall be in compliance with the Collateral Coverage Requirement on a Pro Forma Basis, (ii) to the extent any Restricted Subsidiary became a Subsidiary Guarantor in order to consummate a merger, consolidation or amalgamation permitted under Section 6.07(a)(iii)(x), any such release under clause (a) hereof shall constitute an Investment as if such merger, consolidation or amalgamation had been consummated pursuant to Section 6.07(a)(iii)(y) as of the date of such release and (iii) no such release under clause (a) hereof shall occur with respect to any Revolving Borrower, unless such Revolving Borrower complies (or has complied with) Section 2.24(c) substantially contemporaneously therewith. In connection with any such release, the Administrative Agent shall promptly execute and deliver to any Loan Guarantor, at such Loan Guarantor's expense, all documents that such Loan Guarantor shall reasonably request to evidence termination or release. Any execution and delivery of documents pursuant to the preceding sentence of this Section 9.23 shall be without recourse to or warranty by the Administrative Agent (other than as to the Administrative Agent's authority to execute and deliver such documents).

Section 9.24. Judgment Currency. If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrowers in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "**Judgment Currency**") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "**Agreement Currency**"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrowers in the Agreement Currency, the Borrowers agree, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrowers (or to any other Person who may be entitled thereto under applicable Requirements of Law).

Section 9.25. Waiver of Sovereign Immunity. Each Loan Party that is incorporated outside the U.S., in respect of itself, its subsidiaries, its process agents, and its properties and revenues, hereby

irrevocably agrees that, to the extent that such Loan Party or its respective subsidiaries or any of its or its respective subsidiaries' properties has or may hereafter acquire any right of immunity, whether characterized as sovereign immunity or otherwise, from any legal proceedings, whether in the U.S. or elsewhere, to enforce or collect upon the Loans or any Loan Document or any other liability or obligation of such Loan Party or any of their respective subsidiaries related to or arising from the transactions contemplated by any of the Loan Documents, including, without limitation, immunity from suit, immunity from service of process, immunity from jurisdiction or judgment of any court or tribunal, immunity from execution of a judgment, and immunity of any of its property from attachment prior to any entry of judgment, or from attachment in aid of execution upon a judgment, such Loan Party, for itself and on behalf of its subsidiaries, hereby expressly waives, to the fullest extent permissible under applicable Requirements of Law, any such immunity, and agrees not to assert any such right or claim in any such proceeding, whether in the U.S. or elsewhere. Without limiting the generality of the foregoing, each Loan Party further agrees that the waivers set forth in this Section 9.25 shall be effective to the fullest extent permitted under the Foreign Sovereign Immunities Act of 1976 of the U.S. and are intended to be irrevocable for purposes of such Act.

**Section 9.26. Acknowledgement and Consent to Bail-In of EEA Financial Institutions.** Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and
- (b) the effects of any Bail-in Action on any such liability, including, if applicable:
  - (i) a reduction in full or in part or cancellation of any such liability;
  - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
  - (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

**Section 9.27. Code of Banking Practice (2003).** Each Loan Party agrees that the Code of Banking Practice (2003) of Australia does not apply to the Loan Documents, or to any transaction or service provided under them.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

ALLNEX (LUXEMBOURG) & CY S.C.A.

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

ALLNEX S.À R.L.

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

ALLNEX USA INC.

By: \_\_\_\_\_

Name:

Title:

MORGAN STANLEY SENIOR FUNDING, INC.,  
individually, as a Lender

By: \_\_\_\_\_  
Name:  
Title:

DEUTSCHE BANK AG NEW YORK BRANCH,  
individually, as a Lender

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

GOLDMAN SACHS BANK USA, individually, as a  
Lender

By: \_\_\_\_\_  
Name:  
Title:

BARCLAYS BANK PLC, individually, as a Lender

By: \_\_\_\_\_  
Name:  
Title:

ING BANK N.V. LONDON BRANCH, individually, as  
Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

ING CAPITAL LLC, individually, as a Lender,  
Swingline Lender, Issuing Bank and Guarantee Bank

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**Schedule 1.01(a)**  
Administrative Agent's Office

ADDRESS:

ING BANK N.V., LONDON BRANCH  
8-10 Moorgate  
London EC2R 6DA  
United Kingdom  
Attention: Craig Baker  
Tel: + 44 20 7767 5617  
Fax: + 44 20 7767 7324  
Email: [craig.baker@uk.ing.com](mailto:craig.baker@uk.ing.com)

**Schedule 1.01(b)**  
**AGREED SECURITY PRINCIPLES**

**1. Considerations**

- (a) In determining the Collateral that will be provided to secure the Secured Obligations and the obligations of each Loan Party under its respective Loan Guaranty, this schedule sets out the matters that will be taken into account in determining the Collateral proposed to be taken in relation to this transaction.
- (b) These Agreed Security Principles embody recognition by all parties to the Credit Agreement to which these Agreed Security Principles are attached (as amended, amended and restated, supplemented or otherwise modified, the “**Credit Agreement**”) that there may be certain legal and practical difficulties in granting and/or taking guaranties from Loan Parties, and/or granting and/or providing an effective security interest by the Loan Parties in the jurisdictions in which they are organized. In particular, guarantees shall not be granted by any Loan Party and liens on or security interests in any assets and/or property shall not be created or perfected to the extent that (as applicable):
  - (i) the cost, burden, difficulty or consequence (including any adverse effect on the ability of such Person to conduct its operations and business in the ordinary course) of obtaining or perfecting a security interest therein outweighs the benefit of the security afforded thereby as reasonably determined by the Lux Borrower, and the Administrative Agent, Lenders and the other Secured Parties acknowledge and agree that the maximum amount of the Secured Obligations that may be guaranteed by any Loan Party, and the Collateral that may be provided by any Loan Party, may be limited to minimize stamp duty, notarization, registration or other applicable fees, taxes and duties where the benefit to the Secured Parties of increasing the guaranteed or secured amount is disproportionate to the cost of such fees, taxes and duties (which amount shall not include any such legal fees, costs, expenses, disbursements and “value added tax” relating to the provision of any Loan Guaranty and Collateral in respect of any Additional Commitments, Additional Revolving Loans and Additional Term Loans); provided that any notarization required with respect to any German law governed security documents will be performed in Germany; or
  - (ii) the Lux Borrower or another Loan Party, as applicable, subject to using commercially reasonable efforts, is unable to demonstrate that adequate corporate benefit accrues to the Lux Borrower or each relevant Loan Party, as applicable, and are unable to overcome any such other limitations to the extent reasonably practicable; or
  - (iii) general legal and statutory limitations, regulatory restrictions, financial assistance, capital maintenance, corporate benefit, fraudulent preference, thin capitalization rules, transfer pricing, interest stripping, retention of title claims, related party transactions and similar principles impose limits on the ability of a Loan Party to provide a Loan

Guaranty or a security interest over Collateral or require that the Loan Guaranty or security interest over the Collateral be limited by an amount or otherwise. If any such limit applies, the Loan Guaranty and Collateral provided will be limited to the maximum amount which such Loan Party may provide having regard to applicable Requirements of Law (including any jurisprudence) and subject to fiduciary duties of management; provided that the Borrowers will use commercially reasonable efforts to structure the provision of Loan Guarantees and Collateral by such Loan Party to avoid or address such restrictions; or

- (iv) in certain jurisdictions it is impossible or materially impractical to grant guarantees or create security over certain categories of assets in which case, such guarantees will not be granted and security will not be taken over such assets; or
  - (v) if it is not within the legal capacity of a Loan Party to give guarantees or enter into security documents or if the same would conflict with the fiduciary duties of the directors of such Loan Party or result in, or would reasonably be expected to result in, a material risk of personal or criminal liability for any officer, director, employee or member of management of such Loan Party; provided that such Loan Party shall use commercially reasonable efforts to structure the provision of Loan Guarantees and Collateral by such Loan Party to avoid or address such restrictions; or
  - (vi) the provision of such Loan Guaranty and/or Collateral requires the consent of certain advisory boards, supervisory boards, works councils regulator or other external bodies or similar, or that Persons may be required to enable a Loan Party to provide the Loan Guaranty or Collateral and such consent has not been received (provided that the relevant Loan Party shall use its commercially reasonable efforts to obtain the relevant consent to the extent legally permissible and if the relevant Loan Party is reasonably satisfied that such efforts will not involve placing commercial relationships with third parties in jeopardy).
- (c) For the avoidance of doubt, in these Agreed Security Principles, “**cost**” as set out in paragraph 1(b) above includes, but is not limited to, income tax cost, registration taxes payable on the creation or enforcement, or for the continuance of, any Collateral, stamp duties, out-of-pocket expenses, notary fees and other fees and expenses directly incurred by the relevant potential Loan Party or any of its direct or indirect parent companies, subsidiaries or Affiliates.
- (d) It is agreed and understood that in no event will any Guarantee be required to be given or Collateral be granted over the assets of, or by, any Excluded Subsidiary (other than any Loan Party) and in no event will the Collateral include any Excluded Asset.
- (e) No action will be required to be taken at the expense of any Loan Party in relation to the Loan Guarantees or Collateral after the later of (x) the Closing Date and (y) the expiration of the primary syndication period, when any Lender or Participant assigns or transfers or sub-

participates any of its Loans or Loan participations to a new Lender (including any secondary assignments or transfers or sub-participations that occur in connection with the primary syndication).

- (f) With respect to any Lux Party or any Restricted Subsidiary organized under the laws of Italy acting as a Loan Guarantor or granting a security right, the articles of association of such company shall provide expressly that it may provide guarantees and security rights to a third party to secure the commitments of other entities of its corporate group.
- (g) No security will be taken over fixed assets, parts, stock, moveable plant or equipment if it would require labelling, segregation or periodic listing, specification or equivalent that is not consistent with clause 2(e) below, of such parts, stock, moveable plant or equipment.
- (h) No Loan Party shall be required to seek any landlord lien waiver, bailee letter, estoppel, warehouseman waiver or other collateral access or similar letter or agreement.

## 2. Collateral Documents

The following principles will be reflected in (or shall be included by reference in) the terms of any security over Collateral taken as part of this transaction.

- (a) The security will not be enforceable, until both an Event of Default has occurred and is continuing and any of the Obligations (as defined in the Intercreditor Agreement) have been accelerated in accordance with Section 7.01 of the Credit Agreement (collectively, an "**Enforcement Event**"), in each case subject to local Requirements of Law. In addition, no rights of set off will be exercisable until the occurrence and during the continuance of an Event of Default;
- (b) Subject to Permitted Liens, the terms of the Intercreditor Agreement, the Legal Reservations and Perfection Requirements, the security interest over the Collateral will be a first-ranking perfected security interest.
- (c) The Collateral Documents will operate only to create, maintain and enforce security and accordingly will not contain additional representations, warranties or undertakings (such as in respect of insurance, further security, information or the payment of costs or the imposition of any other affirmative or negative covenants) and to the extent to which the subject matter of such representation, warranty or undertaking is the same as the corresponding representation warranty or undertaking in the Credit Agreement, such representation, warranty or undertaking shall be no more burdensome to the Loan Parties than that contained in the Credit Agreement, unless, in each case, required for the creation or perfection of the security, and shall not impose new commercial obligations. Notwithstanding the preceding sentence, to the extent customary for the relevant jurisdiction, (x) the Australian law Collateral Documents will include PPSA waiver clauses and (y) all New Zealand law governed security agreements will include customary Personal Property Securities Act 1999 (NZ) waivers from the relevant

Loan Parties, in each case, reasonably acceptable to counsel for the Administrative Agent and the Loan Parties.

- (d) The provisions of each Collateral Document will not materially interfere with the operation of any Loan Party's business in the ordinary course prior to the occurrence of an Enforcement Event (and, if applicable, any such material interference shall cease when the applicable Event of Default is no longer continuing and any related acceleration in connection with such Enforcement Event is rescinded) and will be limited to those required to create, maintain or enforce an effective security interest over the Collateral.
- (e) Information regarding any Loan Party, such as lists of assets, will be provided:
  - (i) if and to the extent such information is required by local Requirements of Law to be provided to perfect, register or enforce the relevant security and will be provided no more frequently than annually at the time of the delivery of the financial statements provided under Section 5.01(b) of the Credit Agreement (or at more frequent intervals as is customary and only to the extent required under local Requirements of Law as requested by the Administrative Agent); or
  - (ii) following an Event of Default which is continuing, on the Administrative Agent's reasonable request.
- (f) The Administrative Agent, or any receiver appointed under the Collateral Documents, shall only be able to exercise a power of attorney granted to it by a Loan Party under the Collateral Documents following the occurrence of an Event of Default which is continuing or if the relevant Loan Party has failed to comply with a further assurance or perfection obligation set forth in the Credit Agreement and/or Collateral Documents, such power of attorney shall be exercisable in respect of such further assurance or perfection obligations no earlier than 3 Business Days after receipt of written notice of the Administrative Agent's or receiver's (as the case may be) intent to exercise such power of attorney by such Loan Party.
- (g) In the Collateral Documents, there will be no repetition or expansion of provisions set out in the Credit Agreement (or the Intercreditor Agreement), such as those relating to notices, cost and expenses, indemnities, tax gross-up and distribution of proceeds unless required by local Requirements of Law and which if so required, such provisions shall in all cases be no more onerous than the terms of the Credit Agreement and these Agreed Security Principles unless required by local Requirements of Law. Subject to Section 9.23 of the Credit Agreement, in the case of a conflict between the Credit Agreement or the Intercreditor Agreement and any Collateral Document, the Credit Agreement or Intercreditor Agreement, as applicable, shall govern.
- (h) The Collateral Documents shall not operate to prevent transactions which are permitted under the Credit Agreement or to require additional consents or authorizations (whether to create, perfect or maintain the security or otherwise) to the extent not required under the Credit

Agreement and in the case of any such conflicts, the terms of the Credit Agreement shall govern.

- (i) The Collateral Documents will permit Dispositions of assets where such Disposition is permitted under the Credit Agreement and will include assurances for the Administrative Agent to do all things reasonably requested of it to release Collateral to the extent consistent with Sections 8.01 and 9.23 of the Credit Agreement (without recourse and without representation or warranty of any kind either express or implicit and at the sole expense of the Loan Parties to the extent required in accordance with Section 9.03 of the Credit Agreement) that is the subject of such Disposition; provided that the authorization of the Administrative Agent to release Collateral subject to Collateral Documents governed by German law shall be set out in the Credit Agreement unless also required to be contained in the Collateral Documents pursuant to local Requirements of Law (in which case, it may be specified in both agreements).
- (j) The Collateral Documents will not accrue interest on any amount unless required by local Requirements of Law.
- (k) The Collateral Documents will, where possible and practical, automatically create a security interest over future assets of the same type as those already secured. Where local Requirements of Law require supplemental pledges to be delivered in respect of future acquired assets in order for effective security to be created over that class of asset, such supplemental pledges shall be provided at intervals no more frequent than six (6) Months (unless required more frequently under local Requirements of Law).
- (l) Unless prohibited by, or unless it is standard market practice under, local Requirements of Law, security or pledges granted in relation to Secured Obligations in respect of the Credit Agreement will be documented separately from the loan documents (or equivalent terms under any junior lien facility agreement) or any other document governing any junior lien facility.
- (m) All security provided by a Lux Party shall include a definitive waiver of any right, action or claim the Lux Party may have under the pledges against any Person securing or guaranteeing the Secured Obligations, including, in particular, the Lux Party's rights of recourse under Articles 2028 et seq. of the Luxembourg Civil Code, any right to subrogation, present or future, they may have under Article 2037 of the Luxembourg Civil Code or any other similar right, action or claim under any local Requirements of Law (including ancillary relief or provisional measures such as saisie-arrêt conservatoire) or by way of set-off.
- (n) Unless granted under a global security document governed by the law of the jurisdiction of incorporation of a Loan Party or under New York law, all security (other than share security over any subsidiary of a Loan Party that is also a Loan Party) shall be governed by the law of, and secure assets located in, the jurisdiction of incorporation of the applicable Loan Party granting such security.

### **3. Perfection**

- (a) Except as otherwise provided in these Agreed Security Principles, prior to the occurrence, and continuation, of an Event of Default, perfection of Collateral granted will not be required if it would have a material adverse effect on the ability of the relevant Loan Party to conduct its operations and business in the ordinary course of business or as otherwise permitted by the Loan Documents.
- (b) Where a class of assets to be secured includes material and immaterial assets, if the cost of granting or perfecting a security interest over the immaterial assets is disproportionate to the benefit of such Collateral to the Secured Parties, security will be granted or perfected, as applicable, with respect to the material assets only, subject to the general principles set out in these Agreed Security Principles.
- (c) Perfection shall be limited to those jurisdictions as set forth in the final paragraph in the definition of "Collateral and Guarantee Requirement" in the Credit Agreement.

### **4. Guarantees and Collateral**

- (a) Subject to the matters referred to in these Agreed Security Principles, the Legal Reservations, Perfection Requirements and any other exceptions contained in the Loan Documents, it is further acknowledged that the Administrative Agent shall:
  - (i) receive the benefit of an upstream, cross stream and downstream guaranty and the security will be granted to secure the Secured Obligations; and
  - (ii) (in the case of those security documents creating pledges or charges over shares in a Loan Party) obtain a first priority valid charge or analogous or equivalent Lien (subject to Permitted Liens) over the outstanding shares (subject to, and to the extent contemplated by, the restrictions set forth in these Agreed Security Principles) at any time in that Loan Party which are owned by another Loan Party.
- (b) No guarantees or security shall be required to be granted by an Excluded Subsidiary (other than a Loan Party) for so long as it constitutes an Excluded Subsidiary. No security shall be required to be granted over the shares in an Excluded Subsidiary (other than a Loan Party), no Excluded Subsidiary (other than a Loan Party) will be required to sign any security document or other Loan Document, in each case for so long as it constitutes an Excluded Subsidiary.
- (c) To the extent possible, all security shall be given in favor of the Administrative Agent as agent for the Secured Parties and not the Secured Parties individually; provided that, (i) in the case of any Austrian law, German law or Italian law governed pledge or security agreements, although security shall be given in favor of the Administrative Agent and the other Secured Parties, it is understood and agreed that the relevant security documents will be executed by the Administrative Agent acting in its own name and also in the name of and on behalf of such Secured Party by virtue of authorizations granted to it under the Loan Documents, unless any Secured Party is barred under any applicable Requirements of Law, in which case individual

execution by the concerned Person will be required, (ii) the Austrian law governed pledge agreements will grant a security interest only to the Administrative Agent and the other Secured Parties being an original party to the respective Austrian law governed pledge agreement and (iii) any Dutch law governed security shall be given in favor of the Administrative Agent in its own name as creditor of the Parallel Debt included in the Credit Agreement. “Parallel debt” provisions will be used where necessary; such provisions will be contained in the Credit Agreement, the Loan Guaranty and/or the Intercreditor Agreement and not the individual security documents unless required under local Requirements of Law.

- (d) The Required Initial Signing Date Lenders (or, after the Closing Date, the Administrative Agent) and the Lux Borrower shall negotiate the form of each security document in good faith in accordance with the terms of the Agreed Security Principles and the Credit Agreement. Notwithstanding anything to the contrary, any guarantee and security arrangements agreed by the Required Initial Signing Date Lenders (or, after the Closing Date, the Administrative Agent) and the Lux Borrower from time to time (including the identity and category of assets subject or not subject to security) shall be deemed to satisfy all relevant obligations of the Lux Borrower and its Restricted Subsidiaries to provide guarantees and security in respect of the relevant facilities.
- (e) No action shall be required to perfect any Lien with respect to (A) any vehicle or other asset subject to a certificate of title or any vehicle or other serial numbered good under the PPSA, (B) letter-of-credit rights, (C) the Capital Stock of any Immaterial Subsidiary (other than any Immaterial Subsidiary that is a Discretionary Guarantor or otherwise required to become a Loan Party pursuant to Section 5.12 of the Credit Agreement) and/or (D) the Capital Stock of any Person that is not a subsidiary, which Person, if a subsidiary, would constitute an Immaterial Subsidiary, in each case except to the extent that a security interest therein can be perfected by filing a PPSA financing statement or a UCC-1 financing statement or any analogous filing in any other jurisdiction, and provided that a VIN or other serial number will not be required to be listed in any such financing statement.

## 5. Terms of Collateral Documents

- (a) **Bank accounts**
  - (i) Subject to these Agreed Security Principles, notifications of pledges over bank accounts will be required to be given to the bank holding such account if and only to the extent required by local Requirements of Law to perfect the relevant security and notice of such security will be served by the relevant Loan Party on the bank holding such account within 10 Business Days of the security being granted, and the Loan Party shall use its commercially reasonable efforts to obtain an acknowledgement of such notice. If the Loan Party has used its commercially reasonable efforts to obtain acknowledgement but has been unable to do so within 20 Business Days, the obligation will cease.

- (ii) If required under local Requirements of Law to create or perfect the relevant security, security over bank accounts will be registered subject to the general principles set out in these Agreed Security Principles.
- (iii) No control agreements or comparable methods of perfection shall be required.
- (iv) If a Loan Party grants security over its bank accounts, it shall be free to deal with those accounts in the ordinary course of its business or otherwise as permitted under the Loan Documents until the occurrence and continuance of an Enforcement Event.
- (v) Any security over bank accounts shall be subject to any prior Liens in favor of the account bank which are created either by law or in the standard terms and conditions of the account bank and any other Permitted Lien.
- (vi) Each Loan Party shall be free to close the relevant bank account at any time without any prior consent or notification requirement provided that any amounts standing to the credit of such bank account are transferred to another bank account encumbered in favor of the Administrative Agent.

**(b) Fixed assets and inventory**

- (i) Subject to these Agreed Security Principles and to the extent required under the Loan Documents, a Loan Party shall grant security over its fixed assets and inventory but it shall be free to deal with those assets and that inventory in the ordinary course of business or otherwise as permitted under the Loan Documents until the occurrence and continuance of an Enforcement Event.
- (ii) If required for perfection, validity and enforceability under local Requirements of Law, security over fixed assets or inventory will be registered subject to the general principles set out in these Agreed Security Principles. For the avoidance of doubt, no notice whether to third parties or by attaching a notice to fixed assets or inventory or otherwise shall be required to be given by a Loan Party unless pursuant to a request by the Administrative Agent (acting on behalf of the Required Lenders) after an Enforcement Event has occurred and is continuing.

**(c) Insurance Policies**

- (i) Subject to these Agreed Security Principles, a Loan Party will grant security over its insurance policies.
- (ii) The designation of the Administrative Agent as an additional insured or loss payee, as applicable, shall not be required to be noted on any insurance policy provided in any jurisdiction outside of the United States of America or any state thereof.
- (iii) Notification of security over insurance policies outside of the United States of America (or any state thereof) will not be served on any insurer of the Loan Parties' assets until the occurrence and continuance of an Enforcement Event unless such notification is

required by applicable local Requirements of Law to create or perfect a security interest or preserve the Administrative Agent's security interest in such insurance policies;

- (iv) If required by local Requirements of Law to perfect the relevant security, notice of such security will be served by the relevant Loan Party on the insurance provider within 5 Business Days of the security being granted, and the Loan Party shall use its commercially reasonable efforts to obtain an acknowledgement of such notice. If the Loan Party has used its commercially reasonable efforts to obtain acknowledgement but has been unable to do so within 20 Business Days, the obligation will cease.

**(d) Intellectual Property**

- (i) Subject to these Agreed Security Principles and to the extent required under the Loan Documents, a Loan Party shall grant security over its intellectual property but it shall be free to deal with those assets in the ordinary course of business (including, without limitation, allowing its intellectual property to lapse if no longer necessary for the operation of its business) or otherwise as permitted under the Loan Documents until an Enforcement Event has occurred and is continuing.
- (ii) No security shall be granted over any intellectual property which cannot be secured under the terms of any relevant licensing agreement.
- (iii) Subject to these Agreed Security Principles, notifications of security over intellectual property (excluding customary filings with the U.S. Patent and Trademark Office and the U.S. Copyright Office for registered U.S. federal intellectual property) will be required to be given if and only to the extent an Enforcement Event has occurred and is continuing.
- (iv) If required for the validity, perfection and enforceability under local Requirements of Law, security over material intellectual property used in the business of the Lux Borrower and its Restricted Subsidiaries, taken as a whole, will be registered under the law of the relevant Collateral Document or at a relevant supra-national registry (such as the EU) subject to the general principles set out in these Agreed Security Principles.
- (v) No granting by any Loan Party of a Lien in any intellectual property will or will be deemed to constitute a present assignment of such intellectual property

**(e) Intercompany Receivables**

- (i) Subject to these Agreed Security Principles and to the extent required under the Loan Documents, a Loan Party shall grant security over its intercompany receivables but it shall be free to deal with those receivables in the ordinary course of business in accordance with the Credit Agreement and the terms of any intercompany note governing such receivable.

- (ii) If required under local Requirements of Law to create or perfect such security interest, security over intercompany receivables will be registered subject to the general principles set out in these Agreed Security Principles. To the extent such intercompany receivables are evidenced by a Material Debt Instrument, such Material Debt Instrument shall be pledged in favor of the Administrative Agent in accordance with the Credit Agreement and the Collateral Documents; provided that any Material Debt Instrument (or the applicable instrument of transfer in respect of the pledge thereof) shall include a legend (or the issuer thereof shall have otherwise been given notice of such pledge) stating that such intercompany note has been pledged as Collateral pursuant to the applicable Collateral Documents.
- (iii) The relevant Loan Party or Restricted Subsidiary may (i) pay accrued interest under the intercompany receivable and (ii) make repayments of the principal amount under the intercompany receivable, in each case, as permitted by the Loan Documents.
- (iv) Subject to these Agreed Security Principles, notifications of security over receivables among the Lux Borrower and its Restricted Subsidiaries will be required to be given to the intercompany debtors thereunder promptly upon entry into the relevant Collateral Document and the intercompany debtors thereunder will provide an acknowledgement promptly thereafter to the extent such acknowledgement is required for perfection under applicable Requirements of Law (which acknowledgment may be specified in an Acceptable Intercreditor Agreement).

**(f) Trade Receivables**

- (i) If any Loan Party grants security over its trade receivables, it shall be free to deal with those receivables in the ordinary course of business or as otherwise permitted under any Loan Document until the occurrence and continuance of an Enforcement Event. Subject to these Agreed Security Principles, notifications of security over trade receivables will be required to be given to the debtors thereunder if and only to the extent an Enforcement Event has occurred and is continuing.
- (ii) Any list of trade receivables required by local Requirements of Law under these Agreed Security Principles shall include such details of the underlying contracts to the extent required under local Requirements of Law to perfect the security over the trade receivables.
- (iii) If required under local Requirements of Law to create or perfect such security, Liens over trade receivables will be registered subject to the general principles set forth in these Agreed Security Principles.
- (iv) No restricted accounts, control agreements or comparable methods of perfection shall be required.

**(g) Capital Stock**

- (i) Each Collateral Document executed by a Loan Party granting security over any Capital Stock will be governed by the laws of the jurisdiction of the Person whose Capital Stock is being pledged and not by the law of the jurisdiction of the relevant Guarantor granting the security over the Collateral. The Capital Stock held by a Guarantor in a subsidiary that is not a Guarantor (other than the Capital Stock of Non-US Loan Parties held by US Loan Parties) shall not be required to be the subject to a pledge agreement or any other Collateral Document.
- (ii) Where required by local Requirements of Law to create or perfect such security and to the extent such shares are certificated, the share certificate and a stock transfer form executed in blank will be provided to the Administrative Agent, and, where required by local Requirements of Law, the share certificate or shareholders register will be endorsed, annotated or written up, as applicable, and the endorsed or annotated share certificate or a copy of the written up register will be provided to the Administrative Agent, together with such share certificate and stock transfer form, within the time periods specified under Section 5.12 of the Credit Agreement. With respect to a Belgian law or a Luxembourg law or a French law governed Capital Stock pledge, perfection of the pledge shall be made by registration in the share register of the company whose Capital Stock is being pledged within three Business Days of execution of the Capital Stock pledge agreement. With respect to an Austrian law governed Capital Stock pledge, perfection of the pledge shall be made by notification to the company whose Capital Stock is being pledged within ten Business Days of execution of the applicable share pledge agreement. With respect to a German law governed Capital Stock pledge, perfection of the pledge shall be made by notification to the company whose Capital Stock is being pledged by either having the relevant pledged company countersign the applicable share pledge agreement or through a separate notice. With regard to the pledge of Austrian corporations, a third party notification to the respective corporation as well as (to be used upon the occurrence of an Enforcement Event only) a voting proxy and a sales power of attorney shall be required.
- (iii) In respect of Capital Stock pledges, unless an Enforcement Event has occurred and is continuing (or, for the avoidance of doubt, with respect to the US Security Agreement, an Event of Default has occurred and is continuing) and the Administrative Agent shall have provided at least three Business Days' notice that the pledgors shall no longer have such rights, such pledgors shall be permitted to (i) retain and to exercise voting rights attaching to any Capital Stock pledged by them (it being understood that, in accordance with French Requirements of Law, with respect to any French law governed Capital Stock pledge, voting rights with respect to such Capital Stock shall continue to be exercised by the pledgor of such Capital Stock for so long as the pledgor remains the owner of such Capital Stock, irrespective of the occurrence of any

Event of Default), (ii) receive and retain dividends on pledged Capital Stock and/or pay dividends upstream on pledged Capital Stock to the extent permitted under the Loan Documents with the proceeds available to any Loan Party and (iii) with respect to any Luxembourg law governed Capital Stock pledge, receive any share distributions (i.e., all dividends, interest and other monies payable under the shares and future shares and all other rights, benefits and proceeds under or derived from the shares and future shares).

- (iv) Unless the restriction is required by local Requirements of Law, the constitutional documents of the company whose Capital Stock has been pledged will be amended to remove any restriction on the transfer or the registration of the transfer of the Capital Stock in the event of enforcement of the security granted over them. Any consents required under any transfer restrictions contained in the articles or other constitutional documents of a Canadian issuer in connection with a pledge or subsequent transfer of a pledged Capital Stock will be obtained.

(h) **Real Estate**

- (i) For Material Real Estate Assets not located in the U.S., there will be no obligation to investigate title, provide surveys or other insurance or environmental due diligence and no title insurance will be required.
- (ii) There will be no security over real property owned by the Non-US Loan Parties other than for Material Real Estate Assets; provided that, the determination of whether the cost, burden, difficulty or consequence (including any effect on the ability of such Non-US Loan Party to conduct its operations and business in the ordinary course) of obtaining or perfecting a security interest in such Material Real Estate Assets outweighs the benefit of the security afforded thereby shall be determined by the Lux Borrower in its sole discretion.

(i) **Preservation of Security Rights**

- (i) Luxembourg law security documents shall indicate that, for purposes of Articles 1278 et seq. of the Luxembourg Civil Code and except as otherwise stated in the Loan Documents, security rights created thereunder shall continue in full force and effect, notwithstanding any assignment, amendment, novation or transfer of any kind by the security beneficiary of all or any part of the Secured Obligations, or any further consent or formality.
- (ii) Belgian law security documents shall indicate that, for purposes of Articles 1278 et seq. of the Belgian Civil Code and except as otherwise stated in the Loan Documents, security rights created thereunder shall continue in full force and effect, notwithstanding any assignment, amendment, novation or transfer of any kind by the

security beneficiary of all or any part of the Secured Obligations, or any further consent or formality.

(j) **Release of Collateral**

- (i) Unless required by local Requirements of Law, the circumstances in which the Collateral shall be released should not be dealt with in individual Collateral Documents but, if so required by local Requirements of Law, shall, except to the extent required by local Requirements of Law, be the same as those set out in the Credit Agreement and the Intercreditor Agreement.

**Schedule 1.01(c)**  
Closing Date and Post-Closing Loan Parties

Closing Date Loan Parties

Allnex (Luxembourg) & Cy S.C.A.  
Allnex S.à r.l.  
Allnex Holdings S.à r.l.  
Allnex Belgium SA/NV  
Allnex Holding USA Inc.  
Allnex USA Inc.  
Allnex New Zealand Limited

Post-Closing Loan Parties

M.I.O. Schoonaarde NV  
Allnex Italy S.R.L.  
Allnex Norway AS  
AI Chem France Acquisition SAS  
Allnex France SAS  
Allnex IP S.à r.l.  
Allnex Holding I Germany GmbH  
Allnex Holding II Germany GmbH  
Allnex Germany GmbH  
Allnex Holding Austria GmbH  
Allnex Austria GmbH  
Allnex Holding UK Ltd.  
Allnex UK Ltd.  
Allnex Japan Inc.  
Allnex Canada Inc.  
Allnex Australia Pty. Ltd.  
Nuplex Industries Ltd.  
Nuplex Finance Holdings Ltd.  
Nuplex Operations (NZ) Ltd.  
Plaster Systems Ltd.  
Nuplex Operations (Aust) Pty. Ltd.  
Nuplex US Holdings Ltd.  
Nuplex Industries UK Ltd.  
Nuplex Resins Ltd.  
Nuplex Industries (Aust) Pty. Ltd.  
Asia Pacific Specialty Chemicals Ltd.  
Nuplex Resins LLC  
Silvertown Land Holdings Ltd.  
Nuplex Industries B.V.  
Aushold Pty. Ltd.  
Nuplex VN Masterbatch Pty. Ltd.  
Nuplex Resins B.V.  
Nuplex Sino Chemicals B.V.  
Nuplex Industries GmbH  
Nuplex Resins GmbH  
Multichem Pty. Ltd.

**Schedule 1.01(d)**  
**Closing Date Capital Stock Certificates**

Capital stock of Lux Borrower\*;  
Capital stock of Allnex Holdings S.à r.l.\*;  
Capital stock certificate of US HoldCo;  
Capital stock certificate of US Borrower;  
Capital stock of Allnex Belgium\*; and  
Capital stock of Bidco\*.

\*Capital stock is not certificated.

**Schedule 1.01(e)**  
**Closing Date Collateral Documents and Loan Guaranties**

**Luxembourg Law**

- Pledge Agreement under which Holdings pledges the shares of Lux Borrower under Luxembourg law to the Administrative Agent;
- Pledge agreement under which Holdings pledges bank account(s) located in Luxembourg under Luxembourg law to the Administrative Agent;
- Pledge agreement under which Holdings grants a pledge over its receivables under Luxembourg law to the Administrative Agent;
- Pledge Agreement under which Lux Borrower pledges the shares of Allnex Holdings under Luxembourg law to the Administrative Agent;
- Pledge agreement under which Lux Borrower pledges bank account(s) located in Luxembourg under Luxembourg law to the Administrative Agent;
- Pledge agreement under which Lux Borrower grants a pledge over its receivables under Luxembourg law to the Administrative Agent; and
- Pledge Agreement under which Lux Borrower pledges the Material Debt Instruments under Luxembourg law to the Administrative Agent.

**New York Law**

- Guaranty Agreement, executed by the Borrowers, Holdings, US HoldCo, Allnex Holdings and Allnex Belgium;
- US Security Agreement;
- Pledge Agreement under which Allnex Belgium pledges the shares of US HoldCo under New York law to the Administrative Agent; and
- Intellectual Property Security Agreements as applicable, executed by the US Loan Parties.

**Belgium Law**

- Pledge agreement under which Allnex Holdings and Holdings pledge the shares of Allnex Belgium under Belgium law to the Administrative Agent;
- Pledge agreement under which Allnex Belgium pledges bank account(s) located in Belgium under Belgian law to the Administrative Agent;
- Pledge agreement under which Allnex Belgium grants a pledge over its receivables under Belgian law to the Administrative Agent; and
- Pledge agreement under which Allnex Belgium grants a pledge over its business (with limited secured amount) to the Administrative Agent, together with a business pledge mandate to the Administrative Agent, each under Belgian law.

**New Zealand Law**

- Pledge Agreement under which Allnex Belgium pledges the shares of Bidco under New Zealand law to the Administrative Agent; and
- New Zealand law General Security Agreement from Bidco in favor of the Administrative Agent.

**Schedule 1.01(f)**  
**Closing Date Material Debt Instruments**

1. Master Intercompany Note, dated as of the closing date, by and among the Lux Borrower and certain of its subsidiaries party thereto.

**Schedule 1.01(g)**

**Closing Date Material Real Estate Assets (Real Estate Required to be Subject to a Mortgage)**

<u>Owner</u>	<u>Location</u>	<u>Description of Property</u>
Allnex Belgium SA/NV <sup>1</sup>	Drogenbos, Belgium	Manufacturing site. Size: 60 acres (24 hectares)
M.I.O. Schoonaarde NV <sup>2</sup>	Schoonaarde, Dendermonde, Belgium	Manufacturing site. Size: 3.24 acres (8 hectares)
Allnex USA Inc.	Kalamazoo, Michigan (Kalamazoo County)	Manufacturing site. Size: 90 acres (36.5 hectares)
Allnex USA Inc.	Langley, South Carolina (Aiken County)	Manufacturing site. Size: 14 acres (5.67 hectares)
Allnex USA Inc.	North Augusta, South Carolina (Aiken County)	Manufacturing site. Size: 207 acres (83.77 hectares)
Allnex USA Inc.	Wallingford, Connecticut (New Haven County)	Manufacturing site. Size: 250 acres (101 hectares)

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<sup>1</sup> Mortgage mandate to be provided together with mortgage.

<sup>2</sup> Mortgage mandate to be provided together with mortgage.

**Schedule 1.01(h)**  
**Collateral Categories**

<b>Austrian law</b>
Capital stock
<b>Australian law</b>
Collateral subject to the Agreed Security Principles
<b>Belgium law</b>
Collateral subject to the Agreed Security Principles
<b>Canadian (Ontario) law</b>
Capital stock
<b>Dutch law</b>
Collateral subject to the Agreed Security Principles
<b>English law</b>
Collateral subject to the Agreed Security Principles
<b>French law</b>
Collateral subject to the Agreed Security Principles
<b>German law</b>
Collateral subject to the Agreed Security Principles
<b>Italian law</b>
Capital stock
<b>Japanese law</b>
Collateral subject to the Agreed Security Principles
<b>Luxembourg law</b>
Collateral subject to the Agreed Security Principles
<b>New Zealand law</b>
Collateral subject to the Agreed Security Principles
<b>Norwegian law</b>
Capital stock

**Schedule 1.01(i)**  
**Commitment Schedule**

Lender	Amount of Revolving Commitment	Amount of Tranche B-1 Commitment	Amount of Tranche B-2 Commitment	Amount of Tranche B-3 Commitment
Morgan Stanley Senior Funding, Inc.	€50,240,000	-	-	-
Deutsche Bank AG New York Branch	€32,000,000	-	-	-
Goldman Sachs Bank USA	€32,000,000	-	-	-
Barclays Bank PLC	€22,880,000	-	-	-
ING Capital LLC	€22,880,000	€678,187,188.88	\$368,234,872.36	\$277,424,564.82
<b>Total:</b>	<b>€160,000,000</b>	<b>€678,187,188.88</b>	<b>\$368,234,872.36</b>	<b>\$277,424,564.82</b>

**Schedule 1.01(i)**  
**Dutch Action Procedures**

“**Auction Agent**” means (a) the Administrative Agent or any of its Affiliates or (b) any other financial institution or advisor engaged by the Lux Borrower (whether or not an Affiliate of the Administrative Agent) to act as an arranger in connection with any Auction pursuant to the definition of “Dutch Auction”.

“**Dutch Auction**” means an auction (an “**Auction**”) conducted by an Affiliated Lender or a Debt Fund Affiliate (any such Person, the “**Auction Party**”) in order to purchase Term Loans (or any Additional Term Loans, which for purposes of this definition shall be deemed to be Term Loans (and the holders thereof, Lenders)) in accordance with the following procedures; provided that no Auction Party shall initiate any Auction unless (I) at least five Business Days shall have passed since the consummation of the most recent purchase of Term Loans pursuant to an Auction conducted hereunder; or (II) at least three Business Days shall have passed since the date of the last Failed Auction which was withdrawn pursuant to clause (c)(i) below:

(a) Notice Procedures. In connection with an Auction, the Auction Party will provide notification to the Auction Agent (for distribution to the relevant Lenders) of the Term Loans that will be the subject of the Auction (an “**Auction Notice**”). Each Auction Notice shall be in a form reasonably acceptable to the Auction Agent and shall (i) specify the maximum aggregate principal amount of the Term Loans subject to the Auction, in a minimum amount of \$10,000,000 and whole increments of \$1,000,000 in excess thereof (or, in any case, such lesser amount of such Term Loans then outstanding or which is otherwise reasonably acceptable to the Auction Agent and the Administrative Agent (if different from the Auction Agent)) (the “**Auction Amount**”), (ii) specify the discount to par, which may be a range (the “**Discount Range**”) of percentages of the par principal amount of the Term Loans subject to such Auction, that represents the range of purchase prices that the Auction Party would be willing to accept in the Auction, (iii) be extended, at the sole discretion of the Auction Party, to (x) each Lender and/or (y) each Lender with respect to any Term Loans on an individual Class basis and (iv) remain outstanding through the Auction Response Date. The Auction Agent will promptly provide each appropriate Lender with a copy of such Auction Notice and a form of the Return Bid to be submitted by a responding Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m. on the date specified in such Auction Notice (or such later date as the Auction Party may agree to extend with the reasonable consent of the Auction Agent) (the “**Auction Response Date**”).

(b) Reply Procedures. In connection with any Auction, each Lender holding the relevant Term Loans subject to such Auction may, in its sole discretion, participate in such Auction and may provide the Auction Agent with a notice of participation (the “**Return Bid**”) which shall be in a form reasonably acceptable to the Auction Agent, and shall specify (i) a discount to par (that must be expressed as a price at which it is willing to sell all or any portion of such Term Loans) (the “**Reply Price**”), which (when expressed as a percentage of the par principal amount of such Term Loans) must be within the Discount Range, and (ii) a principal amount of such Term Loans, which must be in whole increments of \$1,000,000 (or, in any case, such lesser amount of such Term Loans of such Lender then outstanding or which is otherwise reasonably acceptable to the Auction Agent) (the “**Reply Amount**”). Lenders may only submit one Return Bid per Auction but each Return Bid may contain up to three bids only one of which can result in a Qualifying Bid. In addition to the Return Bid, the participating Lender must execute and deliver, to be held in escrow by the Auction Agent, an Assignment and Assumption with the dollar amount of the Term Loans to be assigned to be left in blank, which amount shall

be completed by the Auction Agent in accordance with the final determination of such Lender's Qualifying Bid pursuant to clause (c) below. Any Lender whose Return Bid is not received by the Auction Agent by the Auction Response Date shall be deemed to have declined to participate in the relevant Auction with respect to all of its Term Loans.

(c) Acceptance Procedures. Based on the Reply Prices and Reply Amounts received by the Auction Agent prior to the applicable Auction Response Date, the Auction Agent, in consultation with the Auction Party, will determine the applicable price (the "**Applicable Price**") for the Auction, which will be the lowest Reply Price for which the Auction Party can complete the Auction at the Auction Amount; provided that, in the event that the Reply Amounts are insufficient to allow the Auction Party to complete a purchase of the entire Auction Amount (any such Auction, a "**Failed Auction**"), the Auction Party shall either, at its election, (i) withdraw the Auction or (ii) complete the Auction at an Applicable Price equal to the highest Reply Price. The Auction Party shall purchase the relevant Term Loans (or the respective portions thereof) from each Lender with a Reply Price that is equal to or lower than the Applicable Price ("**Qualifying Bids**") at the Applicable Price; provided that if the aggregate proceeds required to purchase all Term Loans subject to Qualifying Bids would exceed the Auction Amount for such Auction, the Auction Party shall purchase such Term Loans at the Applicable Price ratably based on the principal amounts of such Qualifying Bids (subject to rounding requirements specified by the Auction Agent in its discretion). If a Lender has submitted a Return Bid containing multiple bids at different Reply Prices, only the bid with the lowest Reply Price that is equal to or less than the Applicable Price will be deemed the Qualifying Bid of such Lender (e.g., a Reply Price of \$100 with a discount to par of 2%, when compared to an Applicable Price of \$100 with a 1% discount to par, will not be deemed to be a Qualifying Bid, while, however, a Reply Price of \$100 with a discount to par of 2.50% would be deemed to be a Qualifying Bid). The Auction Agent shall promptly, and in any case within five Business Days following the Auction Response Date with respect to an Auction, notify (I) the Lux Borrower of the respective Lenders' responses to such solicitation, the effective date of the purchase of Term Loans pursuant to such Auction, the Applicable Price, and the aggregate principal amount of the Term Loans and the tranches thereof to be purchased pursuant to such Auction, (II) each participating Lender of the effective date of the purchase of Term Loans pursuant to such Auction, the Applicable Price, and the aggregate principal amount and the tranches of Term Loans to be purchased at the Applicable Price on such date, (III) each participating Lender of the aggregate principal amount and the tranches of the Term Loans of such Lender to be purchased at the Applicable Price on such date and (IV) if applicable, each participating Lender of any rounding and/or proration pursuant to the second preceding sentence. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the Lux Borrower and Lenders shall be conclusive and binding for all purposes absent manifest error.

(d) Additional Procedures.

(i) Once initiated by an Auction Notice, the Auction Party may not withdraw an Auction other than a Failed Auction. Furthermore, in connection with any Auction, upon submission by a Lender of a Qualifying Bid, such Lender (each, a "**Qualifying Lender**") will be obligated to sell the entirety or its allocable portion of the Reply Amount, as the case may be, at the Applicable Price.

(ii) To the extent not expressly provided for herein, each purchase of Term Loans pursuant to an Auction shall be consummated pursuant to procedures consistent with the provisions in this definition, established by the Auction Agent acting in its reasonable discretion and as reasonably agreed by the Lux Borrower.

(iii) In connection with any Auction, the Borrowers and the Lenders acknowledge and agree that the Auction Agent may require as a condition to any Auction, the payment of customary fees and expenses by the Auction Party in connection therewith as agreed between the Auction Party and the Auction Agent.

(iv) Notwithstanding anything in any Loan Document to the contrary, for purposes of this definition, each notice or other communication required to be delivered or otherwise provided to the Auction Agent (or its delegate) shall be deemed to have been given upon the Auction Agent's (or its delegate's) actual receipt during normal business hours of such notice or communication; provided that any notice or communication actually received outside of normal business hours shall be deemed to have been given as of the opening of business on the next Business Day.

(v) The Borrowers and the Lenders acknowledge and agree that the Auction Agent may perform any and all of its duties under this definition by itself or through any Affiliate of the Auction Agent and expressly consent to any such delegation of duties by the Auction Agent to such Affiliate and the performance of such delegated duties by such Affiliate. The exculpatory provisions pursuant to this Agreement shall apply to each Affiliate of the Auction Agent and its respective activities in connection with any purchase of Term Loans provided for in this definition as well as activities of the Auction Agent.

**Schedule 1.01(k)**  
E&Y Steps Memo

[Attached.]

# Project Olympus: Tax Structure Memorandum

1 April 2016

Reliance Restricted

Final Version



Building a better  
working world

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## Reliance Restricted

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Belgium

## Reliance Restricted: Project Olympus - Public to private takeover of Nuplex Industries Ltd., New Zealand ("the Target")

Dear Sirs,

In accordance with your instructions, we have performed the work set out in our engagement agreement dated 24 February 2016 (the "Engagement Agreement") (a copy of which we attach as Appendix C of this Report) in connection with the proposed public to private takeover of Target (the "Transaction").

This update of the report as of 1 April 2016 replaces the previous version as of 23 March 2016. The reference in the duty of care letters to the report as of 23 March 2016 also covers respectively is extended to this update as of 1 April 2016.

### Scope and nature of our work

The scope and nature of our work, including the basis and limitations, are detailed in the Engagement Agreement.

Please note that due to the critical timing of the transaction, we were not in a position to fully analyze all tax relevant aspects in detail. The report is still work in progress and will be amended by the fine tuning of the steps on an ongoing basis to the extent additional information will be made available.

1 April 2016

### Our Report

Our Report comprises two parts: financial part and tax part.

The tax parts of this report compromises two volumes:

- Tax Structure Memorandum; and
- Red Flag Tax Due Diligence Report.

Whilst each volume of the Report addresses different aspects of the work we have agreed to perform, the entire Report should be read for a full understanding of our findings and recommendations.

"Banner headlines" used in this Report are intended only to act as an introduction to the page concerned and should be read in conjunction with the rest of the page. They are not intended to represent any recommendation, conclusion or finding.

This Report is based on the law as of the date of this paper and reflects our interpretation of the applicable laws and regulations and the corresponding court rulings. In the course of time, laws, their interpretation and court rulings may change. Such changes may necessitate a revision of this paper.

Our points of view contain our recommendations in respect of your approach to the Transaction based on the factually-based conclusions derived from our analysis of information received.

Our work commenced on 24 February 2016 and was completed on the date of this Report. Therefore, our Report does not take into account events or circumstances arising after this date.



### Purpose of our Report and restrictions on its use

This Report was prepared on your instructions solely for the purpose of the Transaction from an Australian, Belgian, Chinese, Dutch, German, Luxembourg, Malaysian, New Zealand, UK, US and Thailand tax perspective and should not be used or relied upon for any other purpose.

This Report (or any portion or summary of it) may not be quoted, referred to or shown to any other parties except as provided in the Engagement Agreement attached in Appendix C of this Report, including the sections headed "Disclosure of our Report to Third Parties" in the Statement of Work (Appendix A) and sections 12 to 15 of the General Terms and Conditions (Appendix B).

We accept no responsibility or liability to any person other than to our client, or to such party that we have agreed in writing to accept a duty of care in respect of this Report, and accordingly if such other persons choose to rely upon any of the contents of this Report they do so at their own risk.

### Notice of the (Tax) Consultant

The (Tax) Consultant having provided information on Target does not accept or assume responsibility for its work results or for the opinions it has formed to anyone other than its client. To the fullest extent permitted by law, the (Tax) Consultant does not accept or assume responsibility to anyone as a result of the access given to its information or explanation given to its work results.

Yours faithfully

Ernst & Young GmbH

Wirtschaftsprüfungsgesellschaft

Michael Kunz

Partner

Jan-Rainer Hinz

Partner

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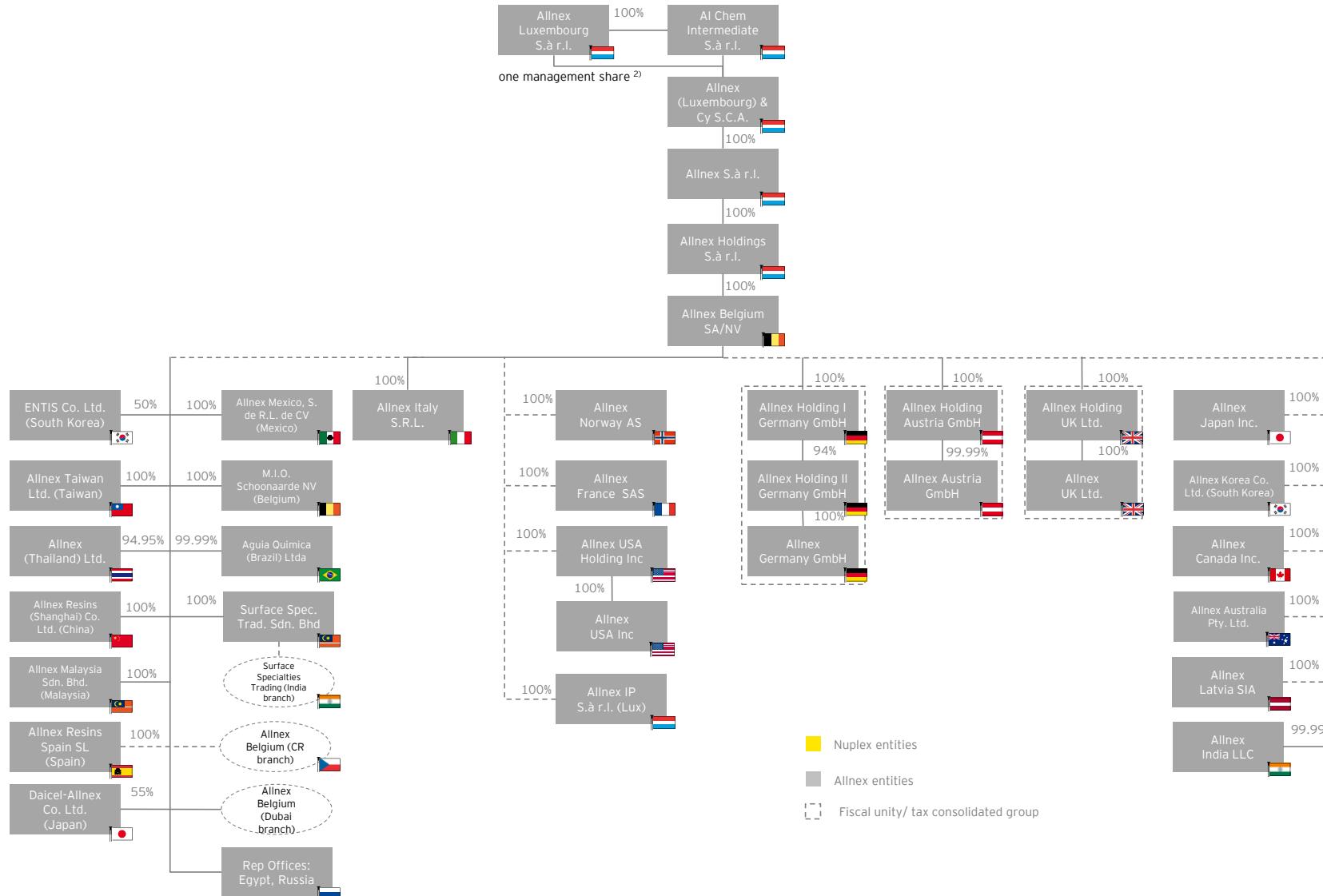
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## **Current structure**

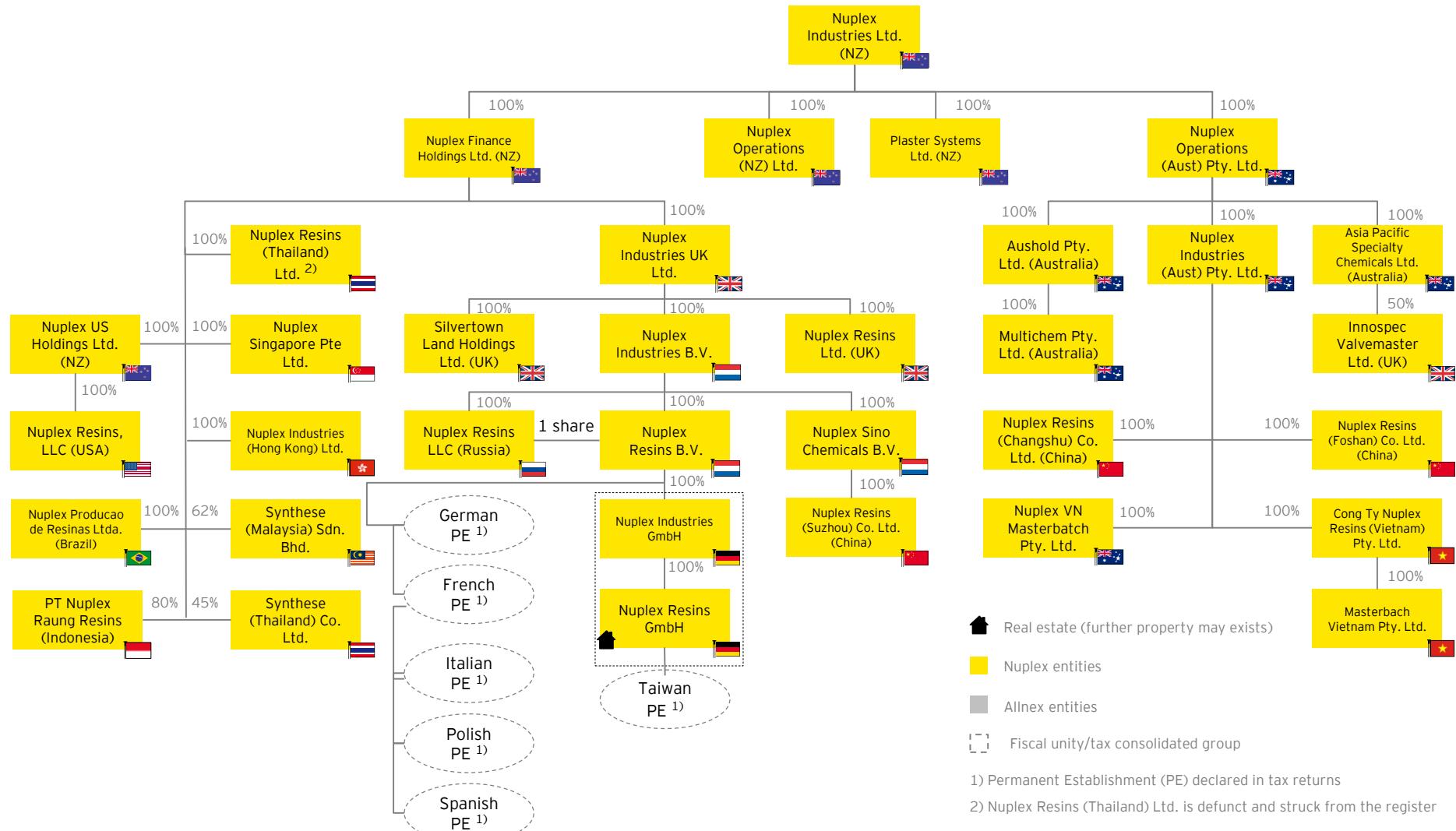
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1. Existing group structure (Allnex)
2. Existing target group structure (Nuplex)
3. Financing arrangements

## Existing group structure as of 31 December 2015 (simplified)



## Existing target group structure as of 28 February 2016 (simplified)



Current structure

Financing arrangements

## Financing arrangements

For Nuplex as of 30 June 2015:

Non current liabilities	NZD (in million)	EUR (in million)	Bank loans	NZD (in million)	EUR (in million)
Bank loans	76.9	46.0	Revolving financing facilities	254.6	152.4
USPP debt	1)	153.5	- thereof utilised	76.9	46.0
<b>Subtotal</b>	<b>230.4</b>	<b>137.9</b>	- thereof not utilised	<b>177.7</b>	<b>106.3</b>

### Overview (terms and conditions)

Loan	Borrower (entity)	Currency	Nominal interest rate	NZD (in million)	EUR (in million)
USPP debt*	Nuplex Industries GmbH	USD	6.13%	92.2	55.2
USPP debt*	Nuplex Industries B.V.	USD	6.13%	61.3	36.7
Bank loan - RCF	Open	USD	1.84%	13.2	7.9
Bank loan - RCF	Open	USD	2.03%	4.4	2.6
Bank loan - RCF	Open	EUR	1.61%	13.0	7.8
Bank loan - RCF	Open	EUR	1.75%	40.5	24.2
Bank loan - Indonesia	PT Nuplex Raung Resins	USD	5.05%	5.8	3.5
			<b>Subtotal</b>	<b>230.4</b>	<b>137.9</b>

Source: Financial statements for year ended 30 June 2015 and information provided in the VDR

\*USPP agreement as of 30 June 2012: original amounts are Nuplex Industries GmbH (USDm 63.05) and Nuplex Industries B.V. (USDm 41.95) with interest rate of 6.125%

1) According to information provided, principal and interest amounts have been swapped to EUR via a cross currency swap

For Allnex as of 31 December 2015:

Overview Allnex Financing as of 31 December 2015					
Loan	Borrower (entity)	Currency	Nominal interest rate	USD (in million)	EUR (in million)
B1	Allnex (Luxembourg) & Cy S.C.A.	USD	open	297.4	267.7
B2	Allnex US Inc.	USD	open	154.3	138.9
B3	Allnex (Luxembourg) & Cy S.C.A.	EUR	open	164.8	140.0
			<b>Subtotal</b>	<b>616.5</b>	<b>546.6</b>

Source: Management information

## **Terms of transaction**

---

1. Tax filing requirements
2. Background, assumptions and objectives
3. Sources and uses
4. Transaction background Allnex

## Overview tax filing requirements

Reference (Step / Action)	Description	Next step / recommendation
<b>Step 1 (NZ)</b>	<ul style="list-style-type: none"> <li>▶ Immediately upon incorporation by the lawyers, NZ BidCo has to be registered for an IRD number and for income tax and GST purposes, as well as change its balance date to December year-end to align with the Allnex group's.</li> <li>▶ In addition, in order to improve the recoverability of any NZ GST in relation to transaction costs, a B2B election should be filed for NZ BidCo,</li> </ul>	<ul style="list-style-type: none"> <li>▶ Immediately following incorporation, send letter to IRD / file relevant forms registering for an IRD number and income tax and GST purposes.</li> <li>▶ At the same time, send a letter requesting change of balance date to December year-end to align with Allnex group.</li> <li>▶ At the same time, file a section 20F B2B election to zero-rate supplies of financial services.</li> </ul>
<b>At Scheme of Arrangement (Signing) – (Germany)</b>	<ul style="list-style-type: none"> <li>▶ Due to the transfer of 100% of the shares in Nuplex Industries Ltd. (indirect transfer 100% of shares of in German entities), Real Estate Transfer Tax ("RETT") will be triggered on the German real property owned by Nuplex Resins GmbH.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Within <b>2 weeks</b> after signing NZ BidCo is obliged to file notice of the transaction with the tax authorities ("Grunderwerbsteueranzeige").</li> </ul>
<b>At Scheme of Arrangement (Signing) – (Belgium)</b>	<ul style="list-style-type: none"> <li>▶ Due to the SHL from Allnex S.à r.l to Allnex Belgium. Withholding tax formalities need to be filed within 15 days after payment or attribution of the interest.</li> </ul>	<ul style="list-style-type: none"> <li>▶ None</li> </ul>
<b>At Closing – (US)</b>	<ul style="list-style-type: none"> <li>▶ As a result of the Section 338 election, Nuplex Industries Ltd. and Nuplex Finance Holdings Ltd. (NZ) will be treated for US tax purposes as having sold all of its assets on the acquisition date. Therefore, the tax basis of Nuplex Industries Ltd. and Nuplex Finance Holdings Ltd. (NZ) assets should equal their fair market value.</li> </ul>	<ul style="list-style-type: none"> <li>▶ A Form 8023, Elections under Section 338 for Corporations Making Qualified Stock Purchases, should be filed by <b>15<sup>th</sup> day of the 9<sup>th</sup> month after the acquisition date</b> to make a Section 338 election for each Nuplex Industries Ltd. and Nuplex Finance Holdings Ltd. (NZ).</li> </ul>
<b>Action 4 - (Australia)</b>	<ul style="list-style-type: none"> <li>▶ Nuplex Operations (Aust) Pty. Ltd. is a company taken to be registered in NSW. Accordingly, a liability to marketable securities duty, imposed at the rate of 0.6% of the greater value of the consideration or unencumbered value of the shares transferred will arise.</li> <li>▶ A corporate reconstruction exemption from the marketable securities duty arising should be available.</li> </ul>	<ul style="list-style-type: none"> <li>▶ To obtain the benefit of the exemption an application needs to be made to the NSW Chief Commissioner. Applications currently take <b>4 - 6 weeks</b> to be processed. We generally recommend obtaining approval <b>prior to implementation</b> for certainty of outcome; however, this is not a legislative requirement.</li> <li>▶ We note that it is currently anticipated for marketable securities duty to be abolished from 1 July 2016. However, it is possible that this abolition will be deferred (as has occurred several times in the past).</li> </ul>

## Overview tax filing requirements

Reference (Step / Action)	Description	Next step / recommendation
<b>Action 5 – (Germany)</b>	<ul style="list-style-type: none"> <li>▶ Due to the transfer of 100% of the shares in Nuplex Industries GmbH RETT will be triggered on the German real property owned by Nuplex Resins GmbH again.</li> <li>▶ If, however, only 94.9% of the shares in Nuplex Industries GmbH were transferred to Allnex Holding I GmbH, RETT should not be triggered. In this case, tax authorities would not have to be informed (alternative structure to be reviewed).</li> </ul>	<ul style="list-style-type: none"> <li>▶ Within <b>2 weeks</b> after signing of I/C SPA Allnex Holding I Germany GmbH is obliged to file notice of the transaction with the tax authorities ("Grunderwerbsteueranzeige").</li> </ul>
<b>Step 6 - (NZ)</b>	<ul style="list-style-type: none"> <li>▶ In order to join the same TCG the balance dates must be aligned, so we will need to immediately request the change to the Nuplex NZ group entities to align with the Allnex group balance date.</li> <li>▶ To minimise NZ tax implications for the post-completion restructuring steps and potential amalgamations, NZ BidCo should elect to join the Nuplex TCG.</li> <li>▶ To minimise any GST leakage, NZ BidCo should also join the existing Nuplex NZ GST group if there is one, or consider forming one if not.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Immediately post-completion, send a letter to IRD requesting the Nuplex NZ group entities change their balance date to a December year-end.</li> <li>▶ NZ BidCo should then concurrently request to join the Nuplex TCG (this election must be filed within 63 days of closing at the latest, and then applies retrospectively from closing).</li> <li>▶ At the same time it should also elect to join the NZ GST group, if one exists (or consider forming a GST group if not). The application should be retrospective to the date of closing.</li> <li>▶ Less urgent, but prior to any interest payments or capitalisation, NZ BidCo will need to register as a NRWT payer.</li> </ul>
<b>Actions 4, 6 and 7 – voluntary reporting for indirect transfer (China)</b>	<ul style="list-style-type: none"> <li>▶ Combined reporting to cover multiple restructuring steps. Due to the indirect transfer of 100% of the shares in Nuplex Resins (Suzhou) Co. Ltd., Nuplex Resins (Changshu) Co. Ltd. and Nuplex Resins (Foshan) Co. Ltd., a voluntary report of the indirect transfer to the Chinese tax authorities is recommended to avoid any uncertainty in the future exit.</li> </ul>	<ul style="list-style-type: none"> <li>▶ In case a voluntary reporting is necessary, a <b>combined filing</b> to cover multiple restructuring steps would be possible. Timing: within <b>30 days</b> after signing of the share transfer agreement.</li> </ul>

## Overview tax filing requirements

### Action 7 - (NL)

- ▶ NL NewCo and the existing fiscal unity headed by Nuplex Industries B.V. (incl. Nuplex Sino Chemicals B.V. and Nuplex Resins B.V.) can be included in a fiscal unity for Dutch corporate income tax purposes headed by NL NewCo as NL NewCo has at least 95% of the shares in Nuplex Industries B.V. NL NewCo's financial years coincide with the financial years of Nuplex Industries B.V., Nuplex Sino Chemicals B.V. and Nuplex Resins B.V. and provided that all other requirements of the fiscal unity are met.

- ▶ The articles of association of NL NewCo should include appropriate mechanisms to ensure Dutch presence (e.g. at least 50% of the directors should be Dutch resident, board meetings should be physically held in the Netherlands, most important decisions of the board should be taken in the Netherlands etc.).
- ▶ In light of the fiscal unity requirements, the financial year of NL NewCo should coincide with the financial year of Nuplex Industries B.V., Nuplex Sino Chemicals B.V. and Nuplex Resins B.V. (e.g. starts on 1 July of each year and ends on 30 June of the next year). This should be recorded in the articles of association of NL NewCo.
- ▶ A request to form a fiscal unity must be filed **within three months** after the anticipated date of formation.

### Optional Actions 9 to 10 – WHT (China)

- ▶ Due to the direct transfer of 100% of the shares in Nuplex Resins (Suzhou) Co. Ltd., Nuplex Resins (Changshu) Co. Ltd. and Nuplex Resins (Foshan) Co. Ltd., WHT will be triggered on the capital gain.
- ▶ Allnex Resins (Shanghai) Co. Ltd, as the paying party/transferee, would have the withholding obligation for the WHT and shall fulfil tax filing obligations.
- ▶ Please note that alternatively also Nuplex Resins (Suzhou) Co. Ltd. might be used as the acquiring entity (to be determined).

- ▶ Submit the share transfer agreement to the in-charge tax bureau for withholding tax registration within **30 days** after signing the I/C share transfer agreement.
- ▶ Withhold the tax when the purchase price payment is made or the payment is due and pay the tax within **7 days**.

## Background, assumptions and objectives

### Background

- ▶ Allnex Holdings S.à r.l. and Allnex Belgium SA/NV ("Allnex Belgium") intend to acquire 100% of the shares in Nuplex Industries Ltd. ("Nuplex Industries"), a New Zealand stock-listed company. For further details on Allnex group, see section "*Transaction background Allnex*".
- ▶ Nuplex Group is a global chemical company focused on markets where they have leading technologies. Globally, they are a leading innovator and manufacturer of resins used in architectural, industrial, automotive and protective coatings.
- ▶ Nuplex Industries has received an indicative, non-binding and conditional proposal (the "Proposal") from Allnex Belgium, a leading global coating resins producer which is indirectly held by funds advised by Advent International Corporation ("Advent"), to acquire all of the outstanding shares in Nuplex via a scheme of arrangement ("SoA") for a total of EUR 3.25 (NZD 5.43) cash per share.
- ▶ Nuplex Industries and Allnex Belgium are complementary businesses and bringing them together would create a leading, global, independent coating resins producer.

### Assumptions

- ▶ It is intended to execute the acquisition through an incorporated limited liability company registered for legal and tax purposes in New Zealand ("NZ").
- ▶ Closing of the transaction is envisaged to occur in the course of Q3 / Q4 2016 (tbc).
- ▶ The transaction will be financed with equity to be provided by Allnex Belgium from its own liquidity and bank debt to be drawn by Allnex S.à r.l. and Allnex USA Inc. The debt drawn by Allnex USA Inc. will be partially on-lent to NZ BidCo. The remainder will be used for repayment of existing debt at Allnex USA Inc. level. In contrary the debt drawn by Allnex S.à r.l. will be partially on-lent to Allnex Belgium and then on-lent as SHL to NZ BidCo. The remainder drawn by Allnex S.à r.l. will be used to repay existing debt at Allnex (Luxembourg) & Cy S.C.A. level.

- ▶ Nuplex Industries is the borrower under an EURm 151.2 (USDm 167.9) (AUDm 225) Multicurrency Revolving Syndicated Facility Agreement dated 6 December 2013 between, amongst others, the Commonwealth Bank of Australia (as MLAB and Agent) (so called "SFA"). The Facilities under the SFA include a multicurrency revolving loan facility ("RCF") in an aggregate amount equal to EURm 100.8 (denominated in AUDm 150) and a multicurrency RCF in an aggregate amount equal to EURm 50.4 (denominated in AUDm 75) (please see clause 2.1 of the SFA).
- ▶ On 31 July 2012, the Group (i.e. Nuplex Industries GmbH and Nuplex Industries B.V.) raised EURm 94.5 (USDm 105) of debt from the US Private Placement market ("USPP") with a maturity of 31 July 2019 and an interest rate of 6.125%. Respective proceeds and ongoing obligations were converted into EUR using a cross currency swap. The borrowers under the USPP are Nuplex Industries GmbH (Series A notes) and Nuplex Industries B.V. (Series B Notes). The USPP contains a change of control provision that will trigger an obligation to offer to prepay, but note holders may or may not chose to accept. Voluntary pre-payment is also permitted but a make-whole to maturity will be payable on a voluntary redemption of the USPP, which should amount to approx. EURm 14.9 (denominated in USDm 16.5). According to legal advisor Weil, an early repayment of the USPP is envisaged to occur within 60 days following Closing.
- ▶ Moreover, PT Nuplex Raung Resins (Indonesia) raised bank debt in the amount of EURm 3.6 (denominated in USDm 4.0).
- ▶ Simultaneously with Closing or shortly before Closing (because of different time zones) existing bank debt within Nuplex and Allnex group shall principally be refinanced. However, small portions of local borrowings shall be kept in place such as, for instance, in Austria, Brazil, Thailand or Indonesia, i.e. it is not intended that the debt in these jurisdictions shall be refinanced.
- ▶ Existing bank debt at the level of Nuplex Industries and target entities shall be indirectly refinanced with new [senior] bank debt drawn by Allnex S.à r.l. (see above) which will be on-lent at Closing or shortly thereafter as shareholder loans.
- ▶ Existing bank debt within the Allnex Group, i.e. at the level of Allnex (Luxembourg) & Cy S.C.A. in the amount of EURm 151.6 and EURm 267.3 (denominated in USDm 297) as well as at the level Allnex USA Inc. in the amount of EURm 138.6 (denominated in USDm 154) shall be directly and

## Background, assumptions and objectives

indirectly refinanced. Allnex S.à r.l. will repay existing debt on behalf of Allnex (Luxembourg) & Cy S.C.A. with new [senior] bank debt drawn by Allnex S.à r.l. via a repayment of existing PECs granted by Allnex S.à r.l. to Allnex (Luxembourg) & Cy S.C.A.

- ▶ According to the information provided, Allnex S.à r.l. has existing NOLs amounting to approx. EURm 62.5 (USDm 69.4) as of the end of FY15. Those NOL carry forwards are available to offset additional interest margin income generated in the future and potential foreign exchange gains that might be realized at the level of Allnex S.à r.l.
- ▶ The shareholder loans (SHLs) are considered at nominal value for tax purposes at the level of the debtor as well as the creditor, i.e. no debt waiver and / or depreciation of value was considered at either level. The interest on the SHLs are supported by a TP documentation and do not provide for profit related remunerations according to the information received.
- ▶ The Nuplex Group owns real estate located Germany (held by Nuplex Resins GmbH, no detailed information available yet).
- ▶ The document of transfer in relation to the transfer of stock or marketable securities issued by companies that are not incorporated in the UK is not signed in the UK and, unless there is a nexus with the UK, there is no matter or thing to be done in the UK.
- ▶ The share register of any non-UK incorporated companies is not held in the UK and the shares of any non-UK incorporated companies are not paired with UK shares.
- ▶ No companies within the group hold UK real estate on which relief from Stamp Duty Land Tax has been claimed on under schedule 7 Finance Act 2003 (broadly group relief, reorganisation relief or acquisition relief) in the last 3 years.
- ▶ Transaction costs (e.g. advisory fees) should arise at the level of Allnex Belgium, Allnex S.à r.l., Allnex USA Inc. and NZ BidCo, i.e. engagement agreements and contracts should be entered into by or transferred to Allnex Belgium, Allnex S.à r.l., Allnex USA Inc. and NZ BidCo (to be reviewed once financing structure is agreed). From a tax perspective in each jurisdiction of the above mentioned companies tax perspective, a cost-benefit analysis should be performed with respect to costs to be charged to a specific entity and the transaction cost

allocation might require to be covered by respective upfront tax rulings in order to avoid adverse CIT and WHT consequences (to be reviewed at a later stage).

- ▶ Post-Closing, it is envisaged integrating part of the Nuplex entities (i.e., non-NZ and other selected jurisdictions) into the existing Allnex structure. In the course of this integration it is also contemplated to indirectly allocating bank debt through intercompany loans to the different jurisdictions to the extent possible in a tax optimized manner.
- ▶ This Report assumes that any shares held by Nuplex NZ group entities are held by those entities on 'capital account', i.e. not with the intention of resale or otherwise held on 'revenue account'.
- ▶ This Report constitutes neither legal advice nor accounting advice. Potential legal issues, e.g. registration / notification requirements, potential financial assistance issues or issues connected to minority shareholdings in target companies (if any) will be reviewed by legal advisors. Potential accounting issues need to be reviewed by the respective auditors.
- ▶ Please note, that this Report does neither include any comments with respect to the consequences of the proposed structure on the taxation of the shareholders of Nuplex Group, nor comments with respect to the taxation of management or management vehicles, if any.
- ▶ Please note, that the steps and tax implications described in this report might be subject to amendments, e.g. depending on (a) sources and uses, (b) the final financing structure, (c) discussions with other advisors, in particular lawyers as well as (d) potential due-diligence findings.
- ▶ It is assumed and highly recommended, that any substantial foreign exchange positions which will be created by the envisaged transactions will be hedged by Allnex treasury department, as otherwise, fully taxable foreign exchange gains may arise.
- ▶ The report currently only contains comments on the general deductibility of transaction costs (especially interest expenses). A detailed review of other transaction costs (e.g. advisory fees) post-closing is highly recommended and should be properly documented for future tax field audits.
- ▶ The interpretations we have reached herein, including those based upon statutory provisions, regulations and judicial authorities are all potentially subject

## Background, assumptions and objectives

to both prospective and retroactive change as a result of changes in law, judicial precedent and/or administrative pronouncements. We will not update this memorandum unless specifically requested by Allnex Belgium or one of its affiliated companies. EY is under no obligation to update this memorandum for changes in facts or tax law subsequent to the date hereof.

- ▶ Moreover, please note that based on the BEPS initiative at OECD level, several Governments initiated a tax reform of business taxation aspects in their jurisdiction. Given that the initiative is still ongoing, there is no draft legislation yet. Nevertheless, the developments should be monitored going forward, whether any changes in law may affect the tax implications mentioned in this report.

### Objectives

- ▶ This Tax Structure Memorandum shall outline a potential acquisition structure for the acquisition of the shares in Nuplex Industries.
- ▶ The financing structure should not only meet the requirements of the banks, but should also allow for a tax effective deduction of interest expenses to the extent possible in the various jurisdictions. Further post-closing reorganization steps might be carried out (e.g., mergers, liquidations of dormant entities) to optimize and simplify the structure of target entities especially in light of the fact that Nuplex target structure has a multi-layer legal entity structure what shall be reduced to a minimum post-closing to reduce structural complexity and administration efforts within the combined group post-closing.
- ▶ The structure should allow for tax efficient cash repatriation in the future to the extent possible.
- ▶ Please note that tax implications due to the transaction in jurisdictions other than Australia, Belgium, China, Germany, Luxembourg, Malaysia, Netherlands, New Zealand, Thailand, United Kingdom and US have not been analysed.
- ▶ However, for prudence purposes, we performed a high level analysis what impact the indirect transfer of shares in the entities in other jurisdictions could have on the following tax aspects:
  - (Deemed) capital gains taxation

- Change-of-ownership rules / forfeiture of tax attributes
  - Transfer taxes, such as real estate transfer tax or stamp duty
  - Reporting or notification requirements
  - Other tax implications to be considered
- ▶ For the avoidance of doubt, we did not analyze any tax implications which may arise upon a direct transfer of the entities in other jurisdictions. Nevertheless, based on the applicable tax treaties, we reviewed whether a direct share transfer would impact the dividend WHT. In any case, before a direct transfer of shares is performed, the tax implications should be carefully analyzed.

### FX rates as of 15 March 2016 - Local currency in EUR

Country	Local currency	Description	FX rate in EUR
Belgium	EUR	Euro	1.00000
Germany	EUR	Euro	1.00000
Netherlands	EUR	Euro	1.00000
Australia	AUD	Australian Dollar	0.67218
Brazil	BRL	Brasilian Real	0.24277
China	CNY	Chinese Renminbi Yuan	0.13824
Hong Kong	HKD	Hong Kong Dollar	0.11601
Indonesia	USD	US Dollar	0.90017
Malaysia	MYR	Malaysian Ringgit	0.21728
New Zealand	NZD	New Zealand Dollar	0.59848
Russia	RUB	Russian Ruble	0.01270
Singapore	SGD	Singapore Dollar	0.65257
Thailand	THB	Thailand Baht	0.02564
UK	GBP	British Pound	1.27619
USA	USD	US Dollar	0.90017
Vietnam	USD	US Dollar	0.90017

Source: European Central Bank: <http://www.ecb.europa.eu/stats/eurofxref/> as of 15 March 2016

## Sources and uses

### Illustrative Sources and Uses

Sources	EURm	USDm *	Uses	EURm	USDm *
<b>Equity / cash balance at Closing</b>			<b>Purchase price</b>	<b>650.9</b>	<b>723.1</b>
Allnex	96.8				
Nuplex <sup>1)</sup>	<u>36.9</u>				
	133.6	148.5	<b>Net debt (to be refinanced) <sup>2)</sup></b>		
<b>Total debt</b>					
1st Lien (EUR)	635.0		Allnex	538.8	
1st Lien (USD)	<u>635.0</u>		Nuplex	<u>128.2</u>	
	1,270.0	1,410.8	<b>Beginning cash balance</b>	<b>667.1</b>	<b>741.0</b>
<b>New Factoring / Bridge</b>	<b>80.0</b>	<b>88.9</b>	<b>Transaction costs <sup>3)</sup></b>	<b>40.0</b>	<b>44.4</b>
<b>Total Sources</b>	<b>1,483.7</b>	<b>1,648.2</b>	<b>Total Uses</b>	<b>1,483.7</b>	<b>1,648.2</b>

Source: Information provided by Advent

1) Existing RCF assumed to be repaid prior to closing

2) As of 31 December 2015

3) Including financing fees, break costs and due diligence costs

\*) FX-rate EUR / USD: 1.11

## Transaction background Allnex

- ▶ Allnex was established in 2013 after funds advised by Advent International acquired the Coating Resins Division as a divestiture from Cytec Industries. Today, Allnex is a global company with EURbn 1.35 (USDbn 1.5) in sales and a leading supplier of resins and additives for architectural, industrial, protective, automotive and special purpose coatings and inks.
- ▶ In 2015, the Allnex group performed a group-wide restructuring (the “Mid-Cycle Restructuring”) in order to achieve a number of objectives mainly consisting of the simplification and streamlining of the group structure to gain greater administrative and governance efficiencies, the optimization of cash upstreaming and of simplification of balance sheets.
- ▶ Besides the participation in Allnex Belgium SA/NV, Allnex S.à r.l. held participations in: Allnex Italy S.R.L., Al Chem France Acquisition SAS, Allnex Holding Norway AS, Allnex Holding I Germany GmbH, Allnex USA Holding Inc., Allnex Holding Austria GmbH, Allnex Holding UK Ltd., Allnex Japan Inc., Allnex Korea Ltd., Allnex Canada Inc., Allnex Australia Pty. Ltd., Allnex Latvia SIA and Allnex-Eternal Resins (HK) Co. Ltd. (jointly referred to as the “New Allnex Subsidiaries”) and Allnex IP S.à r.l. (“Allnex IP”), which was formerly owned by Allnex S.à r.l.’s parent, Allnex (Luxembourg) & Cy S.C.A.
- ▶ These Allnex subsidiaries generated net cash, and hence accumulated excess liquidity from their operational business.
- ▶ Overall, the Mid-Cycle Restructuring project facilitated the following objectives:
  - Streamlining of group structure:

The Mid-Cycle Restructuring was aimed to create a streamlined group structure with Allnex Belgium acting as the intermediate holding company for the entire group.

As part of the Mid-Cycle Restructuring Allnex Belgium has become the holding company of the New Allnex Subsidiaries and Allnex IP. Consequently, in addition to the managerial and operational control, Allnex Belgium has now legal control over the New Allnex Subsidiaries and Allnex IP.

- Cash management:

In addition, it is beneficial to centralize excess liquidity at the level of Allnex Belgium which houses the group treasury center and facilitates cash pooling, short- and medium-term loans and, generally, efficient cash deployment across the group.

As a result of the Mid-Cycle Restructuring, excess cash from all Allnex subsidiaries, including the New Allnex Subsidiaries and Allnex IP, can be upstreamed to Allnex Belgium by way of dividends, among other mechanisms that Allnex Belgium is now able to manage. This facilitates the management by Allnex Belgium of excess liquidity within the Allnex group and reduces the administrative maintenance associated with cross-lending between group entities.

- Reporting:

The streamlining of the group structure was envisaged to simplify internal and external reporting efforts, incl. bank reporting.

- Recalibration of the equity of Allnex Belgium:

Also, the equity of Allnex Belgium was recalibrated to ensure more flexibility on Allnex Belgium’s debt / equity position. It was therefore considered financially feasible and appropriate to reduce the net liquidity position towards Allnex S.à r.l. through an equity reduction.

- Recapitalization of Allnex USA:

Allnex USA Inc., in its capacity as the key North American manufacturing and distribution entity in the Allnex group, is simultaneously an important trading partner for Allnex Belgium. Per 31 December 2014, Allnex USA had equity of EURm 55.4 (denominated in USDm 61.5) (composed of share capital of EURm 91.8 (USDm 102) and retained earnings of EURm -36.5 (USDm -40.5)). Whilst being cash generative, Allnex USA Inc. was in need for additional funding in order to improve its equity, which allows it to strengthen its commercial position and to fund its investments. In order to reinforce the financial position of Allnex USA Inc., Allnex Belgium made an equity contribution of approx. EURm 90 (denominated in USDm 100) via Allnex Holding USA into Allnex USA Inc.

## Transaction background Allnex

- Other aspects:

In addition to the above objects, the Mid-Cycle Restructuring was furthermore aimed at a simplification of the Allnex group structure in Norway in order to provide for a more customer friendly legal identity. The former 4 Norwegian entities were combined into one surviving trading and manufacturing entity. Moreover, the double tier entity structure in France is currently being reduced to one legal entity only.

Finally, the governance requirements and administrative complexity in Luxembourg were re-evaluated in order to solidify the business rationale aspects, streamline the governance model and simplify the administrative footprint of Allnex S.à r.l.

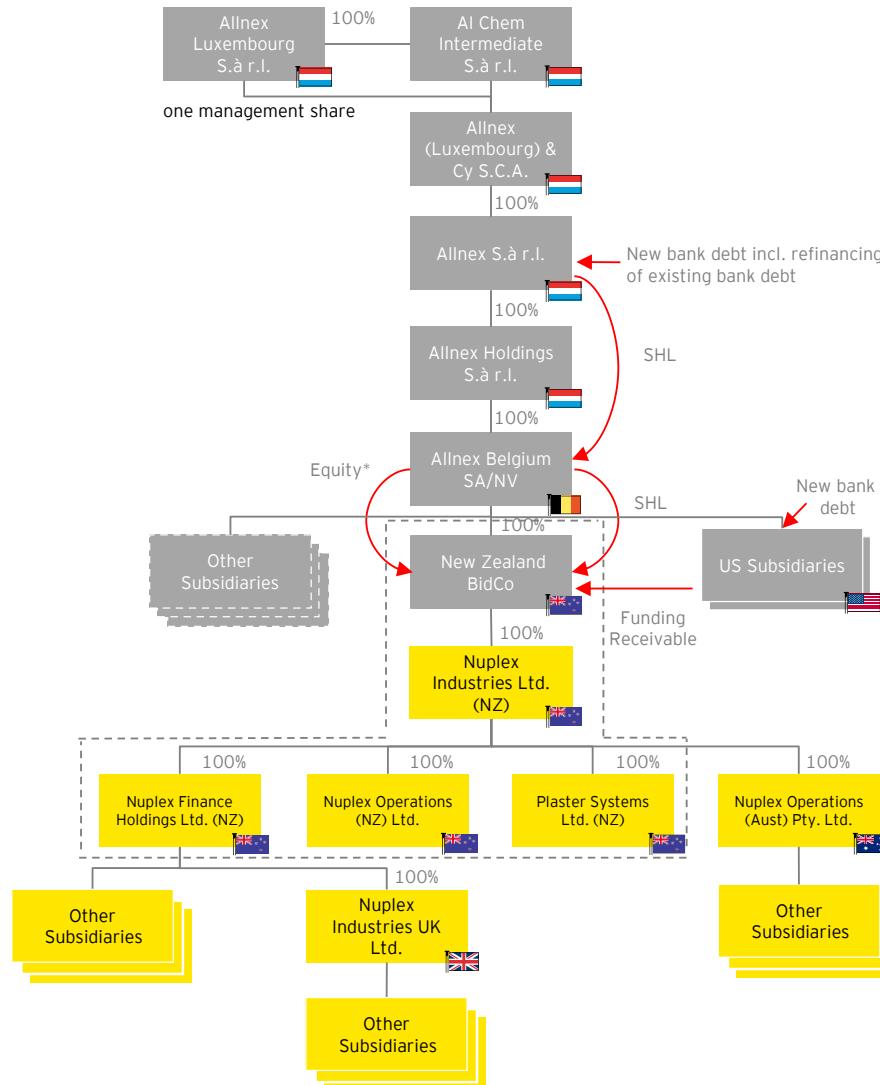
- The aforesaid description of the Mid-Cycle restructuring shall outline the stringent overall principles and aims pursued. The principles, especially the structural efficient approach by reducing the number of legal entities to the maximum extent possible shall be consequently continued in the desired add-on transaction. Therefore post-closing mergers / liquidations or corporate reorganizations might occur to reduce the complexity of the multi-layer Nuplex structure in connection with the intended integration.

## **Proposed acquisition structure (prior to any integration measures)**

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1. Proposed final acquisition structure
2. Steps to be taken
3. Detailed step plan

## **Proposed final acquisition structure prior to any integration measures (simplified)**



\*) Equity stems from own cash.

## Steps to be taken

### Prior to Scheme of Arrangement (prior to Signing)

#### Step 1: Incorporation of acquisition structure

- ▶ Allnex Belgium incorporates / acquires a NZ company in the legal form of a limited liability company ("NZ BidCo"), i.e. registered in NZ for corporate law and tax purposes with minimum equity from own liquidity amounting to EURk [XX] (denominated in NZDk [XX]) and a fiscal year-end as of [31 December, aligned with Allnex Group].

### At Scheme of Arrangement (Signing)

#### Step 2: NZ BidCo executes Scheme of Arrangement

- ▶ NZ BidCo executes a Scheme of Arrangement ("SoA") to acquire all outstanding shares in Nuplex Industries Ltd. ("Nuplex Industries").

### At Closing

#### Step 3: Funding of acquisition structure

- ▶ Simultaneously with Closing or shortly before Closing (due to different times zones) Allnex USA Inc. directly obtains new bank debt in the amount of approx. EURm 270-292 (denominated in USDm 300-325) of which it on-lends EURm 131-154 (equals denominated in USDm 146-171) to NZ BidCo for funding purposes ("US Funding Receivable") and replaces existing Allnex external debt of EURm 138.6 (denominated in USDm 154) (please see step 6).
- ▶ Alternatively, it may be considered that Allnex USA Inc. funds NZ BidCo indirectly. In this case, Allnex USA Inc. on-lends the received funds of EURm 131-154 (equals denominated in USDm 146-171) to Allnex S.à r.l. ("US Funding Receivable"), which in turn on-lends US Funding Receivable via Allnex Belgium to NZ BidCo. Alternative not yet determined, currently under review from a US tax perspective.
- ▶ Allnex S.à r.l. obtains new bank debt in an amount of EURm 975-1,000 (USDm 1,083-1,108), thereof
  - approx. USDm [tbd] and
  - approx. EURm [tbd].

- ▶ Allnex S.à r.l. funds Allnex Belgium with SHL using partially the funds received from new bank debt, i.e. less the amounts to repay existing bank debt at the level of Allnex (Luxembourg) & Cy S.C.A. through redemption of PECs (please see step 6 below).

- ▶ Allnex Belgium funds NZ BidCo with minimum equity (e.g. 1%) from own liquidity and with SHL (e.g. 99%).

#### Step 4: Closing of the Scheme of Arrangement

- ▶ Pursuant to the SoA, NZ BidCo acquires 100% of the shares in Nuplex Industries using funding obtained in step 3 (i.e. from equity and shareholder debt).
- ▶ A US Section 338 election is made for Nuplex Industries and Nuplex Finance Holdings Ltd. (NZ) ("Nuplex Finance").

#### Step 5: Refinancing of existing Nuplex debt

- ▶ Existing bank debt at the level of Nuplex Industries and target entities shall be indirectly refinanced with new [senior] bank debt drawn by Allnex S.à r.l. on-lent simultaneously with Closing or shortly thereafter (due to different times zones) as SHL via Allnex Belgium in the following amounts (tbc):
  - USPP Debt approx. EURm 91.9 (USDm 102) / (NZDm 153.5)
  - Bank loan RCF approx. EURm 46 (USDm 51) / (NZDm 76.9)

Total approx. EURm 137.9 (USDm 153.2) / (NZDm 230.4) (please refer to overview of "*Financing arrangements*" above).

However, please note that a make-whole to maturity will be payable on a voluntary redemption of the USPP in amount of approx. EURm 14.9 (denominated in USDm 16.5).

[Exact location of existing Nuplex debt requested via Q&A]

#### Step 6: Refinancing of Allnex debt

- ▶ Simultaneously to step 5 or step 3 (but shortly before closing) existing bank debt within Allnex Group shall be refinanced indirectly with the new [senior] bank debt drawn by Allnex S.à r.l. and directly with the new [senior] bank debt drawn Allnex USA Inc.

## Steps to be taken

- ▶ Allnex USA Inc. uses EURm 138.6 (denominated in USDm 154) of the directly obtained new bank debt in step 3 in the amount of approx. EURm 270-292 (denominated in USDm 300-325) to replace its debt plus costs.
- ▶ Allnex S.à r.l. obtains new bank debt in an amount of EURm 975-1,000, thereof USDm [XX] and EURm [XX].
- ▶ Allnex S.à r.l. will use the funds received (i.e. new bank debt, please see step 3) partially to refinance existing bank debt within Allnex:
  - Redeem the EUR-denominated PECs of USD-equivalent of EURm 140 (USDm 155.5) and interest accrued thereon of [XX] issued to Allnex S.C.A.; and
  - Redeem the USD-denominated PECs of EURm 290 (denominated in USDm 322) and interest accrued thereon of EUR [XX] (USD [XX]) issued to Allnex S.C.A.
  - Allnex S.C.A. settles its existing bank debt plus costs

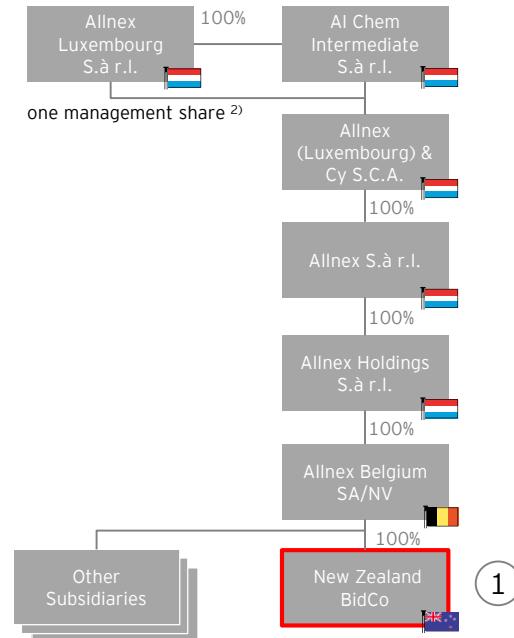
### Step 7: NZ tax Consolidation

- ▶ Shortly after step 4 but no later than 63 business days following closing, NZ BidCo elects to join the Nuplex Industries tax consolidated group for NZ tax purposes (or considers a new TCG). Upon the election being approved, NZ BidCo would be deemed to have joined from the date of closing.
- ▶ Alternatively (or after joining the Nuplex TCG, as this may simplify the amalgamation further), NZ BidCo and Nuplex Industries could be amalgamated (to be reviewed upon a later stage after additional information for final decision is made available).

### Post-Closing:

- ▶ It is envisaged integrating part of the Nuplex entities (i.e. non-NZ and other selected jurisdictions) into the existing Allnex structure.
- ▶ In the course of this integration it is also contemplated allocating bank debt to the different jurisdictions to the extent possible in a tax optimized manner and to streamline the structure to the largest extent possible (please compare above).

## Prior to Scheme of Arrangement (prior to Signing)



### Summary of steps

#### Step 1: Incorporation of acquisition structure

- ▶ Allnex Belgium incorporates / acquires a NZ company in the legal form of a limited liability company ("NZ BidCo"), i.e. registered in NZ for corporate law and tax purposes with minimum equity from own liquidity amounting to EURk [X] (denominated in NZDk [XX]) and a fiscal year-end as of [31 December, aligned with Allnex Group].

### Key points to consider

- ▶ According to our understanding from a legal perspective the incorporation of a newly set-up NZ BidCo can be achieved within a short time frame, approx. within one week (to be confirmed by A&O).

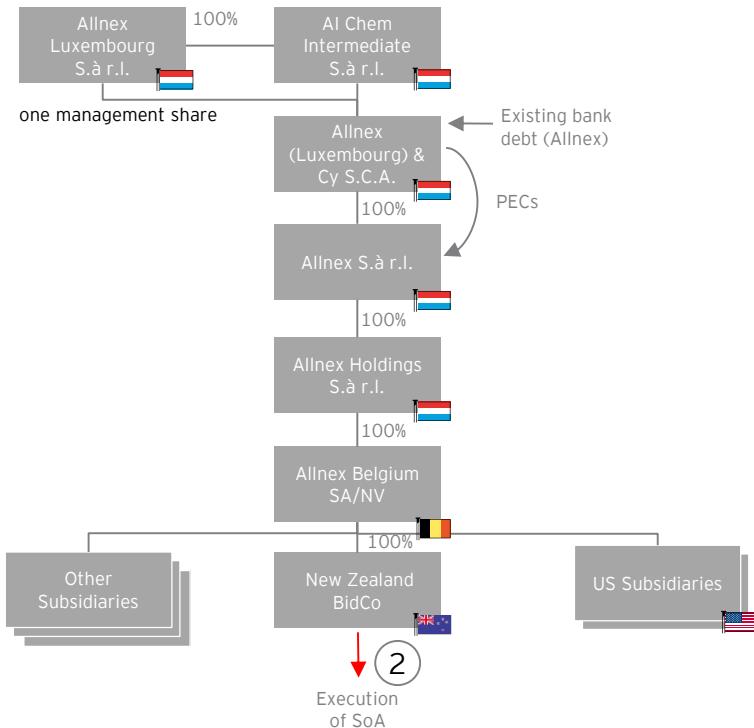
### Belgian tax implications

- ▶ No immediate tax impact in Belgium.
- ▶ The equity contribution qualifies as paid-in capital for Belgian tax purposes if it is recorded at NZ BidCo on a separate, unavailable account that constitutes a guarantee for third parties and that can only be reduced subject to a valid decision made in accordance with the corporate law rules on the modification of the statutes of incorporation. This would just be a normal 'Share capital' line in equity. If the equity contribution does not qualify as paid-in capital, a future repayment will be treated as a dividend for Belgian tax purposes.

### New Zealand tax implications

- ▶ It is important that BidCo is NZ resident for corporate law purposes and also only NZ resident for tax purposes.
- ▶ Dual residency can give rise to significant practical and economic disadvantages from a NZ tax perspective.

## At Scheme of Arrangement (Signing)



\*\*) Equity stems from own cash.

### Summary of steps

#### Step 2: NZ BidCo executes Scheme of Arrangement

- ▶ NZ BidCo executes a Scheme of Arrangement ("SoA") to acquire all outstanding shares in Nuplex Industries Ltd. ("Nuplex Industries").

### Australian tax implications

- ▶ A liability to landholder duty may arise if Nuplex Industries is considered to be a landholder for stamp duty purposes. Depending on the Australian jurisdiction/s in which it is considered to be a landholder, landholder duty may be triggered upon entry into an agreement to transfer or on completion of the transfer. This is subject to certain thresholds amongst different jurisdictions, and is based on the unencumbered market value of the relevant landholdings, and in some cases the goods, deemed to be acquired. The rate at which landholder duty is imposed on takeovers of listed companies will differ between the jurisdictions, ranging from concessional rates of 0.55% to non-concessional rates of up to 5.4%.
- ▶ Refer to our Red Flag Tax Due Diligence Report for a breakdown of jurisdictions and thresholds.

### German tax implications

#### General

- ▶ The signing of SPA should generally not trigger any adverse German income tax consequences.

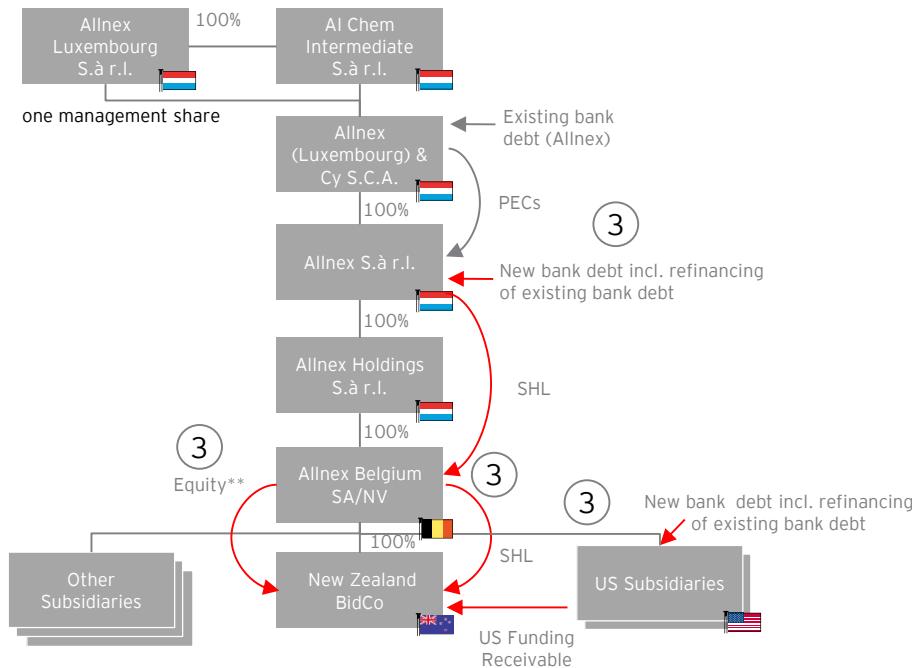
#### Real estate transfer tax ("RETT")

- ▶ Due to the transfer of 100% of the shares in Nuplex Industries (indirect transfer 100% of shares of in German entities), Real Estate Transfer Tax ("RETT") will be triggered on the German real property owned by Nuplex Resins GmbH.
- ▶ We understand that the transaction will be subject to antitrust approval and the fulfilment of other closing conditions. In such case, RETT should become due at the time of the approval, i.e. at the time of closing.

## At Scheme of Arrangement (Signing)

- ▶ Within two weeks after signing NZ BidCo is obliged to file notice of the transaction with the tax authorities ("Grunderwerbsteueranzeige").
- ▶ Nuplex Group (i.e. Nuplex Resins GmbH) currently owns significant German real estate with a book value according to German GAAP of approx. EURm 5.7 (USDm 6.3) as of 30 June 2015 located in Bitterfeld-Wolfen, (Saxony-Anhalt), where the applicable RETT rate amounts to 5% on the RETT base.
- ▶ The German Constitutional Court confirmed in 2015 that the so far applied tax basis for RETT is not in line with constitutional principles and must not be applied (also with retroactive effect). Since the comparable rent and the respective adjustment factors for a valuation cannot be determined in the course of a due diligence and the fact that a variety of information for the determination of the RETT base is required, only a rough estimate of the tax burden is possible. Based on the latest available book value RETT would amount to EURm 0.3 (USDm 0.33). Based on the initial acquisition costs the RETT would amount to EURm 0.8 (USDm 0.88). However, this should not be seen as the applicable range as the fair market value might also be higher than the initial acquisition costs.
- ▶ It should be noted, that the tax base for RETT is generally capped at the fair market value of the respective real estate. Thus, if a value lower than the value according to the new law can be substantiated vis-à-vis the tax authorities, e.g. by a professional opinion, this could potentially lead to a lower RETT burden.
- ▶ For more details we refer to section "*German key tax implications - Real estate transfer tax*".

## At Closing (funding of acquisition structure)



### Step 3: Funding of acquisition structure

- ▶ Simultaneously with Closing or shortly before Closing (due to different times zones) Allnex USA Inc. directly obtains new bank debt in the amount of approx. EURm 270-292 (denominated in USDm 300-325) of which it on-lends EURm 131-154 (equals denominated in USDm 146-171) to NZ BidCo for funding purposes ("US Funding Receivable") and replaces existing Allnex external debt of EURm 138.6 (denominated in USDm 154) (please see step 6).
- ▶ Alternatively, it may be considered that Allnex USA Inc. funds NZ BidCo indirectly. In this case, Allnex USA Inc. on-lends the received funds of EURm 131-154 (equals denominated in USDm 146-171) to Allnex S.à r.l. ("US Funding Receivable"), which in turn on-lends US Funding Receivable via Allnex Belgium to NZ BidCo. Alternative not yet determined, currently under review from a US tax perspective.
- ▶ Allnex S.à r.l. obtains new bank debt in an amount of EURm 975-1,000 (USDm 1,083-1,108), thereof
  - approx. USDm [tbd] and
  - approx. EURm [tbd].
- ▶ Allnex S.à r.l. funds Allnex Belgium with SHL using partially the funds received from new bank debt, i.e. less the amounts to repay existing bank debt at the level of Allnex (Luxembourg) & Cy S.C.A. through redemption of PECs (please see step 6 below).
- ▶ Allnex Belgium funds NZ BidCo with minimum equity (e.g. 1%) from own liquidity and with SHL (e.g. 99%).

### Belgian tax implications

- ▶ The financing of the equity contribution by Allnex Belgium from own liquidity does also not have an immediate tax impact in Belgium.
- ▶ Interest income earned by Allnex Belgium is taxable at the ordinary tax rate (33.99%) while interest expenses are deductible (subject to conditions and limitations). The loan from Allnex S.à r.l. to Allnex Belgium and the loan from Allnex Belgium to NZ BidCo should be at arm's length and Allnex Belgium

## At Closing (funding of acquisition structure)

should earn an at arm's length spread. NZ WHT may not erode Allnex Belgium's spread. Allnex Belgium may credit the NZ WHT (subject to conditions and limitations; see "*Detailed key tax implications*").

- ▶ Subject to conditions and formalities, the interest due by Allnex Belgium to Allnex S.à r.l. is exempt from WHT in Belgium under the Interest and Royalty Directive as transposed in Belgian internal law (see "*Detailed key tax implications*").
- ▶ Taxable/deductible FX gains/losses may arise in respect of non-EUR denominated loans to and by Allnex Belgium.

### Luxembourg tax implications

- ▶ If and to the extent that the new bank loan at Allnex S.à r.l. level is denominated in USD, no foreign exchange exposures should occur given that the functional currency of Allnex S.à r.l. is USD.
- ▶ Any foreign exchange gains arising at the level of Allnex S.à r.l. would be considered as fully taxable for Luxembourg tax purposes, whereas foreign exchange losses would be considered as tax deductible. Allnex S.à r.l. could bear the foreign exchange risk only to the extent the tax losses carried forward can shelter the margin and the potential foreign exchange gains.
- ▶ According to the information provided, Allnex S.à r.l. has existing NOLs amounting to approx. EURm 62.5 (USDm 69.4) as of the end of FY15. Those NOL carry forwards are available to offset additional interest margin income generated in the future and potential foreign exchange gains that might be realized at the level of Allnex S.à r.l.
- ▶ Due to step 3, Allnex S.à r.l. will be considered to exercise an additional financing activity. As such, Allnex S.à r.l. must realize an at arm's length remuneration on the additional financing activity. Furthermore, the SHL granted to Allnex Belgium must bear similar terms and conditions as the new bank debt.

### New Zealand tax implications

- ▶ The domestic withholding tax rate under New Zealand tax law for interest payments is 15%.

- ▶ However, New Zealand has a double tax agreement ("DTA") with Belgium. Under the DTA, the withholding tax rate in respect of interest payments is reduced to 10%. Accordingly, where debt funding into NZ BidCo is provided by Allnex Belgium, withholding on interest payments by NZ BidCo in respect of the SHL should be at 10%. We note this assumes general requirements for obtaining relief under the terms of a DTA are satisfied by the SHL parties and surrounding arrangements.
- ▶ Where withholding tax is reduced under a DTA in respect of interest payments this is treated as a final tax for NZ purposes (see Belgian tax purposes for WHT crediting possibilities).
- ▶ Upon closing, NZ BidCo/ NZ Group (i.e. NZ BidCo and NZ subsidiaries; please refer to "*At Closing (Scheme of Arrangement)*" below) shall be subject to the New Zealand tax thin capitalisation rules (essentially limits gearing to 60% of asset value). However, given the likely short term nature of the majority of the shareholder debt (with this expected to be partially repaid on sale of foreign subsidiaries described below post-closing), NZ thin cap restrictions may initially be exceeded without triggering NZ tax consequences. This is on the basis that thin capitalisation calculations and resultant tax consequences can be tested at year-end based on the annual financial statements.
- ▶ From a New Zealand tax perspective the SHL has to adhere to the arms' length principle and is subject to transfer pricing regulations.
- ▶ Losses arising from financing expense can be freely offset (either with or without tax consolidation) to profit making entities. NZ tax law allows tax losses to be offset (i.e. passed over through the tax return filings, either for consideration or for no consideration) from a loss-making company to a profit-making company provided the two companies have the same 66% commonality of ultimate non-corporate shareholders from the time the losses were incurred to the time the losses are offset. This is also subject to loss continuity rules, which requires continuity in ultimate non-corporate shareholdings of at least 49% for losses incurred to be carried forward to subsequent periods. Tax losses are forfeited from the date of any breach in continuity, but remain available to offset any historic liabilities that might arise in the periods in which the losses were still in existence.

## At Closing (funding of acquisition structure)

### US tax implications

#### Interest deductibility

- ▶ Allnex USA Inc. should generally be allowed interest deductions for US tax purposes on its external bank debt, subject to certain limitations including general debt/equity considerations, IRC Section 163(j), and AHYDO rules, which are discussed in the "*Detailed key tax implications*".

#### Withholding tax on interest payments

- ▶ Interest payments to a non-US lender are generally subject to 30% withholding tax, which may be reduced to 0% through various exceptions, including tax treaties or the portfolio interest exemption.
  - Allnex USA Inc. should obtain appropriate beneficial owner information from its lenders (e.g., Form W-8BEN or W-8ECI for Non-US lenders and Form W-9 for US lenders).
  - The terms of the debt should be structured such that the debt qualifies for the portfolio interest exemption (e.g., the debt must be issued in "registered form," among other requirements).
- ▶ If the debt is held by banks or by related persons, the portfolio interest exemption generally does not apply and an exemption under an applicable income tax treaty should instead be confirmed or else withholding tax may apply if an applicable treaty does not eliminate withholding tax.
- ▶ Note: It is our understanding the US Funding Receivable will be eliminated as part of the post-closing steps. Refer to US Post-Closing Restructuring Steps.

#### Tax Imposed under Foreign Investment in Real Property Tax Act ("FIRPTA")

- ▶ We understand that Nuplex Resins LLC owns real property (i.e., land and building) that is situated in Kentucky. The land and building were recorded on the books at an aggregate cost of EURm 5.7 (USDm 6.3) (land of approx. EURm 1.9 (USDm 2.1) and building of approx. EURm 5.7 (USDm 6.3), structural improvements of EURm 2.5 (USDm 2.8) less D/A of EURm 4.5 (USDm 5). In connection with the transfer of Nuplex Resins LLC, there may be imposed on the acquirer, Allnex USA Inc., a requirement to withhold and remit tax equal to 15% of the value of the US real property transferred i.e., EURm 0.9 (USDm 1). Nuplex US Holdings Ltd. will be responsible for paying tax on the gain realized on the

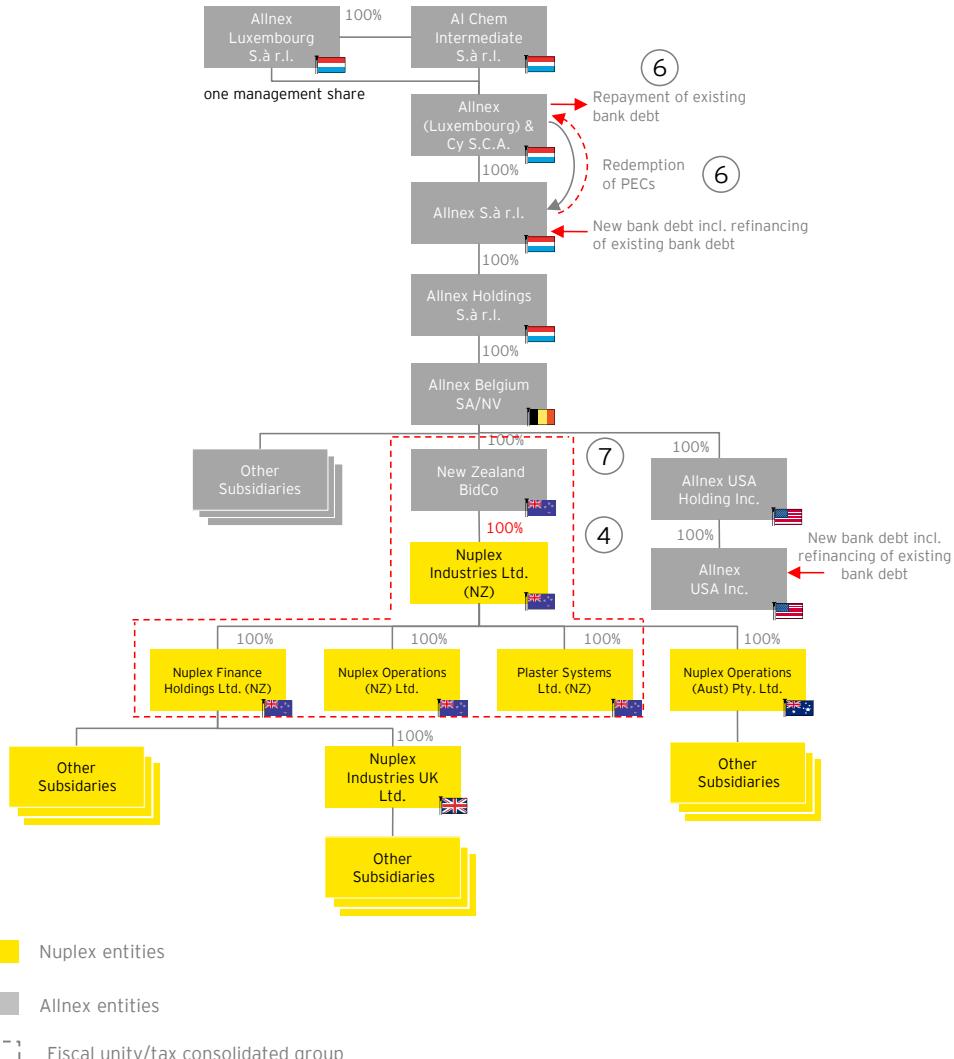
transfer of such real property and reporting such gain on its final tax return. Tax is generally imposed at US corporate income tax rates of 35% so if the 15% withholding tax remitted by Allnex US Inc. on behalf of Nuplex US Holdings Ltd. was in excess of the tax due, Nuplex US Holdings Ltd. can claim a refund of such tax on its US tax return for the year in which the transfer occurred (to be reviewed further).

- ▶ Relief from withholding tax can be obtained if the taxpayer receives a withholding certificate from the IRS that excuses withholding or permits the transferee/acquirer to withhold a reduced amount of tax reflecting the transferor's maximum tax liability. The maximum tax liability would be calculated as 35% of the gain realized on the transfer of the property. The comparison point would be 35% of the gain (if any) versus 15% of the gross value.
- ▶ A calculation and supporting documentation must be filed along with the form and be signed by an officer of the company under penalties of perjury.
- ▶ Practically, to perform this exercise, details of the tax basis of the underlying real property and some form of formal appraisal of the property are required. A valuation would reflect any reduction in value due to contingent or known environmental claims. We recommend that the comparison is done between signing and closing of the envisaged transaction (or at least prior to the actual transfer of Nuplex Resins LLC if access to relevant information is denied).
- ▶ Provided that the application is filed prior to the actual transfer, the withholding tax obligation, if any, may be delayed until 20 days after receipt of the certificate for reduced withholding from the IRS (or denial of the request by the IRS). This can delay the timing of any payment as well. As such, there would not be a funding requirement in the period between when the request for the withholding certificate is filed and when a response is received. We understand based that it can take between 3 and 6 months to receive a response depending on how busy the IRS is with processing of requests.
- ▶ Finally, please note that US real property interests can include certain equipment and personal property associated with the use of the real property, structural components of the building, and immoveable property that is affixed permanently to real property. The definition of real property may also include a bargain or below-market leasehold interests (in which case the value would be measured

## At Closing (funding of acquisition structure)

by the present value of the future payments that could be received if the leasehold were to subleased to a third party).

## At Closing (Scheme of Arrangement) \*\*



## Detailed step plan

### Summary of steps

#### Step 4: Closing of the Scheme of Arrangement

- Pursuant to the SoA, NZ BidCo acquires 100% of the shares in Nuplex Industries using funding obtained in step 3 (i.e. from equity and shareholder debt).
- A US Section 338 election is made for Nuplex Industries and Nuplex Finance Holdings Ltd. (NZ) ("Nuplex Finance").

#### Step 5: Refinancing of existing Nuplex debt

- Existing bank debt at the level of Nuplex Industries and target entities shall be indirectly refinanced with new [senior] bank debt drawn by Allnex S.à r.l. on-lent simultaneously with Closing or shortly thereafter (due to different time zones) as SHL via Allnex Belgium in the following amounts (tbc):
    - USPP Debt approx. EURm 91.9 (USDm 102) / (NZDm 153.5)
    - Bank loan RCF approx. EURm 46 (USDm 51) / (NZDm 76.9)
  - Total approx. EURm 137.9 (USDm 153.2) / (NZDm 230.4) (please refer to overview of "Financing arrangements" above).
- [Exact location of existing Nuplex debt requested via Q&A]

#### Step 6: Refinancing of Allnex debt

- Simultaneously to step 5 or step 3 (but shortly before closing) existing bank debt within Allnex Group shall be refinanced indirectly with the new [senior] bank debt drawn by Allnex S.à r.l. and directly with the new [senior] bank debt drawn Allnex USA Inc.
- Allnex USA Inc. uses EURm 138.6 (denominated in USDm 154) of the directly obtained new bank debt in step 3 in the amount of approx. EURm 270-292 (denominated in USDm 300-325) to replace its debt plus costs.
- Allnex S.à r.l. obtains new bank debt in an amount of EURm 975-1,000 (USDm 1,083-1,108), thereof USDm [XX] and EURm [XX]
- Allnex S.à r.l. will use the funds received (i.e. new bank debt, please see step 3) partially to refinance existing bank debt within Allnex:

\*\*) On-lending to Nuplex and Allnex subsidiaries due to indirect refinancing of existing Nuplex bank debt not displayed.

## At Closing (Scheme of Arrangement) \*\*

- Redeem the EUR-denominated PECs of USD-equivalent of EURm 140 (USDm 155.5) and interest accrued thereon of [XX] issued to Allnex S.C.A.; and
- Redeem the USD-denominated PECs of EURm 290 (denominated in USDm 322) and interest accrued thereon of EUR [XX] (USD [XX]) issued to Allnex S.C.A.
- Allnex S.C.A. settles its existing bank debt plus costs

### Step 7: NZ tax Consolidation

- ▶ Shortly after step 4 but no later than 63 business days following closing, NZ BidCo elects to join the Nuplex Industries tax consolidated group for NZ tax purposes (or considers a new TCG). Upon the election being approved, NZ BidCo would be deemed to have joined from the date of closing.
- ▶ Alternatively (or after joining the Nuplex TCG, as this may simplify the amalgamation further), NZ BidCo and Nuplex Industries could be amalgamated (to be reviewed upon a later stage after additional information for final decision is made available).

### Key points to consider

- ▶ It has to be noted that to be in the same TCG, the entity joining the TCG must have the same balance date as the TCG. Thus immediately on closing a request a change in balance date for the Nuplex Industries TCG to 31 December has to be addressed.
- ▶ NZ law allows ‘true mergers’, i.e. one (or more) company (the ‘amalgamating company’) can merge into another, with the ‘surviving company’ (or ‘amalgamated company’ as referred to in tax law) inheriting all of the tax history and profile. A ‘residents restricted amalgamation’, which should be possible in this situation given 100% common ownership, is generally tax neutral, but will still need some further analysis to confirm any tax implications.

### Australian tax implications

- ▶ A liability to landholder duty may arise if Nuplex Industries is considered to be a landholder for stamp duty purposes. Depending on the Australian jurisdiction/s in which it is considered to be a landholder, landholder duty may be triggered upon entry into an agreement to transfer or on completion of the transfer. This is subject to certain thresholds amongst different jurisdictions, and is based on the unencumbered market value of the relevant landholdings, and in some cases the goods, deemed to be acquired. The rate at which landholder duty is imposed on takeovers of listed companies will differ between the jurisdictions, ranging from concessional rates of 0.55% to non-concessional rates of up to 5.4%.
- ▶ Refer to our due diligence report for a breakdown of jurisdictions and thresholds.
- ▶ A liability to mortgage duty (imposed at rates of up to 0.4% of the NSW dutiable proportion) may arise if any financing/refinancing is secured over assets located, or taken to be located, in NSW. Since information on potential assets located in NSW is not available at present an estimate of the potential mortgage duty is currently not possible.

### Belgian tax implications

- ▶ Future dividend distributions by NZ BidCo to Allnex Belgium should qualify for the 95% participation exemption if the subject-to-tax and minimum holding requirements are met (minimum shareholding of 10% or with an acquisition value of EURm 2.5 (USDm 2.8) held in full ownership for at least one year. Dividend distributions in the first year also qualify for the dividend received deduction, provided that the one-year minimum holding period is subsequently met.
- ▶ Note that Belgium still needs to amend its participation exemption rules in order to transpose the changes to the Parent-Subsidiary Directive (anti-hybrid and anti-abuse rule). These changes are expected to enter into force retroactively as of 1 January 2016.
- ▶ In case of amalgamation whereby NZ BidCo is the surviving entity, no immediate tax impact will arise. If NZ BidCo is not the surviving entity (i.e. if the amalgamation was performed comparable with a down-stream merger, the amalgamation may have adverse Belgian tax consequences (to be analysed)).

## At Closing (Scheme of Arrangement) \*\*

### China tax implications – indirect share transfer of China entities

- ▶ According to step 4, i.e., NZ BidCo acquires 100% of the shares in Nuplex Industries; this transaction would lead to an indirect share transfer of PRC subsidiaries including. Nuplex Resins (Suzhou) Co. Ltd. ("Nuplex Suzhou"), Nuplex Resins (Foshan) Co. Ltd. ("Nuplex Foshan") and Nuplex Resins (Changshu) Co. Ltd. ("Nuplex Changshu").
- ▶ China State Administration of Taxation ("SAT") Announcement 2015 No. 7 ("Announcement 7") redefines the applicable scope to expand the subject of the indirect transfers of China taxable assets. In case a non-resident enterprise indirectly transfers a China taxable asset (including equity shares) through an arrangement without reasonable commercial purpose but to avoid China corporate income tax, the transaction shall be re-characterized and treated as a direct transfer.
- ▶ There is a public share exception provided by Announcement 7 which means that the indirect transfer gain that might derive from buying and selling shares of the same overseas listed company in a public market. In this case, the transaction is automatically deemed as having reasonable commercial purpose and shall not be re-characterized as direct share transfer, i.e. should not be subject to any further re-characterization or tax adjustments.
- ▶ As Nuplex Industries is a listed company in the stock market and the sellers in this deal have bought and would sell their shares in Nuplex Industries in the public market, therefore, the "public share" exception should apply and no PRC tax consequences should occur.

### Dutch tax implications

- ▶ In so far costs related to the acquisition of Nuplex Industries relate to services provided to one of the Dutch Nuplex entities, these may be on-charged to the Dutch Nuplex entities.
- ▶ The corporate income tax treatment of costs related to the acquisition of shares depends on the underlying service provided. For corporate income tax purposes, financing costs related to the transaction of shares follow the deductibility of the interest expense on the underlying loan and may be deductible pro rata. The timing of the financing expense deduction will follow the accounting treatment.

The remaining transaction costs should be considered non-deductible for corporate income tax purposes.

### Breakup fee upon early repayment of the USPP

- ▶ As per the information in the VDR, upon an early repayment of the USPP, a breakup fee of EURm 5.94 (Dutch percentage of the total break-up fee of EURm 14.9, denominated in USDm 16.5) would be triggered. The break-up fee should be treated as interest expense from a Dutch tax perspective. Based on information provided, the break-up fee – even if treated as interest, should be fully tax deductible for Dutch tax purposes.

### German tax implications

#### Tax loss and interest carry forward

##### General

- ▶ Due to the indirect transfer of more than 50% of the shares in the German target entities, existing tax loss carry forwards (TLCF) and/ or current year losses as well as interest carry forwards (ICF) will generally be forfeited due to German change of ownership rules as of closing date (certain exceptions may apply).
- ▶ These change of ownership rules also apply to current losses (e.g. resulting from interest expenses at Nuplex Industries GmbH) incurred during the current fiscal year and until the time the share transfer is actually carried out. Additionally, any interest carry forwards under the German interest barrier rules would forfeit correspondingly.
- ▶ The change of ownership rules do not apply in the following cases:
  - Group exception: A transfer of shares is not detrimental under the change of ownership rules, if after a (direct or indirect) transfer of more than 25% (respectively 50%) of the shares, 'the same person' still owns (directly or indirectly) 100% of the loss entity.
  - Built-in gains exception: Tax losses carried forward are preserved to the extent built-in gains for tax purposes are available at the level of the loss company. It must be noted that this only applies to built-in gains which are

## At Closing (Scheme of Arrangement) \*\*

subject to taxation in Germany (i.e., hidden reserves in corporate subsidiaries are not included due to the participation exemption).

### In the case at hand

- ▶ The tax loss carry forwards for Nuplex Industries GmbH for FY13/14 amount to EURm 4.1 (USDm 4.6) for CIT purposes and EURm 3.6 (USDm 4) for TT proposes. As the built-in gains exception might not be applicable, the entire tax loss carry forwards (including current losses incurred) might be forfeited due to the indirect transfer of more than 50% of the shares in Nuplex Industries GmbH. Based on the information provided so far in the VDR, the tax loss carry forwards will partially be offset with profits in FY14/15.
- ▶ In case of a forfeiture of existing and current year losses at the level of Nuplex Industries GmbH (the parent entity of the fiscal unity) such losses could not shelter potential entire annual profit that will be transferred as of 30 June 2016 to the fiscal unity parent, i.e. Nuplex Industries GmbH, from its fiscal unity subsidiary Nuplex Resins GmbH. Therefore, it is strongly recommended from a German tax perspective that closing of the transaction occurs not before 30 June 2016 but shortly thereafter.
- ▶ The change of ownership rule would also apply for interest carry forwards accordingly. However, no interest carry forwards have been declared in the past.

### Breakup fee upon early repayment of the USPP

- ▶ As per the information in the VDR (reference #02.02.03.06), upon an early repayment of the USPP, a breakup fee of EURm 8.93 (German percentage of the total break-up fee of EURm 14.9, denominated in USDm 16.5) would be triggered. The break-up fee should be treated as interest expense from a German interest limitation rule perspective. As such, interest deductibility for 2016 and future years may be limited. If and to the extent the break-up fee would be tax deductible under the interest limitation rules, 25% of the deductible amount would be subject to an add-back for TT purposes (ignoring a lump-sum of EURk 100 (USDk 111)).

### RETT

- ▶ As already mentioned above, we understand that the transaction will be subject to anti-trust approval and the fulfilment of other closing conditions. In such case,

RETT should become due at the time of the approval, i.e. approx. at the time of closing.

- ▶ Nevertheless within two weeks after signing NZ BidCo is obliged to file notice of the transaction with the tax authorities (as the tax authorities could also argue that RETT is already triggered upon signing of the SoA).

### Luxembourg tax implications

At the level of Allnex S.C.A.

- ▶ Due to the change in the EUR/USD exchange rate between the date that the EUR denominated bank PECs towards Allnex S.à r.l. were concluded and the date the redemption would occur, Allnex S.C.A. would realize a loss in an amount of approx. EURm [X] (USDm [X]).
- ▶ However, this exchange loss will be utilized by offsetting the exchange gain realized in an amount of EURm [X] denominated in USDm [X] upon repayment of the existing EUR tranche of the legacy bank debt.

At the level of Allnex S.à r.l.

- ▶ For Luxembourg tax purposes, the foreign exchange gain of EURm [X] denominated in USDm [X] that might be realized at the level of Allnex S.à r.l. can be offset by available NOLs, amounting to approx. EURm 62.5 (USDm 69.4) as of the end of FY15 according to the information provided by Allnex Group's tax director.
- ▶ The existing exposure of future NOL recapture at the level of Allnex S.à r.l. would not decrease with the consumption of available tax losses carried forward. As such, at exit one should avoid realizing a capital gain by selling the shares in Allnex Holdings S.à r.l. (i.e., the triggering event of the recapture). Instead, at exit Allnex Holdings S.à r.l. should dispose of its participation in Allnex Belgium and could subsequently repatriate proceeds via return of capital / dividend to Allnex S.à r.l. In such a case, only the interest expenses of the year in which the dividend is received and only in relation to the shareholding in Allnex Holdings S.à r.l. are non-deductible up to the amount of the dividend received.

## At Closing (Scheme of Arrangement) \*\*

### New Zealand tax implications

- ▶ No adverse NZ tax consequences expected in respect of the purchase of shares in Nuplex Industries.
- ▶ To the extent debt is introduced or refinanced in NZ, currency of such debt has to be considered. Where debt is denominated in non-NZ currencies, exchange rate movements may give rise to NZ tax consequences.
- ▶ Members of a NZ tax consolidated group are entitled to file income tax returns and pay income tax as if they were a single entity.
- ▶ Generally speaking, transactions (including mergers or amalgamations) between members of a tax consolidated group are ignored for NZ tax purposes. NZ tax consequences may be triggered when an entity leaves a tax consolidated group.

### US tax implications

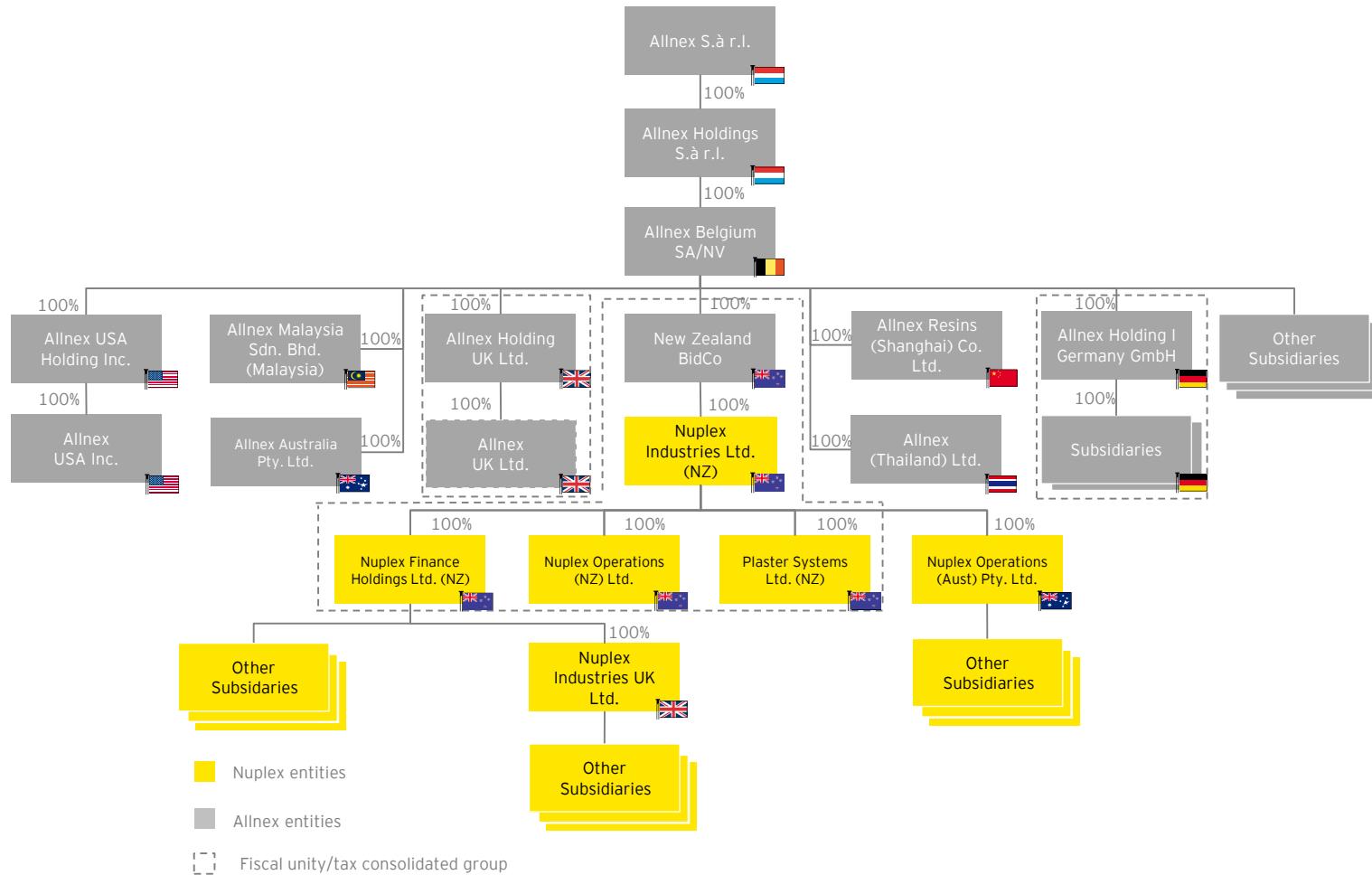
- ▶ A Form 8023, Elections under Section 338 for Corporations Making Qualified Stock Purchases, should be filed by 15<sup>th</sup> day of the 9<sup>th</sup> month after the acquisition date to make a Section 338 election for each Nuplex Industries and Nuplex Finance. As a result of the Section 338 election, Nuplex Industries and Nuplex Finance will be treated for US tax purposes as having sold all of its assets on the acquisition date. Therefore, the tax basis of Nuplex Industries and Nuplex Finance assets should equal their fair market value.

## **Post-closing restructuring (integration measures)**

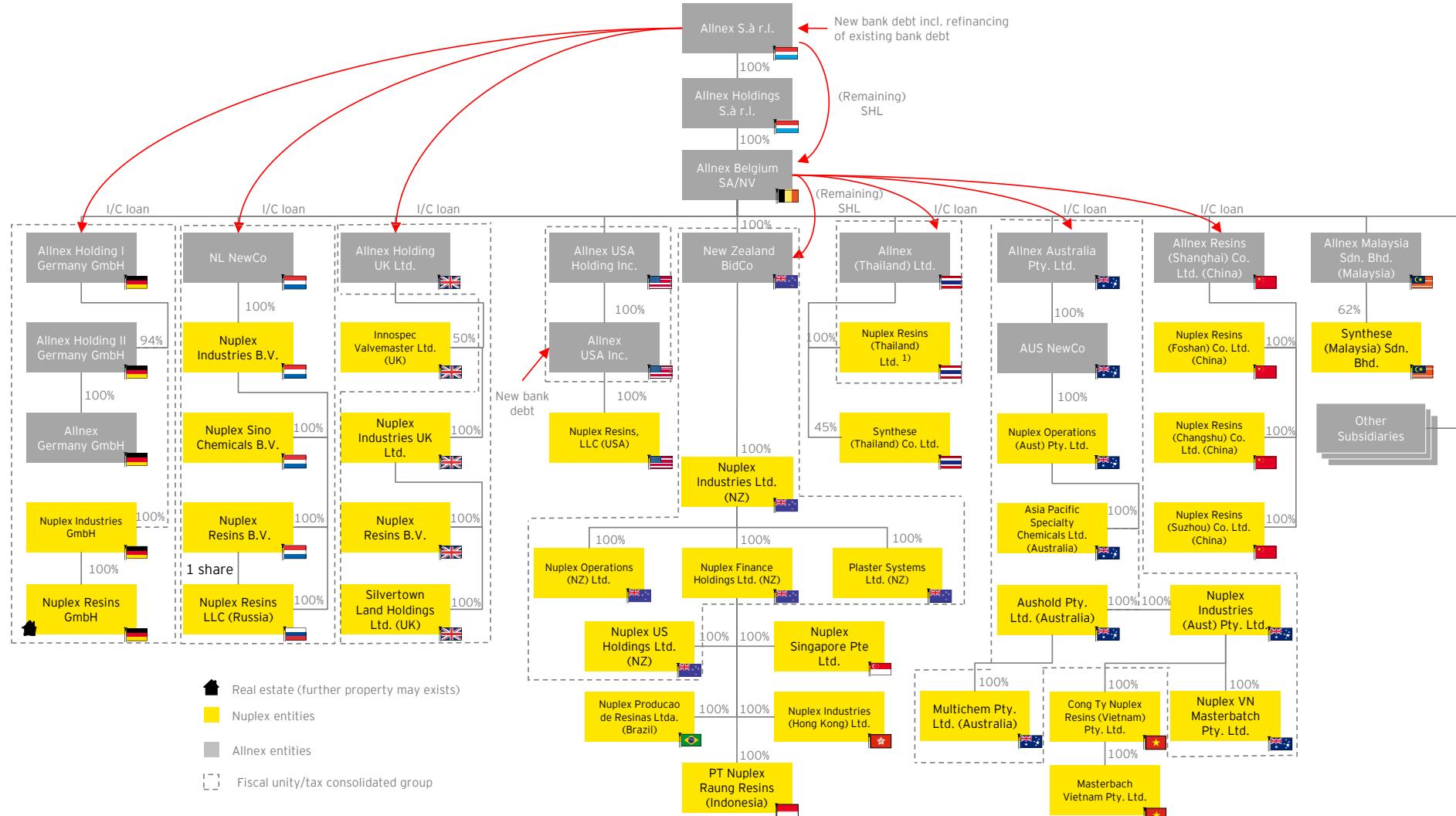
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1. Proposed final structure
2. Overview of debt push down capacity
3. Steps to be taken
4. Detailed step plan
5. Final structure after debt assumption

## Structure after acquisition prior to integration measures



## Proposed final structure after integration measures (including all optional Actions) \*



\*) On-lending to Nuplex / Allnex subsidiaries due to indirect refinancing of existing Nuplex / Allnex bank debt not displayed.

1) Nuplex Resins (Thailand) Ltd. is defunct and struck from the register

## Nuplex EBITDA overview (subject to further review)

EBITDA - FY15A				Equity Value (EURk)	Enterprise Value (EURk)	EBITDA - FY16F				Equity Value (EURk)	Enterprise Value (EURk)	
Jurisdiction	FY15A (local currency in k)	FY15A (EURk)	Split (%)	7.8	9.2	FY16F (local currency in k)	FY16F (EURk)	Split (%)	7.8	9.2		
Group	NZD	139,500.00	83,487.94			NZD	152,000.00	90,968.94				
ANZ	NZD	16,800.00	10,054.46	11%		NZD	20,791.00	12,442.99	13%			
EMEA	EUR	34,400.00	34,400.00	38%		EUR	37,749.00	37,749.00	40%			
Americas	USD	20,900.00	18,813.57	21%		USD	19,039.00	17,138.36	18%			
Asia	USD	29,500.00	26,555.05	30%		USD	28,813.00	25,936.63	28%			
<b>Subtotal</b>		<b>89,823.08</b>	<b>100%</b>				<b>93,266.98</b>	<b>100%</b>				
	FY15A (local currency in k)	FY15A (EURk)				FY16F (local currency in k)	FY16F (EURk)	Split (%)				
USA	USD	19,516.00	17,567.74	20%	137,028	161,623	USD	19,039.00	17,138.36	18%	133,679	157,673
Australia	AUD	11,152.00	7,496.13	8%	58,470	68,964	AUD	16,847.28	11,324.38	12%	88,330	104,184
NZ	NZD	2,932.00	1,754.74	2%	13,687	16,144	NZD	3,943.72	2,360.24	3%	18,410	21,714
NL	EUR	22,563.00	22,563.00	25%	175,991	207,580	EUR	24,981.00	24,981.00	27%	194,852	229,825
UK	GBP	4,935.00	6,298.02	7%	49,125	57,942	GBP	3,502.00	4,469.23	5%	34,860	41,117
Germany	EUR	8,425.00	8,425.00	9%	65,715	77,510	EUR	7,318.00	7,318.00	8%	57,080	67,326
Russia	RUB	2,858.00	36.30	0%	283	334	RUB	40,540.00	514.95	1%	4,017	4,738
Indonesia	USD	3,539.00	3,185.71	4%	24,849	29,308	USD	4,103.00	3,693.40	4%	28,809	33,979
Malaysia	MYR	22,663.00	4,924.28	6%	38,409	45,303	MYR	23,540.00	5,114.83	5%	39,896	47,056
China (Suzhou)	CNY	58,251.00	8,052.84	9%	62,812	74,086	CNY	57,246.00	7,913.90	8%	61,728	72,808
China (Foshan)	CNY	32,194.00	4,450.62	5%	34,715	40,946	CNY	24,039.00	3,323.24	4%	25,921	30,574
China (Changshu)	CNY -	16,974.00	2,346.55	-3% -	18,303	21,588	CNY -	9,097.00	1,257.60	-1% -	9,809	11,570
Vietnam	USD	7,370.00	6,634.26	7%	51,747	61,035	USD	7,811.00	7,031.24	7%	54,844	64,687
<b>Subtotal</b>		<b>89,042.08</b>	<b>100%</b>		<b>694,528</b>	<b>819,187</b>		<b>93,925.16</b>	<b>100%</b>		<b>732,616</b>	<b>864,112</b>

Source for FY15A: Blue Book from Diligent dated 6 June 2015 (index: 03.01.01.05.06)

Source for FY16F: Management Presentation dated 29 February 2016

\* NFH - Nuplex Finance Holdings Ltd

\* NUSH - Nuplex US Holdings Limited

Values partially inconsistent.

Detailed information outstanding.

## Overview of debt push down capacity (outstanding information requested via Q&A)

Entity	Currency	Equity	Book value of shareholding	EBT	depreciation	interest	EBITDA	Multiple	Enterprise Value	interest bearing debt (cash charged)	Equity Value	Hidden reserves
<b>Nuplex US Holding Ltd.</b> <i>Nuplex Resins LLC (USA)</i>	USD											
<b>Nuplex Finance Holdings Ltd. (NZ)</b> <i>Nuplex Resins (Thailand) Ltd.</i>	THB											
<i>Synthese (Thailand) Co.</i>	THB											
<i>Synthese (Malaysia) Co.</i>	MYR											
<i>Nuplex Industries UK Ltd.</i>	GBP											
<b>Nuplex Industries Ltd. (NZ)</b> <i>Nuplex Operations (Aust) Ltd.</i>	AUD											
<b>Nuplex Resins BV</b> <i>Nuplex Industries GmbH</i>	EUR											
<b>Nuplex Industries UK Ltd.</b> <i>Nuplex Industries BV</i>	EUR											
<b>Nuplex Sino Chemicals BV</b> <i>Nuplex Resins (Suzhou)</i>	CNY											
<b>Asia Pacific Specialty Chemicals Ltd</b> <i>Innospec Valvemaster Ltd.</i>	GBP											
<b>Cong Ty Nuplex (Vietnam)</b> <i>Nuplex Resins (Changshu)</i>	CNY											
<i>Nuplex Resins (Foshan)</i>	CNY											
<b>Nuplex Industries (Aust) Pty</b> <i>Cong Ty Nuplex (Vietnam)</i>	USD											
<b>Nuplex Finance Holdings Ltd. (NZ)</b> <i>Nulex Producao (Brazil)</i>	BRL											
<i>Nuplex Indonesia</i>	USD											
<i>Nuplex Singapore</i>	SGD											
<i>Nuplex Hong Kong</i>	HKD											
<i>Nuplex Russia</i>	RUB											

EBITDA split per legal entity requested via Q&A

## Steps to be taken (post-Closing)

### Action 1: Post-closing integration - US

- ▶ Step 1: Nuplex US Holdings Ltd. (NZ) sells 100% of the membership interests in Nuplex Resins LLC to Allnex USA Inc. for a purchase price receivable ("P-Note US").
  - ▶ Step 2: Nuplex US Holdings Ltd. (NZ) distributes the P-Note US to Nuplex Finance Holdings Ltd. and liquidates.
- Alternatively, Nuplex US Holdings Ltd. (NZ) converts to a New Zealand ULC, a US check-the-box election is made to treat Nuplex US Holdings ULC as a disregarded entity for US tax purposes, and Nuplex US Holdings ULC would then distribute P-Note US to Nuplex Finance Holdings Ltd.
- ▶ Step 3: Nuplex Finance Holdings Ltd. (NZ) distributes P-Note US up the chain via Nuplex Industries to NZ BidCo.
  - ▶ Step 4: NZ BidCo settles in full US Funding Receivable owed to Allnex USA Inc. by transferring P-Note US to Allnex USA Inc. US Funding Receivable and P-Note US are expected to be equal.
  - ▶ Optional step 5: Depending on the FMV of Nuplex Resins LLC it might be possible that a minor amount of the P-Note US or US Funding Receivable after step 4 remains outstanding. In the case at hand the outstanding amount should be settled (i.e. cashless) with existing receivables and liabilities or via dividend distributions and contribution within the triangle of Allnex Belgium, Allnex USA Holding Inc. (respectively Allnex USA Inc. and NZ BidCo) without triggering WHT.
  - ▶ Alternatively, the outstanding amount can be paid with existing liquidity at the level of Allnex USA Inc. or NZ BidCo, i.e. no P-Note US or US Funding Receivable remains outstanding.
  - ▶ Optional step 6: As an alternative, as discussed in step 3 "*At Closing (funding of acquisition structure)*", Allnex USA Inc. on-lends US Funding Receivable indirectly via Allnex S.à r.l. and Allnex Belgium to NZ BidCo. In this case, settlement of US Funding Receivable shall also occur through a cash-less settlement mechanism by offsetting receivables and liabilities as well as dividends or contributions. Alternative not yet determined, currently under review from a US tax perspective.

### Action 2: Post-closing integration - Thailand

- ▶ Step 1: Nuplex Finance Holdings Ltd. (NZ) sells 45% of the shares in Synthese (Thailand) Co. Ltd. to Allnex (Thailand) Ltd. against a purchase price receivable ("P-Note Thailand").
- ▶ Step 2: Nuplex Finance Holdings Ltd. (NZ) distributes P-Note Thailand via Nuplex Industries to NZ BidCo.
- ▶ Step 3: NZ BidCo settles SHL owed to Allnex Belgium in the amount of P-Note Thailand by assigning P-Note Thailand to Allnex Belgium .
- ▶ Step 4: P-Note Thailand is converted into an interest bearing loan.
- ▶ Optional step 5:
  - Subject to commercial considerations the 45% shareholding in Synthese (Thailand) Co. Ltd. is increased to 100% by way of acquisition of the remaining stake from the outstanding shareholder(s).
  - Such acquisition could be funded by an increase of the P-Note Thailand from Allnex Belgium SA/NV against cash payment.
  - To achieve an offset of interest expense on acquisition debt with operating profits of Synthese (Thailand) Co. Ltd., an amalgamation of Synthese (Thailand) Co. Ltd. and Allnex (Thailand) Ltd. may be considered. Note that Thailand does not provide for tax grouping. Alternatively (e.g., in case an amalgamation might legally or tax-wise not be feasible), an entire business transfer or an entire business lease may be envisaged, but subject to further analysis.

### Action 3: Post-closing integration - Malaysia

- ▶ Step 1: Nuplex Finance Holdings Ltd. (NZ) sells 62% of the shares in Synthese Malaysia to Allnex Malaysia against a purchase price receivable ("P-Note Malaysia").
- ▶ Step 2: Nuplex Finance Holdings Ltd. (NZ) distributes P-Note Malaysia via Nuplex Industries to NZ BidCo.

## Steps to be taken (post-Closing)

- ▶ Step 3: NZ BidCo partially settles SHL owed to Allnex Belgium in the amount of P-Note Malaysia by assigning P-Note Malaysia to Allnex Belgium.
- ▶ Step 4: P-Note Malaysia is contributed into Allnex Malaysia [against new shares / share premium/ capital reserves; to be determined].
- ▶ Optional step 5
- ▶ Note: A tax group is currently not possible due to 62% ownership in Synthese (Malaysia) only. It may, however, be envisaged to acquire the minority shareholding in Synthese (Malaysia) at a later stage (subject to business considerations). In this case, it may be envisaged to form a tax group between Allnex Malaysia and Synthese (Malaysia) or to amalgamate them (subject to further review).
- ▶ In addition to that, to the extent feasible, the equity of Synthese (Malaysia) may be further calibrated going forward (level of capitalization to be monitored in light of business needs going forward).
- ▶ Alternatively, it may be considered to convert the P-Note Malaysia into an interest bearing loan at the level of Allnex Belgium instead of the contribution into Allnex Malaysia.

### Action 4: Post-closing integration - Australia

- ▶ Step 1: Allnex Australia Pty. Ltd. incorporates Australian NewCo ("AUS NewCo") with nominal capital.
- ▶ Step 2: Allnex Australia Pty. Ltd. elects to form an income tax consolidated group with AUS NewCo ("Allnex Australia TCG").
- ▶ Step 3: Nuplex Industries sells 100% of the shares in Nuplex Operations (Aust) Pty. Ltd. ("Nuplex Australia") to AUS NewCo against a purchase price receivable ("P-Note Australia").
- ▶ Step 4: Nuplex Industries distributes P-Note Australia to NZ BidCo.
- ▶ Step 5: NZ BidCo partially settles SHL owed to Allnex Belgium in the amount of P-Note Australia by assigning P-Note Australia to Allnex Belgium.
- ▶ Step 6: P-Note Australia is converted into an interest bearing loan.

### Action 5: Post-closing integration - Germany

- ▶ Step 1: Nuplex Resins B.V. sells 100% of the shares in Nuplex Industries Germany to Allnex Holding I Germany GmbH against a purchase price receivable ("P-Note Germany").
- ▶ Step 2: Nuplex Resins B.V. distributes P-Note Germany to Nuplex Industries B.V., which in turn distributes it to Nuplex Industries UK Ltd., which will distribute the P-Note Germany later up to Allnex Holding UK Ltd. and transferred to Allnex S.à r.l. (please refer to Action 7, i.e. together with P-Loan NL).
- ▶ Step 3: P-Note Germany is converted into an interest bearing loan mirroring to the extent possible terms and conditions of the external bank financing drawn at the level of Allnex S.à r.l. (depending on possibility and legal requirements of a pre-dividend in Action 7).
- ▶ Optional step 4: Subject to the actual amount of RETT to be triggered by the acquisition of Nuplex Industries, as optional step 1, it may be considered transferring a shareholding of 5.1% in Nuplex Industries GmbH to, for instance, Allnex Belgium, prior to transferring the remaining 94.9% stake to Allnex Holding I Germany GmbH. In this case, RETT should only be triggered once (upon step 4, i.e. the overall acquisition, but not upon Action 5). In case of a direct shareholding of Allnex Belgium in Nuplex Industries GmbH, step 5 and future dividend distribution are to be carefully planned (see below).
- ▶ Optional step 5: Effective as of 1 July 2016 (or 1 July 2017 depending on actual closing date of post-completion restructuring), Nuplex Industries GmbH joins the German fiscal unity for CIT and TT purposes, which is headed by Allnex Holding I Germany GmbH (exact timing and potential change of fiscal year-end of Nuplex Industries GmbH for earlier implementation of the German fiscal unity to be discussed). If Allnex Belgium or any other group entity (apart from Allnex Holding I GmbH), acquired 5.1% of the shares in Nuplex Industries GmbH, as a general rule, the minority shareholder must receive a minimum dividend. However, a group exemption may apply (subject to confirmation by legal counsel).
- ▶ The Profit and loss transfer agreement ("PLTA") between Nuplex Industries GmbH and Nuplex Resins GmbH is still within the 5 years minimum period and should not be terminated until 30 June 2017, that is, an early termination might trigger detrimental retroactive tax effects.

## Steps to be taken (post-Closing)

### Action 6: Post-closing integration - UK I

- ▶ Step 1: Nuplex Finance Holdings Ltd. (NZ) sells 100% of the shares in Nuplex UK Ltd. to Allnex Holding UK against a purchase price receivable ("P-Note UK I"); i.e. the consideration for the disposal of the shares is left outstanding on inter-company account on an interest-bearing basis mirroring to the extent possible the terms and conditions of the external financing drawn at Allnex S.à r.l. level.
- ▶ Step 2: Nuplex Finance Holdings Ltd. (NZ) distributes P-Note UK I via Nuplex Industries to NZ BidCo.
- ▶ Step 3: NZ BidCo partially settles SHL owed to Allnex Belgium in the amount of P-Note UK I by assigning P-Note UK I to Allnex Belgium
- ▶ Step 4: Allnex Belgium partially settles SHL owed to Allnex S.à r.l. in the amount of P-Note UK I by assigning P-Note UK I to Allnex S.à r.l.
- ▶ Step 5: P-Note UK I is formalised into an interest bearing loan mirroring to the extent possible terms and conditions of the external acquisition financing drawn.
- ▶ Step 6 (automatically): Nuplex Industries UK Ltd. joins/forms a tax group with Allnex Holding UK Ltd. Please note that Nuplex Industries UK Ltd. and Allnex Holding UK Ltd. will automatically be part of a tax group if the conditions re shareholding / entitlement to distributions and assets on liquidation are met.

the sale of to agree on an intercompany loan ("P-Loan NL") mirroring the terms and conditions of drawn debt.

- ▶ Step 3: Nuplex Industries UK Ltd. distributes P-Loan NL and P-Note Germany (from Action 5) up to Allnex Holding UK Ltd.
- ▶ Step 4: Allnex Holding UK partially settles P-Note UK I (from Action 6) owed to Allnex S.à r.l. partially in the amount of P-Loan NL and P-Note Germany by assigning P-Loan NL and P-Note Germany to Allnex S.à r.l.
- ▶ Step 5: P-Note Germany is converted into an interest bearing loan mirroring to the extent possible the terms and conditions of the external acquisition financing drawn at Allnex S.à r.l. level.
- ▶ Optional step 6: NL NewCo forms a tax group with Nuplex Industries B.V. and its Dutch subsidiaries.

### Action 7: Post-closing integration - NL

- ▶ Step 1: Allnex Belgium incorporates NL NewCo.
- ▶ Step 2: After steps of Action 6 Nuplex Industries UK Ltd. sells 100% of the shares in Nuplex Industries B.V. to NL NewCo against a purchase price receivable ("P-Note NL"); i.e. the consideration for the disposal of the shares is left outstanding on inter-company account. From a Dutch tax perspective we strongly recommend to sell the shares against an intercompany loan. This strengthens the position that the intercompany loan is linked to external debt in light of claiming that the Dutch anti-abuse rules should not apply, i.e. already at

## Steps to be taken (post-Closing)

### General remark on Actions 8 and Optimal Action 10

- ▶ Actions 8 and optional Action 10 require a distribution of the purchase price receivables up to the chain of companies through a double tier Australian structure. To achieve a distribution of these purchase price receivables in the course of the envisaged integration measures, a pre-dividend in 2016 is required. Otherwise, Actions 8 and 10 will be performed after post-closing integration of Australia (Action 4). However, in this case dividend taxation at Allnex Belgium (recipient) and WHT implications in Australia have to be considered (Australian dividend WHT would not be creditable at Allnex Belgium level).

### Action 8: Post-closing integration - UK II

- ▶ Step 1: After steps of Action 4 Asia Pacific Specialty Chemicals Ltd. (Australia) sells 50% of the shares in Innospec Valvemaster Ltd. (UK) to Allnex UK Holding Ltd. against a purchase price receivable ("P-Note UK II"), i.e. the consideration for the disposal of shares is left outstanding on inter-company account on an interest-bearing basis mirroring to the extent possible the terms and conditions of the external financing drawn at Allnex S.à r.l. level.
- ▶ Step 2: Asia Pacific Specialty Chemicals Ltd. (Australia) distributes P-Note UK II up the chain via Nuplex Operations (Aust) Pty. Ltd., Allnex Australia Pty. Ltd. to Allnex Belgium.
- ▶ Step 3: Allnex Belgium partially settles SHL owed to Allnex S.à r.l. in the amount of P-Note UK II by assigning P-Note UK II to Allnex S.à r.l.
- ▶ Step 4: P-Note UK II is formalised into an interest bearing loan.

Note: Tax group not possible due to 50% ownership in Innospec Valvemaster Ltd.

### General remarks on

- ▶ Following the overall concept of the post-closing integration measures, as described in section "*Transaction background Allnex*", it was contemplated transferring Nuplex Suzhou, Nuplex Foshan as well as Nuplex Changshu to

Allnex Shanghai as bundling vehicle. These transfers were envisaged to be performed against an increase of Allnex Shanghai's leverage (that is, by way of a debt push down into China).

- ▶ During the analysis of the Chinese tax implications, it turned out that the initially envisaged step sequence (i.e., transfer of the shares in Nuplex Suzhou, Nuplex Foshan and Nuplex Changshu to Allnex Shanghai against an interest bearing note followed by a distribution of the note receivable by the respective transferor up to the chain of intermediate companies to Allnex S.à r.l.) would legally not be possible. Moreover, a direct transfer of the Chinese entities would lead to significant adverse tax implications:
  - Direct transfer of a Chinese entity triggers a capital gains taxation whereby the capital gain is subject to Chinese WHT of 10% (no relief of WHT possible).
  - Claw-back taxation of enjoyed tax holiday of Nuplex Suzhou and Nuplex Foshan (and Nuplex Changshu – to be confirmed).
  - Other obstacles such as (1) no tax consolidation scheme available in China and [2] no cash-less transaction feasible in China.
- ▶ In the light of the aforesaid the unification of the Chinese entities are optional as further detailed review is required and it has to be elaborated if such unification might be possible with only minor adverse tax implications.

### Optional Action 9: Post-closing integration - China I

- ▶ Due to the legal restriction that share transfers in China can only be made against cash consideration leading to the following steps:
  - 1 Allnex Belgium funds Allnex Resins (Shanghai) Co. Ltd. with cash against a loan receivable (interest bearing).
  - 2 Allnex Resins (Shanghai) Co. Ltd. acquires the shares in Nuplex Resins (Suzhou) Co. Ltd. against cash payment.
  - 3 Nuplex Sino Chemicals B.V. distributes cash up the chain via Nuplex Industries B.V. and NL NewCo to Allnex Belgium.

## Steps to be taken (post-Closing)

### Optional Action 10: Post-closing integration - China II

- ▶ Due to the legal restriction that share transfers in China can only be made against cash consideration leading to the following steps:
  - 1 Allnex Belgium funds Allnex Resins (Shanghai) Co. Ltd. with cash against a loan receivable (interest bearing).
  - 2 Allnex Resins (Shanghai) Co. Ltd. acquires the shares in Nuplex Resins (Foshan) Co. Ltd. and Nuplex Resins (Changshu) Co. Ltd. against cash payment.
  - 3 Nuplex Industries (Aust) Pty. Ltd. distributes cash up the chain via Nuplex Operations (Aust) Pty. Ltd. and Allnex Australia Pty. Ltd. to Allnex Belgium.

### Optional Action 11: Post-closing integration – optional countries:

- ▶ The following legal entities could be sold/carved-out out from under Nuplex Finance Holdings Ltd., e.g., to Allnex Belgium [to be reviewed/determined depending on economic materiality post-closing]:
  - Nuplex Brazil (100% ownership)
  - Nuplex Indonesia (80% ownership)
  - Nuplex Hong Kong (100% ownership)
  - Nuplex Singapore (100% ownership)
  - Nuplex Russia (100% ownership)
- ▶ The following legal entity could be sold/carved-out out from under Nuplex Industries (Aus) Pty. Ltd. to Allnex Belgium [to be reviewed/determined depending on economic materiality]:
  - Nuplex Vietnam (100% ownership)

### Action 12: Future post-closing integration:

- ▶ To the extent feasible from a business perspective (to be analysed), in-country reorganizations (e.g. mergers) to reduce the number of legal entities and multi holding levels in:
  - China
  - Germany
  - Netherlands
  - New Zealand
  - UK
- ▶ Feasibility and tax implications to be in-depth analyzed separately at a later stage; post-closing upon availability of detailed company information.

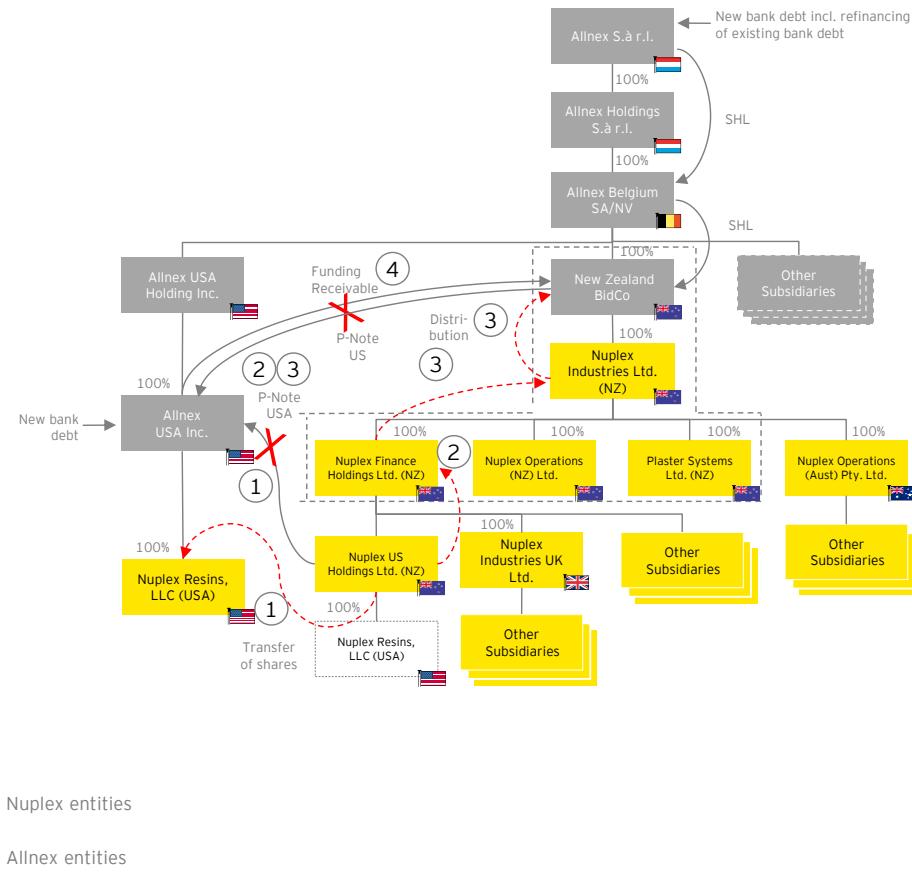
### Optional Action 13: Post-closing reorganization of existing Allnex group:

- ▶ The proposed Action steps 1 – 10 aim to combine Allnex and Nuplex group post-closing in order to capture financial synergies and reduce complexity by de-layering the multi-tier Nuplex group.
- ▶ Apart from the combination of both groups, certain restructuring steps may be undertaken in the existing Allnex group to gain additional synergies and cash tax savings.
- ▶ Allnex's management identified that certain Allnex entities have experienced EBITDA growth over the last month. Together with the expected synergies of the Nuplex acquisition it may be envisaged to also pursue further restructuring opportunities within the existing Allnex group. In line with the Mid-Cycle Restructuring project (completed in 2015, see introduction), the group structure may be further streamlined to achieve, amongst others, targeted entity balance sheet optimization, greater interest deductibility, cash up-streaming, reporting efficiencies and easier governance.
- ▶ Based on our experience during the Mid-Cycle Restructuring project, we identified a catalogue of potential planning opportunities which are summarized below as well as depicted opposite.

## Steps to be taken (post-Closing)

- ▶ Allnex's management is fully engaged in analysing the group's business operations post-closing to restructure the group for achievement of the set synergy goals. These restructuring measures may, for instance, include further calibration of the debt to equity ratio at selected entity levels, inter-company share transfers, de-mergers and hive-downs thereby in some cases increasing the number of legal entities or holding layers, which are not yet listed below / depicted opposite, but which might – at least for an interim period – be required. Apart from the countries mentioned below, management expects that Allnex and Nuplex entities or branches in the UK, France, Spain and Italy could be feasible candidates for future reorganization depending on the actual development of the business.
- ▶ All planning alternatives are subject to a detailed feasibility review not only from a tax, but also from a legal and business perspective subject to future development of the profit situation.
- ▶ The following restructuring opportunities are suggested:
  - Increase of local GAAP equity of selected entities, potentially combined with leveraged dividends
  - Migration of existing IP
  - Restructuring of US business
  - Yield conversion

## Action 1: Post-closing integration – US



### Summary of steps

- ▶ Step 1: Nuplex US Holdings Ltd. (NZ) sells 100% of the membership interests in Nuplex Resins LLC to Allnex USA Inc. for a purchase price receivable ("P-Note US").
- ▶ Step 2: Nuplex US Holdings Ltd. (NZ) distributes the P-Note US to Nuplex Finance Holdings Ltd. and liquidates.
- ▶ Alternatively, Nuplex US Holdings Ltd. (NZ) converts to a New Zealand ULC, a US check-the-box election is made to treat Nuplex US Holdings ULC as a disregarded entity for US tax purposes, and Nuplex US Holdings ULC would then distribute P-Note US to Nuplex Finance Holdings Ltd.
- ▶ Step 3: Nuplex Finance Holdings Ltd. (NZ) distributes P-Note US up the chain via Nuplex Industries Ltd. to NZ BidCo.
- ▶ Step 4: NZ BidCo settles in full US Funding Receivable owed to Allnex USA Inc. by transferring P-Note US to Allnex USA Inc. US Funding Receivable and P-Note US to the extent possible.
- ▶ Optional step 5: Depending on the FMV of Nuplex Resins LLC it might be possible that a minor amount of the P-Note US or US Funding Receivable after step 4 remains outstanding. In the case at hand the outstanding amount should be settled (i.e. cashless) with existing receivables and liabilities or via dividend distributions and contribution within the triangle of Allnex Belgium, Allnex USA Holding Inc. (respectively Allnex USA Inc. and NZ BidCo) without triggering WHT.
- ▶ Alternatively, the outstanding amount can be paid with existing liquidity at the level of Allnex USA Inc. or NZ BidCo, i.e. no P-Note US or US Funding Receivable remains outstanding.
- ▶ Optional step 6: As an alternative, as discussed in step 3 "*At Closing (funding of acquisition structure)*", Allnex USA Inc. on-lends US Funding Receivable indirectly via Allnex S.à r.l. and Allnex Belgium to NZ BidCo. In this case, settlement of US Funding Receivable shall also occur through a cash-less settlement mechanism by offsetting receivables and liabilities as well as dividends or contributions. Alternative not yet determined, currently under review from a US tax perspective.

## Action 1: Post-closing integration – US

### New Zealand tax implications

- ▶ NZ does not impose capital gains tax or other transfer taxes. Accordingly, provided shares in relevant subsidiaries are held on capital account, no adverse NZ tax implications are expected to arise on sale of shares in Nuplex Resins LLC.
- ▶ Distribution of the P-Note US up the chain to NZ BidCo should be treated as an exempt dividend free from withholding tax in the distributing entity and exempt from income tax in the hands of the recipient entity for NZ tax purposes. We note distributable reserves or equivalent requirements are not applicable in respect of dividends between NZ companies of the nature being considered; just a directors solvency certificate that it can pay its debts as they fall due and the value of its assets exceed its liabilities.
- ▶ Liquidation of Nuplex US Holdings Ltd. (NZ) following distribution of the P-Note US should not give rise to adverse NZ tax implications. We note formal liquidation is a process requiring application to NZ courts and involvement of other statutory bodies. Although the process should be relatively straightforward given our assumption that Nuplex US Holdings Ltd. (NZ) should have no substantial assets or liabilities at the time of liquidation, a certain amount of time is required in order for the process to be completed.
- ▶ We note that conversion of Nuplex US Holdings Ltd. (NZ) to a ULC and subsequent check the box election for US tax purposes should also not give rise to any adverse NZ tax implications, should this route be preferred.
- ▶ Repayment of SHL by assignment of P-Note US should not give rise to adverse NZ tax implications as these should represent repayment of debt principal. From a NZ perspective, repayment of debt attributable to overseas holdings should leave remaining shareholder debt in NZ BidCo at a level attributable to the remaining NZ holdings (together with any offshore subsidiaries that are not sold from under NZ).
- ▶ The thin capitalisation position would then depend on the remaining debt relative to initial equity capitalisation of NZ BidCo (debt to asset ratio of up to 60% is permissible or 110% of the Worldwide Groups Global Debt Percentage). Where the thin capitalisation calculation after disposition of foreign subsidiaries would exceed the allowed limits, existing debt could be recapitalised as equity to bring the NZ Group within those limits.

### US tax implications

- ▶ Step 1 and 2 are expected to be characterized as a type D reorganization under IRC Section 368(a)(1)(D) for US income tax purposes, such that Nuplex Finance will not recognize taxable gain or loss on the effective transfer of Nuplex US Holdings Ltd. (NZ) assets to Allnex USA Inc. for the P-Note US and liquidation of Nuplex US Holdings Ltd. (NZ).
  - Assuming a Section 338(g) election is made for Nuplex Finance (which would provide for a fair market value tax basis in the shares of Nuplex US Holdings Ltd. (NZ)), there should be no gain recognized by Nuplex Finance for US income tax purposes. If gain were recognized, a deemed dividend may arise to the extent of gain recognized.
  - In any event, the type D reorganization as envisioned should not cause any actual or deemed US-source dividends that are subject to US withholding tax as any dividend may be sourced from the earnings & profits of Nuplex US Holdings Ltd.
  - As the type D reorganization is a Section 381 transaction, certain tax attributes of Nuplex US Holdings Ltd. (NZ) should generally carry over to Allnex USA Inc., such as the non-previously taxed effectively connected earnings & profits historically earned by the company's US branch.
- ▶ As a result of the US reorganization, Nuplex US Holdings Ltd.'s tax year will terminate as of the date of the reorganization. Nuplex Resins LLC should continue to be treated as disregarded entity for US tax purposes and therefore, going forward, its business activity should be reported on the Allnex USA Holding Inc. in US federal consolidated income tax return.
- ▶ Note that an "inbound" D reorganization typically results in the transferor of the target company being treated as receiving a deemed dividend from the target company in the amount of the target company's "All E&P Amount;" however, an exception for US-source effectively connected earnings & profits should apply. See "*Detailed key tax implications*" for a detailed discussion.
- ▶ Also, because we understand that Nuplex Resins LLC contains all of the Nuplex US Holdings Ltd.'s US business activities, the reorganization will result in a termination of the company's US branch as well. The termination of a US branch can result in the imposition of a branch profits tax as high as 30% imposed on all

## Action 1: Post-closing integration – US

of the branch's non-Previously taxed current and accumulated effectively connected earnings & profits unless certain requirements are met. However, Nuplex Holdings US Ltd. should be eligible for an exception to branch profits tax provided that it follows the procedures and satisfies the requirements for such exception. The details of these requirements are discussed in further detail in Tax Overview – USA Section.

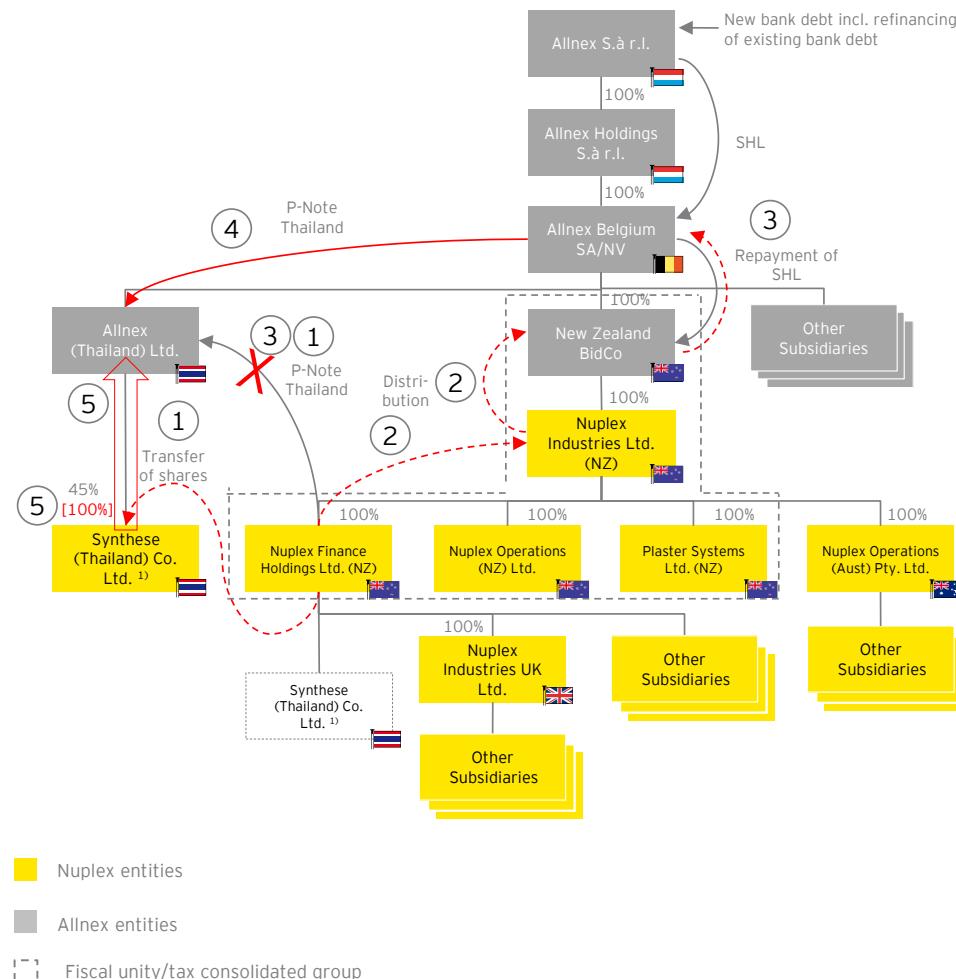
### Tax Imposed under Foreign Investment in Real Property Tax Act ("FIRPTA")

- ▶ We understand that Nuplex Resins LLC owns real property (i.e., land and building) that is situated in Kentucky. The land and building were recorded on the books at an aggregate cost of EURm 5.7 (USDm 6.3) (land of approx. EURm 1.9 (USDm 2.1) and building of approx. EURm 5.7 (USDm 6.3), structural improvements of EURm 2.5 (USDm 2.8) less D/A of EURm 4.5 (USDm 5). In connection with the transfer of Nuplex Resins LLC, there may be imposed on the acquirer, Allnex USA Inc., a requirement to withhold and remit tax equal to 15% of the value of the US real property transferred i.e., EURm 0.9 (USDm 1). Nuplex US Holdings Ltd. will be responsible for paying tax on the gain realized on the transfer of such real property and reporting such gain on its final tax return. Tax is generally imposed at US corporate income tax rates of 35% so if the 15% withholding tax remitted by Allnex US, Inc. on behalf of Nuplex US Holdings Ltd. was in excess of the tax due, Nuplex US Holdings Ltd. can claim a refund of such tax on its US tax return for the year in which the transfer occurred (to be reviewed further).
- ▶ Relief from withholding tax can be obtained if the taxpayer receives a withholding certificate from the IRS that excuses withholding or permits the transferee/acquirer to withhold a reduced amount of tax reflecting the transferor's maximum tax liability. The maximum tax liability would be calculated as 35% of the gain realized on the transfer of the property. The comparison point would be 35% of the gain (if any) versus 15% of the gross value.
- ▶ A calculation and supporting documentation must be filed along with the form and be signed by an officer of the company under penalties of perjury.
- ▶ Practically, to perform this exercise, details of the tax basis of the underlying real property and some form of formal appraisal of the property are required. A valuation would reflect any reduction in value due to contingent or known environmental claims. We recommend that the comparison is done between

signing and closing of the envisaged transaction (or at least prior to the actual transfer of Nuplex Resins LLC if access to relevant information is denied).

- ▶ Provided that the application is filed prior to the actual transfer, the withholding tax obligation, if any, may be delayed until 20 days after receipt of the certificate for reduced withholding from the IRS (or denial of the request by the IRS). This can delay the timing of any payment as well. As such, there would not be a funding requirement in the period between when the request for the withholding certificate is filed and when a response is received. We understand based that it can take between 3 and 6 months to receive a response depending on how busy the IRS is with processing of requests.
- ▶ Finally, please note that US real property interests can include certain equipment and personal property associated with the use of the real property, structural components of the building, and immovable property that is affixed permanently to real property. The definition of real property may also include a bargain or below-market leasehold interests (in which case the value would be measured by the present value of the future payments that could be received if the leasehold were to be subleased to a third party).

## Action 2: Post-closing integration - Thailand



1) Nuplex Resins (Thailand) Ltd. is not displayed as according to lawyers is a defunct company deleted from the register.

### Summary of steps

- ▶ Step 1: Nuplex Finance Holdings Ltd. (NZ) sells 45% of the shares in Synthese (Thailand) Co. Ltd. to Allnex (Thailand) Ltd. against a purchase price receivable ("P-Note Thailand").
- ▶ Step 2: Nuplex Finance Holdings Ltd. (NZ) distributes P-Note Thailand via Nuplex Industries to NZ BidCo.
- ▶ Step 3: NZ BidCo settles SHL owed to Allnex Belgium in the amount of P-Note Thailand by assigning P-Note Thailand to Allnex Belgium
- ▶ Step 4: P-Note Thailand is converted into an interest bearing loan.
- ▶ Optional step 5:
  - Subject to commercial considerations, the 45% shareholding in Synthese (Thailand) Co. Ltd. is increased to 100% by way of acquisition of the remaining stake from the outstanding shareholder(s).
  - Such acquisition could be funded by an increase of the P-Note Thailand from Allnex Belgium SA/NV against cash payment.
  - To achieve an offset of interest expense on acquisition debt with operating profits of Synthese (Thailand) Co. Ltd., an amalgamation of Synthese (Thailand) Co. Ltd. and Allnex (Thailand) Ltd. may be considered. Note that Thailand does not provide for tax grouping. Alternatively (e.g., in case an amalgamation might legally or tax-wise not be feasible), an entire business transfer or an entire business lease may be envisaged, but subject to further analysis. We understand from A&O, that Nuplex Resins (Thailand) Co., Ltd. had been struck off from the registry records of the Thai Ministry of Commerce. As such, an amalgamation of this company to achieve a debt-push-down may not be feasible. If this was the case, it may be considered liquidating Nuplex Resins (Thailand) Co., Ltd. as part of the legal entity reduction measures.

### Key points to consider

- ▶ Based on the information provided we understand from A&O that the articles of association of Synthese (Thailand) Co. Ltd. (which is a joint venture) contain

## Action 2: Post-closing integration - Thailand

restrictions on the transfer of shares including a pre-emption process under which the shares would need to be offered to the other shareholders. The transfer also needs approval by the board of directors.

- ▶ We furthermore understand from legal counsel that a transfer of Synthese (Thailand) Co. Ltd. might take 2 to 5 months (exact timing to be jointly planned with A&O).

### Belgian tax implications

- ▶ Steps 1 and 2 have no immediate tax consequences.
- ▶ Taxable/deductible FX gains/losses may arise in respect of non-EUR denominated loans upon settlement / assignment in Step 3.
- ▶ Interest income earned by Allnex Belgium on the loan to Allnex Thailand (Step 4) is taxable at the ordinary tax rate (33.99%) The loan from Allnex Belgium to Allnex Thailand should be at arm's length and Allnex Belgium should earn an at arm's length spread. Thai WHT may not erode Allnex Belgium's spread. Allnex Belgium may credit the Thai WHT (subject to conditions and limitations, see "*Detailed key tax implications*").
- ▶ An amalgamation (optional step 5) of Allnex (Thailand) Ltd. and Synthese (Thailand) Co. Ltd. whereby the company may legally cease to exist and may be transferred to a new company could possibly be considered as a liquidation for Belgian tax purposes. which may give rise to a dividend from a Belgian tax perspective (in case the transaction is treated as a liquidation for Thai tax purposes) or to a capital gain on shares: (i) a dividend may qualify for the 95% participation exemption in Belgium, subject to a minimum one-year holding period and a subject to tax test; (ii) a capital gain may qualify for the 0.412% rate provided that a minimum one-year holding period and a subject-to-tax test are met. This should be analysed. We cannot exclude the risk that the gain would be taxable at the ordinary corporate tax rate of 33.99%. A capital loss (if any) incurred by Allnex Belgium is in principle not tax deductible.

### New Zealand tax implications

- ▶ NZ does not impose capital gains tax or other transfer taxes. Accordingly, provided shares in relevant subsidiaries are held on capital account, no adverse NZ tax implications are expected to arise on sale of shares in Synthese (Thailand) Co. Ltd.
- ▶ Distribution of the P-Note Thailand up the chain to NZ BidCo should be treated as an exempt dividend free from withholding tax in the distributing entity and exempt from income tax in the hands of the recipient entity for NZ tax purposes. We note distributable reserves or equivalent requirements are not applicable in respect of dividends between NZ companies of the nature being considered; just a director's solvency certificate that it can pay its debts as they fall due and the value of its assets exceed its liabilities.
- ▶ Repayment of SHL by assignment of P-Note Thailand should not give rise to adverse NZ tax implications as these should represent repayment of debt principal. From a NZ perspective, repayment of debt attributable to overseas holdings should leave remaining shareholder debt in NZ BidCo at a level attributable to the remaining NZ holdings (together with any offshore subsidiaries that are not sold from under NZ).
- ▶ The thin capitalisation position would then depend on the remaining debt relative to initial equity capitalisation of NZ BidCo (debt to asset ratio of up to 60% is permissible or 110% of the Worldwide Groups Global Debt Percentage). Where the thin capitalisation calculation after disposition of foreign subsidiaries would exceed the allowed limits, existing debt could be capitalised as equity to bring the NZ Group within those limits.

### Thai tax implications

- ▶ As a general rule, the sale of shares in Synthese (Thailand) Co. Ltd. should be done at fair value. The fair value for a company, which is not listed in the stock exchange is determined based on the net asset value (total assets less total liabilities) of the company to be acquired. In any case, the purchase price must not be higher than the market price without justifiable reasons.
- ▶ To the extent the purchase price for 45% of the shares in Synthese (Thailand) Co. Ltd. exceeds the respective book value, a capital gain is triggered which is subject to withholding tax of 15% in Thailand according to domestic rules. Relief

## Action 2: Post-closing integration - Thailand

from withholding tax can generally be achieved based on an applicable double tax treaty. Given that the applicable double tax treaty between Thailand and New Zealand does not limit the Thai WHT it would become a final tax burden as it is not refundable in the case at hand.

- ▶ To mitigate or avoid the WHT on the capital gain, it may be considered transferring the shares at book value or a value between fair value and book value. As per domestic Thai tax law, the purchase price should not be adjusted. In this case, however, the debt push down would be limited to an amount equalling the actual purchase price.
- ▶ In contrast, for New Zealand tax purposes, any associated party transactions must be at fair value or will be deemed as such. Consequently, if the transfer of shares in Synthese Thailand Co. would occur at a value below fair value, a deemed dividend could be triggered by Nuplex Finance Holdings Ltd. (NZ) up the chain to Allnex Belgium thereby triggering WHT if deemed dividend would be un-imputed. Given that the potential NZ WHT burden of 15% equals the WHT in Thailand (15%) as well as considering that a deemed dividend may be subject to taxation at Allnex Belgium level, these entities should be transferred at fair value to avoid any additional tax liability.
- ▶ Due to lack of information, we are currently not able to estimate the potential tax burden. Nevertheless, we estimate that the tax liability could be substantial. Assuming an exemplary fair value of 45% of the shares in Synthese Thailand Co. of EURm 10 (USDm 11.1), the WHT would amount to EURm 1 (USDm 1.11).
- ▶ The direct transfer of shares in a Thai company is subject to stamp duty of 0.1% on the higher of either the share transfer price or the paid-up value of shares. Stamp duty on share transfers is not capped.
- ▶ Stamp duty may not be applicable in certain situations, or an exemption may be available. Amongst other transactions, any transfer executed offshore should not be subject to stamp duty as long as the transfer deed is kept outside of Thailand. As such, if the transfer deed is brought to Thailand, stamp duty will be triggered. The tax authority or, alternatively, the court may request the original transfer deed to be shown in certain cases. In this case, stamp duty will be triggered (there is however no penalty).
- ▶ As long as the purchase price receivable is not interest bearing upon the distribution up the chain, no Thai tax is applicable due to the various creditor changes. Also, no Thai tax implications are triggered upon the partial settlement of the loan owed by NZ BidCo to Allnex Belgium provided that the purchase price receivable is not interest bearing. As such, the conversion into an interest bearing loan should only occur at the level of Allnex Belgium.
- ▶ The interest rate on the intercompany loan must be at arm's length. If and to the extent the interest rate is too high, interest is not tax deductible. As a general rule, the rate should not be higher than prevailing rate of commercial banks in Thailand.
- ▶ Interest payments under the loan agreement between Allnex (Thailand) Ltd. to Allnex Belgium will be subject to 15% withholding tax based on domestic rules (it is assumed that Allnex Belgium does not qualify as financial institution under Thailand – Belgian tax treaty as it does not have a bank license issued by the National Bank in Belgium; otherwise WHT may be reduced to 10%).
- ▶ The loan agreement will be subject to stamp duty of 0.55% on the loan amount, but is capped at approx. EUR 256 (denominated in THB 10,000).
- ▶ Interest incurred by the Thai company can generally be treated as tax deductible expense as long as it is incurred for its business operation and the interest rate is not higher than the market rate. Given that the loan was obtained to acquire shares, interest should be tax deductible.
- ▶ Although there are no debt-to-equity restrictions for income tax purposes, other regulatory requirements may require a certain level of equity (such as Board of Investment rules, which generally require a 3:1 debt-to-equity ratio).
- ▶ Given the lack of tax grouping rules in Thailand, any debt held at the Thai company level should be held in the company earning the taxable profits to ensure tax-deductibility or should be tried to be pushed down by amalgamating the acquisition company and the acquired company. As a general rule, Thai law provides for a tax-free merger (legal feasibility of the merger to be confirmed by legal counsel). Alternatively, an entire business transfer ("EBT") may be considered. The EBT from Synthese (Thailand) Co. Ltd. to Allnex (Thailand) Ltd. should be the most practical way from a legal perspective, but subject to confirmation by legal counsel as well as other business considerations.

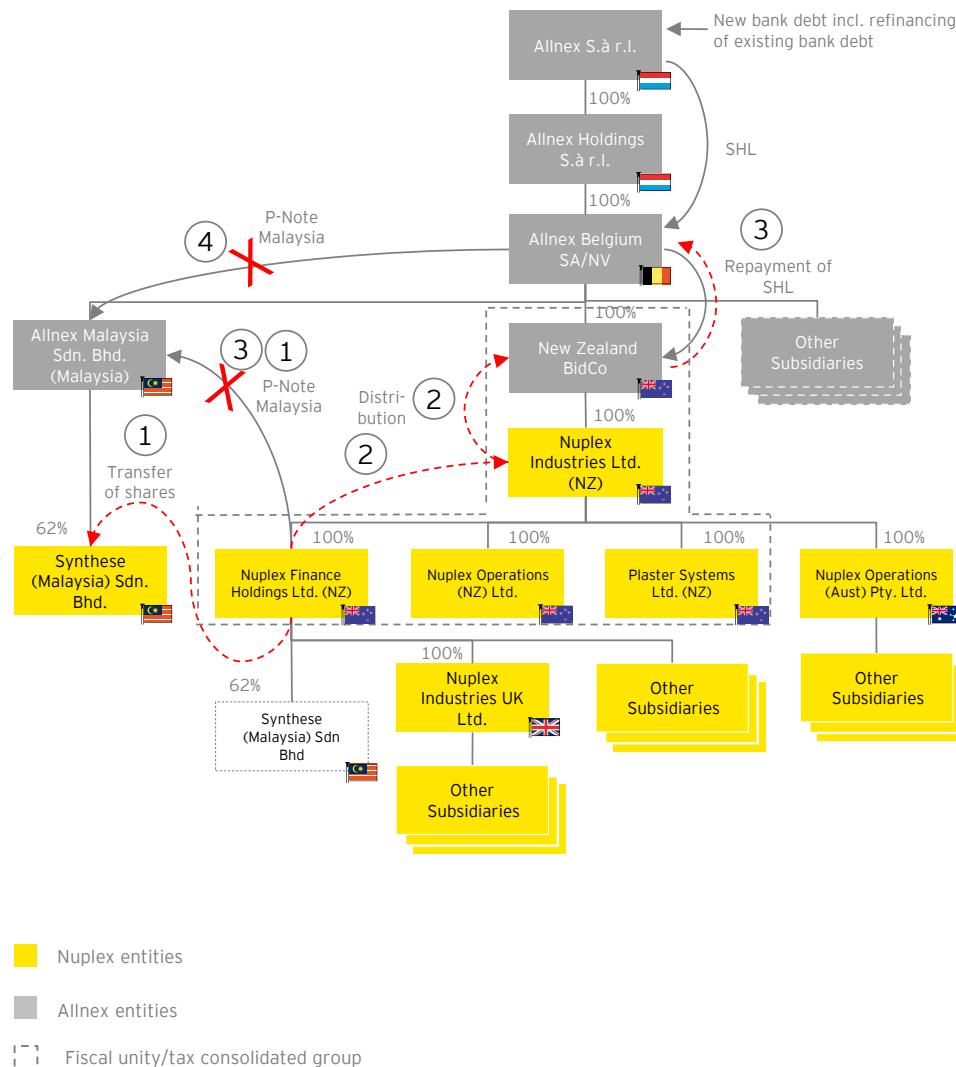
## Action 2: Post-closing integration - Thailand

- ▶ Having a business reasons will help in defending with the tax authority if the transaction will be challenged. The transfer/merger must be performed at fair value, but tax-free (in case of an EBT, if immovable property is transferred, 2% transfer fee will be applicable on the official appraised value of immovable properties).
- ▶ As such, assuming that either a merger or an EBT would be legally feasible, a debt push down is effectively possible in Thailand. Provided that each of the transaction involved in the structure is performed according to Thai tax laws, it should not be considered as aggressive tax planning in Thailand.
- ▶ In case neither an amalgamation nor an EBT were possible, it could also be considered implementing an entire business lease concept (subject to analysis) between the two Thai entities.

### Please note:

- ▶ In case further analysis of Action 2 turns out in significant tax costs (especially regarding Thai WHT on share transfer) Action 2 is optional as feasibility of this step has to be analysed from a cost-benefit perspective as well as legal and tax feasibility of amalgamation or an entire business transfer (not triggering other detrimental tax implications).

## Action 3: Post-closing integration – Malaysia



### Summary of steps

- Step 1: Nuplex Finance Holdings Ltd. (NZ) sells 62% of the shares in Synthese Malaysia to Allnex Malaysia against a purchase price receivable ("P-Note Malaysia").
- Step 2: Nuplex Finance Holdings Ltd. (NZ) distributes P-Note Malaysia via Nuplex Industries to NZ BidCo.
- Step 3: NZ BidCo partially settles SHL owed to Allnex Belgium in the amount of P-Note Malaysia by assigning P-Note Malaysia to Allnex Belgium.
- Step 4: P-Note Malaysia is contributed into Allnex Malaysia [against new shares / share premium/ capital reserves; to be determined].
- Optional step 5:
  - Note: A tax group is currently not possible due to 62% ownership in Synthese (Malaysia) only. It may, however, be envisaged to acquire the minority shareholding in Synthese (Malaysia) at a later stage (subject to business considerations). In this case, it may be envisaged to form a tax group between Allnex Malaysia and Synthese (Malaysia) or to amalgamate them (subject to further review).
  - In addition to that, to the extent feasible, the equity of Synthese (Malaysia) may be further calibrated going forward (level of capitalization to be monitored in light of business needs going forward).
  - Alternatively, it may be considered to convert the P-Note Malaysia into an interest bearing loan at the level of Allnex Belgium instead of the contribution into Allnex Malaysia.

### Belgian tax implications

- Steps 1 and 2 have no immediate tax consequences.
- Taxable/deductible FX gains/losses may arise in respect of non-EUR denominated loans upon assignment / contribution in steps 3 and 4. The equity contribution (step 4) would have no further immediate tax impact in Belgium.

## Action 3: Post-closing integration – Malaysia

- ▶ Alternative step: In case P-Note Malaysia is not contributed, but converted into a SHL interest income earned by Allnex Belgium on the loan to Allnex Malaysia Sdn. Bhd. is taxable at the ordinary tax rate (33.99%) The loan from Allnex Belgium to Allnex Malaysia Sdn. Bhd. should be at arm's length and Allnex Belgium should earn an at arm's length spread. Malaysian WHT may not erode Allnex Belgium's spread. Allnex Belgium may credit the Malaysian WHT (subject to conditions and limitations; see "*Detailed key tax implications*").

### Malaysian tax implications

- ▶ There is no capital gains tax regime in Malaysia.
- ▶ Any interest which incurred to fund the acquisition of shares is subject to restriction. As such, a debt push down to Allnex Malaysia will not be feasible since Allnex Malaysia will not be able to claim a tax deduction in respect of interest expenses suffered. That is, the loan arose in relation to the acquisition of Synthese Malaysia and income (dividend) from such shares would be tax exempt.
- ▶ On the other hand, interest income (in the debt push down scenario) would be taxable at Allnex Belgium level at ordinary rates (statutory tax rate: 33.99%). Despite interest income would generally be absorbed at Allnex Belgium level due to the loan which is owned to Allnex S.à r.l., Allnex Belgium should earn a margin (subject to transfer pricing review), which is subject to taxation at ordinary rates. Moreover, any interest payments made by Allnex Malaysia should trigger Malaysian withholding tax of 15% (domestic rate). The withholding tax rate may be reduced to 10% under the Belgian – Malaysia Double Taxation Agreement if conditions are met, that is, if the recipient (Allnex Belgium) is a Belgian tax resident and the beneficial owner of the interest. Malaysian WHT may, however, be creditable by Allnex Belgium, subject to analysis.
- ▶ We understand that there is no instrument created on the amount owing hence there should be no Malaysian stamp duty applicable.
- ▶ Accrued interest does not trigger WHT until actual payment or crediting. However, the interest deductibility of an expense is disallowed as long as the corresponding WHT has not yet been paid. Given that the interest is not tax

deductible at all in the case at hand (that is, the loan was obtained for the acquisition of shares), accruing interest to avoid WHT is not an option.

- ▶ In contrast, dividend distributions are not subject to WHT in Malaysia. At Allnex Belgium level, 5% on the dividend income is subject to taxation at ordinary rates.
- ▶ The transfer of shares in a Malaysian company is subject to stamp duty at a rate of 0.3% on the higher of the purchase price or fair value. The stamp duty is to be borne by the buyer (i.e. Allnex Malaysia). Based on stamping guidelines issued by the Stamp Office, stamp duty on non-listed shares will be calculated on the following:
  - where an approval is required from the Securities Commission ("SC"), the price/value per share is as approved by the SC;
  - where a company is incurring losses - highest of the Par Value or Net Tangible Assets or sale consideration;
  - other cases - highest of NTA or Price Earning Multiple/Price Earning Ratio ("PER") or sale consideration.

(Net Tangible Asset = [Total Assets - Total Liabilities] / Issued Share Capital

PER method: Value per share = [Profit After Tax / Issued Share Capital] x PER

- ▶ The PER is prescribed for various industries ranges from 3.5 to 8.5. We understand that Synthese Malaysia is in the business of manufacturing of plastic. For a manufacturing company, the prescribed PER for is 5.0.
- ▶ Capital expenditures, such as stamp duty, are not tax deductible under the Malaysian tax laws.
- ▶ As stated above, capital gains are not subject to tax in Malaysia, unless the shares were held for trading purposes or if the company to be transferred is qualified as a Real Property Company ("RPC"). In the latter case, Real Property Gains Tax (RPGT) will be applicable on the gains on disposal of the shares at a rate of 5% to 30% (where the disposer is a company, depending on the period of ownership).
- ▶ In the event that Synthese Malaysia has acquired "real property" in the past, there would be a need to determine whether the shares in Synthese Malaysia

## Action 3: Post-closing integration – Malaysia

are RPC shares (regardless of whether the real property was disposed). No detailed information was provided so far.

### GST

- ▶ The sale of shares would not be subject to GST as it falls under “the transfer of ownership of any securities or derivatives relating to securities” which is an exempt supply (item 8 of subparagraph 2(1) of second schedule of GST (exempt supply) order 2014)

### Stamp duty on loan agreements

- ▶ If the transfer of the amount owing/ P-Note Malaysia will be made by way of a deed of assignment, stamp duty may be applicable on the instrument of transfer at ad valorem rates of 1% - 3% on the consideration or the market value of the property, whichever is higher:
  - 1% on the first EURk 21.7 (denominated in MYRk 100);
  - 2% on any amount in excess of EURk 21.7 (MYRk 100) but not exceeding EURk 108.6 (denominated in MYRk 500); and
  - 3% on any amount in excess of EURk 108.6 (denominated in MYRk 500).
- ▶ However, stamp duty exemption may be available for transfers between associated companies (between companies associated by 90% or more, subject to approval and subject to conditions). Please refer to the section “*Detailed key tax implications*” for an explanation of the stamp duty exemption / relief available.
- ▶ Note that the instrument of transfer would need to be stamped within 30 days if it was executed in Malaysia or within 30 days of being brought into Malaysia if it executed outside Malaysia.
- ▶ If there is an amount owing which is arising from the acquisition of shares and the interest is payable, then the interest would not be tax deductible. If this amount owing is contributed as an equity of the company, there would be no tax implication as:
  - Issuance of shares is not subject to stamp duty.
  - Dividend paid by a Malaysian company to another Malaysian company is not subject to corporate income tax and withholding tax.

- ▶ From a tax point of view, there would be no Malaysian income tax applicable on the increase of share capital / share premium. However, the Companies Commission of Malaysia does impose charges on the application to increase the authorised share capital of a company. Client is advised to check with their legal advisors on the applicable charges.
- ▶ Generally, a Malaysian company would have an authorised share capital. Allnex Malaysia should check their authorised share capital whether it is sufficient, otherwise to increase the authorised share capital accordingly.
- ▶ Stamp duty will depend on the instrument effected. Client is advised to check with their lawyers on what is the instrument(s) to effect the distribution. Please note that stamp duty is imposed on the instruments. It depends on how the distribution is achieved. If the purchase price receivable is assigned, the applicable stamp duty implications are as follows:
  - ▶ The instrument of transfer would be at ad valorem rates of 1% - 3%.
    - The stamp duty calculated at the following rates on the consideration or the market value of the property, whichever is higher:
      - 1% on the first EURk 21.7 (denominated in MYRk 100);
      - 2% on any amount in excess of EURk 21 (denominated in MYRk 100) but not exceeding EURk 108.6 (denominated in MYRk 500); and
    - 3% on any amount in excess of EURk 108.6 (denominated in MYRk 500).
  - ▶ However there may be stamp duty exemption available for transfers between associated companies (between companies which is associated by 90% or more, upon approval and subject to conditions).
  - ▶ Note that the instrument of transfer would need to be stamped within 30 days if it was executed in Malaysia or within 30 days of being brought into Malaysia if it executed outside Malaysia.
  - ▶ Under step 2, in the event the distribution of the amount owing is by way of a dividend in specie, Malaysian stamp duty applicable is a nominal amount of EUR 2 (MYR10). Client is advised to confirm with the legal advisors that there is no other instrument of transfers involved under the dividend distribution.

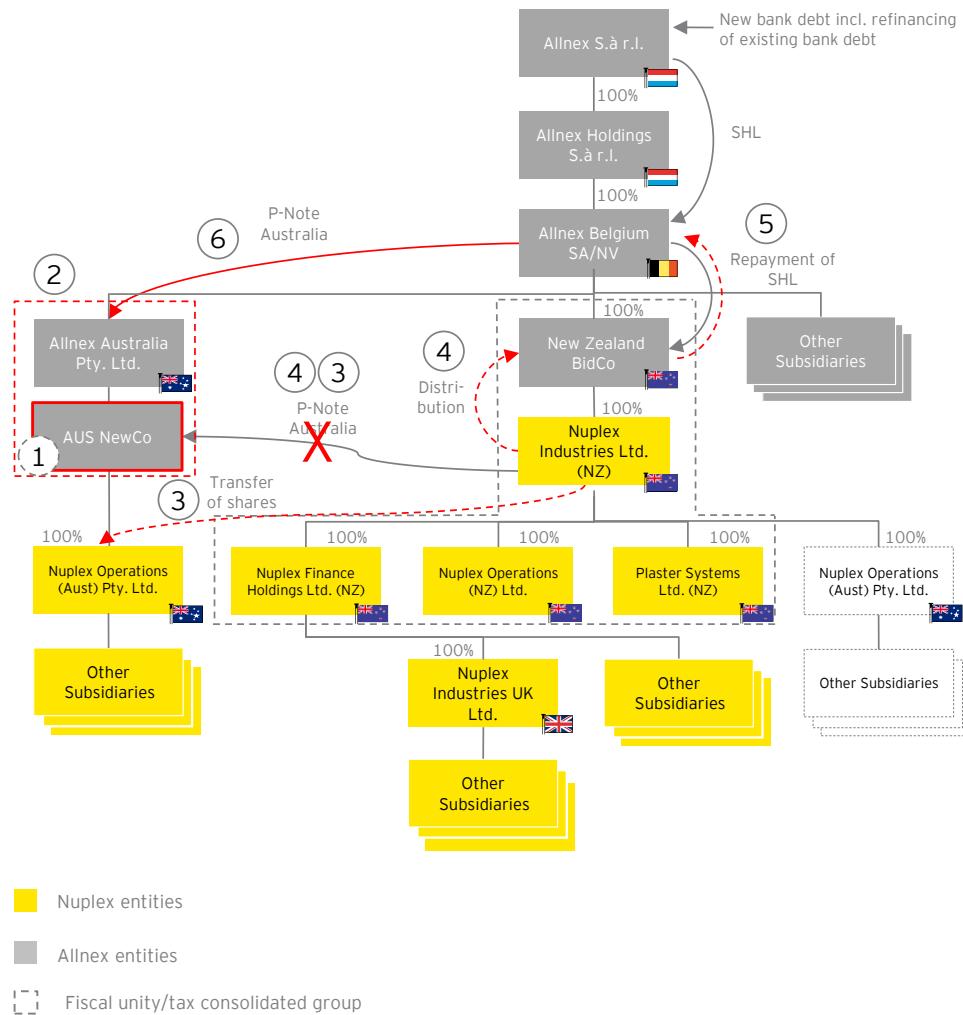
## Action 3: Post-closing integration – Malaysia

- ▶ Under step 3, in the event of the settlement of the SHL is by way of an assignment, then it would be subject to ad-valorem stamp duty as above.
- ▶ Under step 5 (optional) assuming a new interest bearing loan agreement is created, Malaysian stamp duty of 0.5% is applicable on the new loan agreement. Note that if the loan agreement is denominated in currencies other than Ringgit Malaysia, the stamp duty shall be capped at EURk 108.6 (MYR 500).
- ▶ Transactions including interest bearing loan entered into between related parties is considered a financial assistance and would be subject to Malaysian transfer pricing requirements, including being undertaken at arm's length terms and supported by contemporaneous documentation.
- ▶ Allnex Malaysia will not be able to claim a tax deduction in respect of the interest expenses paid as the loan arose in relation to the acquisition of Synthese Malaysia shares and income (dividend) from such shares would be tax exempt.
- ▶ The thin capitalisation position would then depend on the remaining debt relative to initial equity capitalisation of NZ BidCo (debt to asset ratio of up to 60% is permissible or 110% of the Worldwide Groups Global Debt Percentage). Where the thin capitalisation calculation after disposition of foreign subsidiaries would exceed the allowed limits, existing debt could be recapitalised as equity to bring the NZ Group within those limits.

### New Zealand tax implications

- ▶ NZ does not impose capital gains tax or other transfer taxes. Accordingly, provided shares in relevant subsidiaries are held on capital account, no adverse NZ tax implications are expected to arise on sale of shares in Synthese Malaysia.
- ▶ Distribution of the P-Note Malaysia up the chain to NZ BidCo should be treated as an exempt dividend free from withholding tax in the distributing entity and exempt from income tax in the hands of the recipient entity for NZ tax purposes. We note distributable reserves or equivalent requirements are not applicable in respect of dividends between NZ companies of the nature being considered; just a director's solvency certificate that it can pay its debts as they fall due and the value of its assets exceed its liabilities.
- ▶ Repayment of SHL by assignment of P-Note Malaysia should not give rise to adverse NZ tax implications as these should represent repayment of debt principal. From a NZ perspective, repayment of debt attributable to overseas holdings should leave remaining shareholder debt in NZ BidCo at a level attributable to the remaining NZ holdings (together with any offshore subsidiaries that are not sold from under NZ).

## Action 4: Post-closing integration - Australia



### Summary of steps

- Step 1: Allnex Australia Pty. Ltd. incorporates Australian NewCo ("AUS NewCo") with nominal capital.
- Step 2: Allnex Australia Pty. Ltd. elects to form an income tax consolidated group with AUS NewCo ("Allnex Australia TCG").
- Step 3: Nuplex Industries sells 100% of the shares in Nuplex Operations (Aust) Pty. Ltd. ("Nuplex Australia") to AUS NewCo against a purchase price receivable ("P-Note Australia").
- Step 4: Nuplex Industries distributes P-Note Australia to NZ BidCo.
- Step 5: NZ BidCo partially settles SHL owed to Allnex Belgium in the amount of P-Note Australia by assigning P-Note Australia to Allnex Belgium.
- Step 6: P-Note Australia is converted into an interest bearing loan.

### Australian tax implications

#### Income tax

- Upon acquisition of Nuplex Australia, the Nuplex Australia TCG will automatically join the Allnex Australia TCG.
- Upon joining the Allnex Australia TCG, the assets of the Nuplex Australia TCG will be considered to have been acquired by Allnex Australia Pty. Ltd. for tax purposes, and all wholly owned Australian resident companies will be treated as a 'single entity' for income tax purposes.
- As such, any intra-TCG transactions will be ignored for income tax purposes.
- Upon joining the Allnex Australia TCG, the tax cost of the underlying assets of the Nuplex Australia TCG will be reset to effectively reflect their cost to Allnex Australia Pty. Ltd. at the time of tax consolidation. The resetting process is facilitated by a tax cost setting process, which broadly proportionately allocates the purchase price (plus liabilities and certain tax attributes) to non-cash/cash equivalent assets with reference to the market value of such assets.

## Action 4: Post-closing integration - Australia

- ▶ The rest of costs can generally be derived from the PPA provided that it properly reflects and determines FMVs. Otherwise, an external valuation may be required.

### Stamp Duty

- ▶ Nuplex Operations (Aust) Pty. Ltd. is a company taken to be registered in NSW. Accordingly, a liability to marketable securities duty, imposed at the rate of 0.6% of the greater value of the consideration or unencumbered value of the shares transferred will arise.
- ▶ A corporate reconstruction exemption from the marketable securities duty arising should be available. To obtain the benefit of the exemption an application needs to be made to the NSW Chief Commissioner. Applications currently take 4 - 6 weeks to be processed. We generally recommend obtaining approval prior to implementation for certainty of outcome; however, this is not a legislative requirement.
- ▶ We note that it is currently anticipated for marketable securities duty to be abolished from 1 July 2016. However, it is possible that this abolition will be deferred (as has occurred several times in the past).
- ▶ A liability to landholder duty may also arise on the transfer of Nuplex Operations (Aust) Pty. Ltd. if this company is considered to be a landholder in any Australian State or Territory. We will need further information in order to determine whether a liability to landholder duty arises, however, we note that to the extent one does, a corporate reconstruction relief exemption should be available in NSW, Western Australia, South Australia and Victoria. Relief is unlikely to be available in Queensland, the Northern Territory, Tasmania or the ACT (if any such liability does in fact arise).

### Belgian tax implications

- ▶ Steps 1 – 4 have no immediate tax impact in Belgium.
- ▶ Taxable/deductible FX gains/losses may arise in respect of non-EUR denominated loans upon settlement / assignment in step 5.
- ▶ Interest income earned by Allnex Belgium on the loan to Allnex Australia Pty. Ltd. step 6) is taxable at the ordinary tax rate (33.99%) The loan from Allnex

Belgium to Allnex Australia Pty. Ltd. should be at arm's length and Allnex Belgium should earn an at arm's length spread. Australian WHT may not erode Allnex Belgium's spread. Allnex Belgium may credit the Australian WHT (subject to conditions and limitations; see "*Detailed key tax implications*").

### China tax implications - indirect share transfer

- ▶ The selling of the shares in Nuplex Operations (Aust) Pty. Ltd. would lead to an indirect share transfer of PRC entities including Nuplex Resins (Foshan) Co. Ltd. and Nuplex Resins (Changshu) Co., Ltd.
- ▶ As mentioned before, an indirect share transfer of PRC entities without reasonable commercial purposes might be taxable in China.
- ▶ We understand Nuplex Operations (Aust) Pty. Ltd. is not a listed company; therefore, the "public share" exception is not applicable.
- ▶ There is a Safe Harbor Rule available for internal restructuring; however, it requires the consideration of the transaction should only be the share equity of the buyer or its affiliate companies. This share transfer is not paid in equity; therefore, the Safe Harbor Rule for internal restructuring would not apply.
- ▶ If the transaction is taxable in China due to lack of reasonable commercial purpose, the transferor (Nuplex Industries Limited in this case) would be subject to PRC capital gain tax. Allnex Australia Pty. Ltd., as the transferee, would have the withholding obligation for the PRC capital gain tax; failure in the fulfilling the withholding obligation could trigger penalty and late payment interests;
- ▶ A voluntary reporting of the indirect transfer to the Chinese tax authorities within 30 days after signing the share transfer agreement might mitigate the uncertainties and risks and also release the withholding obligations.
- ▶ Moreover, in the light of a future exit, it is recommended to file the reporting and to document the business reasons. Otherwise, we see the risk that Bidders may want to deduct the potential tax liability (partially) as debt like item (see also below) or to achieve a tax indemnity to be provided by the seller.
- ▶ According to Announcement 7, the 7 key factors for the assessment of commercial reasons under an indirect share transfer are as following. We have made a high-level analysis for each factor based on the transaction:

## Action 4: Post-closing integration - Australia

- 1 Whether the value of share equity of the overseas company is primarily (directly or indirectly) comprised of China taxable assets. China part is approx. 10% (Foshan 17% and Changshou -6%) of total estimated Australian group fair value, so the overall assessment is positive (based on current numbers available, to be reviewed prior to the execution again).
- 2 Whether the overseas company's assets primarily consist of (directly or indirectly) investments in China; or if income of the overseas company is mainly derived (directly or indirectly) from China. – subject to further review of detailed information of assets and income of Nuplex Operations (Aust) Pty. Ltd. No judgement possible yet.
- 3 Whether the economic substance of a structure can be demonstrated by the actual functions performed and the risks assumed by the overseas intermediate company or its affiliated enterprise which directly or indirectly holds the China taxable asset. The economic substance of the intermediate holding companies shall be analysed from the perspective of employees, assets, income etc., whether they are in line with the risks and functions of the intermediate companies. We understand that the intermediate company Nuplex Industries Aust Pty. Limited is an operating and holding company which we understand has robust substance. So the overall assessment is positive.
- 4 The duration of the existence of the overseas company's shareholders, the business model and related organization structure;- this factor mainly depends on how long the structure has been existed, whether there is any tax planning trails which might trigger challenge. We understand the overseas structure exists for quite a long time (more than 3 years, please let us know if our understanding is not correct), so the overall assessment is positive.
- 5 Overseas income tax implications related to the indirect transfer of China taxable assets. We understand any capital gain upon the transfer of shares is tax exempt in New Zealand at the level of the seller, i.e., Nuplex Industries, so the overall assessment is not positive.
- 6 From a commercial point of view, whether the non-resident transferor's indirect investment and indirect transfer of China taxable assets could be replaced by a direct investment and direct transfer. We understand the transfer is for the purpose of internal restructuring of the group and the whole

Australia group shall be moved, so the China entities cannot be transferred directly which does not meet the commercial needs. So the overall assessment is positive.

- 7 The applicable Double Tax Agreement (DTA) provisions related to an indirect share transfer of taxable assets in China. - As long as the transaction has reasonable commercial reasons, the indirect share transfer shall not be deemed as a direct share transfer, which means the relevant DTA shall not apply and no Chinese taxes shall be imposed.

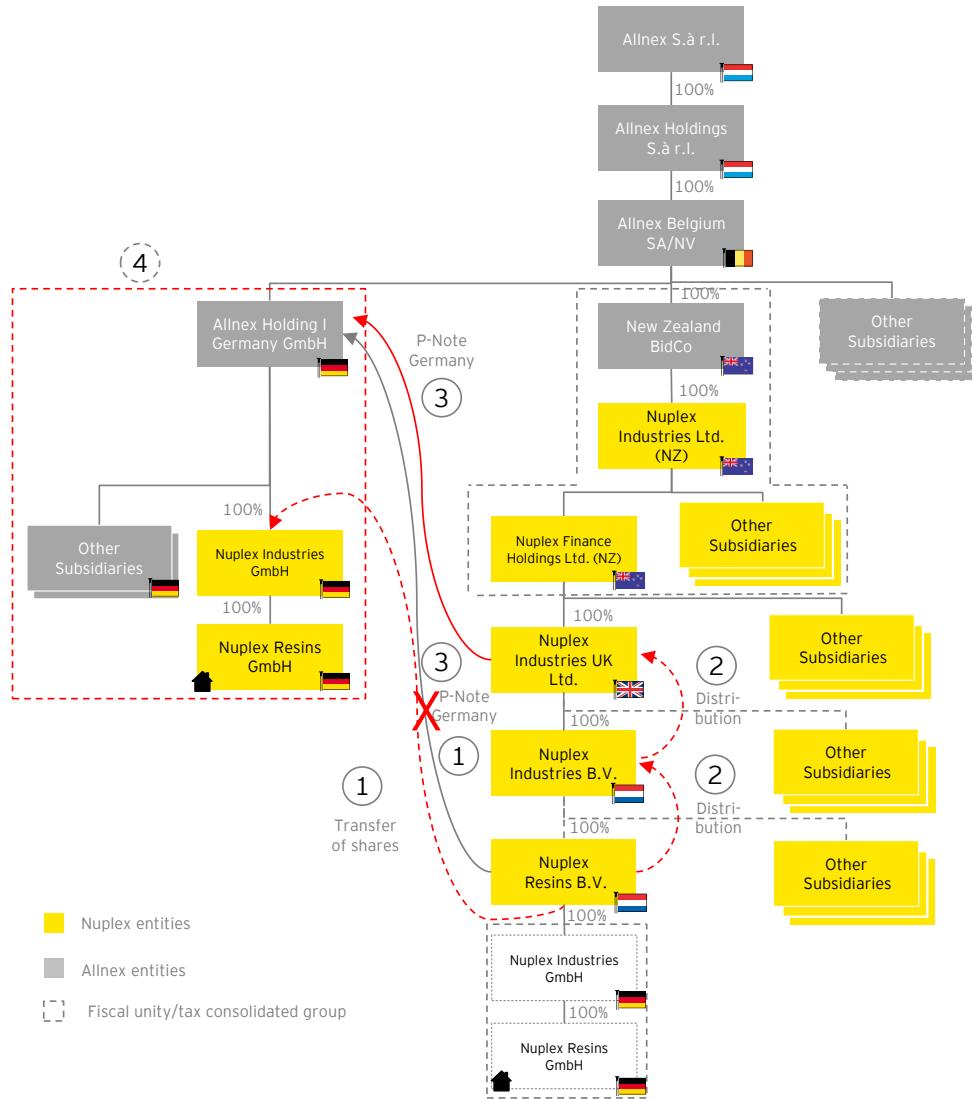
- ▶ Based on the above high-level analysis, it seems to be more positive than negative to conclude that the transaction would be viewed as having reasonable commercial purposes.
- ▶ In this respect, it is recommended to document the analysis of the commercial purpose according to Announcement 7 so as to justify the non-taxable position.
- ▶ If management wants to mitigate uncertainty going forward, it has to ensure the reporting obligation would have been fulfilled and no any adverse impact for the future share transfer, it is recommendable to perform a voluntary reporting to the Chinese tax authorities. By doing the reporting, a written confirmation on the receipt of the reporting package would be issued by local tax authorities which could help remove the withholding obligation of the buyer. The local tax bureau normally would not issue any written confirmation on the non-taxable position. What can be suggested is to seek a verbal confirmation from the tax authorities upon meeting with them and document the discussion results for a non-taxable position (which is a standard procedure).

## Action 4: Post-closing integration - Australia

### New Zealand tax implications

- ▶ NZ does not impose capital gains tax or other transfer taxes. Accordingly, provided shares in relevant subsidiaries are held on capital account, no adverse NZ tax implications are expected to arise on the sale of shares in Nuplex Operations (Aust) Pty. Ltd.
- ▶ Distribution of the P-Note Australia up the chain to NZ BidCo should be treated as an exempt dividend free from withholding tax in the distributing entity and exempt from income tax in the hands of the recipient entity for NZ tax purposes. We note distributable reserves or equivalent requirements are not applicable in respect of dividends between NZ companies of the nature being considered; just a director's solvency certificate that it can pay its debts as they fall due and the value of its assets exceed its liabilities.
- ▶ Repayment of SHL by assignment of P-Note Australia should not give rise to adverse NZ tax implications as these should represent repayment of debt principal. Any accrued and then settled interest component would attract interest WHT; at 10% under Australian and most treaties. From a NZ perspective, repayment of debt attributable to overseas holdings should leave remaining shareholder debt in NZ BidCo at a level attributable to the remaining NZ holdings (together with any offshore subsidiaries that are not sold from under NZ).
- ▶ The thin capitalisation position would then depend on the remaining debt relative to initial equity capitalisation of NZ BidCo (debt to asset ratio of up to 60% is permissible or 110% of the Worldwide Groups Global Debt Percentage). Where the thin capitalisation calculation after disposition of foreign subsidiaries would exceed the allowed limits, existing debt could be recapitalised as equity to bring the NZ Group within those limits.

## Action 5: Post-closing integration - Germany



### Summary of steps

- Step 1: Nuplex Resins B.V. sells 100% of the shares in Nuplex Industries Germany to Allnex Holding I Germany GmbH against a purchase price receivable ("P-Note Germany").
- Step 2: Nuplex Resins B.V. distributes P-Note Germany to Nuplex Industries B.V., which in turn distributes it to Nuplex Industries UK Ltd., which will distribute the P-Note Germany later up to Allnex Holding UK Ltd. and transferred to Allnex S.à r.l. (please refer to Action 7, i.e. together with P-Loan NL).
- Step 3: P-Note Germany is converted into an interest bearing loan mirroring to the extent possible terms and conditions of the external bank financing drawn at the level of Allnex S.à r.l. (depending on possibility and legal requirements of a pre-dividend in Action 7).

Optional step 4: Subject to the actual amount of RETT to be triggered by the acquisition of Nuplex Industries, as optional step 1, it may be considered transferring a shareholding of 5.1% in Nuplex Industries GmbH to, for instance, Allnex Belgium, prior to transferring the remaining 94.9% stake to Allnex Holding I Germany GmbH. In this case, RETT should only be triggered once (upon step 4, i.e. the overall acquisition, but not upon Action 5). In case of a direct shareholding of Allnex Belgium in Nuplex Industries GmbH, step 5 and future dividend distribution are to be carefully planned (see below).

Optional step 5: Effective 1 July 2016 (or 1 July 2017 depending on actual closing date of post-completion restructuring), Nuplex Industries GmbH joins the German fiscal unity for CIT and TT purposes, which is headed by Allnex Holding I Germany GmbH (exact timing and potential change of fiscal year-end of Nuplex Industries GmbH for earlier implementation of the German fiscal unity to be discussed). If Allnex Belgium or any other group entity (apart from Allnex Holding I GmbH), acquired 5.1% of the shares in Nuplex Industries GmbH, as a general rule, the minority shareholder must receive a minimum dividend. However, a group exemption may apply (subject to confirmation by legal counsel).

The Profit and loss transfer agreement ("PLTA") between Nuplex Industries GmbH and Nuplex Resins GmbH is still within the 5 years minimum period and should not be terminated until 30 June 2017, that is, an early termination might trigger detrimental retroactive tax effects.

## Action 5: Post-closing integration - Germany

### Belgian tax implications

- ▶ Steps 1 and 2, 5 and 6 have no immediate tax impact in Belgium.
- ▶ Taxable/deductible FX gains/losses may arise in respect of non-EUR denominated loans upon settlement or assignment in steps 3 and 4.

### German tax implications

#### Capital gains

- ▶ In general, the disposal of the shares in German entities by Nuplex Resins B.V. should be exempted from taxation in Germany under the existing DTT between Germany and the Netherlands assuming Nuplex Resins B.V. qualifies for treaty benefits which should be the case due to its operational activities. Also, no withholding taxes apply on such capital gain.

#### Transfer of receivables

- ▶ No adverse consequences should occur.

#### Tax losses and interest carry forward

- ▶ Due to the indirect transfer of more than 50% of the shares in the German target entities, existing tax loss carry forwards (TLCF) and/ or current year losses as well as interest carry forwards (ICF) will generally be forfeited due to German change of ownership rules in case the above mentioned exception might not be applicable, i.e. in case the built-in gains exception should not be available / provide for sufficient taxable built-in gains at the level of Nuplex Industries GmbH.
- ▶ In case of a forfeiture of existing and current year losses at the level of Nuplex Industries GmbH (the parent entity of the fiscal unity) such losses could not shelter potential entire annual profit that will be transferred as of 30 June 2016 to the fiscal unity parent, i.e. Nuplex Industries GmbH, from its fiscal unity subsidiary Nuplex Resins GmbH. Therefore, it is strongly recommended from a German tax perspective that closing of the overall transaction occurs not before 30 June 2016 but shortly thereafter.

▶ Please note, that as of closing of the transaction (i.e. the acquisition of Nuplex Industries Ltd. (NZ) by NZ BidCo) the change of ownership rules already applied (as mentioned above certain exceptions might apply). Thus, additional losses or ICF incurred between the acquisition of the shares in Nuplex Industries by NZ BidCo and the Action 5 integration measures might be forfeited.

▶ In the case at hand the Group exception might apply as the transfer of shares is not detrimental under the change of ownership rules, if after a (direct or indirect) transfer of more than 25% (respectively 50%) of the shares, 'the same person' still owns (directly or indirectly) 100% of the loss entity, i.e. if 'the same person' held (directly or indirectly) 100% of the shares in the transferring entity (i.e. the seller Nuplex Resins B.V.) and the receiving entity (i.e. the purchaser Allnex Holding I Germany GmbH) which should be the case here as Allnex Belgium indirectly held both entities at 100% prior to the I/C disposal.

#### WHT on interest

- ▶ No WHT will be triggered on interest paid by German entities to banks or non-banks (in the case at hand interest on P-Note Germany converted into an interest bearing loan) regardless of their location or country of residence, under the assumption that the loan is neither profit-participating nor secured by German located real estate.

#### Interest deductibility

- ▶ Interest charges are generally tax deductible in Germany, irrespective if they are actually paid or accrued. However, the tax deductibility of interest is limited in the following ways:

#### Interest deduction

- ▶ The German interest limitation rules limit the tax relief for net interest expenses to 30% of the taxable income of a German business before (net) interest expense, taxes, depreciation and amortisation (so-called "verrechenbares EBITDA") for tax purposes. Interest disallowed under the interest limitation rules can be carried forward indefinitely and, therefore, increases the interest expense in the subsequent years (still subject to the 30% limit).
- ▶ Net interest expenses are the interest expenses exceeding interest income. The rules apply to interest from related or third party lenders (i.e. the interest limitation rules have to be considered for inter-company and third party debt,

## Action 5: Post-closing integration - Germany

even if no recourse is in place). In general, the “German business” under review is defined on a per-entity basis. As an exception, companies belonging to a German tax group (“Organschaft”) shall be regarded as one business.

- ▶ Interest expenses are only tax-deductible in line with interest limitation rule. The interest limitation rule does not apply if the interest expense in the excess of the interest income (net interest) is below EURm 3 (USDm 3.3). (further exceptions exist, but should not apply to this transaction).
- ▶ Non-deductible interest expenses – so called “excess net interest expenses” can be carried forward and can be deducted in later years as interest expenses. However, in case of a change of ownership the interest carry forward should in general be forfeited.
- ▶ According to a decision published as of 10 February 2016 the German Federal Fiscal Court submitted to the Federal Constitutional Court the question whether or not the interest barrier rule is not line with constitution. Already in a former resolution the Federal Fiscal Court had expressed doubts about the constitutionality of the interest barrier rule. The final decision on whether the interest barrier rule violates the constitution now lies with the Federal Constitutional Court. It may take a few years until this Court will decide. Therefore tax assessments need to be kept open. However currently the 30% EBITDA limitation for tax purposes needs to be considered.

### Arm's length principle

- ▶ In any case, the interest needs to be at arm's length and proper documentation needs to be provided. It is strongly recommended to support the arm's length test by a proper transfer pricing analysis and documentation.

### Add-back for TT purposes

- ▶ Moreover, interest expenses are only tax deductible up to 75% for TT purposes (to the extent they are tax deductible at all acc. to the interest limitation rules as described above). In other words 25% of all interest expenses (on long term as well as on short term debt and interest-like expenses) will be added back for TT purposes.

### In the case at hand

- ▶ The business (consolidated fiscal unity between Nuplex Industries GmbH and Nuplex Resins GmbH) does have net interest more than EURm 3 (USDm 3.3). for FY12/13 and FY13/14 according to the consolidated German GAAP financial statements.
- ▶ Based on the information provided, no interest expenses carry forward (“ICF”) exist as the entire interest expenses have been deducted for tax purposes. In the case at hand, based on the information provided, the interest limitation rule has not been applicable for the fiscal unity group headed by Nuplex Industries GmbH up to FY14, as the net interest expenses were below the threshold of EURm 3 (USDm 3.3). According to the information received the main interest expenses resulted from the USPP in the amount of EURm 50 (USDm 55.5) and an interest rate of 6.125% p.a. (interest expenses of EURm 3.1 (USDm 3.4) p.a.).
- ▶ In case further expenses in FY12/13 respectively FY13/14 would have been classified as interest expenses for interest expenses limitation rule purposes (e.g. expenses in related to the conducted swap), the interest expenses would (partially) have been non-deductible. Interest expenses on SHLs and bank debt would then have been restricted to 30% of taxable EBITDA. For further information in this regard please refer to the Tax Due Diligence Report.
- ▶ In case the existing fiscal unity will be extended (please see optional step 4) a new consolidated fiscal unity applies, i.e. German Allnex and German Nuplex companies belonging to a German tax group (“Organschaft”) and will be regarded as one business with Allnex Holding I Germany GmbH as fiscal unity parent (see below).
- ▶ In such case the net interest expenses of the new consolidated fiscal unity with Allnex Holding I Germany GmbH as fiscal unity parent (see above) due to existing financing structure should exceed the EURm 3 (USDm 3.3) threshold and the German interest limitation rules limit the tax relief for net interest expenses to 30% of the taxable income of a German business before (net) interest expense.
- ▶ This needs to be reviewed in the further process. Depending on the projected profit situation of the Nuplex fiscal unity headed by Nuplex Industries GmbH it might also be advantageous in the first step not to include the Nuplex entities into the wider German fiscal unity but to keep them separate to benefit from the

## Action 5: Post-closing integration - Germany

EURm 3 (USDm 3.3) exception, i.e. not to be restricted by the 30% EBITDA interest deduction limitation (to be reviewed based on actual numbers).

### Fiscal unity

#### General

- ▶ After the acquisition (as of Closing) of the shares in Nuplex Industries two separate German fiscal unities exist within the Allnex/Nuplex group:
  - The fiscal unity headed by Allnex Holding I Germany GmbH includes Allnex Holding II Germany GmbH and Allnex Germany GmbH;
  - Nuplex Industries GmbH is currently the head of the fiscal unity with Nuplex Resins.
- ▶ To achieve an offsetting between the operating profits of the two fiscal unities (respectively after the post-closing integration) a fiscal unity could be established by conclusion of a PLTA entered between Nuplex Industries GmbH and Allnex Holding I Germany GmbH. The conclusion of a PLTA generally results in the effect that the entire annual profit will be transferred to the fiscal unity parent (Allnex Holding I Germany GmbH). Therefore, Allnex Holding I Germany GmbH will be the parent entity of a German tax consolidation group / fiscal unity including all German Nuplex and Allnex entities. Potential tax consequences (in particular regarding interest deduction limitation as mentioned above) should be analysed once all information are available.
- ▶ Please note that financial integration has to be in place from the beginning of the FY of the subsidiary of the fiscal unity (please see below regarding the potential change of the fiscal year-end). PLTAs have to be entered into commercial register prior to the end of the first business year of the fiscal unity for which the PLTA shall be valid for the first time to allow for full tax consolidation in the given year.
- ▶ TLCF at the level of the subsidiary (i.e. Nuplex Industries GmbH) in the fiscal unity for CIT and TT purposes which incurred prior to the establishment of the fiscal unity including TLCF not forfeited due to the acquisition of Nuplex Industries or due to the integration measures of Action 5 (see above) are “frozen” during the fiscal unity, i.e. the TLCF can neither be used to be offset against its own income (before income allocation to the parent) nor against the income of the parent. However, the TLCF can be used at the level of the

subsidiary itself after the termination of the fiscal unity, if they are still available at that point in time (i.e. not forfeited due to change in ownership rules, etc.).

#### *Change of fiscal year end*

- ▶ In order to achieve the financial integration between the German entities as soon as possible, if closing will be later than the 30 June 2016, it might be recommendable to change the fiscal year of Nuplex Industries GmbH as follows:
- ▶ Nuplex Industries GmbH changes its FY year from its current fiscal year to a FY equal the calendar year, taking into account the point in time closing of the transaction will occur. This change can be made without requiring further pre-approval from the German tax authorities.
- ▶ If required or more favourable from a commercial point of view, the fiscal year of Allnex Resins GmbH may be changed back after the formation of the fiscal unity.
- ▶ Please note that the change of the FY into a FY deviating from the calendar year requires the approval of the tax authorities which, however, generally has to be granted in cases where a new fiscal unity will be implemented. Timing needs to be monitored in order to get the approval in due time as the change of a FY has to be entered into the commercial register of the subsidiary in fiscal unity prior to the beginning of the (new) fiscal year.

#### Dividend distributions

- ▶ Dividend distributions to a German entity, e.g. paid by Nuplex Industries GmbH to Allnex Holding I Germany GmbH are generally 95% tax exempt. Any dividend distribution will therefore be subject to tax at the level of the dividend receiving entity at a rate of about 1.5% (approx. 30% overall tax rate on 5% taxable income). Please note that no dividend will be paid in case a German tax group (fiscal unity) is in place (see above).
- ▶ That means such 5% taxation of dividends can be avoided by implementing a fiscal unity (please see step 4). Thus the taxable income of the subsidiaries will be effectively transferred / allocated to the parent company (in the case and hand this would be Allnex Holding I Germany GmbH) of the fiscal unity.
- ▶ For TT purposes, if a subsidiary distributes a dividend, the receiving company has to be a shareholder of the distributing subsidiary from the beginning of the

## Action 5: Post-closing integration - Germany

tax assessment year onwards. The shareholding needs to be at least 15% (affiliation privilege – “gewerbesteuerliches Schachtelpflichtprivileg”).

- ▶ The decisive date is the beginning of the calendar year (tax assessment year) 1 January even if there should be a deviating fiscal year. Hence, a qualifying shareholding of Allnex Holding I Germany GmbH in Nuplex Industries GmbH will only be fulfilled from the beginning of 2017 (if closing takes place in 2016).
- ▶ Therefore, no dividend distribution should be paid by Nuplex Industries GmbH to Allnex Holding I Germany GmbH in 2016 (if closing occurs in 2016 only) as it would be fully subject to TT at the level of Allnex Holding I Germany GmbH.
- ▶ Please note that this also generally refers to hidden profit distributions, i.e. hidden profit distributions of Nuplex Industries GmbH to Allnex Holding I Germany GmbH in 2016 would be fully subject to TT at the level of Allnex Holding I Germany GmbH.
- ▶ The same applies with regard to retained earnings from periods prior to the fiscal unity, which are additionally distributed (besides the profit transfer) at the time the fiscal unity is in place.
- ▶ Dividends are generally subject to WHT at 26.375% (25% plus 5.5% solidarity surcharge thereon). Allnex Holding I Germany GmbH and Nuplex Industries GmbH (before fiscal unity) as distributing company would therefore be obliged to withhold and pay such WHT to the tax authorities. Therefore, interim financing of WHT (26.375%) on dividends will have to be regarded, in case no fiscal unity would be in place as the WHT should be refundable at the level of Allnex Holding I GmbH.
- ▶ The repayment of equity (i.e. out of the capital contribution account, “Steuerliches Einlagekonto”) as well as SHL to the shareholder at a later stage will be generally tax neutral and should not trigger any WHT. With regard to equity distributions such neutrality would, however, only apply as far as the respective company has not generated income as such income, i.e. does not have any distributable profit (so called “ausschüttbarer Gewinn”) as of the end of the fiscal year preceding the year in which the distribution occurs since profit need to be distributed first (so called “Verwendungsreihenfolge”).

### Real Estate Transfer Tax

- ▶ Due to the transfer of 100% of the shares in Nuplex Industries GmbH RETT will be triggered on the German real property owned by Nuplex Resins GmbH again. Within two weeks after signing Allnex Holding I Germany GmbH is obliged to file notice of the transaction with the tax authorities.
- ▶ Nuplex Group (i.e. Nuplex Resins GmbH) currently owns significant German real estate of statutory local book value EURm 5.7 (USDm 6.3) as of 30 June 2015 located in Bitterfeld-Wolfen, (Saxony-Anhalt), where the applicable RETT rate amounts to 5% on the RETT base. Please refer to the section “Detailed step plan - At Scheme of Arrangement (Signing)” above.
- ▶ For more details we refer to section “*German key tax implications*”.

### Luxembourg tax implications

- ▶ The dividend-in-kind (i.e., the P-Note Germany) received by Allnex Holdings S.à r.l. (please compare step 7 below) from Allnex Belgium would be exempt at the level of Allnex Holdings S.à r.l. based on the Luxembourg participation exemption assuming that the shareholding in Allnex Belgium will be held for at least 12 months as from the moment of its contribution into Allnex Holdings S.à r.l. (which we understand occurred November 2015). However, expenses in relation to the shareholding in Allnex Belgium would be non-deductible up to the amount of the dividend-in-kind received (i.e., up to the amount of the P-Note Germany). The non-deductible portion of the expenses can be offset by available tax losses carried forward (if any).
- ▶ The subsequent dividend-in-kind distributed by Allnex Holdings S.à r.l. would be exempt from Luxembourg WHT (assuming the Lux GAAR does not apply).
- ▶ The dividend-in-kind (i.e., the P-Note Germany) received by Allnex S.à r.l. from Allnex Holdings S.à r.l. would be exempt at the level of Allnex S.à r.l. based on the Luxembourg participation exemption (the 12 month period is deemed to be met under the Luxembourg roll-over regime). However, expenses (such as interest) in relation to the shareholding in Allnex Holdings S.à r.l. would be non-deductible up to the amount of the dividend-in-kind received (i.e., up to the amount of the P-Note Germany). Therefore the interest expenses which are non-deductible would not offset the margin on the financing activity carried on by

## Action 5: Post-closing integration - Germany

Allnex S.à r.l., and it would therefore be necessary to consider whether Allnex S.à r.l. has any available tax losses to offset the margin in question which should be the case based on the information provided.

- ▶ Since the SHL is financed by the New bank debt, the P-Note Germany will be considered to be financed by the New bank debt after step 3. Hence, the P-Note Germany should have similar terms and conditions as the New bank debt to ensure a perfect back-to-back.
- ▶ The P-Note Germany will be considered as a taxable asset for Luxembourg NWT purposes (to the extent still outstanding on the balance sheet of Allnex S.à r.l.), however the New bank debt would offset the amount of the P-Note Germany. As such, the NWT liability of Allnex S.à r.l. should not increase due to the allocation of the P-Note Germany to Allnex S.à r.l.
- ▶ Timing: The subsequent dividend-in-kind distributions should occur immediately after each other (if not on the same day).

### New Zealand tax implications

- ▶ While no adverse consequences are expected from a NZ tax perspective, the NZ CFC position should be considered.
- ▶ NZ has CFC rules which can attribute taxable income to the NZ parent entities where a subsidiary has passive income of greater than 5% of its overall income (as considered under NZ tax law). Given it is expected that the various restructuring and financing / P-Notes should be completed / rationalised shortly after closing, we would not expect these steps to give rise to a material passive income CFC attribution concern. However, we will need to analyse this, including the timing of the steps, in further detail to confirm this point.

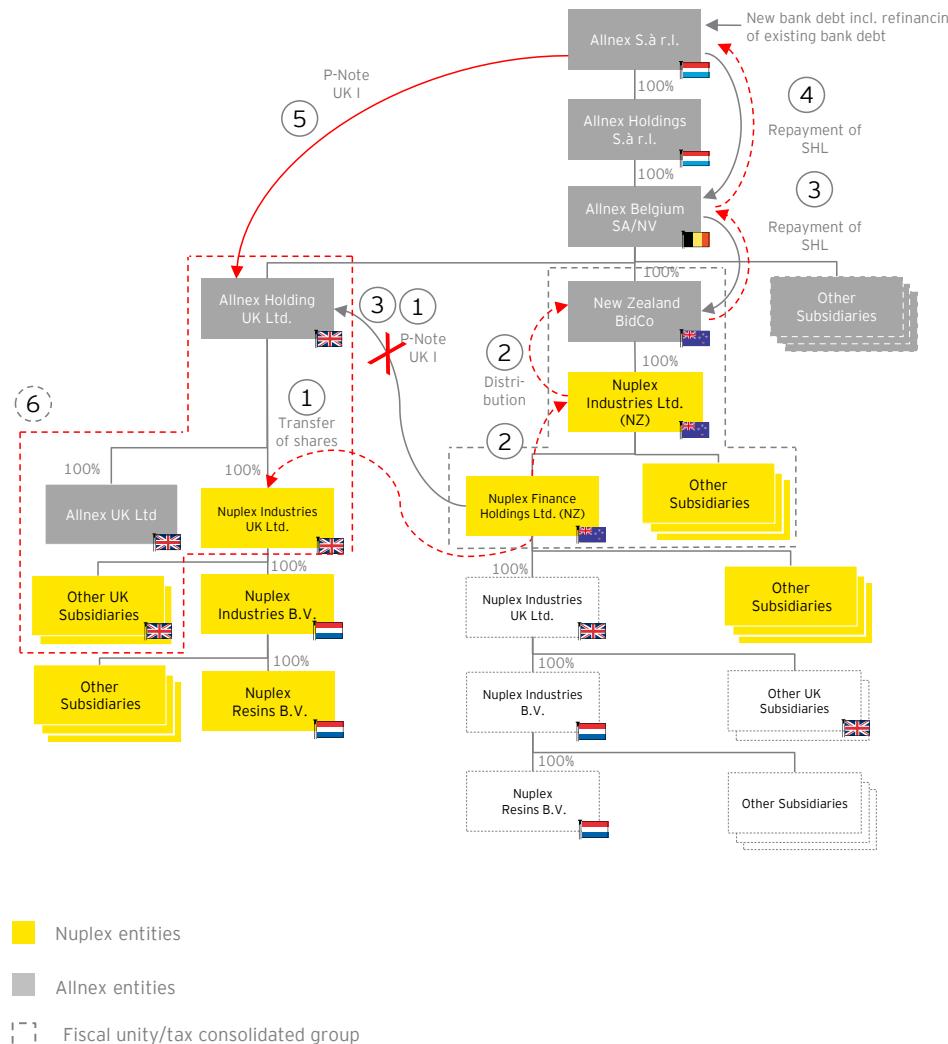
### UK tax implications

- ▶ The receipt of the receivable by Nuplex Industries UK Ltd. should not be taxable distribution income in the hands of Nuplex Industries UK Ltd. provided that the distribution falls within one of the exempt classes, e.g. distributions made out of non-redeemable ordinary shares. Distributions are exempt under the dividend exemption rules if the dividend falls within exempt classes. There are 5 exempt

classes, one of which is "distributions made out of non-redeemable ordinary shares", i.e. if Nuplex Industries UK Ltd. holds non-redeemable ordinary shares in Nuplex Industries B.V., the dividends received from Nuplex Industries B.V. should be exempt from UK corporation tax.

- ▶ As the transferee is a UK company there is a risk that the transfer may (technically) fall within the charge to UK stamp duty (either because the document of transfer is executed in the UK and/or there is a matter or thing to be done in the UK). However, provided that there is no consideration given for the distribution no charge to stamp duty should arise. Whether there is consideration may turn on the wording of the dividend declaration and whether the distribution creates a money debt under Dutch law. To the extent that there was any consideration for the transfer, provided that the receivable qualifies as exempt loan capital or as a non-marketable debenture it should be automatically exempt from UK stamp duty. Broadly, for the loan capital exemption to apply, the loan must be plain vanilla, i.e. with no unusual features (such as interest which exceeds a commercial return or quasi equity features).
- ▶ If neither of these exemptions apply stamp duty group relief ("SDGR") may be available provided that the requisite conditions are met (see Post-closing integration – UK I) or it may be possible to leave the documents unstamped (see Action 7 – step 2).

## Action 6: Post-closing integration - UK I



### Summary of steps

- ▶ Step 1: Nuplex Finance Holdings Ltd. (NZ) sells 100% of the shares in Nuplex UK Ltd. to Allnex Holding UK against a purchase price receivable ("P-Note UK I"); i.e. the consideration for the disposal of the shares is left outstanding on inter-company account on an interest-bearing basis mirroring to the extent possible the terms and conditions of the external financing drawn at Allnex S.à r.l. level.
- ▶ Step 2: Nuplex Finance Holdings Ltd. (NZ) distributes P-Note UK I via Nuplex Industries to NZ BidCo.
- ▶ Step 3: NZ BidCo partially settles SHL owed to Allnex Belgium in the amount of P-Note UK I by assigning P-Note UK I to Allnex Belgium
- ▶ Step 4: Allnex Belgium partially settles SHL owed to Allnex S.à r.l. in the amount of P-Note UK I by assigning P-Note UK I to Allnex S.à r.l.
- ▶ Step 5: P-Note UK I is formalised into an interest bearing loan mirroring to the extent possible terms and conditions of the external acquisition financing drawn.
- ▶ Step 6 (automatically): Nuplex Industries UK Ltd. joins/forms a tax group with Allnex Holding UK Ltd. Please note that Nuplex Industries UK Ltd. and Allnex Holding UK Ltd. will automatically be part of a tax group if the conditions re shareholding / entitlement to distributions and assets on liquidation are met.

### Belgian tax implications

- ▶ Steps 1 and 2, 5 and 6 have no immediate tax impact in Belgium.
- ▶ Taxable/deductible FX gains/losses may arise in respect of non-EUR denominated loans upon settlement or assignment in steps 3 and 4.

### China tax implications - indirect share transfer

- ▶ The selling of the shares in Nuplex Industries UK Ltd. would lead to an indirect share transfer of PRC entity Nuplex Resins (Suzhou) Co., Ltd.
- ▶ As mentioned before, an indirect share transfer of PRC entities without reasonable commercial purposes might be taxable in China.

## Action 6: Post-closing integration - UK I

- ▶ Neither the “public share” exception nor the Safe Harbour Rule for internal restructuring would apply; therefore, the commercial purposes have to be assessed.
- ▶ If the transaction is taxable due to lack of reasonable commercial purpose, the transferor (Nuplex Finance Holdings Ltd. (NZ) in this case) would be subject to PRC capital gains tax; and Allnex Holding UK, as the transferee, would have the withholding obligation for the PRC capital gains tax; failure in the fulfilling the withholding obligation could trigger penalty and late payment interests.
- ▶ A voluntary reporting of the indirect transfer to the Chinese tax authorities within 30 days after signing the share transfer agreement might mitigate the uncertainties and risks and also release the withholding obligations.
- ▶ Moreover, in the light of a future exit, it is recommended to file the reporting and to document the business reasons. Otherwise, we see the risk that Bidders may want to deduct the potential tax liability (partially) as debt like item (see also below) or to achieve a tax indemnity to be provided by the seller.
- ▶ According to Announcement 7, the 7 key factors for the assessment of commercial reasons under an indirect share transfer are as following. We have made a high-level analysis for each factor based on the transaction:
  - 1 Whether the value of share equity of the overseas company is primarily (directly or indirectly) comprised of China taxable assets. - China part is approx. 18% of total estimated UK group fair value, so the overall assessment is positive (based on current numbers available, to be reviewed prior to the execution again).
  - 2 Whether the overseas company's assets primarily consist of (directly or indirectly) investments in China; or if income of the overseas company is mainly derived (directly or indirectly) from China. Subject to further review of detailed information of assets and income of Nuplex UK Ltd. No judgement possible yet.
  - 3 Whether the economic substance of a structure can be demonstrated by the actual functions performed and the risks assumed by the overseas intermediate company or its affiliated enterprise which directly or indirectly holds the China taxable asset. The economic substance of the intermediate holding companies shall be analysed from the perspective of employees,

assets, income, etc., whether they are in line with the risks and functions of the intermediate companies. It is subject to further review of the status of Nuplex Industries UK, Nuplex Industries B.V. and Nuplex Sino Chemicals B.V., whether they have substance, what are their functions and risks, etc.

- 4 The duration of the existence of the overseas company's shareholders, the business model and related organization structure;- This factor mainly depends on how long the structure has been existed, whether there is any tax planning trails which might trigger challenge. We understand the overseas structure exists for quite a long time (more than 3 years, please let us know if our understanding is not correct), so the overall assessment is positive.
  - 5 Overseas income tax implications related to the indirect transfer of China taxable assets. We understand the seller, Nuplex Finance Holdings Ltd. is not subject to any capital gains tax as capital gain is tax exempt in New Zealand, so the overall assessment is not positive.
  - 6 From a commercial point of view, whether the non-resident transferor's indirect investment and indirect transfer of China taxable assets could be replaced by a direct investment and direct transfer. We understand the transfer is for the purpose of internal restructuring of the group and the whole UK group shall be moved, so the China entities cannot be transferred directly which does not meet the commercial needs. So the overall assessment is positive.
  - 7 The applicable Double Tax Agreement (DTA) provisions related to an indirect share transfer of taxable assets in China. As long as the transaction has reasonable commercial reasons, the indirect share transfer shall not be deemed as a direct share transfer, which means the relevant DTA shall not apply and no Chinese taxes shall be imposed.
- ▶ Based on the above high-level analysis, it seems to be more positive than negative to conclude that the transaction would be viewed as having reasonable commercial purposes while some factors are still subject to a further review.
  - ▶ In this respect, it is recommended to document the analysis of the commercial purpose according to Announcement 7 so as to justify the non-taxable position.

## Action 6: Post-closing integration - UK I

- If management wants to mitigate uncertainty going forward, it has to ensure the reporting obligation will be fulfilled and to avoid adverse impact a the future share transfer, it is recommendable to perform a voluntary reporting to the Chinese tax authorities. By doing the reporting, a written confirmation on the receipt of the reporting package would be issued by local tax authorities which could help remove the withholding obligation of the buyer. The local tax bureau normally would not issue any written confirmation on the non-taxable position. What can be suggested is to seek a verbal confirmation from the tax authorities upon meeting with them and document the discussion results for a non-taxable position (which is standard procedure).

### Luxembourg tax implications

- Since the SHL that is partially settled is financed by the New bank debt, the P-Note UK I will be considered to be financed by the New bank debt after step 3. Hence, the P-Note UK I should have similar terms and conditions as the New bank debt to ensure a perfect back-to-back.
- The P-Note UK I will be considered as a taxable asset for Luxembourg NWT purposes (to the extent still outstanding on the balance sheet of Allnex S.à r.l.), however the new bank debt would offset the amount of the P-Note UK I. As such, the NWT liability of Allnex S.à r.l. should not increase due to the allocation of the P-Note UK I to Allnex S.à r.l.
- Timing: step 3 and 4 should occur immediately after each other (if not on the same day).

### New Zealand tax implications

- NZ does not impose capital gains tax or other transfer taxes. Accordingly, provided shares in relevant subsidiaries are held on capital account, no adverse NZ tax implications are expected to arise on sale of shares in Nuplex UK Ltd.
- Distribution of the P-Note UK I up the chain to NZ BidCo should be treated as an exempt dividend free from withholding tax in the distributing entity and exempt from income tax in the hands of the recipient entity for NZ tax purposes. We note distributable reserves or equivalent requirements are not applicable in respect of

dividends between NZ companies of the nature being considered; just a director's solvency certificate that it can pay its debts as they fall due and the value of its assets exceed its liabilities.

- Repayment of SHL by assignment of P-Note UK I should not give rise to adverse NZ tax implications as these should represent repayment of debt principal. From a NZ perspective, repayment of debt attributable to overseas holdings should leave remaining shareholder debt in NZ BidCo at a level attributable to the remaining NZ holdings (together with any offshore subsidiaries that are not sold from under NZ).
- The thin capitalisation position would then depend on the remaining debt relative to initial equity capitalisation of NZ BidCo (debt to asset ratio of up to 60% is permissible or 110% of the Worldwide Groups Global Debt Percentage). Where the thin capitalisation calculation after disposition of foreign subsidiaries would exceed the allowed limits, existing debt could be recapitalised as equity to bring the NZ Group within those limits.

### UK tax implications

#### Stamp taxes

##### *Step 1 (transfer of the shares in Nuplex UK Ltd.)*

- Stamp duty and/or SDRT at 0.5% on the consideration given (rounded up to the nearest EUR 6.4 (GBP 5) in the case of stamp duty) is generally due on a transfer of UK company shares.
- However, where such transfer is between 75% effective group of companies, SDGR should be available to exempt the transfer from stamp duty provided that anti-avoidance provisions do not apply:
- In order for there to be an effective 75% group the entities that are required to establish the group must all be corporate bodies with issued ordinary share capital. This is with the exception of Allnex Belgium which (as parent of this stamp tax group) just needs to be a corporate body.
- Broadly, the anti-avoidance legislation denies relief where, *inter alia*, there are arrangements for consideration to be provided or received by a party outside the

## Action 6: Post-closing integration - UK I

group, for a third party to obtain control of the transferee but not the transferor or for the transferee to leave the transferors group.

- ▶ Where SDGR applies, a formal application needs to be made to claim the relief.
- ▶ Provided that a document of transfer is executed in pursuance of the agreement that gave rise to the charge to SDRT and that instrument is stamped within 6 years of the agreement (including being stamped as exempt under SDGR) any SDRT charge should be cancelled.
- ▶ With regard to group relief, SDGR should be available subject to confirmation that the companies within the effective 75% group are companies which have issued ordinary share capital (as noted above). In respect of SDRT, this should be manageable with careful implementation.

### *Step 1 (issue of P-Note UK I note)*

- ▶ We recommend that P-Note UK I is drafted so that it is either a non-marketable debenture or so that it is capable of falling within the loan capital exemption (see above). This is in order to ensure that it is automatically exempt on future transfers.

### *Step 2 – Distribution of P-Note UK I note*

- ▶ Stamp duty and/or SDRT should only arise to the extent that there is consideration. However, provided that the P-Note UK I note is drafted so that it is either a non-marketable debenture or so that it is capable of falling within the loan capital exemption (see step 1 above) any transfer, or agreement to transfer it, should be automatically exempt from stamp duty and SDRT.

### *Step 3 – Sale of P-Note UK I note*

- ▶ Provided that the P-Note UK I note is drafted so that it is either a non-marketable debenture or so that it is capable of falling within the loan capital exemption (see step 1 above) any transfer, or agreement to transfer it, should be automatically exempt from stamp duty and SDRT

### Interest deductibility

- ▶ Interest on the loan should be deductible on an accruals basis, subject to a number of provisions such as transfer pricing/thin capitalization, proposals

under the BEPS initiative and worldwide debt cap (WWDC) rules which can seek to restrict interest deductibility in the UK.

### Transfer pricing rules

- ▶ The UK thin capitalisation rules are included within the transfer pricing rules and therefore require related party financing transactions to be undertaken on an arm's length basis (from the perspective of the quantum of the loan and interest rate applied).
- ▶ There are no safe-harbour rules in the UK in respect of thin capitalisation. The key consideration in determining the level of allowable interest would be the extent to which the UK company would be able on a stand-alone basis (i.e. without regard to the wider group) to secure funding from a third party lender at arm's length. In order to assess whether the financing is arm's length, factors such as debt-to-EBITDA ratio and debt servicing capacity (interest cover) are typically considered against the levels and pricing of debt funding for comparable investments/transactions.
- ▶ Once the thin capitalisation position is established, any interest expense on debt exceeding the arm's length level will be disallowed for UK corporation tax purposes.
- ▶ It is possible to achieve certainty of the corporation tax deduction available on interest under the Advance Thin Capitalization Agreement ("ATCA") procedure. This can be done once the structure has been put in place. Generally takes a few months to obtain an ATCA.
- ▶ In addition to requiring arm's length terms to be applied, the UK transfer pricing rules also require that companies keep documentation supporting the terms applied as being at a third party rate. There are penalties for non-compliance.

### Worldwide debt cap rules

- ▶ The deductibility of interest in the UK can also be subject to restrictions under the WWDC rules. Broadly, the WWDC rules apply if the 'UK net debt' exceeds 75% of the 'worldwide gross debt'. Based on our understanding of the group and its external financing position, we do not consider that any restrictions under the WWDC rules should apply (to be confirmed once further clarity on the numbers has been received).

## Action 6: Post-closing integration - UK I

### Implications of OECD Base Erosion and Profit Shifting (BEPS) Project

- ▶ Interest deductibility is one of the areas under consideration by the OECD as part of their BEPS Project.
- ▶ The OECD report, released in October 2015, recommends that as 'best practice' countries adopt a Fixed Ratio Rule (FRR) which limits an entity's net deductions for interest and payments economically equivalent to interest, to a percentage of its earnings before interest, taxes, depreciation and amortisation (EBITDA). The recommended approach allows a 'corridor' for the ratio of net interest/EBITDA of between 10% and 30% and includes factors which countries should take into account in setting their fixed ratio within this range.
- ▶ Countries may supplement this approach by a Group Ratio Rule (GRR), allowing entities with net interest expense above a country's fixed ratio to deduct interest up to the level of the net interest/EBITDA ratio of its worldwide group. In calculating this ratio, countries may permit an uplift of 10% to the group's net interest. It is expected that there will be a transitional period and potentially grandfathering of existing third party debt funding arrangements to allow for restructuring.
- ▶ The UK Government released a consultation document following the release of the OECD report. The consultation notes that, if new rules are introduced in the UK, it is unlikely this would be before 1 April 2017. In addition, in January 2016, the European Commissions issued a draft EU Anti-BEPS directive, including detail on interest limitation provisions. These limitations are proposing an entity-by-entity limit on borrowing costs of 30% of taxable EBITDA (or EURm 1 (USDm 1.11) if higher).
- ▶ If ratio based rules are introduced, this may lead to further restrictions on interest deductibility.
- ▶ Furthermore, draft legislation has recently been issued which may restrict interest deductions in the event of hybrid mismatch arrangements involving hybrid entities or hybrid instruments. The mismatch proposals are intended to address cross border situations where either one party gets a tax deduction for a payment while the counter party does not have a taxable receipt or where there is more than one tax deduction for the same expense involving both hybrid instruments and hybrid entities. Broadly, the aim is to ensure that an expense

gives rise to a single tax deduction which is contingent on the corresponding receipt being included in the recipient's taxable income.

- ▶ The draft rules are likely to be amended following the upcoming Budget (March 2016) and HMRC guidance is expected to be issued in summer 2016.
- ▶ The above legislative developments should be monitored on a go-forward basis and appropriate sensitivity analysis undertaken in the model.

### Group relief

- ▶ Interest expenses arising in Nuplex Industries UK Ltd. should be available to offset against taxable profits arising in 75% UK group companies (namely the 100% subsidiaries of Nuplex Industries UK Ltd, Allnex Holding UK Ltd. and Allnex UK Ltd.) using the group relief mechanism as described below.
- ▶ Companies in a group relief group can offset current year tax losses in one UK group company against taxable profits of another. Accordingly, Nuplex Industries UK Ltd. could group relieve its tax losses arising in respect of its interest expenses to 75% UK group companies such that the losses can be utilized against those companies' taxable profits. Where group companies have non co-terminus accounting periods, the accounting periods need to be apportioned as group relief is only available in respect of corresponding accounting periods.
- ▶ Nuplex Industries UK Ltd. may be paid for surrendering its losses to its group companies which provides an effective mechanism for distributing cash to it. This payment will be tax neutral provided the payment does not exceed EUR 1.3 (GBP 1) for EUR 1.3 (GBP 1) of losses surrendered.
- ▶ Losses of one group company that cannot be offset in the current period against profits of the group company will be carried forward in the same company and may become 'trapped' unless they can be offset against future profits of that company.

### Withholding tax on interest

- ▶ The statutory rate of interest WHT in the UK is 20%.
- ▶ The interest WHT should be reduced to nil under the EU Directive or the UK-Luxembourg double tax treaty in respect of the interest payments made to Allnex S.à r.l on the loan provided there is sufficient substance and beneficial

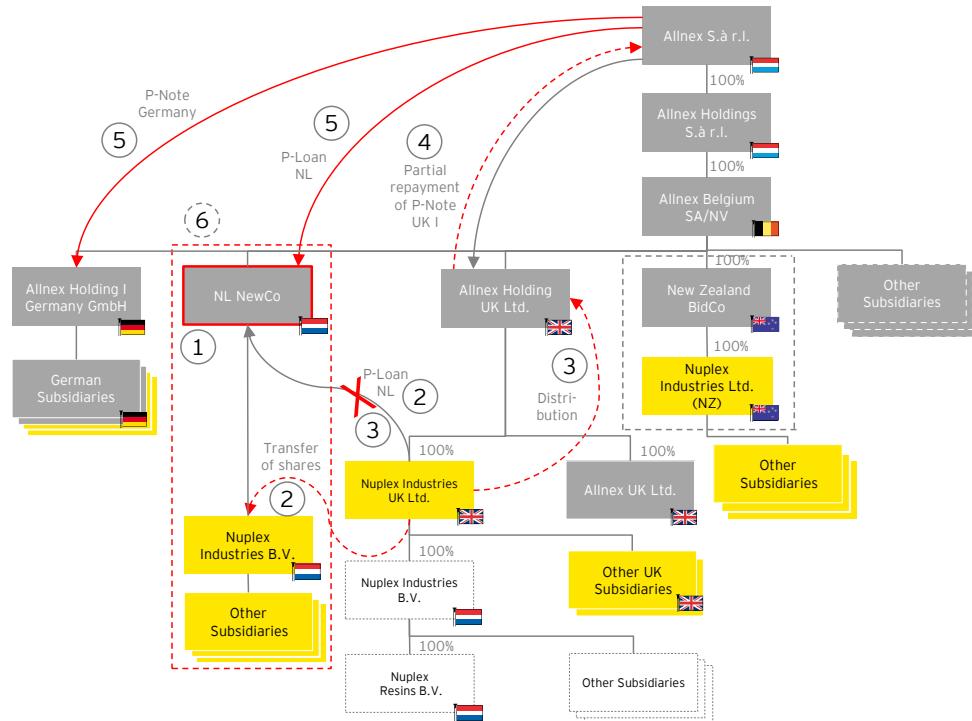
## Action 6: Post-closing integration - UK I

ownership is demonstrated. Clearance from HMRC must be obtained prior to payment in order to apply the nil rate.

### Foreign exchange gains/losses

- ▶ To the extent the loan is in a foreign currency and foreign exchange gains or losses arise, these would be taxable/tax deductible in the hands of Nuplex Industries UK Ltd.

## Action 7: Post-closing integration - NL



■ Nuplex entities

■ Allnex entities

□ Fiscal unity/tax consolidated group

### Summary of steps

- ▶ Step 1: Allnex Belgium incorporates NL NewCo.
- ▶ Step 2: After steps of Action 6 Nuplex Industries UK Ltd. sells 100% of the shares in Nuplex Industries B.V. to NL NewCo against a purchase price receivable ("P-Note NL"); i.e. the consideration for the disposal of the shares is left outstanding on inter-company account. From a Dutch tax perspective we strongly recommend to sell the shares against an intercompany loan. This strengthens the position that the intercompany loan is linked to external debt in light of claiming that the Dutch anti-abuse rules should not apply, i.e. already at the sale of to agree on an intercompany loan ("P-Loan NL") mirroring the terms and conditions of drawn debt.
- ▶ Step 3: Nuplex Industries UK Ltd. distributes P-Loan NL and P-Note Germany (from Action 5) up to Allnex Holding UK Ltd.
- ▶ Step 4: Allnex Holding UK partially settles P-Note UK I (from Action 6) owed to Allnex S.à r.l. partially in the amount of P-Loan NL and P-Note Germany by assigning P-Loan NL and P-Note Germany to Allnex S.à r.l.
- ▶ Step 5: P-Note Germany is converted into an interest bearing loan mirroring to the extent possible the terms and conditions of the external acquisition financing drawn at Allnex S.à r.l. level.
- ▶ Optional step 6: NL NewCo forms a tax group with Nuplex Industries B.V. and its Dutch subsidiaries.

### Belgian tax implications

- ▶ The equity contribution in step 1 upon incorporation of NL NewCo qualifies as paid-in capital for Belgian tax purposes if it is recorded at NL NewCo on a separate, unavailable account that constitutes a guarantee for third parties and that can only be reduced subject to a valid decision made in accordance with the corporate law rules on the modification of the statutes of incorporation.
- ▶ Steps 1-6 have no immediate tax consequences.

## Action 7: Post-closing integration - NL

### German tax implications

- ▶ No adverse consequences are expected.
- ▶ Regarding the interest deductions please refer to Action 5.

### China tax implications

#### Indirect share transfer

- ▶ The selling of the shares in Nuplex Industries B.V. would lead to an indirect share transfer of PRC entity Nuplex Resins (Suzhou) Co., Ltd.
- ▶ The indirect share transfer implications are same as under Action 6.
- ▶ If the transaction is taxable due to lack of reasonable commercial purpose, the transferor (Nuplex Industries UK in this case) would be subject to PRC capital gain tax and NL NewCo, as the transferee, would have the withholding obligation for the PRC capital gain tax. A voluntary reporting might mitigate the uncertainties and risks and also release the withholding obligations.
- ▶ Moreover, in the light of a future exit, it is recommended to file the reporting and to document the business reasons. Otherwise, we see the risk that Bidders may want to deduct the potential tax liability (partially) as debt like item (see also below) or to achieve a tax indemnity to be provided by the seller.
- ▶ According to Announcement 7, the 7 key factors for the assessment of commercial reasons under an indirect share transfer are as following. We have made a high-level analysis for each factor based on the transaction:
  - 1 Whether the value of share equity of the overseas company is primarily (directly or indirectly) comprised of China taxable assets. China part is approx. 20% of total estimated Netherlands group fair value so the overall assessment is positive (based on current numbers available, to be reviewed prior to the execution again).
  - 2 Whether the overseas company's assets primarily consist of (directly or indirectly) investments in China; or if income of the overseas company is mainly derived (directly or indirectly) from China. Subject to further review of detailed information of assets and income of Nuplex Industries B.V. (no judgement possible yet).

- 3 Whether the economic substance of a structure can be demonstrated by the actual functions performed and the risks assumed by the overseas intermediate company or its affiliated enterprise which directly or indirectly holds the China taxable asset. The economic substance of the intermediate holding companies shall be analyzed from the perspective of employees, assets, income, etc., whether they are in line with the risks and functions of the intermediate companies. It is subject to further review of the status of Nuplex Industries B.V. and Nuplex Sino Chemicals B.V., whether they have substance, what are their functions and risks, etc.
  - 4 The duration of the existence of the overseas company's shareholders, the business model and related organization structure. This factor mainly depends on how long the structure has been existed, whether there is any tax planning trails which might trigger challenge. We understand the overseas structure exists for quite a long time (more than 3 years, please let us know if our understanding is not correct), so the overall assessment is positive.
  - 5 Overseas income tax implications related to the indirect transfer of China taxable assets. We understand the seller, Nuplex Industries UK Limited is subject to 12.5% of capital gains tax, so the overall assessment is positive.
  - 6 From a commercial point of view, whether the non-resident transferor's indirect investment and indirect transfer of China taxable assets could be replaced by a direct investment and direct transfer. We understand the transfer is for the purpose of internal restructuring of the group and the whole Holland group shall be moved, so the China entities cannot be transferred directly which does not meet the commercial needs. So the overall assessment is positive.
  - 7 The applicable Double Tax Agreement (DTA) provisions related to an indirect share transfer of taxable assets in China. As long as the transaction has reasonable commercial reasons, the indirect share transfer shall not be deemed as a direct share transfer, which means the relevant DTA shall not apply and no Chinese taxes shall be imposed.
- ▶ Based on the above high-level analysis, it seems to be more positive than negative to conclude that the transaction would be viewed as having reasonable commercial purposes while some factors such as the economic substance of the intermediate holding companies is still subject to a further review.

## Action 7: Post-closing integration - NL

- ▶ In this respect, it is recommended to document the analysis of the commercial purpose according to Announcement 7 so as to justify the non-taxable position.
- ▶ If management wants to mitigate uncertainty going forward, it has to ensure the reporting obligation will be fulfilled and to avoid adverse impact a future share transfer, it is recommendable to perform a voluntary reporting to the Chinese tax authorities. By doing the reporting, a written confirmation on the receipt of the reporting package would be issued by local tax authorities who could help remove the withholding obligation of the buyer. The local tax bureau normally would not issue any written confirmation on the non-taxable position. What can be suggested is to seek a verbal confirmation from the tax authorities upon meeting with them and document the discussion results for a non-taxable position (which is standard procedure).

### Combined reporting to cover multiple restructuring steps

- ▶ In case of a voluntary reporting is necessary, a combined filing to cover multiple restructuring steps would be possible.

### Dutch tax implications

#### Interest deduction

##### *Arm's length requirements*

- ▶ Intercompany transactions, including terms and conditions of intercompany loans, must be concluded at arm's length, i.e. based on terms and conditions concluded between third parties. This must be supported by mandatory transfer pricing documentation.
- ▶ Interest or debt quantum that is not considered (or supported) at arm's length may be non-deductible for Dutch corporate income tax purposes.

#### *Anti-base erosion rules*

- ▶ Interest expenses paid on related party loans are non-deductible to the extent that the debt is used to finance capital transactions such as the acquisition of shares (or dividend distributions or capital contributions).

- ▶ In certain circumstances third party debt can be re-characterized as related party debt (e.g. in the case of guarantees that increase the borrowing capacity of NL NewCo).
- ▶ This interest deduction limitation rule does not apply if:
  - the related party loan and the transaction (in this case the acquisition) is primarily based on business reasons; or
  - the interest on the loan is subject to a taxation of at least 10% calculated under Dutch standards.
- ▶ In principle, interest related to the intercompany loan falls within the scope of the anti-base erosion rules since it is a related party loan used for the acquisition of shares. However, the anti-base erosion rules should not limit the interest deductibility with respect to the intercompany loan provided that:
  - i) the transaction is considered to be primarily based on business reasons. If the acquisition takes place shortly after the acquisition of Nuplex Industries Ltd, it could be argued that this transaction is connected to a third party acquisition. In this respect, it is important that the acquisition of Nuplex Industries B.V. is leveraged taking into account a debt/ equity ratio that does not exceed the debt/equity ratio of the acquisition of Nuplex Industries Ltd.
  - ii) the intercompany loan is considered to be primarily based on business reasons. This is the case if the intercompany loan is properly linked to the bank debt taken up by Allnex S.à r.l. (reference is made to the below).

#### *Requirement of proper tracing/linking*

- ▶ For purposes of deductibility of interest, it is important that the intercompany loan is properly linked to the bank debt at the level of Allnex S.à r.l. This is achieved by proper execution of the steps and underlying legal documentation. Therefore it is strongly recommended that financing agreements are reviewed from a Dutch tax perspective.
- ▶ The terms and conditions of the intercompany loan must mirror the terms and conditions of the bank debt (i.e., most important terms are currency; (re)payment schedule & obligations, term/maturity date, and interest rate (margin is allowed at the level of Allnex S.à r.l.).

## Action 7: Post-closing integration - NL

- ▶ Any repayment on the external debt (in the future) by Allnex S.à r.l. is (pro rata) repaid on the intercompany loan by NL NewCo.

### Participation debt rules

- ▶ Based on the participation debt rules, the interest expense on bank debt or related party debt may be restricted insofar the purchase price of the (non-fiscal unity) subsidiaries exceeds the tax equity of the NL NewCo fiscal unity. This rule only applies if the interest exceeds the threshold of EURk 750 (USDk 833) (only the excess above EURk 750 (USDk 833) would potentially be limited). This is determined under a mathematical approach. We understand that after execution of these steps, the NL NewCo fiscal unity will only hold Nuplex Resins (Suzhou) Co. Ltd. and Nuplex Resins LLC (Russia). Depending on the values allocable to Nuplex Resins (Suzhou) Co. Ltd. and Nuplex Resins LLC (Russia), the threshold may be exceeded under the mathematical approach.
- ▶ There are several possible adjustments to the value of a participation for the applicability of these rules that can (partially) reduce the impact of the participation debt rules:
  - (i) the exception for operational expansions, and
  - (ii) the exception for active financing companies.
- ▶ Nuplex management represented that both subsidiaries are operational entities without significant passive activities/assets (such as intercompany financing/licensing activities or holding of significant amounts of 'passive' assets) and therefore the participation debt rules should not limit the interest deductibility at the level of NL NewCo fiscal unity. Under this representation the participation debt rules are not likely to apply.

### Leveraged buy-out rules

- ▶ The deductibility of interest expenses related to debt used for the acquisition of subsidiaries which subsequently are joined in a fiscal unity may be limited. In this respect, total interest deductibility for the fiscal unity should be limited to interest related to 60% of the purchase price of Nuplex Industries B.V. in the first tax year in which the fiscal unity is formed with NL NewCo. In subsequent years, the level of debt on which interest can be deducted under these rules is reduced by 5% points every subsequent year, until 25% of the Nuplex Industries B.V.'s purchase price in year 7.

- ▶ Please note that the Dutch government announced to address certain loopholes in the leveraged buy-out rules which may be done by amending these rules starting 1 January 2017. Further details are yet unknown. However, the situations that were identified are not present in this proposed structure.

### Foreign exchange gains / losses

- ▶ FX gains and losses can arise where debt is drawn down in a currency other than Euro (the functional currency of NL NewCo). Any realized FX gains or losses arising from the repayment of non-Euro denominated debt should in principle be taxable or deductible for CIT purposes.
- ▶ Any unrealized FX gains or losses arising on the annual translation of non-Euro denominated debt may be deferred until realized. However, if an unrealized FX loss is treated as a deductible expense, a subsequent unrealized FX gain will be taxable.

### Fiscal unity

- ▶ NL NewCo and the existing fiscal unity headed by Nuplex Industries B.V. (incl. Nuplex Sino Chemicals B.V. and Nuplex Resins B.V.) can be included in a fiscal unity for Dutch corporate income tax purposes headed by NL NewCo as NL NewCo has at least 95% of the shares in Nuplex Industries B.V. and provided that all other requirements of the fiscal unity are met.
- ▶ A request to form a fiscal unity must be filed within three months after the anticipated date of formation.
- ▶ Reference is made to the section "*Detailed key tax implications*" for more information on the Dutch fiscal unity rules.

### Participation exemption

- ▶ The participation exemption should apply to Nuplex Industries B.V.'s interest in Nuplex Russia and Nuplex Sino Chemicals B.V.'s interest in Nuplex China if certain requirements are met. In this respect, Nuplex Industries B.V. and Nuplex Sino Chemicals B.V. must own at least 5% of the nominal paid-up capital of their respective subsidiaries and must be considered active operating companies without significant passive activities (such as intercompany financing/licensing activities). Based on our understanding of the facts, these requirements should be met.

## Action 7: Post-closing integration - NL

- ▶ Reference is made to the section "*Detailed key tax implications*" for more information on the Dutch participation exemption.

### *Non-resident taxation*

- ▶ Proceeds received by Allnex Belgium from NL NewCo (e.g. dividends, capital gains and interest income) may be subject to Dutch corporate income tax if the interest in NL NewCo is held with (one of) the main reason(s) to avoid dividend withholding tax or income tax and the interest in NL NewCo cannot be allocated to an active business.
- ▶ We understand that Allnex Belgium runs an active business to which the interest in NL NewCo can be allocated. Therefore, it should meet this active business test and thus should not be subject to Dutch corporate income tax based on domestic Dutch tax law.

### Luxembourg tax implications

- ▶ Since the P-Note UK I is financed by the new bank debt, the P-Loan NL and P-Note Germany will be considered to be financed by the new bank debt after step 3. Hence, P-Loan NL and P-Note Germany should have similar terms and conditions as the new bank debt to ensure a perfect back-to-back.
- ▶ P-Loan NL and P-Note Germany will be considered as a taxable asset for Luxembourg NWT purposes (to the extent still outstanding on the balance sheet of Allnex S.à r.l.); however the new bank debt would offset the amount of P-Loan NL and P-Note Germany. As such, the NWT liability of Allnex S.à r.l. should not increase due to the allocation of P-Loan NL and P-Note Germany to Allnex S.à r.l.

### UK tax implications

- ▶ A gain arising on the transfer of the shares in Nuplex Industries B.V. by Nuplex Industries UK Ltd. should be subject to UK corporation tax (currently 20%) in the absence of any reliefs.

- ▶ The UK Substantial Shareholding Exemption ("SSE") should be available to exempt any gain from UK corporation tax provided the qualifying conditions are met. Broadly speaking, the conditions are:

- the investing company (i.e. Nuplex Industries UK Ltd.) making the disposal must be a trading company or a member of a trading group,
- the investee company (i.e. Nuplex Industries B.V.) must be a trading company or the holding company of a trading group (or subgroup), and
- the investing company must have held a 'substantial shareholding' (broadly, at least a 10% interest) in the investee company for a continuous 12 month period beginning not more than two years before the disposal.

- ▶ Based on our understanding of the target group, the last condition noted above should be met. In addition, we would expect the first and second conditions to also be met but this would be subject to further analysis.
- ▶ There should be no adverse UK tax consequences on distribution of the receivable by Nuplex Industries UK Ltd. to Allnex Holding UK Ltd. Note that Nuplex Industries UK Ltd. will require sufficient distributable reserves to make the distribution. This should be subject to a more detailed legal and accounting analysis.
- ▶ The receipt of the receivable by Allnex Holding UK Ltd. should not be taxable distribution income in the hands of Allnex Holding UK Ltd. provided that the distribution falls within one of the exempt classes, e.g. distributions made out of non-redeemable ordinary shares.
- ▶ There should be no adverse UK tax consequences on distribution of the receivable by Allnex Holding UK Ltd. to Allnex Belgium. In particular, there is no withholding tax on distributions under UK domestic tax law. Allnex Holding UK Ltd. will require sufficient distributable reserves to make the distribution.

### *Step 2 (transfer of the shares in Nuplex Industries B.V.)*

- ▶ As the transferor is a UK company there is a risk that the transfer may (technically) fall within the charge to UK stamp duty (either because the document of transfer is executed in the UK and/or there is a matter or thing to be done in the UK).

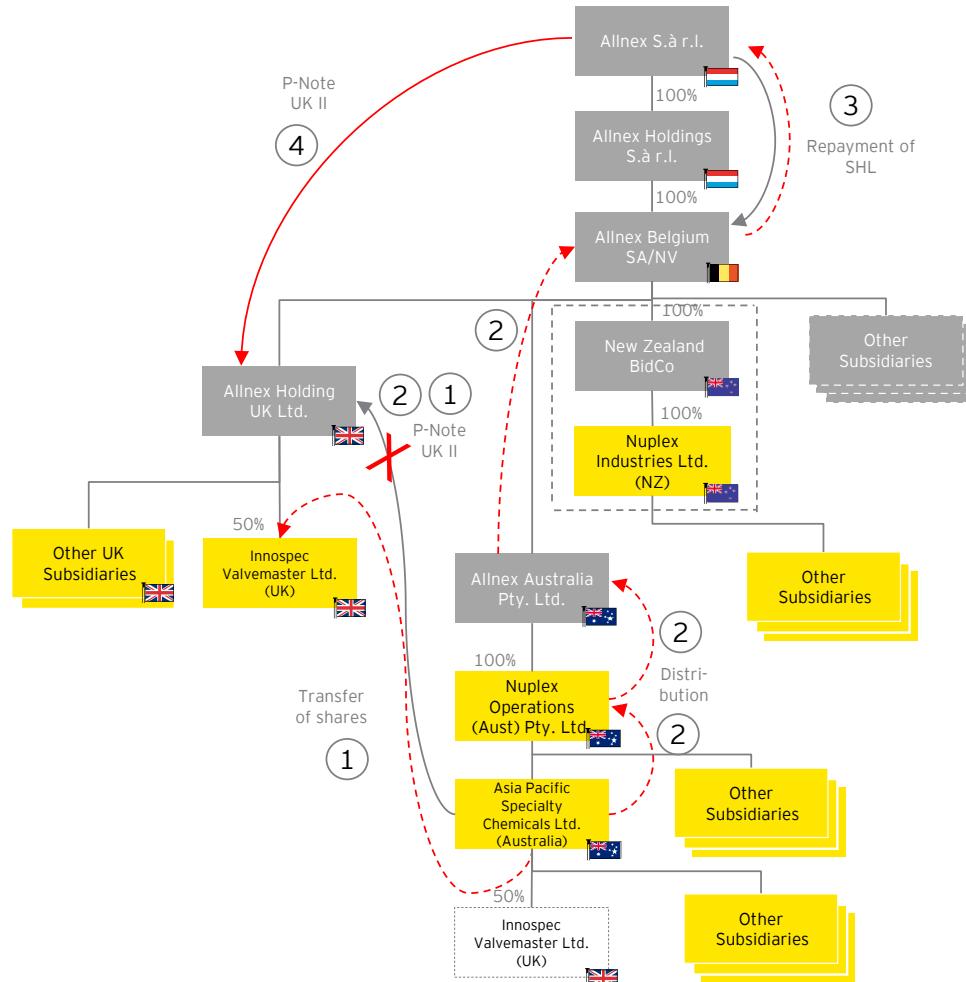
## Action 7: Post-closing integration - NL

- ▶ However, as UK stamp duty is not a directly enforceable tax there should be no need to stamp the transfer document, or pay the duty, and the transfer document could be left unstamped. It does, however, mean that if the transfer document is chargeable to stamp duty the documents could not be used as evidence in a UK civil court or for certain other official purposes in the UK, without first being stamped.
- ▶ In order to mitigate the risk of the transfer documents ultimately having to be stamped the legal documents should be bifurcated where possible. Bifurcation broadly involves ensuring that the agreement itself does not act to transfer the shares in Nuplex Industries B.V. and instead a separate document of transfer is executed. Whether or not it is possible to bifurcate the documents will depend on the local law. In addition the transfer documents should be executed and retained outside of the UK.
- ▶ Furthermore, provided that the conditions of SDGR are met it should be possible to claim SDGR to exempt the transfer (see Action 6, step 1 above). This could either be done up-front (which should obviate the need to bifurcate the documents) or it could be done at such a time as it were necessary to stamp the documents.

### *Step 3 – Distribution of P-Note UK I note*

- ▶ Where there is any nexus with the UK (e.g. the step involves a UK transferor and/or transferee) there is a risk that the transfer will be within the charge to stamp duty. However, stamp duty should only arise to the extent that there is consideration. In particular, the distribution must be declared distribution in specie of the P-Note NL and not a cash distribution which is settled by the transfer of the P-Note NL. Furthermore, a money debt must be created under local law. Where the company making the distribution is a UK company the dividend must be declared as an interim dividend (and not a final dividend). We would recommend that the dividend declarations are reviewed from a UK tax perspective to ensure this is the case.
- ▶ Where there is consideration it may be possible to claim SDGR or leave the documents unstamped (see step 2 above).

## Action 8: Post-closing integration - UK II



■ Nuplex entities

■ Allnex entities

□ Fiscal unity/tax consolidated group

### Summary of steps

- Step 1: After steps of Action 4 Asia Pacific Specialty Chemicals Ltd. (Australia) sells 50% of the shares in Innospec Valvemaster Ltd. (UK) to Allnex UK Holding Ltd. against a purchase price receivable ("P-Note UK II"), i.e. the consideration for the disposal of shares is left outstanding on inter-company account on an interest-bearing basis mirroring to the extent possible the terms and conditions of the external financing drawn at Allnex S.à r.l. level.
- Step 2: Asia Pacific Specialty Chemicals Ltd. (Australia) distributes P-Note UK II up the chain via Nuplex Operations (Aust) Pty. Ltd., Allnex Australia Pty. Ltd. to Allnex Belgium.
- Step 3: Allnex Belgium partially settles SHL owed to Allnex S.à r.l. in the amount of P-Note UK II by assigning P-Note UK II to Allnex S.à r.l.
- Step 4: P-Note UK II is formalised into an interest bearing loan.

Note: Tax group not possible due to 50% ownership in Innospec Valvemaster Ltd.

### Australian tax implications

- Following the acquisition of shares in Nuplex Australia by the Allnex Australia TCG, the subsequent tax cost setting process will reset the cost base of shares in Innospec Valvemaster Ltd. (UK) to approximately market value. Accordingly, any disposal soon-after consolidation should not result in a significant gain or loss for Allnex Australia.
- A detailed review of the calculations upon sale should be reviewed for accuracy.
- Note that the Australian tax laws also provide a participation exemption on sale of active foreign entities. This may also be considered in due course.

## Action 8: Post-closing integration - UK II

### Belgian tax implications

- ▶ Steps 1 and 4 have no immediate tax consequences.
- ▶ Distributions in the form of dividends by Allnex Australia Pty. Ltd. in step 2 will be considered as dividends for Belgian tax purposes (irrespective of their accounting treatment, i.e. income recognition or participation impairment) which qualify for the 95% participation exemption provided that the subject-to-tax and minimum holding requirements are met (minimum shareholding of 10% or with an acquisition value of EURm 2.5 (USDm 2.8) held in full ownership for at least one year). The minimum one-year holding period requirement can prospectively be met. Note that Belgium still needs to amend its participation exemption rules in order to transpose the changes to the Parent-Subsidiary Directive (anti-hybrid and anti-abuse rule). These changes are expected to enter into force retroactively as of 1 January 2016.
- ▶ Taxable/deductible FX gains/losses may arise in respect of non-EUR denominated loans upon distribution or settlement in steps 2 and 3.

### Luxembourg tax implications

- ▶ Since the SHL is financed by the new bank debt, the P-Note UK II will be considered to be financed by the new bank debt after step 3. Hence, the P-Note UK II should have similar terms and conditions as the new bank debt to ensure a perfect back-to-back.
- ▶ The P-Note UK II will be considered as a taxable asset for Luxembourg NWT purposes (to the extent still outstanding on the balance sheet of Allnex S.à r.l.), however the new bank debt would offset the amount of the P-Note UK II. As such, the NWT liability of Allnex S.à r.l. should not increase due to the allocation of the P-Note UK II to Allnex S.à r.l.
- ▶ Timing: The subsequent dividend-in-kind distributions should occur immediately after each other (if not on the same day).

### UK tax implications

- ▶ Please refer to comments under Action 6.

## Optional Actions 9 to 10: Post Closing integration China

### General remarks

- ▶ Following the overall concept of the post-closing integration measures, as described in section “*Transaction background Allnex*”, it was contemplated transferring Nuplex Suzhou, Nuplex Foshan as well as Nuplex Changshu to Allnex Shanghai. These transfers were envisaged to be performed against an increase of Allnex Shanghai’s leverage (that is, by way of a debt push down into China).
- ▶ During the analysis of the Chinese tax implications, it turned out that the initially envisaged step sequence (i.e., transfer of the shares in Nuplex Suzhou, Nuplex Foshan and Nuplex Changshu to Allnex Shanghai against an interest bearing note followed by a distribution of the note receivable by the respective transferor up to the chain of intermediate companies to Allnex S.à r.l.) would lead to significant adverse tax implications:
  - Direct transfer of a Chinese entity triggers a capital gains taxation whereby the capital gain is subject to Chinese WHT of 10% (no relief of WHT possible).
  - Claw-back taxation of enjoyed tax holiday of Nuplex Suzhou and Nuplex Foshan (and Nuplex Changshu – to be confirmed) .
  - Other obstacles such as (1) no tax consolidation scheme available in China and [2] no cash-less transaction feasible in China.

### Withholding tax implications

- ▶ According to domestic Chinese law, a direct transfer of shares in a Chinese entity, i.e. a transfer of shares in Nuplex Suzhou, Nuplex Foshan as well as Nuplex Changshu, triggers Chinese capital gains taxation at transferor level. Any capital gain is subject to Chinese withholding tax of 10%. The capital gain is determined as the fair value of the shares to be transferred less the book value (which should equal the paid-in capital).
- ▶ Based on the preliminary forecasted EBITDA and applying the overall transaction multiple, the fair value of Nuplex Suzhou, Nuplex Foshan as well as Nuplex Changshu is estimated to be roughly EURm 97.2 (USDm 108). For simplification purposes, due to lack of complete information, it is assumed that Nuplex Foshan and Nuplex Changshu does not have any paid-in capital (Nuplex Suzhou max. have a current paid-in capital of EURm 7.3 (USDm 8.1)). In this

example, the capital gain would amount to EURm 90 (USDm 100) leading to a Chinese withholding tax of EURm 9 (USDm 10). Given that the transferors are located in the Netherlands (transfer of Nuplex Suzhou by Nuplex Sino Chemicals B.V.) and in Australia (transfer of Nuplex Foshan and Nuplex Changshu by Nuplex Industries (Aust) Pty. Ltd.) the double tax treaty China/Australia and China/Netherlands allows China to levy a withholding tax on the capital gain as per domestic regulations and, therefore, a withholding tax of 10%.

- ▶ As such, in the case at hand, the Chinese withholding tax of EURm 9 (USDm 10) would become a final tax burden.

### Claw-back taxation for historical Chinese tax benefits – tax holiday

- ▶ To incentive foreign direct investments and development, Chinese government has offered a special tax regime for foreign invested companies. A foreign invested company is a company which is wholly owned by non-Chinese shareholders only.
- ▶ Nuplex Suzhou (period FY08 – FY12) and Nuplex Foshan (FY to come) enjoyed “2 + 3 years tax holidays” in China allowing the foreign invested company to two years of exemption from CIT followed by three years of 50% reduction of CIT.
- ▶ Due to lack of information, we were not able to verify actual amount of tax savings due to the tax holiday regime in the past.
- ▶ There is a claw-back taxation if the foreign invested company, which enjoyed tax holiday in the past, becomes owned by a Chinese entity within 10 years from the start of its business operations onwards (for the avoidance of doubt, it is not the beginning or end of the tax holiday period or incorporation of the foreign invested company). If and to the extent the 10 year period has not been elapsed and to the extent the foreign invested company becomes owned by a Chinese tax resident company, the tax savings due to the tax holiday are to be paid back.
- ▶ Due to lack of information, we were not able to confirm whether (i.e., for Nuplex Changshu) and at which point in time (i.e., Nuplex Suzhou, Nuplex Foshan as well as Nuplex Changshu, if it enjoyed tax holiday) have actually started their business operations. As such, we cannot estimate the potential amount of tax savings which could be subject to claw-back taxation.

## Optional Actions 9 to 10: Post Closing integration China

### Other obstacles to be considered

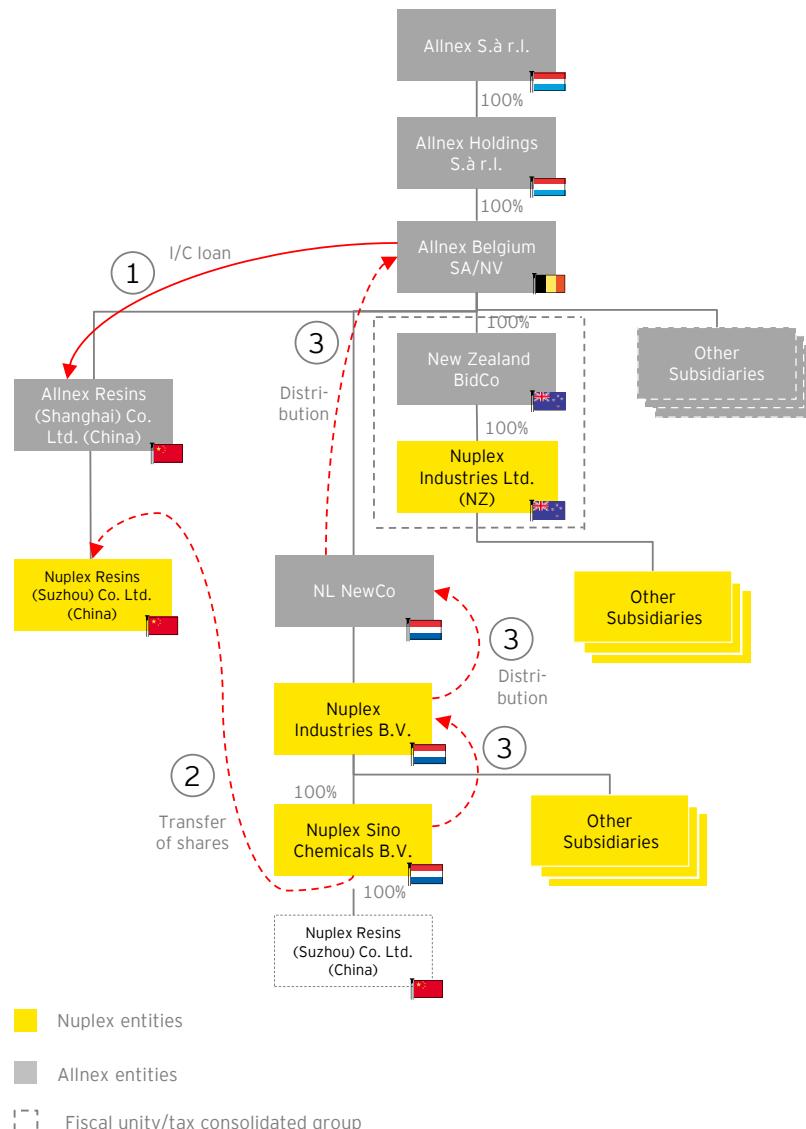
- ▶ In addition to the aforesaid major tax implications upon the transfer of Nuplex Suzhou, Nuplex Foshan as well as Nuplex Changshu to Allnex Shanghai, we noted the following obstacles, which came to our attention:
  - No tax consolidation scheme: Chinese law does not provide a tax consolidation scheme. As such, no pooling of interest expense on acquisition debt (at Allnex Shanghai level as the acquisition company) with operating profit of Nuplex Suzhou, Nuplex Foshan and Nuplex Changshu is achievable through tax consolidation. To achieve an offset of interest on acquisition debt / debt push down with operating profits, Nuplex Suzhou, Nuplex Foshan and Nuplex Changshu would have to be merged with and into Allnex Shanghai. The feasibility of these mergers not only from a legal and tax perspective, but also from a business and IT perspective should be carefully reviewed separately at a later stage.
  - No cash-less transfer possible: As per the Background, assumptions and objectives, it was envisaged transferring the Nuplex entities under the respective domestic Allnex entity, if any. In order to minimize the need of cash, our working assumption was to perform any post-closing integration measures cash-less to the extent possible. We learned from A&O, that a transfer of shares in a Chinese entity to another Chinese entity against a note should not be possible. In other words any of such transfer needs to be made in cash whereby restrictions apply which cash can be used for the transaction by the Allnex Shanghai. Considering the estimated fair value of Nuplex Suzhou, Nuplex Foshan and Nuplex Changshu, Allnex Shanghai would have needed EURm 97.2 (USDm 108) cash to perform these acquisitions.

### Conclusion

- ▶ Given the significant downsides of the Chinese tax implications (that is, 10% withholding on the capital gain as well as the claw-back taxation of the tax holiday together with the other obstacles identified), for the time being, we did not consider a direct transfer of the Chinese entities.
- ▶ Nevertheless, if envisaged and feasible from a business perspective, it may be considered transferring Nuplex Suzhou, Nuplex Foshan and Nuplex Changshu to Allnex Shanghai.

- ▶ Alternatively, it may be considered performing an in-depth analysis of opportunities which would allow a direct transfer of the Chinese entities without any WHT burden, if any (e.g., demerger of transferor's assets other than the shares in the Chinese entities, incorporation of a NewCo in a jurisdiction with a favourable double tax treaty, contribution of Chinese subsidiaries to NewCo in exchange for shares, followed by a disposal of shares in the Chinese subsidiaries by NewCo to Allnex Shanghai). Given the constraints in timing, we did not further investigate such planning idea. In any case, each planning idea is to be reviewed specifically from a legal, tax and accounting perspective.
- ▶ Apart from that, it may also be considered transferring the Chinese entities (at least partly) underneath Allnex Belgium indirectly to achieve a debt push down into Belgium subject to Allnex Belgium's actual debt capacity. A feasible route could be to transfer of Nuplex Industries B.V. to Allnex Belgium (amendment of Action 7) instead of transferring it to a Dutch NewCo. Given the significant fair value estimation of the Dutch Nuplex group of EURm 172.8 (USDm 192) as well as Nuplex Suzhou of EURm 63 (USDm 70), the tax implications of both alternatives should be finally compared once detailed information was provided.
- ▶ Please note that alternatively (if that route was to be pursued) also Nuplex Resins (Suzhou) Co. Ltd. might be used as the acquiring entity (to be determined).

## Optional Action 9: Post-closing integration - China I



### Summary of steps

- ▶ Due to the legal restriction that share transfers in China can only be made against cash consideration leading to the following steps:
  - 1 Allnex Belgium funds Allnex Resins (Shanghai) Co. Ltd. with cash against a loan receivable (interest bearing).
  - 2 Allnex Resins (Shanghai) Co. Ltd. acquires the shares in Nuplex Resins (Suzhou) Co. Ltd. against cash payment.
  - 3 Nuplex Sino Chemicals B.V. distributes cash up the chain via Nuplex Industries B.V. and NL NewCo to Allnex Belgium.

### Belgian tax implications

- ▶ Step 2 has no immediate tax consequences.
- ▶ Distributions in the form of dividends by NL NewCo in step 3 will be considered as dividends for Belgian tax purposes (irrespective of their accounting treatment, i.e. income recognition or participation impairment) which qualify for the 95% participation exemption provided that the subject-to-tax and minimum holding requirements are met (minimum shareholding of 10% or with an acquisition value of EURm 2.5 (USDm 2.8) held in full ownership for at least one year). The minimum one-year holding period requirement can prospectively be met. Note that Belgium still needs to amend its participation exemption rules in order to transpose the changes to the Parent-Subsidiary Directive (anti-hybrid and anti-abuse rule). These changes are expected to enter into force retroactively as of 1 January 2016.

### Dutch tax implications - Participation exemption

- ▶ The participation exemption should apply to Nuplex Sino Chemicals B.V.'s interest in Nuplex Resins (Suzhou) Co. if certain requirements are met. In this respect, Nuplex Sino Chemicals B.V. must own at least 5% of the nominal paid-up capital of Nuplex Resins (Suzhou) Co. and Nuplex Resins (Suzhou) Co. must be considered an active operating company without significant passive activities (such as intercompany financing/licensing activities). Based on our

## Optional Action 9: Post-closing integration - China I

understanding of the facts, these requirements should be met. As a result, capital gains resulting from the sale of Nuplex Resins (Suzhou) Co. should be exempt from Dutch corporate income tax at the level of Nuplex Sino Chemicals B.V.

### China tax implications

#### Withholding Tax ("WHT") implications

- ▶ This is a direct share transfer of shares in Nuplex Suzhou.
- ▶ The transferor (Nuplex Sino Chemicals B.V.) is liable to 10% Withholding Tax ("WHT") on the capital gain.
  - Capital gain = share price – cost of shares
  - The transfer price should be based on fair market value for taxation purpose;
  - A valuation report for fair market value of the Chinese entities issued by the local qualified appraiser will be required to justify the price;
  - The cost of shares shall equal to its paid-in capital in the amount of EURm 7.3 (USDm 8.1) as the company was established by Nuplex Sino Chemicals B.V.;
- ▶ Allnex Resins (Shanghai) Co. Ltd, as the paying party/transferee, would have the withholding obligation for the WHT and shall fulfill the following tax filing obligations:
  - submit the share transfer agreement to the in-charge tax bureau for withholding tax registration within 30 days after signing the agreement
  - Withheld the tax when the payment is made or the payment is due and pay the tax within 7 days;
- ▶ Nuplex Suzhou would have the obligation to assist the tax authorities to collect the tax (if any).
- ▶ Stamp Duty – both transferor and transferee are subject to Stamp Duty at the rate of 0.05% on the contract price.

#### Historical tax benefits

- ▶ We understand Nuplex Suzhou enjoyed CIT tax holiday from FY08-FY12 which is only applicable for foreign invested enterprise ("FIE"). One of the conditions for the tax holiday is the company shall have an operation period more than 10 years as a FIE.
- ▶ Upon the share transfer, Nuplex Suzhou would change from a FIE into a domestic company (as it would be held by Allnex Resins Shanghai which is a foreign invested distribution company).
- ▶ It is recommended to review the actual operation period of Nuplex Suzhou until the share transfer whether 10 years can be met. If not, a claw-back of enjoyed tax benefits might be triggered.
- ▶ This issue also applies to Nuplex Foshan.

#### Qualification of Allnex Resins (Shanghai) being an acquisition vehicle

- ▶ We understand Allnex Resins (Shanghai) is a distribution company (please let us know if our understanding is not correct). It is recommended to further review whether it is qualified as an acquisition vehicle to acquire the 3 PRC entities, e.g., limitation of its business scope.
- ▶ We understand the purchase price receivable payable would be converted to a foreign related party loan for Allnex Resins Shanghai against Allnex S.à r.l. (please let us know if our understanding is not correct).
  - Firstly, the foreign loan that the company can borrow is subject to the prescribed cap, i.e., the accumulated long and medium term (more than 1 year) foreign loans of a company plus its balance of short-term debt shall not exceed the difference between its approved total investment and registered capital. It is recommended to review whether Allnex Resins Shanghai has sufficient quota for foreign loan;
  - Secondly, the foreign loan agreement is subject to registration with local SAFE (State Administration of Foreign Exchange) and the purpose of the foreign loan shall be approved by the SAFE. Due to increasingly strengthened foreign exchange administration in China, it is recommended to further check with local SAFE before the deal regarding whether the conversion into a foreign loan can be registered and whether the purpose for

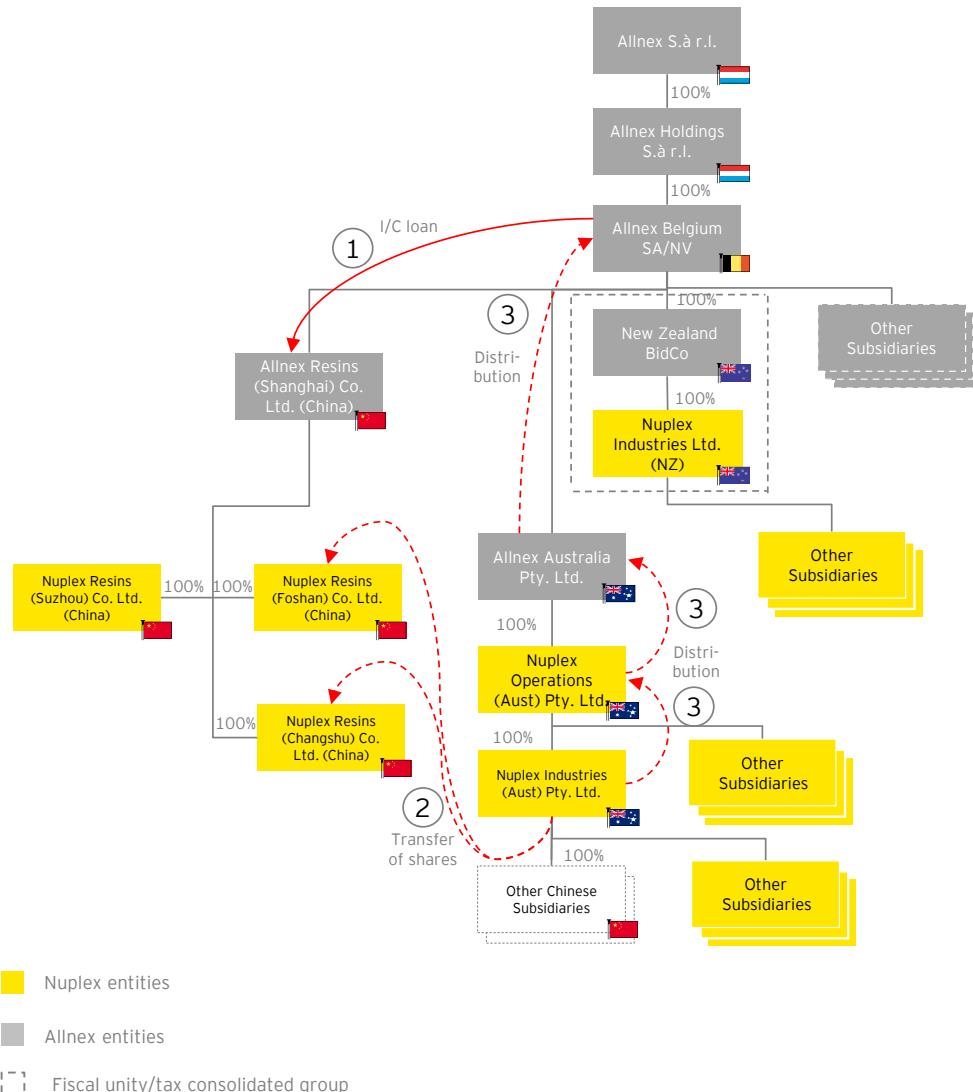
## Optional Action 9: Post-closing integration - China I

acquiring other company's shares need any specific approval, as well as detailed implementation requirements and procedures.

### New Zealand tax implications

- ▶ No adverse NZ tax implications expected.

## **Optional Action 10: Post-closing integration - China II**



## Summary of steps

- ▶ Due to the legal restriction that share transfers in China can only be made against cash consideration leading to the following steps:
    - 1 Allnex Belgium funds Allnex Resins (Shanghai) Co. Ltd. with cash against a loan receivable (interest bearing).
    - 2 Allnex Resins (Shanghai) Co. Ltd. acquires the shares in Nuplex Resins (Foshan) Co. Ltd. and Nuplex Resins (Changshu) Co. Ltd. against cash payment.
    - 3 Nuplex Industries (Aust) Pty. Ltd. distributes cash up the chain via Nuplex Operations (Aust) Pty. Ltd. and Allnex Australia Pty. Ltd. to Allnex Belgium.

## Australian tax implications

- ▶ Refer to comments in Action 8

Belgian tax implications

- ▶ Step 2 has no immediate tax consequences.
  - ▶ Distributions in the form of dividends by Allnex Australia Pty. Ltd. in step 3 will be considered as dividends for Belgian tax purposes (irrespective of their accounting treatment, i.e. income recognition or participation impairment) which qualify for the 95% participation exemption provided that the subject-to-tax and minimum holding requirements are met (minimum shareholding of 10% or with an acquisition value of EURm 2.5 (USDm 2.8) held in full ownership for at least one year). The minimum one-year holding period requirement can prospectively be met. Note that Belgium still needs to amend its participation exemption rules in order to transpose the changes to the Parent-Subsidiary Directive (anti-hybrid and anti-abuse rule). These changes are expected to enter into force retroactively as of 1 January 2016.

## Optional Action 10: Post-closing integration - China II

### Chinese tax implications

- ▶ The tax implications would be the same as Action 8. Please refer to Action 8 for details.
- ▶ It is recommended to further review the qualification of Allnex Shanghai being an acquisition vehicle from both legal and foreign exchange perspective before the deal.
- ▶ If it is qualified, the share transfer of 3 PRC entities to Allnex Shanghai would have the following major pros and cons:

Pros:

- No WHT on dividend repatriation from Nuplex Suzhou, Foshan and Changshu to Allnex Resins Shanghai, it would be tax exempted.
- More flexible for future China domestic restructuring for tax free treatment.
- Subject to less scrutiny if the cross-border charges (e.g., service fees, royalties) could be centralized at the one entity level, e.g., Allnex Resins Shanghai, and make the payment to overseas.

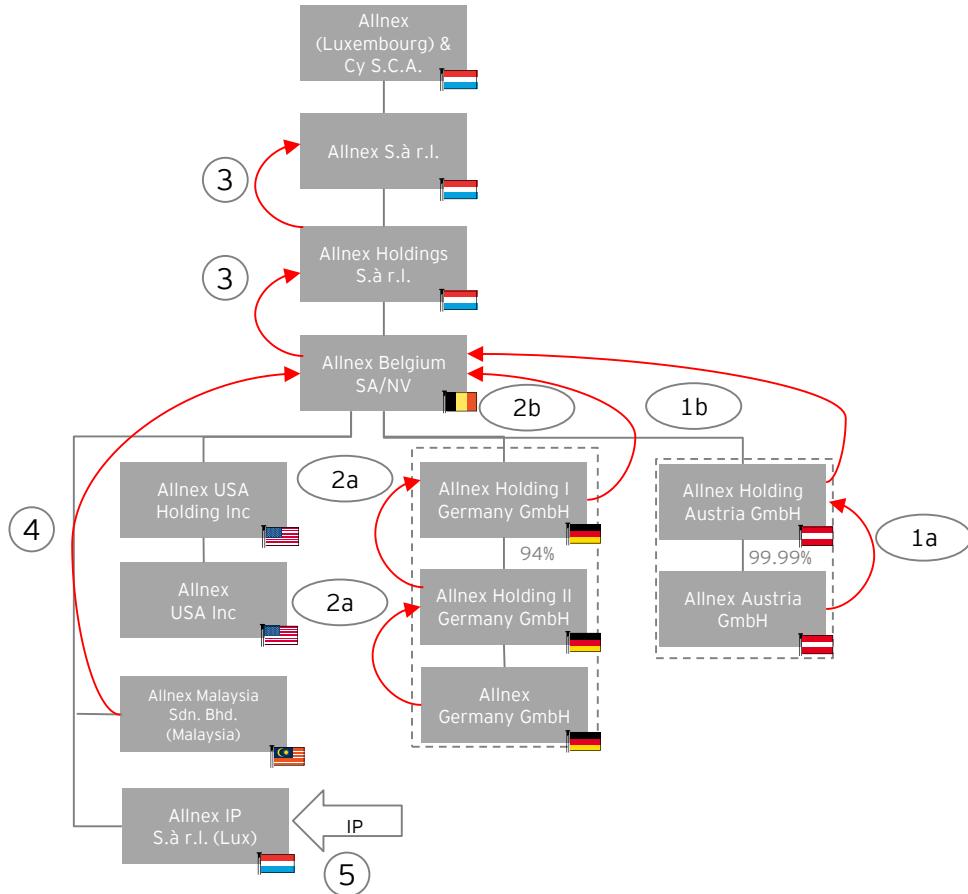
Cons

- Potential claw back of previously received tax benefits (subject to further review of actual operation period of the company).
- Any of the 3 Nuplex entities is to be disposed in the future, the capital gain tax would be 25% at Allnex Shanghai level as oppose to 10% under the existing structure.
- Domestic companies are subject to more strict requirements/limitations for borrowing foreign loan comparing with FIE.

### New Zealand tax implications

- ▶ No adverse NZ tax implications expected.

## Optional Action 13: Post-closing reorganization of existing Allnex group



### General remarks

- ▶ The proposed Action steps 1 – 10 aim to combine Allnex and Nuplex group post-closing in order to capture financial synergies and reduce complexity by de-layering the multi-tier Nuplex group.
- ▶ Apart from the combination of both groups, certain restructuring steps may be undertaken in the existing Allnex group to gain additional synergies and cash tax savings.
- ▶ Allnex's management identified that certain Allnex entities have experienced EBITDA growth over the past few months. Together with the expected synergies of the Nuplex acquisition it may be envisaged to also pursue further restructuring opportunities within the existing Allnex group. In line with the Mid-Cycle Restructuring project (completed in 2015, see introduction), the group structure may be further streamlined to achieve, amongst others, targeted entity balance sheet optimization, greater interest deductibility, cash up-streaming, reporting efficiencies and easier governance.
- ▶ Based on our experience during the Mid-Cycle Restructuring project, we identified a catalogue of potential planning opportunities which are summarized below as well as depicted opposite.
- ▶ Allnex's management is fully engaged in analysing the group's business operations post-closing to restructure the group for achievement of the set synergy goals. These restructuring measures may, for instance, include further calibration of the debt to equity ratio at selected entity levels, inter-company share transfers, de-mergers and hive-downs thereby in some cases increasing the number of legal entities or holding layers, which are not yet listed below / depicted opposite, but which might – at least for an interim period – be required. Apart from the countries mentioned below, management expects that Allnex and Nuplex entities or branches in the UK, France, Spain and Italy could be feasible candidates for future reorganization depending on the actual development of the business.
- ▶ All planning alternatives are subject to a detailed feasibility review not only from a tax, but also from a legal and business perspective subject to future development of the profit situation.

## Optional Action 13: Post-closing reorganization of existing Allnex group

### Planning opportunities & future post-acquisition integration goals

- The below mentioned restructuring opportunities are based on our knowledge of the group gained during the Mid-Cycle Restructuring as well as discussions with Allnex's management. Following a detailed analysis from a tax perspective in every jurisdiction targeted, the feasibility of these restructuring measures to be taken have to be determined to most efficiently achieve management's goals.

#### Increase of local GAAP equity of selected entities, potentially combined with leveraged dividends

- 1 It may be considered to proceed with a sale of redundant real estate and a sale-lease back of other assets in **Allnex Austria GmbH or other Allnex operating entities**. Similarly, a leveraged dividend may be envisioned, potentially in combination with an amalgamation between this entity and its parent **Allnex Holding Austria GmbH** (1a). A cross-border merger of certain entities into Allnex Belgium may also be relevant. Alternatively, a separation of business activities, e.g., by way of hive-downs may bring benefits.
- 2 It may be considered merging **Allnex Germany GmbH** and Allnex Holding II GmbH with Allnex Holding I GmbH (2a) followed by a leveraged dividend by the surviving entity (2b). Moreover, a merger of **Nuplex Industries GmbH** and **Nuplex Resins GmbH** with Allnex group entities may be desired. Alternatively, a separation of business activities, e.g., by way of hive-downs and carve-outs may be considered. Based on the projected EBITDA's provided by Allnex management, Allnex Germany's EBITDA is expected to benefit from synergies starting 2018/2019, which may give rise to further restructuring opportunities.
- 3 It may be considered increasing **Allnex Belgium's** leverage. Amongst other options, a leveraged dividend could potentially be achieved (to be reviewed) through leveraged share transfers from lower tier entities to Allnex Belgium, the central management company. That is, Nuplex Industries Ltd. owns the following entities which could be carved-out transferred to Allnex Belgium:
  - a. Nuplex Resins LLC, Russia
  - b. Cong Ty Nuplex Resins (Vietnam) Pty. Ltd., Vietnam
  - c. Masterbatch Vietnam Pty. Ltd., Vietnam

- d. PT Nuplex Raung Resins, Indonesia
- e. Nuplex Industries (Hong Kong) Ltd., Hong Kong
- f. Nuplex Singapore Pte, Singapore
- g. Nuplex Producao de Resinas Ltda., Brazil.

Apart from that, it may also be considered separating Allnex Belgium's operating business from its holding function through a hive-down of business activities thereby increasing Allnex Belgium's equity (regarding future leveraged dividends, it should however be taken into consideration that Allnex Belgium has already a comfortable debt to equity ratio).

- 4 Depending on the performance of Allnex Malaysia, restructuring opportunities are to be analysed in more detail to achieve a tax efficient debt push down. For the avoidance of doubt, as discussed in Action 3, any interest relating to the acquisition of shares are not tax deductible.

#### Migration of existing IP

- 5 At **Allnex IP S.à r.l.** level, Allnex group has begun centralizing its IP. Apart from that, we understand that Nuplex's IP is, at least to a certain extent, centralized in the Netherlands using the Dutch patent box tax regime. Synergies may be achieved by combining Allnex IP or Nuplex IP in a reorganization. Next to an analysis of the operating model on a combined basis going forward, a detailed capital gains taxation analysis should be undertaken to determine any up- and downsides of such a reorganization.

#### Restructuring of US business

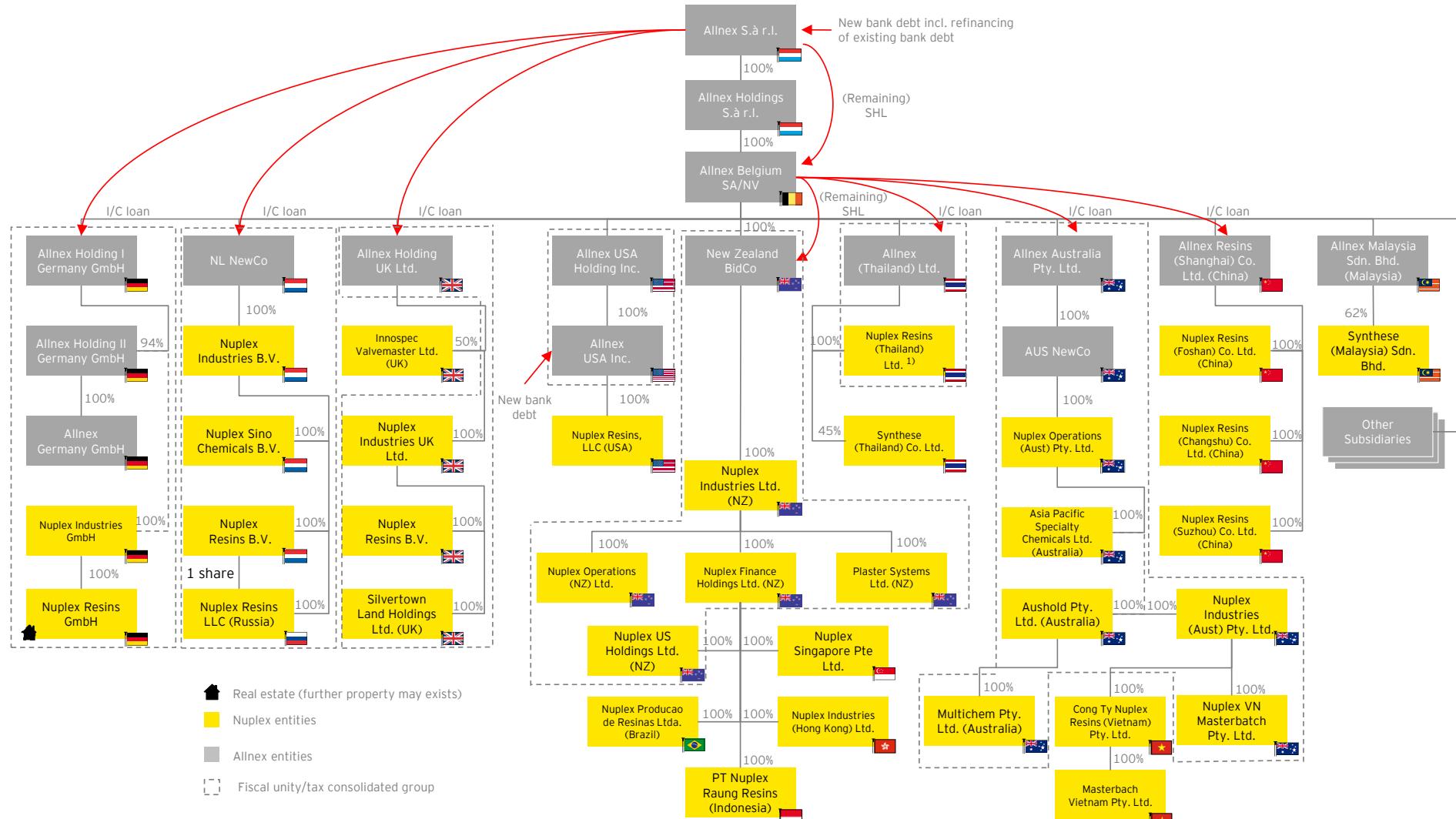
- 6 We understand from discussions with Allnex's management, that the US group has performed well over the past month. The combined Allnex/Nuplex group could be subject to reorganizations post-closing. It may be possible to collapse Allnex USA Inc. into its parent Allnex Holdings USA.

## Optional Action 13: Post-closing reorganization of existing Allnex group

### Yield conversion

- 7 To the extent not yet implemented (i.e., post-closing for the Nuplex SHL), the remuneration of the SHLs could be adjusted during phase-2 (post-closing integration process). For instance, Allnex management expects that an interest conversion from medium-term to long-term may lead to a yield pick-up in the range of 50-100 bps to be pushed down to the operating (Allnex and) Nuplex entities in the planned phase-2 restructuring post-closing. This would extract cash and increase the leverage at operating company level. The tax deductibility will depend on domestic interest limitation rules. Assuming a full tax deductibility and subject to the actual external costs of capital, Allnex management expects a potentially material positive impact on the overall cash tax burden of the group. That is, Allnex S.à r.l., as Allnex's financing company, should earn a margin which may be tax deductible in the various countries whilst being potentially sheltered by available tax NOL carryforwards at Allnex S.à r.l. level or taxed at a lower tax rate (all subject to analysis from a TP, withholding tax and interest deduction perspective).

## Final structure after integration measures (including optional Actions) \*



\* On-lending to Nuplex / Allnex subsidiaries due to indirect refinancing of existing Nuplex / Allnex bank debt not displayed.

<sup>1)</sup> Nuplex Resins (Thailand) Ltd. is defunct and struck from the register.

## **Debt servicing**

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1. Overview of taxation of dividends
2. Overview of taxation of interest payments

## Overview of taxation of dividends

**Retained Earnings for Nuplex entities as at 30 June 2015**

Entity	Company Currency	Retained Earnings Local ccy	Retained Earnings NZD	Retained Earnings EUR
APSP - Nuplex Specialties NZ	NZD	0	0	0
MPL - Multichem Pty Ltd	AUD	0	0	0
NFH - Nuplex Finance Holdings Ltd	NZD	2,184,428	2,184,428	1,369,483
ENGС - Group Consolidation Eliminations	NZD	0	0	0
NIAL - Nuplex Industries (Aust) Ltd	AUD	10,971,149	11,695,939	7,332,535
NIBV - Nuplex Industries BV	EUR	(37,765,389)	(60,157,694)	(37,714,663)
NIUK - Nuplex Industries UK Ltd	GBP	3,622,204	7,831,038	4,909,513
NOAL - Nuplex Operations Aust Pty Ltd	AUD	(46,901,384)	(49,999,840)	(31,346,400)
NINZ - Nuplex Industries Limited NZ	NZD	90,603,560	90,603,560	56,802,090
NRCC - Nuplex Resins (Changshu) Co., Ltd.	CNY	(23,108,876)	(5,199,470)	(3,259,704)
NRCF - Nuplex Resins Foshan Co Ltd	CNY	47,591,700	10,708,078	6,713,215
NRCS - Nuplex Resins (Suzhou) Co Ltd China	CNY	212,910,228	47,904,555	30,032,803
NRID - PT Nuplex Raung Resins (Indonesia)	USD	4,380,752	6,397,650	4,010,879
NRMY - Synthese (Malaysia) Sdn Bhd	MYR	17,226,768	5,855,321	3,670,876
NRNL - Nuplex Resins BV	EUR	42,991,300	68,482,215	42,933,555
NRUK - Nuplex Resins Ltd UK	GBP	281,523	608,639	381,574
NRUS - Nuplex Resins LLC	USD	3,731,757	5,449,858	3,416,679
NRVN - Cong Ty Nuplex Resins (Vietnam)	USD	8,068,365	11,783,040	7,387,141
NSLH - Silvertown Land Holdings Ltd	GBP	3,173,739	6,861,479	4,301,667
NUSH - Nuplex US Holdings Limited	NZD	1,877,948	1,877,948	1,177,342
PSLC - Plaster Systems Ltd	NZD	(293,424)	(293,424)	(183,956)
NRDE - Nuplex Resins Germany	EUR	2,375,210	3,783,548	2,372,020
NRTW - Nuplex Resins Taiwan	TWD	11,201,213	498,061	312,249
APSC - Asia Pacific Specialty Chemicals Ltd	AUD	25,442,821	27,123,656	17,004,633
NRSG - Nuplex Resins Singapore	SGD	446,826	461,325	289,219
CNNL - NIBV ConsolElim Company	EUR	(21,557,080)	(34,338,961)	(21,528,125)
NIDE - Nuplex Industries GmbH	EUR	(3,994,630)	(6,363,174)	(3,989,265)
NRRU - Nuplex Resins LLC	RUB	(9,229,708)	(183,907)	(115,297)

Source: Provided in the VDR 02.01.11 II.a.(iv) Retained Earnings schedule.xlsx

### General remark

- ▶ Based on the proposed acquisition and financing structure, the new (acquisition) bank debt shall be obtained at the level of Allnex S.à r.l. and Allnex USA Inc. only. As such, the existing cash of Nuplex group as well as the cash to be generated by the combined group need to be up-streamed to Allnex S.à r.l. for debt servicing (it is assumed that the US group will service the debt which will directly be obtained at Allnex USA Inc. level only).
- ▶ As a general rule, subject to legal and local GAAP regulations, cash can be up-streamed through dividends (or alternatively, capital reductions), interest payments or repayment of the principal amount of existing debt (including intercompany loans). In the following, we outlined the principles for debt servicing through dividends and interest payments up the chain to Allnex S.à r.l. That is, amongst other reasons, the post-closing integration steps will be implemented to simply cash up-streaming from lower tier entities up the chain to Allnex S.à r.l. through interest payments.

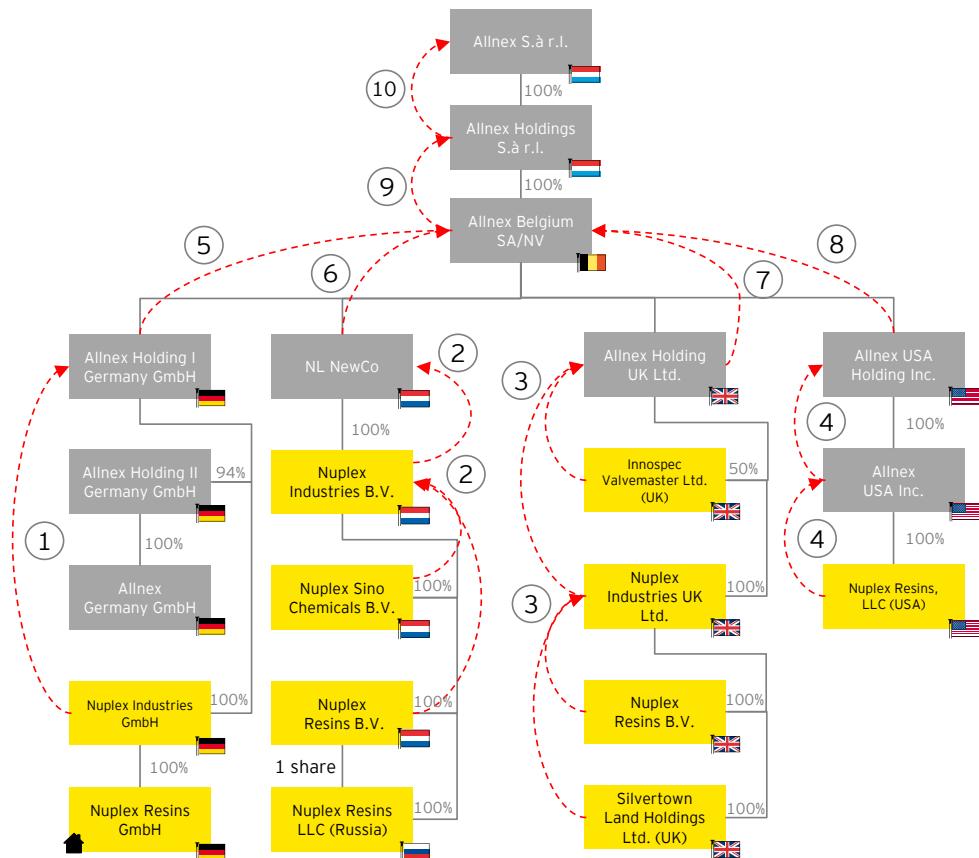
### Overview of taxation of dividends

- ▶ We understand that the target group might distribute dividends in the future to service the external debt at Luxembourg level. Dividends would be sourced by operating profits.
- ▶ The following overview provides a short summary of WHT on dividends and the income taxation at the level of the recipient of dividends. There are several prerequisites to be fulfilled to benefit from respective exemption provisions depending on the country and further analysis of such prerequisites might be necessary when dividends will actually be distributed. The overview should be read together with our detailed tax implications in the relevant sections of this report.
- ▶ We disregarded the minority shareholdings to simplify the overview and limited the overview to the most profitable countries. For an overview of the retained earnings of Nuplex entities please refer to the adjacent table (based on information provided in the VDR).

## Overview of taxation of dividends

- ▶ Not displayed below are dividends within NZ and Dividends from NZ to Belgium. Dividends within NZ from wholly-owned subsidiaries resident in NZ are tax exempt and no WHT applies.
- ▶ To the extent that dividends from NZ to Belgium are 'fully imputed' (and as Allnex Belgium holds at least 10% of the shares in NZ BidCo), no WHT will apply.
- ▶ To the extent that Dividends from NZ to Belgium are 'unimputed', they will be subject to WHT of 15% (reduced rate under the treaty).

## Overview of taxation of dividends



### 1 Dividends within Germany

- WHT of 26.375% (but refundable, interim financing of WHT need to be reviewed); no WHT in case of fiscal unity.

- Taxation in Germany with an effective tax rate on dividends of approx. 1.5% provided that participation exemption for CIT and TT purposes applies; no taxation in case of fiscal unity.

### 2 Dividends within Netherlands

- WHT of 15%, no WHT in case of a Dutch company in which at least 5% share capital is owned or in case the Dutch company paying the dividends is included in fiscal unity with the Dutch company receiving the dividends.

### 3 Dividends within UK

- No WHT
- Tax exempt in the UK to the extent the conditions under the dividend exemption rules are met.

### 4 Dividends within US

- No WHT
- No taxation due to 100% consolidation

### 5 Dividends from Germany to Belgium

- WHT of 26.375% (but refundable, interim financing of WHT need to be reviewed) In case a tax exemption certificate is in place 0%.
- 95% participation exemption should apply (subject to conditions). The taxable 5% portion of the dividend received may be offset against financing or business expenses. The German WHT is not creditable in Belgium.

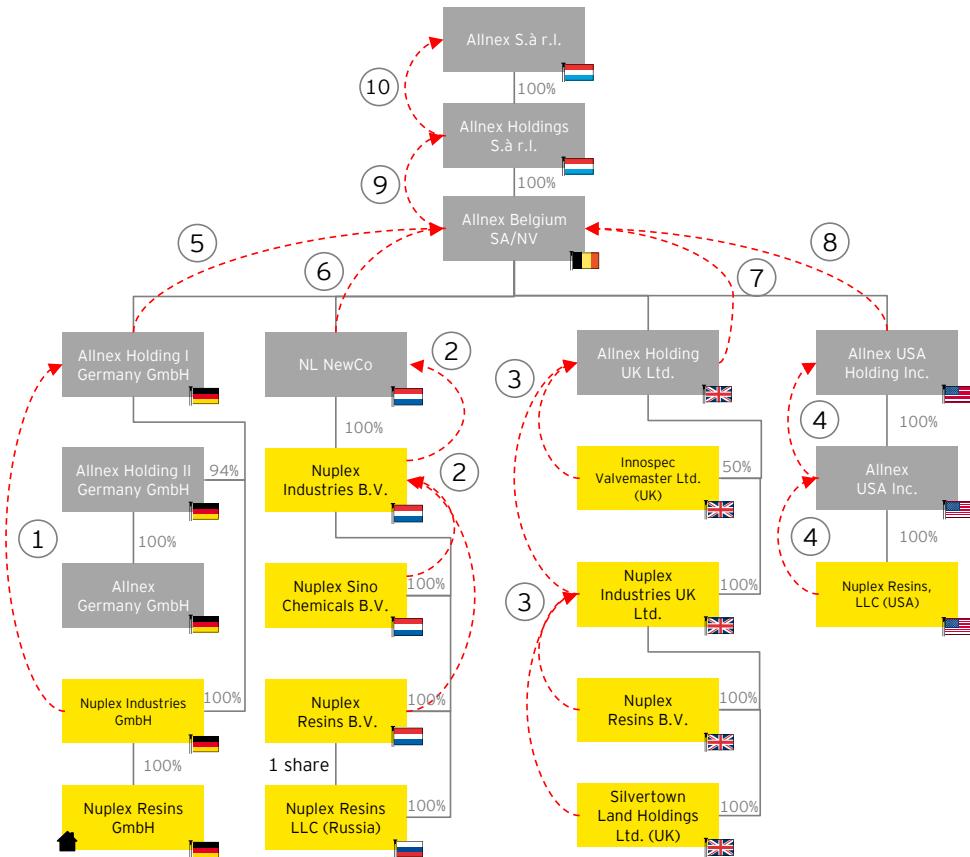
### 6 Dividends from NL to Belgium

- Free of WHT to the extent the conditions of the domestic dividend withholding tax exemption are met.

## Overview of taxation of dividends

- 95% participation exemption should apply (subject to conditions). The taxable 5% portion of the dividend received may be offset against financing or business expenses.

## Overview of taxation of dividends



### 7 Dividends from UK to Belgium

- No WHT
- 95% participation exemption should apply (subject to conditions). The taxable 5% portion of the dividend received may be offset against financing or business expenses.

### 8 Dividends from US to Belgium

- [OPEN for further analysis]
- 95% participation exemption should apply. The taxable 5% portion of the dividend received may be offset against financing or business expenses.

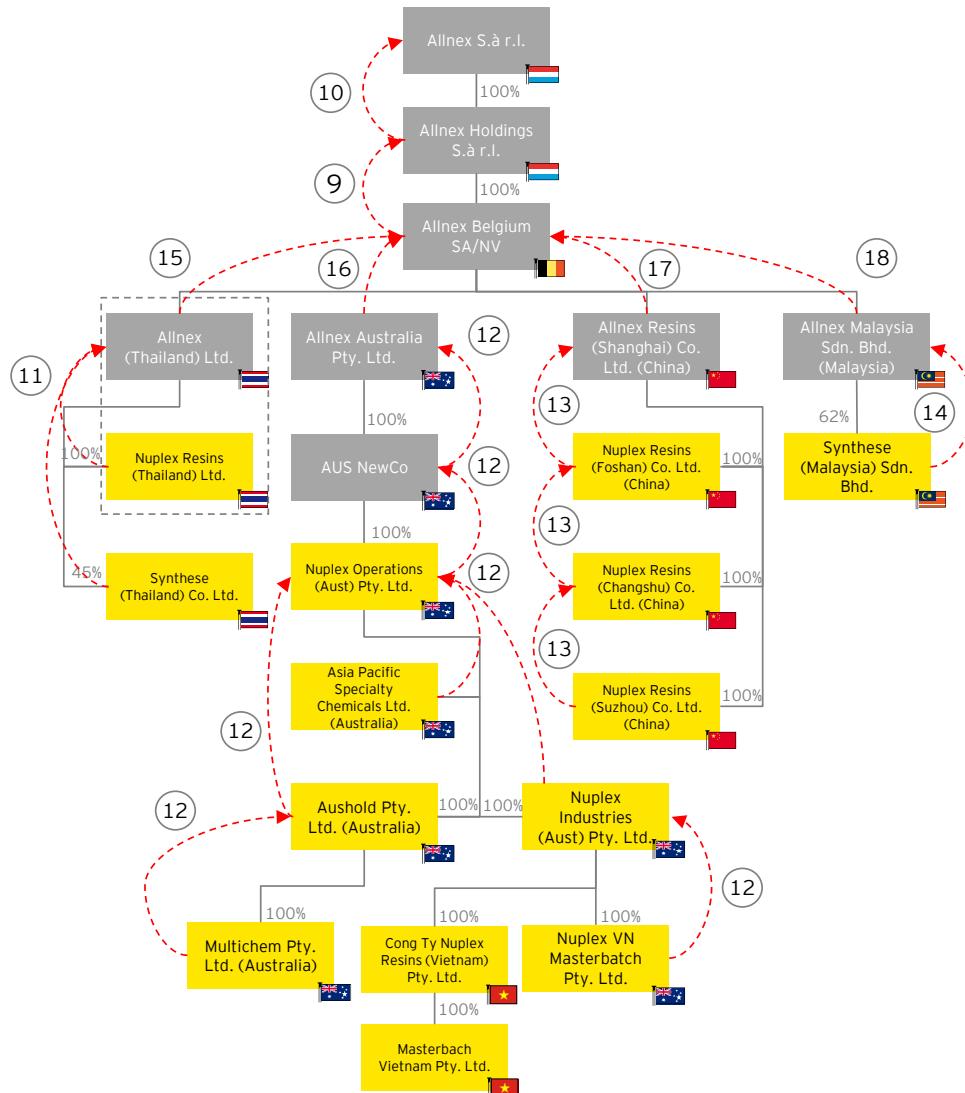
### 9 Dividends from Belgium to Luxembourg

- No WHT
- Tax exempt in Luxembourg to the extent the conditions under the participation exemption are met.

### 10 Dividends within Luxembourg

- Free of WHT to the extent the conditions of the domestic dividend withholding tax exemption are met.
- Exempt from taxation at the level of the recipient to the extent the conditions of the participation exemption are met.

## Overview of taxation of dividends



### 11 Dividends within Thailand

- Any dividends amongst Thai companies are exempt from tax provided that the following conditions are met, i.e. minimum shareholding of at least 25%; minimum holding period of at least three months prior and after the dividend was made and the distributing entity must not own any shares either directly or indirectly in the Thai recipient.

### 12 Dividends within Australia

- No WHT.
- Dividends are ignored for Australian tax purposes provided they are paid and received within the Australian TCG.

### 13 Dividends within China

- Dividends paid from a PRC resident company to another PRC resident shareholder is tax exempted.

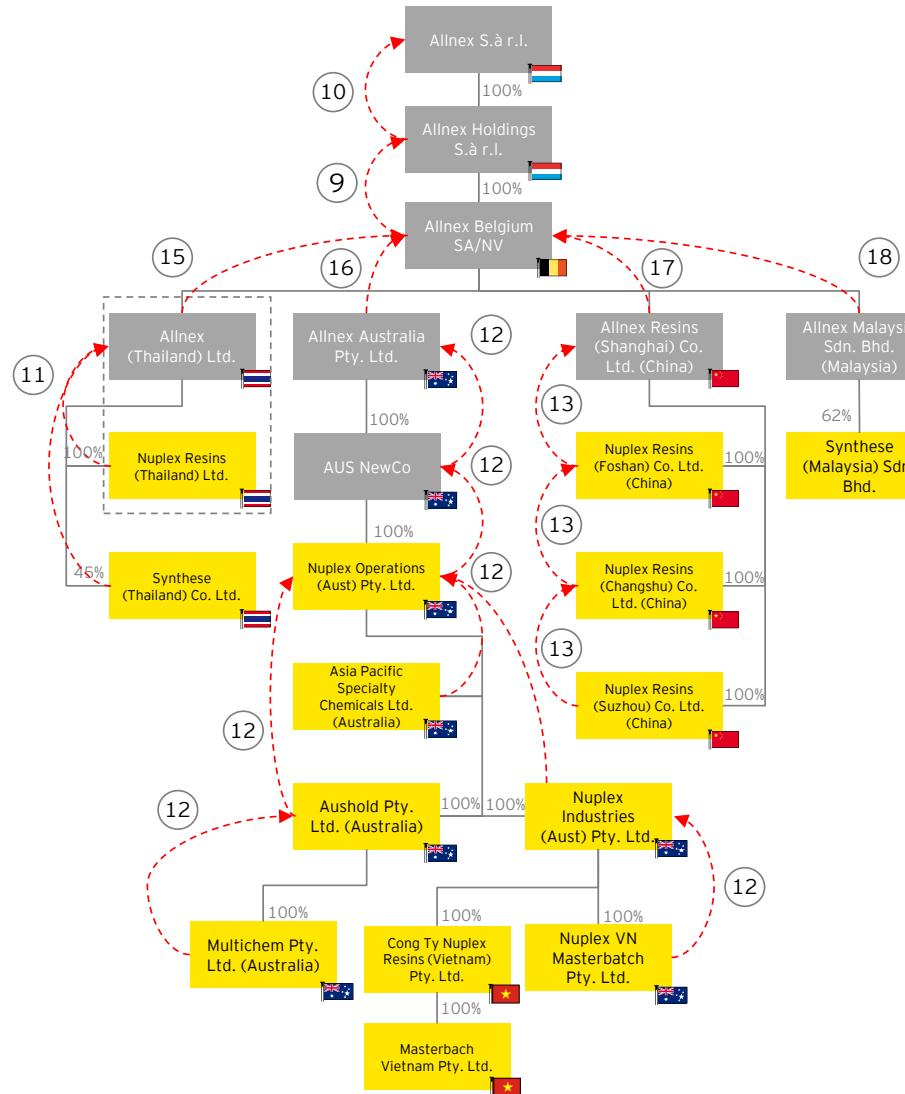
### 14 Dividends within Malaysia

- No WHT
- Dividend declared (and subsequently paid) by a Malaysian company will not be subject to Malaysian income tax in the hands of the shareholder.

### 15 Dividends from Thailand to Belgium

- WHT of 10%
- 95% participation exemption should apply (subject to conditions). The taxable 5% portion of the dividend received may be offset against financing or business expenses. The Thai WHT is not creditable in Belgium.

## Overview of taxation of dividends



### 16 Dividends from Australia to Belgium

- Franked dividends (i.e. where the distribution is paid out of previously taxed profits) are not being subject to WHT.
- Unfranked dividends should be subject to WHT of 15%.
- 95% participation exemption should apply (subject to conditions). The taxable 5% portion of the dividend received may be offset against financing or business expenses. The Australian WHT is not creditable in Belgium.

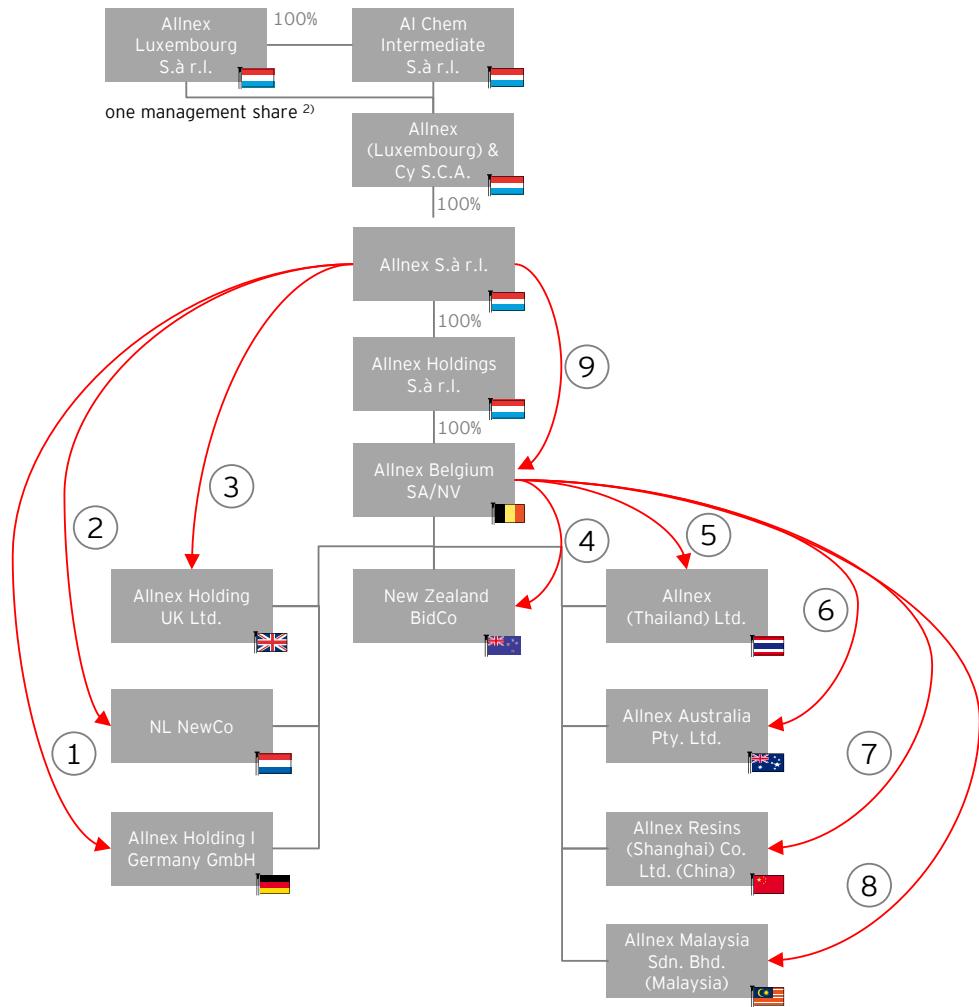
### 17 Dividends from China to Belgium

- Allnex Belgium is subject to PRC WHT of 5% if Allnex Belgium is qualified as the beneficial owner of the dividend income derived from Allnex Resins Shanghai and Belgium should be a company (other than a partnership) which has been holding, for an uninterrupted period of at least 12 months, directly at least 25% of Allnex Resins Shanghai before the dividend payment; otherwise, the WHT of 10% shall apply;
- 95% participation exemption should apply (subject to conditions). The taxable 5% portion of the dividend received may be offset against financing or business expenses. The Chinese WHT is not creditable in Belgium.

### 18 Dividends from Malaysia to Belgium

- No WHT
- 95% participation exemption should apply (subject to conditions). The taxable 5% portion of the dividend received may be offset against financing or business expenses.

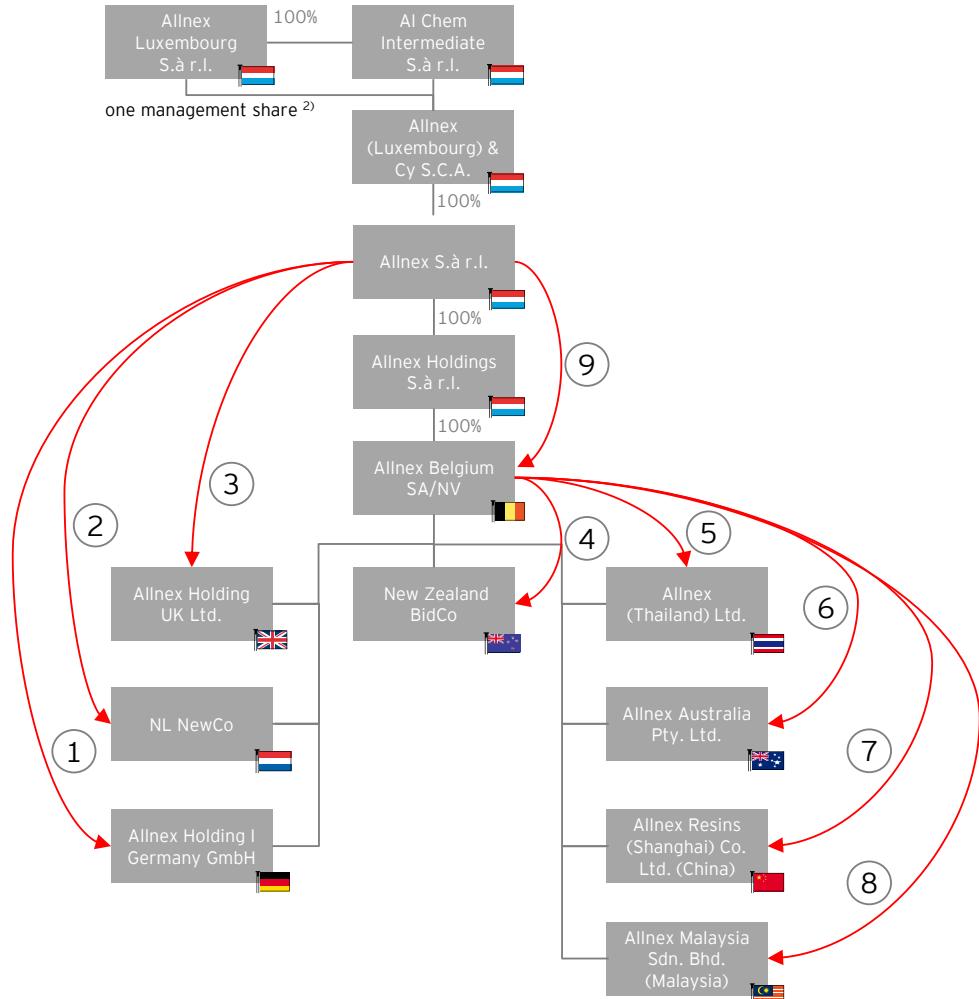
## Overview of taxation of interest payments



### Overview of taxation of interest payments

- The Allnex/Nuplex Group will service the external debt at Allnex S.à r.l. level via interest payments on SHL into the wider group (please number 1 to 9 in the adjacent structure chart).
  - The following overview provides a short summary of WHT on interest payments and the income taxation at the level of the recipient of the interest. There are several prerequisites to be fulfilled to benefit from respective exemption provisions depending on the country and further analysis of such prerequisites might be necessary when interest payments will actually be made. The overview should be read together with our detailed explanations in the various steps and detailed key tax implication in the section below. The overview does not include comments on potential interest expense deduction limitation in the country of the borrower. We only display the material I/C loans (in particular after restructuring /integration measures Action 1 to 10).
  - Please note that the payment of interest on external bank financing at the level of Allnex S.à r.l. or Allnex (Luxembourg) & Cy S.C.A. should not be subject to Luxembourg withholding tax under Luxembourg domestic tax law.
- 1 I/C loan from Luxembourg to Germany
    - No WHT (loan must not be profit participating and should not be secured by German real estate)
    - Taxation in Luxembourg with CIT. Since the loan will be financed with either external debt or PECs, interest income should be sheltered by interest expenses on external debt CIT and MBT should only become due on margin to be realized.
  - 2 I/C loan from Luxembourg to NL
    - No WHT
    - Taxation in Luxembourg with CIT. Since the loan will be financed with either external debt or PECs, interest income should be sheltered by interest expenses on external debt and CIT and MBT should only become due on margin to be realized.

## Overview of taxation of interest payments



### 3 I/C loan from Luxembourg to UK

- No WHT (subject to obtaining clearance from HMRC prior to making the interest payment)
  - Taxation in Luxembourg with CIT. Since the loan will be financed with either external debt or PECs, interest income should be sheltered by interest expenses on external debt CIT and MBT should only become due on margin to be realized.

#### 4 I/C loan from Belgium to NZ

- WHT of 10% (reduced rate under the treaty)
  - Taxation in Belgium with CIT. Since the I/C loans were financed with SHL from Allnex S.à r.l. interest income should be sheltered by interest expenses

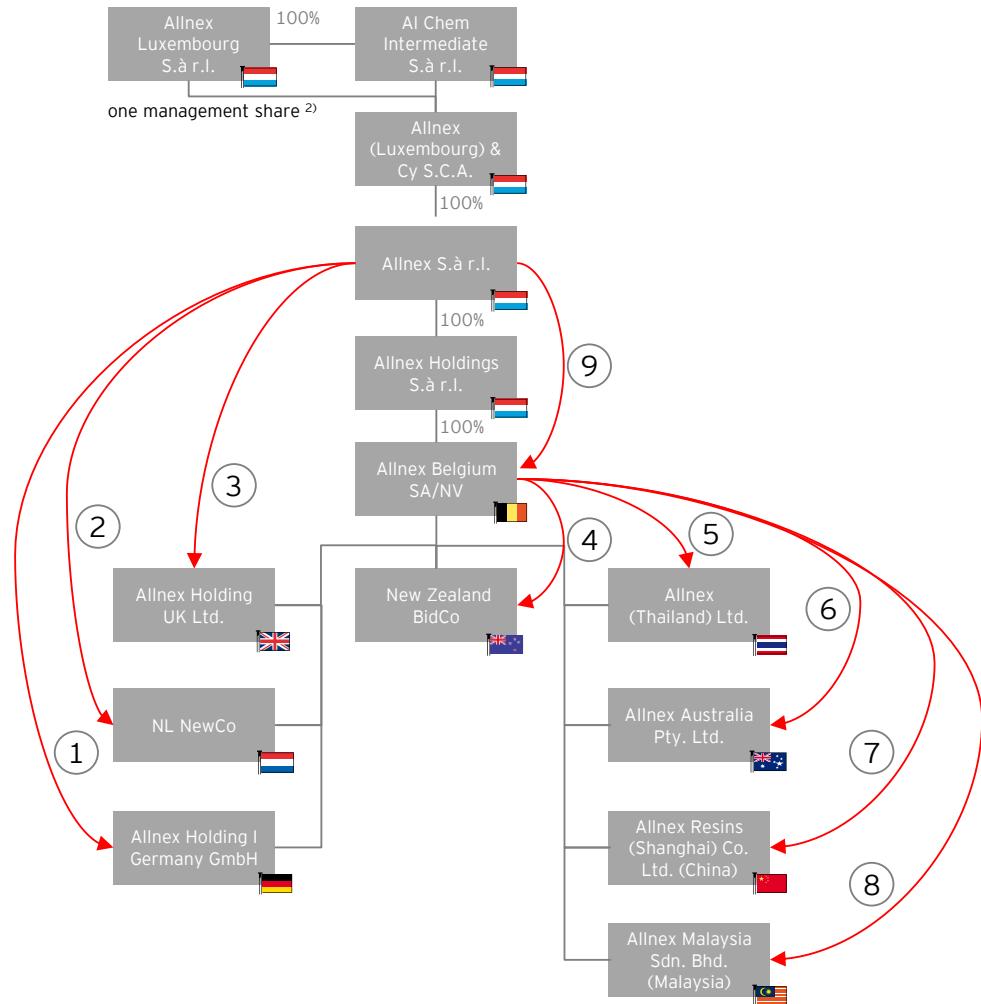
## 5 I/C loan from Belgium to Thailand

- WHT of 15%
  - Taxation in Belgium with CIT. Since the I/C loans were financed with SHL from Allnex S.à r.l. interest income should be sheltered by interest expenses
  - The Thai WHT may be credited in Belgium (subject to conditions and limitations; see “*Detailed key tax implications*”).

## 6 I/C loan from Belgium to AUS

- WHT of 10%
  - Taxation in Belgium with CIT. Since the I/C loans were financed with SHL from Allnex S.à r.l. interest income should be sheltered by interest expenses
  - The Australia WHT may be credited in Belgium (subject to conditions and limitations; see “*Detailed key tax implications*”).

## Overview of taxation of interest payments



### 7 I/C loan from Belgium to China

- WHT of 10% on the interest income
- Taxation in Belgium with CIT. Since the I/C loans were financed with SHL from Allnex S.à r.l. interest income should be sheltered by interest expenses
- The China WHT may be credited in Belgium (subject to conditions and limitations; see “Detailed key tax implications”).

### 8 I/C loan from Belgium to Malaysia

- WHT of 10%
- Taxation in Belgium with CIT. Since the I/C loans were financed with SHL from Allnex S.à r.l. interest income should be sheltered by interest expenses
- The Malaysia WHT may be credited in Belgium (subject to conditions and limitations; see “Detailed key tax implications”).

### 9 I/C loan from Luxembourg to Belgium

- No WHT
- Taxation in Luxembourg with CIT. Since the loan will be financed with either external debt or PECs, interest income should be sheltered by interest expenses on external debt CIT and MBT should only become due on margin to be realized.

## **Detailed key tax implications**

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1. Australian key tax implications
2. Belgium key tax implications
3. China key tax implications
4. Dutch key tax implications
5. German key tax implications
6. Lux key tax implications
7. New Zealand key tax implications
8. Thailand key tax implications
9. UK key tax implications
10. US key tax implications

## Overview of general tax system

### Income tax

- ▶ The Australian corporate income tax rate currently amounts to 30% applied on taxable income. The tax base is derived from assessable income less allowable deductions (i.e. taxable income). In practice, this is based on the profit displayed in the income statement for Australian IFRS purposes, subject to certain permanent and temporary timing adjustments for tax purposes.

### Goods & Services Tax (“GST”)

- ▶ GST in Australia is a broad based consumption tax of 10% on the supply of most goods and service sales. GST is charged on most transactions during the production process however it is intended to only impact the final customer. If the entity's turnover exceeds EURm 13 (USDm 14.4) for the tax period, the entity must remit the GST it accumulates to the ATO on a monthly basis. Certain exports are treated as GST-free.

### Fiscal year and tax filing obligations

- ▶ Income tax returns for large Australian corporate entities are typically required to be filed by 15 January of the following year to the end of the financial year (Australian corporate entities generally operate under a 30 June year-end), noting the deadline is extended for companies in a tax loss position.
- ▶ Where an income tax consolidated group (“TCG”) is formed, only one lodgement and filing is required for the TCG, rather than on an entity-by-entity basis.
- ▶ The head company of the TCG is solely responsible for the filings and lodgements of the TCG.

### Tax year

- ▶ Taxpayers in Australia have a tax year end of 30-June. However, a taxpayer may, with the leave of the Commissioner, have a substituted accounting period (i.e. tax year end) other than 30-June in certain circumstances.

## Tax Consolidation

### Tax Consolidation Overview

- ▶ The head company and its wholly-owned Australian subsidiaries can make an irrevocable election to form a tax consolidated group.
- ▶ The head company of a tax consolidated group bears the primary responsibility for all income tax liabilities and is required to lodge a single income tax return and make all income tax payments to the ATO on behalf of the tax consolidated group. The subsidiary companies are effectively treated as divisions of the head company.
- ▶ An entity is a subsidiary member of a TCG broadly where it is an Australian wholly-owned subsidiary of the head company. Where a subsidiary member ceases to be wholly-owned by the head company, it exits from the group. Where an exit occurs (e.g. upon a sale), care should be taken to ensure that such an exit does not trigger taxable gains, i.e. where liabilities exceed the tax cost base of assets.
- ▶ Generally, upon the formation of (or an entity joining) a tax consolidated group, the tax cost of the underlying assets of the subsidiary members of the group (excluding the head company) are reset to effectively reflect their cost to the head company at the time of tax consolidation. The resetting process is facilitated by an allocable cost amount ("ACA") calculation, performed for each joining subsidiary, which is an eight step process beginning with the relevant "cost" of the membership interests in each joining subsidiary plus the liabilities of that subsidiary, adjusted for various other amounts.
- ▶ In a tax consolidated environment, all intra-group transfers and dealings are disregarded for certain Australian income tax purposes.

### Case at hand

- ▶ The Nuplex Australian group is consolidated for tax purposes. In the absence of any post-acquisition restructures, the tax profile of the group should largely be preserved, however, its carried forward tax loss and carried forward capital loss may be forfeited as a result of the transaction.
- ▶ Should it be commercially desirable to undertake a restructure of the Australian group, a new HoldCo / BidCo tax consolidated group may be established ("Allnex TCG") to acquire the Nuplex Australia TCG.

## Financing considerations

### Overview

- ▶ Broadly, the Australian tax law applies a substance based approach to classify certain financing arrangements as either debt or equity (or possibly neither) for tax purposes. That classification then affects the tax treatment of returns arising from those financing arrangements (i.e. broadly, returns on debt interests may be deductible subject to certain rules and returns on equity interests are not deductible but may be franked with tax credits of the company).
- ▶ If a financing arrangement is considered both debt and equity, the debt classification takes priority.

### Debt Interest

- ▶ A return on a debt interest may be deductible for a company at the Australian corporate rate (currently 30%). However, the quantum of the deduction may be impacted by the thin capitalisation (i.e. broadly 60% gearing based on assets less non-debt liabilities – thin capitalisation rules discussed below) and transfer pricing (see below).
- ▶ Broadly, a normal/vanilla loan (with repayment terms less than 10 years etc.) should be considered debt under our debt/equity rules.
- ▶ Withholding tax at rates of up to 10% may apply on interest paid offshore (including to lenders resident of UK, Belgium or New Zealand). The rate could be reduced by treaty.
- ▶ The rate of interest will need to be appropriately benchmarked from a transfer pricing perspective to the extent the lender is a foreign related entity.
- ▶ To the extent the financing arrangement is denominated in a foreign currency, the foreign exchange gain or loss will be brought to account for Australian income tax purposes on repayments of interest and principal.

### Equity Interest

- ▶ An interest will generally be considered to be equity where the interest is as a member or stockholder of the company, the returns in respect of the interest are either contingent on the economic performance of or at the discretion of the issuer, or the interest gives its holder a right to be issued with equity or itself could convert into equity.

- ▶ Returns on equity interests are not deductible but may be franked subject to the company having sufficient franking credits in its franking account.
- ▶ The franking account balance of an Australian company broadly represents the net Australian corporate tax paid by the company. The franking credits can be ‘attached’ to dividend distributions (to a maximum percentage reflecting the Australian corporate tax rate of 30%) to foreign residents to reduce the *prima facie* withholding tax (e.g. unfranked dividends are subject to withholding tax of 30%, reduced under the double tax treaty to 5% for UK and New Zealand parent companies or 15% for Belgian parent companies). There are certain accounting issues before an amount can be franked.
- ▶ Notwithstanding the above, conduit foreign income received by an Australian corporate entity (e.g. non-portfolio dividends from foreign subsidiaries – discussed below) can be distributed to a foreign shareholder as an unfranked dividend free of withholding tax provided certain conditions are met.

### Non-Portfolio Dividends

- ▶ Distributions paid by foreign companies on equity interests (per the Australian tax definition, noted above) they have issued are not subject to Australian tax where the recipient of the distribution is an Australian company that holds a 10% or greater equity interest in the foreign company.

### Thin Capitalisation rules

- ▶ Broadly, the Australian thin capitalisation rules operate to restrict the deductibility of interest where the borrowing entity is “excessively” geared. The rules generally apply to an Australian entity that is foreign-controlled or has material foreign interests.
- ▶ In this regard, debt deductions for a taxpayer should only be denied where the “adjusted average debt” of the group exceeds its “maximum allowable debt”, which is generally the greater of the following amounts:
  - The safe harbour debt amount – This is effectively equal to 60% of the group’s average accounting assets less its average non-debt liabilities (adjusted for certain other amounts);
  - The arm’s length debt amount – A notional amount that the group would have borrowed from an independent commercial lending institution based on

## Financing considerations

certain factual assumptions (e.g. no guarantee, security or credit support provided by its associates); and

- Worldwide gearing amount – an amount calculated by reference to the worldwide assets and equity of the Nuplex (accounting) group.

## Tax losses

### Utilisation of losses – overview

- ▶ Tax losses and capital losses incurred by a corporate taxpayer are indefinitely carried forward for offset against future assessable income and capital gains subject to the relevant loss recoupment rules being satisfied.
- ▶ In this regard, carry forward losses can be recouped by a company where the continuity of ownership test ("COT") is satisfied, or failing the same business test ("SBT").
- ▶ Broadly, the COT is satisfied if the majority of the underlying ownership (i.e. greater than 50% ownership) in the shares of the company is maintained from the beginning of the income year in which the loss was incurred until the end of the income year in which the loss is to be recouped.
- ▶ Should the COT be failed, the SBT may still be relied upon in order to recoup carried forward losses. In this regard, to satisfy the SBT, the taxpayer must demonstrate that it carried on the "same business" at the time of the COT failure as it did throughout the income year in which the loss is sought to be recouped.
- ▶ For completeness, should the losses be transferred pursuant to the modified SBT, those losses are taken to have been "incurred" by Allnex TCG at the time of transfer. Therefore, the subsequent utilisation of those losses will be subject to the ordinary operation of the COT, or failing that the SBT, with the reference to the test period of the loss year being the year of transfer. That is, and practically speaking, losses transferred pursuant to the modified SBT essentially become "refreshed" for the new head company (i.e. Allnex).

### In the case at hand

- ▶ The Nuplex Australia TCG has significant carried forward tax losses of EURm 18.9 (USDm 21) and carried forward capital losses of EURm 20 (USDm 22.3) at 30 June 2015. As a result of the acquisition, the Nuplex Australia TCG will fail the COT and will instead have to rely on the more onerous SBT in order to recoup its carried forward losses.
- ▶ To the extent that a restructure of the holding of the Nuplex Australia TCG is undertaken (as described above – i.e. being acquired by the Allnex TCG), Nuplex Australia may be able to transfer its carried forward losses to the Allnex TCG where the modified SBT is satisfied. That is, the modified SBT must be satisfied for the period broadly representing a) the 12 months prior to acquisition and b) just before the end of the income year in which the losses were incurred.
- ▶ If the modified SBT is satisfied, the carried forward losses can be brought into the Allnex TCG. The rate at which these losses can be recouped by the Allnex TCG will depend on an "available fraction" which broadly represents the market value of the Nuplex Australia to the market value of the Allnex TCG (with Nuplex Australia TCG as its subsidiary members) subject to certain adjustments and assumptions.

## Transfer Taxes (Stamp Duty)

### Overview

- ▶ The acquisition of a 90% or greater interest in a listed company that is entitled, directly or indirectly, to landholdings situated in Australia may be subject to Australian landholder duty if the value of those landholdings meets or exceeds certain thresholds. The value thresholds differ between the Australian jurisdictions (NT: EURk 324 (USDK 360); SA/Vic: EURk 648 (USDK 720); NSW/Qld/WA: EURm 1.3 (USDm 1.44)). For completeness, we note that the ACT and Tasmania do not impose landholder duty on of the takeover of a listed company provided the acquisition of 100% of the shares occurs at a time when the entity is still a member of the Official List of the relevant exchange.
- ▶ The definition of landholdings for Australian landholder duty purposes differs between the jurisdictions, however, it will generally include any estate in fee simple, a leasehold interest, fixtures and in some cases, anything fixed to the land by more than its own weight.
- ▶ To the extent a taxpayer is an Australian landholder, the landholder duty payable would be based on the unencumbered market value of the relevant landholdings, and in some cases the goods, deemed to be acquired. The rate at which landholder duty is imposed on takeovers of listed companies will differ between the jurisdictions, ranging from concessional rates of 0.55% to non-concessional rates of up to 5.4%.
- ▶ Generally speaking, the transfer of quoted shares should not give rise to a liability to marketable securities duty. However, care should be taken to ensure that the transfer of the shares is completed before Nuplex Industries is removed from the Official List of the relevant exchange/s; otherwise there is the risk of marketable securities duty arising if a share register of the company is kept in NSW.
- ▶ A liability to mortgage duty (imposed at rates of up to 0.4% of the NSW dutiable proportion) may arise if any financing/refinancing is secured over assets located, or taken to be located, in NSW.

## Overview of general tax system

### Tax rate

- ▶ The Belgian CIT rate currently amounts to 33% plus a 3% solidarity surcharge thereon, resulting in a tax rate of 33.99% applied on the taxable income for CIT purposes. The tax base is determined based on the company's accounting result (Belgian GAAP) as derived from its annual accounts, unless specific tax provisions provide otherwise.
- ▶ The CIT due can be prepaid during the taxable period in which the taxable results occur. In quarterly instalments, the so-called prepayments (in principle due by 10 April, 10 July, 10 October and 20 December of the financial year, assuming that this will end per 31 December). These quarterly prepayments will give rise to a bonus which (for tax year 2017) amounts to 1.5% (prepayment 1), 1.25% (prepayment 2), 1% (prepayment 3) and 0.75% (prepayment 4). In case of insufficient tax prepayments, a 1.125% (for tax year 2017, FY 31 December 2016) tax increase is applicable if it exceeds 1% of the taxable amount.
- ▶ The following basic adjustments are to be made to the accounting result of the company:
  - timing differences with respect to specific taxable reserves (e.g. corrections resulting from an undervaluation of the assets or an overvaluation of the liabilities),
  - permanent differences from disallowed expenses and
  - specific tax deductions (e.g. notional interest deduction, investment deduction, etc.).
- ▶ CIT (including solidarity surcharge) is not deductible for tax purposes.

### Tax year

- ▶ If the financial year corresponds to the calendar year, the tax year is the financial year + 1.
- ▶ The taxpayer can choose a financial year deviating from the calendar year. If a company adopts a financial year deviating from the calendar year, the corresponding tax year is the calendar year in which the financial year ends.

### Fiscal unity

- ▶ Belgian tax law does not provide for fiscal unity in Belgian CIT.

## Received dividends and capital gains on shares

### Participation exemption on dividends received

- ▶ Dividends received by a Belgian company are considered taxable income during the financial year during which they were recorded.
- ▶ A 95% participation exemption may apply if the following conditions are met:
  - the shareholding exceeds 10% or the (total) acquisition value of the shares exceeds EURm 2.5 (USDm 2.8);
  - the dividends relate to shares which are held in full ownership;
  - the shares have been (or will be) held during an uninterrupted period of at least one year; and
  - the ‘subject-to-tax’ test is met.
- ▶ The ‘subject-to-tax requirement’ is comprised of five (rather complex) cases in which the participation exemption is not applicable (so-called ‘exclusion cases’), basically entailing that the dividends received deduction is not available for dividends stemming from an entity that is subject to a beneficial tax regime in its jurisdiction of residence. A detailed analysis of the exclusion rules and their exceptions is beyond the scope of the present document.
- ▶ The ‘new’ anti-abuse rule included in the Parent-Subsidiary Directive will also apply to the Belgian participation exemption (see below).
- ▶ The taxable 5% portion of the dividend received may offset against financing or other business expenses.

### Separate capital gains taxation at reduced rates

- ▶ Capital gains on shares constitute taxable income of the financial year during which they were realized, provided that all dividends that would - hypothetically - be paid on the shares that are transferred satisfy the subject-to-tax condition mentioned, such gains are taxable separately at 25.75% if they have not been held for at least one year, and at 0.412% after the one-year holding period; this separate taxation is not subject to the quantitative threshold.
- ▶ The separately taxed capital gains at 0.412% constitute the minimum taxable basis.

- ▶ Capital losses on shares are not tax deductible, except for the loss of paid-in capital incurred upon liquidation.

## Interest payments

### Deductibility of interest payments

#### General provisions

- ▶ In principle, interest payments/charges made/incurred by a Belgian company, like any other business expense, are only tax deductible if they were made/incurred with a view to acquiring or preserving taxable income. In this respect, the loan should have a genuine link with the business operated by the taxpayer and therefore the activity of acquiring and holding shares in group companies should be reflected in the company's by-laws. Whether or not the lender is a related party is in principle not relevant in this respect.
- ▶ In addition to the general article 49 ITC 1992, Belgian tax law also contains specific rules based on which the Tax Authorities may challenge the tax deductibility of the interest payments.

#### The arm's length standard

- ▶ The terms and conditions of the debt should meet the at arm's length standard. As far as financing arrangements are concerned, this principle is expressly embedded the Belgian Corporate Income Tax Code, which stipulates that interest payments on loans are only regarded as a deductible business expense to the extent that they do not exceed the amount corresponding to the rate charged on the market, bearing in mind the particular factors inherent in assessing the risk linked to the transaction, and especially the financial situation of the debtor and the duration of the loan.

#### Interest paid to certain foreign entities

- ▶ If interest expenses are paid directly or indirectly to a foreign entity which is either not subject to tax, or which is, with respect to the interest income concerned, subject to a tax regime that is substantially more beneficial than the Belgian tax regime, a presumption applies according to which the interest expense is not deductible, unless the taxpayer demonstrates that the interest is at arm's length and the interest is incurred in connection with bona fide and genuine transactions.

#### Thin capitalisation rules

- ▶ Belgian tax law does not contain general debt-equity or earnings stripping rules that would apply to any interest paid, irrespective of the status of the beneficiary of the payment.
- ▶ However, intra-group interest payments/accruals are not tax deductible to the extent that the loans to which they relate exceed five times the sum of the taxed reserves at the beginning of the taxable period increased with the fiscally paid-up capital at the end of that period.
- ▶ The same applies where interest is paid to an entity which is either not subject to income tax or which is, for the interest income concerned, subject to a tax regime which is significantly more beneficial than the common Belgian income tax regime.
- ▶ In case loans are guaranteed by another group company, or for loans whereby another group company has provided the necessary means for the funding of the loans and partially or fully assumes the risks attached to the loans, such group company is deemed to be the actual beneficiary of the interest, if this guarantee or provision of means has tax avoidance as its principal objective.

#### Reasonable business needs

- ▶ Expenses are not considered as tax deductible business expenses to the extent that (i) they are not necessitated by the carrying-on of the business or (ii) they exceed the business needs in an unreasonable manner. In principle, the Belgian Tax Authorities are nevertheless bound to non-interference as to the amount of debt and the corresponding cost of funding. It should, however, not exceed the normal business needs of the company in an unreasonable manner.
- ▶ In light of this specific limitation as well as the general rules for interest deductibility, it is important that the assets which are financed with the loans resulting in the interest expense are acquired for fair value. Any overstatement of the price paid for the acquisition of the assets could potentially be considered as a non-value, implying a certain lack of business character of the debt contracted for funding such payment and resulting in the non-deductibility of the interest expense thereon.

## Interest payments

### Timing of the deduction

- ▶ For Belgian tax purposes, interest is deductible on an accrual basis.

### Withholding tax on interest payments

- ▶ Under Belgian domestic tax law, in principle a 27% Belgian withholding tax is due on interest paid or attributed by a Belgian tax resident company.
- ▶ A withholding tax exemption may be available under the European Interest and Royalty Directive as transposed in Belgian domestic law provided:
  - the recipient company has a direct or indirect holding of 25% in the capital of the Belgian payer company, or (ii) the Belgian payer company has a direct or indirect holding of 25% in the capital of the recipient company, or (iii) a third EU company has a direct or indirect holding of 25% both in the capital of the Belgian payer company and in the capital of the recipient company,
  - and that the shares are held for an uninterrupted period of at least one year.
- ▶ If the minimum 10% shareholding has not yet been held for at least one year, the withholding tax should, in principle, be withheld by the debtor of the interest at the reduced 15% treaty rate until the one-year holding period has been reached (subject to compliance with the formalities under the treaty). The amounts provisionally withheld need not be paid to the Belgian treasury, but should merely be retained by the Belgian company. Only in case the one-year holding period is not met, the amounts should be paid to the Belgian treasury.
- ▶ Furthermore, the recipient company should have a legal form listed in the Annex to said EU Directive, be a tax resident of an EU Member State both from a domestic and a Double Taxation Convention point of view and be subject to corporate income tax in such Member State, without being exempt.
- ▶ Within 15 days after paying or attributing dividends, withholding tax formalities need to be filed with the tax authorities. If a reduction or exemption is applied, additional attestations need to be attached.
- ▶ However, the tax authorities could seek to deny the application of the WHT exemption. According to the Belgian tax authorities, Allnex S.à r.l. should qualify as the beneficial owner of the interest received from Allnex Belgium in order to claim the WHT exemption (cfr. infra). No contractual or factual obligation to pass on the interest payments received may exist. The concept of beneficial owner

will probably be strengthened in the future. Furthermore, the European Interest and Royalty Directive may become subject to anti-abuse rules (by analogy to the Parent Subsidiary Directive).

### Anti-abuse rule in a back-to-back situation

- ▶ Based on the Belgian general anti-abuse rule, the Belgian tax authorities could argue that Allnex Belgium is merely inserted in order to obtain favourable withholding tax treatment on the interest due to Allnex S.à r.l. and in order to obtain the favourable foreign tax credit treatment (see below) on interests received. Due to the back-to-back situation and depending on rates and amounts applied, the foreign tax credit may even exceed the corporate tax on the spread, so that it is offset against the corporate tax in respect of other income (base erosion). Consequently, the tax authorities could deny the deductibility of the interest due to Allnex S.à r.l. and/or the application of the foreign tax credit.
- ▶ Therefore, the intervention of Allnex Belgium should be primarily motivated by business reasons. If Allnex Belgium would only provide loans to jurisdictions which apply interest withholding tax while Allnex S.à r.l. provides loans to jurisdictions without interest withholding tax, the Belgian tax authorities may consider that the transaction is motivated by tax reasons. The taxpayer can provide counterproof based on valid business reasons in order to avoid the application of the anti-abuse rule.

### Transfer pricing in a back-to-back situation

- ▶ The interest rate and the terms and conditions of the loans granted to and by Allnex Belgium should be at arm's length in order to avoid transfer pricing adjustments and to ensure the deductibility of the interest due to Allnex S.à r.l. in the hands of Allnex Belgium.
- ▶ In particular, Allnex Belgium should earn an at arm's length spread on any amounts on-lend. In order to make sure that the WHT applied by the borrowers does not erode Allnex Belgium's spread and that the overall transaction would not become pre-tax negative in the hands of Allnex Belgium, the interest due by the borrowers should be grossed-up to take into account the foreign WHT.

### Substance and beneficial ownership

- ▶ Belgian domestic tax law does not contain specific substance requirements or the notion beneficial owner of the interest. However, the tax authorities consider

## Interest payments

that the beneficial ownership requirement is implicitly provided by Belgian domestic tax rules.

- ▶ The tax authorities traditionally adopt a legal interpretation of the notion of beneficial ownership. On that basis, withholding tax exemptions are refused when the beneficiary is not the legal owner of the interest and the underlying receivable, but merely acts as an agent or a nominee.
- ▶ However, it is expected that the Belgian tax authorities will adopt a more economic interpretation of the concept of beneficial ownership in the near future, also taking into account the developments in international case law and following the OECD Discussion Drafts concerning the meaning of "beneficial owner" in the OECD Model and the OECD BEPS Action Plan. Under such interpretation, a beneficiary who does not have the interest at his disposal, but is in practice obliged to pass on the interest in a back-to-back situation, would not be considered as the beneficial owner. Also, the OECD is paying a lot of attention to the equity at risk and people's functions (required skillset of people to manage the risk of the company; see BEPS Action plan).

## Dividends paid

### Withholding tax on distributed dividends

- ▶ The standard withholding tax rate amounts to 27%.
- ▶ The Belgian-Luxembourg double tax treaty provides for a reduced 10% rate (subject to conditions and formalities).
- ▶ A withholding tax exemption may be available under the European Parent Subsidiary Directive as transposed in Belgian domestic law, provided the beneficiary of the dividend is a qualifying Belgian or EU tax resident company or company resident in a state which has a DTT with Belgium, that has been holding directly or commits to hold at least 10% of the capital of the company paying the dividend for an uninterrupted period of at least 12 months.
- ▶ If the minimum 10% shareholding has not yet been held for at least one year, the withholding tax should, in principle, be withheld by the debtor of the dividends at the reduced 10% treaty rate until the one-year holding period has been reached (subject to compliance with the formalities under the treaty). The amounts provisionally withheld need not be paid to the Belgian treasury, but should merely be retained by the Belgian company. Only in case the one-year holding period is not met, the amounts should be paid to the Belgian treasury.
- ▶ Furthermore, the recipient company should have a legal form listed in the Annex to said EU Directive or a similar legal form, be a tax resident of an EU Member State both from a domestic and a DTC point of view and be subject to corporate income tax in such Member State, without being exempt.
- ▶ The recipient company invoking the exemption should moreover be the beneficial owner of the payments. Therefore, in order to benefit from the exemption, the recipient company needs to have the proper substance.
- ▶ Please note that the 'new' anti-abuse measure of the Parent-Subsidiary Directive is applicable as of 1 January 2016. Following this measure 'member states shall not grant the benefits of the Directive to an arrangement or a series of arrangements which, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defeats the object or purpose of this Directive, are not genuine having regard to all relevant facts and circumstances'. This anti-abuse rule still needs to be implemented in Belgian tax law. Similar language can be expected.

- ▶ Within 15 days after paying or attributing dividends, withholding tax formalities need to be filed with the tax authorities. If a reduction or exemption is applied, additional attestations need to be attached.

### Fairness Tax on distributed dividends

- ▶ The Fairness Tax is an additional tax of 5,15% on the portion of the distributed amount that has not been subject to Belgian CIT as a result of the deduction of notional interest and/or losses carried forward.
- ▶ The calculation can be summarized as follows:
  - The 'untaxed' part of the distributed profits is equal to the amount of the dividends distributed,
  - less the final taxable result that has effectively been subject to corporate income tax at 33,99% in the same taxable period; and
  - less the portion of the dividends that stems from reserves that were previously taxed. However, only reserves taxed up to tax year 2014 (FYs ending on 30 December 2014 at the latest) are excluded.
- ▶ This is multiplied by a fraction:
  - a numerator that is the sum of the notional interest and/or losses carried forward effectively deducted in the same taxable period; and
  - a denominator that corresponds to the result after the 'first operation' in the Belgian corporate tax return. This amount is essentially the 'gross' taxable income, i.e. after the exclusion of some tax exempt or separately taxed income, such as capital gains on shares, but before the application of other tax deductions, such as dividends received, patent income, notional interest, losses carried forward and investment deductions.
- ▶ The fairness tax is not tax deductible and will have to be taken into account in the calculation of the tax prepayments (see above).
- ▶ The compatibility with EU law and Double Taxation Conventions is subject to a question to the Belgian Constitutional Court and the European Court of Justice.
- ▶ To the extent that the Belgian company would not deduct tax losses carried forward or apply the notional interest deduction, no fairness tax will apply.

## Dividends paid

### Substance and beneficial ownership

- ▶ We refer to the section "*Interest payments*".

## Other

### Contribution in NZ BidCo

- ▶ The Belgian Corporate Income Tax Code defines paid-in capital of a company as its statutory capital to the extent that it is formed by actual contributions and in so far that no reductions occurred
- ▶ An equity contribution in a non-resident company qualifies as paid-in capital for Belgian tax purposes if it is recorded at a separate, unavailable account that constitutes a guarantee for third parties and that can only be reduced subject to a valid decision made in accordance with the corporate law rules on the modification of the statutes of incorporation.

### Tax losses

- ▶ Tax losses can be carried forward without limitation in time or in amount. Tax losses cannot be carried back.
- ▶ Limitations are available in case of tax free restructurings (e.g. mergers or splits) or even forfeitures in case of a so-called change of control that does not meet legitimate financial or economic needs.
- ▶ In case a company has received abnormal or benevolent advantages, no tax losses can be offset against the amount thereof.

### Notional interest deduction

- ▶ Belgian tax law provides in a notional interest expense on 'risk capital' which is deducted from the tax base for all Belgian companies and Belgian branches of foreign companies ('NID').
- ▶ The mechanism is that a notional, off-balance sheet interest is calculated on risk capital and deducted from the tax base for all Belgian companies and branches of foreign companies.
- ▶ The amount of risk capital referred to corresponds to the total equity under Belgian GAAP (non-consolidated) in the opening balance sheet of the taxable period, reduced by - mainly - the net fiscal value of own shares held by the company, and of shares in other companies held as financial fixed assets and investment grants and revaluation surpluses (if not excluded under 1-2; the latter are reported as equity on the balance sheet). Any increases or decreases of the 'risk capital' during the taxable period will be taken into account pro rata temporis.

- ▶ The interest rate applied for FY16 amounts to 1,131% which is the preceding year's average 10-year Government bond rate. Any excess deduction cannot be carried forward.

- ▶ In the case at hand, it would seem that currently Allnex Belgium has no effective NID available.

### General anti-abuse provision in the Belgian Income Tax Code

- ▶ Under the general anti-abuse rule (GAAR) a legal action is not accepted by the tax authorities if they can demonstrate that there is tax abuse. For the purposes of the GAAR, tax abuse is defined as:
  - A transaction in which the taxpayer places himself – in violation of the purpose of a provision of the Income tax Code – outside the scope of this provision;
  - A transaction that gives rise to a tax advantage provided by a provision of the Income tax Code whereby this tax advantage would be in violation with the purpose of this provision of the Income tax Code and the tax advantage is the essential goal of the transaction.
- ▶ In case the tax authorities argue that a legal action or a chain of legal actions can be considered as tax abuse, the taxpayer needs to demonstrate that the choice for the legal action(s) is motivated by other reasons than tax avoidance. In case the taxpayer cannot demonstrate this, the administration can restore the taxable basis as if the abuse did not take place.
- ▶ Despite some initial guidance in a circular letter issued by the tax authorities, it remains highly unpredictable how the general anti-abuse provision will be applied in practice.

### Foreign tax credit on interest income

- ▶ Allnex Belgium is only entitled to a foreign tax credit (FTC) if the following two conditions are both complied with (i) the inbound interest income was effectively subject to taxation abroad and (ii) the beneficiary uses the interest-generating receivable for professional purposes in Belgium. In the case at hand these conditions should normally be fulfilled as we understand that interest income from certain foreign jurisdictions is effectively subject to withholding tax in these jurisdictions and (ii) Allnex Belgium does not have establishments outside

## Other

Belgium to which the loans are allocated. Under Belgian domestic law, the FTC is capped to a foreign interest withholding tax of maximum 15%.

- ▶ The computation of the FTC is based on the net frontier interest income, i.e. the gross amount of the interest less any foreign withholding tax incurred. The FTC is calculated according to the following formula (assuming that the foreign withholding tax is borne by the creditor of the interest):

Gross interest received after deduction of foreign withholding tax, multiplied by the two following factors:

- Factor 1: foreign withholding tax divided by (100 less foreign withholding tax)
- Factor 2: (total income, excluding capital gains less interest and royalties paid), divided by total income, excluding capital gains
- ▶ It should be noted that FX gains qualify as a capital gains for the calculation of the FTC. The FTC is included in the taxable base of the Belgian lender (grossing-up). It is creditable against the corporate income tax due, but it is not refundable and it cannot be carried forward.
- ▶ A high level calculation shows that approximately 90% of the foreign interest WHT could be credited by Allnex Belgium. This calculation was based on FY15 unaudited financials of Allnex Belgium, a total amount of loans granted by Allnex Belgium to Australia, New Zealand and Thailand of EURm 113, the assumption of a base interest rate of 5.75%, a spread of 0.125% and gross-up of Australian, New Zealand and Thai withholding tax and the assumption that Allnex Belgium is in a tax paying position. This calculation was merely indicative and is subject to further analysis, taking into account budgeted figures for FY16 and following FYs which reflect the effect of the Mid-Cycle Restructuring and other changes.
- ▶ The FTC will not apply in case of channelling, i.e. if Allnex Belgium merely acts as an intermediary. This would be the case if Allnex Belgium, although having carried out the operation in his own name, has in reality acted on behalf of Allnex S.à r.l. which has supplied the necessary funds for financing the operation and which assumes partly or fully the credit risk of the operation. In practice, channelling occurs if Allnex Belgium is not obliged to repay the Allnex S.à r.l. in case Allnex Belgium does not obtain payment from the borrowers. In summary, Allnex Belgium should bear credit risk and this should appear from the loan

agreements (see also above our comments on Transfer pricing and the anti-abuse rule in back-to-back situations).

- ▶ Finally, the Belgian tax authorities may rely on the general anti-abuse rule in order to refuse the FTC, in particular because of the back-to-back financing (see our above comments on the anti-abuse rule in back-to-back situations).

## Corporate income tax

### Corporate income tax

- ▶ CIT is imposed on the worldwide income of a resident enterprise; non-resident enterprises are subject to tax on China-source income and income effectively connected with an establishment in China.
- ▶ The normal corporate income tax rate is 25%. Special rates mainly apply to small-scale enterprises (20% or 10% if certain requirements are met), enterprises with HNTE status (15%) and enterprises incorporated in certain regions of China and engaged in encouraged business (15%).
- ▶ Non-resident companies are generally subject to 25% on the active income such as service fees or income from a permanent establishment and 10% on passive income such as dividend, royalty, interest income, capital gain, etc. ("Withholding Tax").
- ▶ China has a broad tax treaty network, the aim of which is to eliminate double taxation and provide for reduced rates of withholding tax on dividends, interest and royalties. Most of China's treaties are based on the OECD model treaty, providing for relief from double taxation on all types of income, limiting the taxation by one country of companies resident in the other and protecting companies resident in one country from discriminatory taxation in the other. China's treaties generally contain OECD-compliant exchange of information provisions.

## Withholding tax regime

- ▶ The Chinese Withholding Tax is applicable to China-sourced income derived by non-resident enterprises, mainly including dividends, bonuses and other equity investment proceeds; interests, rentals and royalties and income from the transfer of property; and any other income subject to Corporate Income Tax generated by non-resident enterprises from China.
- ▶ The WHT liability shall be calculated based on the following formula:
  - Tax payable = Taxable income × WHT rate.
- ▶ The WHT rate for non-resident enterprises is 10% which could be further reduced based on respective double tax treaty, e.g., WHT rate is reduced to 5% on dividends according to the Double Tax Treaty (DTT) between Netherlands and China provided certain conditions can be met.

### Taxable income

- ▶ In general, the taxable amount shall be calculated as follows:
- ▶ For dividends and bonuses, interest, rental income, royalties, the taxable income should be the total gross amount without any deductions of taxes or expenses
- ▶ For the income from transfer of property, the taxable income shall be calculated as the balance of the entire amount minus the net value of the property
- ▶ For other income, the taxable income shall be calculated with reference to the preceding two items.

### Withholding agent

- ▶ According to Circular 3, the WHT payable should be withheld at source. An entity or individual that is directly responsible for paying the relevant consideration to the non-resident enterprises according to the provisions of laws and agreements shall be the withholding agent.

### Registration of withholding obligation

- ▶ The withholding agent has to apply for registration of withholding with the competent tax authority within 30 days when a business contract or agreement, which gives rise to the above-mentioned income. The withholding agent must submit the following documents to the tax authority in charge within the said period:
  - Registration Form of the Contract for Withholding of Corporate Income Tax
  - Copies of the contract; and
  - Other relevant documents
- ▶ For the documents which are originally in a foreign language must be translated into Chinese. This procedure also applies to each subsequent revision, supplementation or extension of the contract.

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### Settlement of Withholding Tax

- ▶ Before making payments to the non-resident enterprise, the withholding agent shall withhold the WHT from the consideration to be paid or due payable to the non-residents. The tax should then be settled with the competent tax authority together with the "PRC Report Form of Withholding of Corporate Income Tax" within 7 days upon withholding.
- ▶ If the income is paid by installment, the withholding agent should, within 15 days prior to making the last payment, report to the competent tax bureau the details of all payments already made in order to complete a tax withholding clearance.

### Transfer of equity interest between two non-residents

- ▶ During a transaction of equity transfer conducted by both non-resident enterprises outside of China, the transferor, either by itself or through an agent, has to report and pay tax to the competent tax authority in the place where the Chinese enterprise whose equities have been transferred is located. The Chinese enterprise shall assist the competent tax authority to collect tax from the transferor.

## Indirect transfer of Chinese equity interests

### Indirect share transfer of Chines equity interests

- ▶ On February 3, 2015, the SAT released the Announcement Concerning Several Matters Relating to Corporate Income Tax on Indirect Transfer of Properties by Non-tax Resident Enterprises, Announcement 2015 No. 7 ("Announcement 7").
- ▶ According to Announcement 7, an indirect transfer of Chinese equity interests is defined as a transfer by a non-resident company ("Seller") of an equity interest or other similar right or interest in another offshore enterprise ("Target") that in turn directly or indirectly holds equity interests in a Chinese enterprise. An indirect share transfer would be regarded as a direct transfer of equity interests in China if the transfer lacks a reasonable commercial purpose. In such case, the Seller would be subject to Chinese WHT on the capital gain.
- ▶ Announcement 7 provides that the tax authorities should take into account all relevant arrangements in connection with an indirect transfer in determining whether the transfer lacks a reasonable commercial purpose, it specifically highlights a list of factors that would be "comprehensively analyzed," including:
  - Whether the value of share equity of an overseas company is primarily (directly or indirectly) comprised of China taxable assets;
  - Whether an overseas company's assets primarily consist of (directly or indirectly) investments in China; or if income of the overseas company is mainly derived (directly or indirectly) from China;
  - Whether the economic substances of a structure can be demonstrated by the actual functions performed and the risks assumed by the overseas intermediate company or its affiliated enterprise which directly or indirectly holds the China taxable assets;
  - The duration of the existence of the overseas company's shareholders, the business model and related organization structure;
  - Overseas income tax implications related to an indirect transfer of China taxable assets;
  - From a commercial point of view, whether the nonresident transferor's indirect investment and indirect transfer of China taxable assets could be replaced by a direct investment and direct transfer;

- The applicable Double Tax Agreement (DTA) provisions related to an indirect share transfer of taxable assets in China; and
  - Other related factors
- ▶ There are safe harbour rules provided by Announcement 7, such as qualified internal restructuring, which would be accepted by China tax authorities as having reasonable commercial purpose, and thus no China tax exposure will arise.

### Reporting of the transaction

- ▶ According to Announcement 7, the transaction can be reported to the Chinese tax authorities based on submitting certain documents related to the transaction such as share transfer agreement. The reporting is voluntary and it may be performed by buyer of an equity interest in Target ("Buyer"), Seller, or the underlying PRC subsidiaries.
- ▶ From Buyer's perspective, it should have an incentive to report the transaction under Announcement 7 since this may mitigate their risk of being subject to penalties for not withholding or under-withholding taxes on the transaction, as described below.

### Withholding obligation on the WHT

- ▶ If the transaction is regarded as lacking reasonable commercial purpose and thus gives rise to WHT in China, according to Announcement 7, Buyer is required to withhold the applicable taxes and submit them to the PRC tax authority. The tax liability arises on the date when the equity transfer contract/agreement takes effect and the transfer of equity interest in Target is completed.
- ▶ If Buyer does not withhold or fails to withhold, then Seller is required to report the transaction to the PRC tax authority and pay the applicable taxes within 7 days after the tax liability arises.
- ▶ If Buyer does not withhold or fails to withhold, and Seller fails to pay the tax, then the PRC tax authority may impose penalties on Buyer. Generally, the penalties range from 50% to 300% of the unpaid taxes.

## Indirect transfer of Chinese equity interests

- ▶ However, Announcement 7 states that if Buyer has reported the transaction within 30 days upon signing the agreement, Buyer may be exempted from or receive reduced penalties.

### Calculation of WHT on capital gain

- ▶ The WHT rate for the capital gains tax is 10%. Calculation is as follows:
  - WHT on the capital gain = (share price – investment cost)\*10%
- ▶ Share price is the price indicated in the share transfer agreement for the PRC subsidiary. Investment cost is the paid-in capital in the PRC subsidiary under a direct investment, or the share price if equity interests in the PRC subsidiary were previously acquired.

## Other

### Thin capitalization

- ▶ The thin capitalization rules operate to disallow a deduction for excessive interest expense with respect to related party financing. The debt-to-equity ratio is specified as 5:1 for financial institutions and 2:1 in all other cases. Interest expense exceeding the stipulated threshold is non-deductible in the current and subsequent periods, unless the enterprise can produce supporting documentation demonstrating that the financing is at arm's length or that the effective tax rate of the borrowing entity is not higher than the rate of the domestic related party that receives the interest.

### General anti-avoidance rule

- ▶ China's general anti-avoidance rule (GAAR) requires a bona fide business purpose for any commercial arrangement that has the effect of reducing, deferring or avoiding taxable revenue or taxable income. In the absence of such a purpose, the tax authorities have the power to disregard the arrangement and impose Chinese tax.

### Tax administration - filing and payment

- ▶ Enterprises normally are required to file provisional EIT returns with the local tax authorities within 15 days of the end of each quarter. These installments generally are calculated on actual quarterly profits. Enterprises that have difficulty prepaying tax based on actual quarterly profits may make prepayments based on the quarterly average taxable income for the preceding year, or by another method approved by the authorities.
- ▶ Final settlement of tax liability must be made within five months of the end of the year. A return must be filed regardless of whether the operations of the enterprise resulted in a profit or a loss. An enterprise that cannot file a tax return within the prescribed time because of special circumstances (e.g. natural disasters or shifts in national economic policy) may request an extension from the local tax authorities.
- ▶ A late payment surcharge will be imposed on a daily basis, at a rate of 0.05% of the amount of underpaid tax. Penalties may be imposed in addition to the late payment surcharge. An interest-based penalty may be imposed for transfer pricing, thin capitalization, CFC and general anti-avoidance tax adjustments. The tax authorities may issue rulings for special cases.

- ▶ Where a resident enterprise has branch offices registered in different regions in China and operating cross-regionally, both the head office and the branches may be required to make EIT filings.

### Tax authorities

- ▶ Tax legislation and policy are developed jointly by the SAT and the Ministry of Finance, with the SAT and its provincial and municipal offices administering taxation policies. Each locality in China has a state tax bureau under the SAT and a local tax bureau under both the SAT and the local government. The SAT and state tax bureaus mainly are responsible for the collection and administration of taxes that generate revenue for the central government or revenue that is shared between the central and local governments.

## Overview of general tax system

### General information on taxation in the Netherlands

#### Corporate income tax

- ▶ Corporate income tax is imposed on the worldwide profits of Dutch tax resident entities and on income derived from certain specific sources within the Netherlands of non-resident entities. The public limited liability company (in Dutch: naamloze vennootschap met beperkte aansprakelijkheid or NV) and the private limited liability company (in Dutch: besloten vennootschap met beperkte aansprakelijkheid or B.V.) are typically used Dutch legal entities.
- ▶ Whether an entity is tax resident is determined by reference to all relevant facts and circumstances such as the seat of the board, the location of the head office and where the board meetings are held. Entities incorporated under Dutch law, such as the B.V. and NV, are deemed to be resident in the Netherlands for corporate income tax purposes, except for the application of a limited number of articles of the Corporate Income Tax Act 1969 ("CITA"), bilateral tax treaties and EU Directives. The current statutory corporate income tax rate is 20% on the first EURk 200 (US\$k 222) of taxable profits and 25% on the remainder.

#### Value added tax

- ▶ VAT is imposed on goods delivered and services rendered in the Netherlands (other than exempt goods and services). The general VAT rate is 21%. Other rates are 6% and 0%. VAT incurred for the purchases of goods and services is recoverable to the extent that these goods and services are used for VAT taxable activities. VAT taxable activities which generate VAT recovery include in this respect the supply of goods and services subject to the 0% VAT rate.

## Tax residency

### Tax residency

- ▶ In principle, entities established under Dutch law are considered Dutch tax residents by virtue of law. However, an exception to this principle applies when a taxpayer wishes to form a Dutch fiscal unity, obtain a Dutch tax ruling or in some cases a tax treaty needs to be applied. In such cases, the entity needs to be Dutch tax resident under a facts and circumstances test.
- ▶ Such tax residency is generally established by having the place of effective management in the Netherlands. Whether this is indeed the case is determined on the basis of the prevailing facts and circumstances. Typically, items which are considered when determining tax residency are the place where strategic decisions regarding the company's business are made and the place where key persons of the company (e.g. board members) exercise their duties and where board members themselves are resident.
- ▶ If the actual decision making and preparation takes place in different places, it must be determined whether the formal decision making is merely a rubberstamping of decisions that have been made as part of the preparation process. If that is the case, the latter is decisive. As indicated below, the place where the directors of the company actually reside is not decisive, but can be used as an indication of the place of management.
- ▶ The management board of the Dutch company is one of the relevant factors that should be considered to determine the tax residency of that company. In this respect, it should be considered that the place of residence of the board directors is included in the extract of the Dutch Chamber of Commerce to which the tax authorities have direct access. The tax inspector is likely to use such extract as a starting point in his enquiry to determine the place of residence.
- ▶ Below follows a list of facts relevant for determining whether there is sufficient substance in the Netherlands. Even though Dutch tax law contains a presumption that a Dutch entity incorporated according to Dutch corporate law is deemed to be a Dutch resident, these facts are relevant because of the points mentioned above and because of jurisdictions making payments to the Netherlands may test whether the Dutch entity has sufficient substance according to their standards while under tax treaties entered into by the Netherlands, the substance may shift to another jurisdiction.

▶ Please find below a summary of relevant substance requirements which are recommended to maintain with respect to Dutch companies:

- at least 50% of the statutory (and competent) directors of the Dutch company should be residents of the Netherlands;
- the Dutch resident directors have the required professional knowledge to perform their duties satisfactorily. The directors should exercise their own discretionary authority with respect to the conclusion of transactions entered into by the entity, and should take responsibility for the proper implementation of such transactions;
- the taxpayer should have qualified personnel at its disposal to fulfil and administer the transactions entered into by the entity diligently;
- decisions of the board of directors must be taken in the Netherlands;
- the most important bank account(s) of the tax payer must be maintained in the Netherlands;
- bookkeeping of the tax payer must be carried out in the Netherlands;
- the taxpayer meets its tax compliance obligations;
- the taxpayer should have its registered address in the Netherlands;
- the taxpayer should, to its knowledge, not be regarded by another country as its resident.
- the cost base of the investments by the taxpayer in its subsidiaries must be funded with at least 15% equity.

### Foreign shareholders that hold a direct interest in a Dutch company

- ▶ Foreign shareholders of Dutch companies that are not regarded to run an active business themselves but a direct or indirect 100% shareholder does, must meet the above substance requirements in their country of incorporation.

## Fiscal unity

### Dutch fiscal unity

- ▶ Upon request and subject to certain conditions, a Dutch taxpayer (parent company) may form a fiscal unity for Dutch corporate income tax purposes (i.e. tax consolidation) with one or more of its direct and indirect subsidiaries. As a result of the fiscal unity regime the activities and assets and liabilities of the subsidiaries are attributed to the parent company. Both the balance sheets and the profit and loss accounts are consolidated for tax purposes. During the existence of the fiscal unity, the parent company is the only company effectively being subject to corporate income tax within the fiscal unity.
- ▶ The main advantages of the fiscal unity are the possibility to compensate profits of one legal entity with losses (e.g. due to interest expenses) of another legal entity within the fiscal unity, the possibility to transfer assets from one company to another without any recognized income at that time and that transactions between companies that are part of the fiscal unity are not subject to corporate income tax.
- ▶ A fiscal unity can be formed at any time during the year, but at the earliest three months before the request was submitted with the Dutch tax authorities (provided the requirements were met at the desired formation date).
- ▶ A fiscal unity can be formed if the following conditions are met on a continuous basis:
  - The parent company owns at least 95% (directly or indirectly) of the economic and legal ownership of the shares in the subsidiary (i.e. at least 95% of the shares reflecting 95% of the economic and legal ownership of the shares in the nominal paid-up share capital including voting rights and right to profits and capital);
  - The taxpayers' financial years coincide;
  - The taxpayers are subject to the same tax regime;
  - The taxpayers have their tax residence in the Netherlands (see subsequent section);
  - The parent company takes the form of an NV (public limited liability company), a B.V. (private limited liability company), a cooperative society, or a mutual insurance company. Certain foreign entities can also be the parent company of a fiscal unity;

- The subsidiary is incorporated as an NV or B.V. Certain foreign entities can also be the subsidiary of a fiscal unity; and
- The shares in the subsidiary are not held as inventory.

### VAT fiscal unity

#### General

- ▶ Subject to certain conditions, that should be continuously met, Dutch companies can form a VAT fiscal unity in the Netherlands. For this purpose, the Dutch companies should be sufficiently linked from a financial, economic and organisational perspective.
  - Financial: more than 50% of the shares are directly or indirectly held by the same (legal) person.
  - Economic: companies have the same range of customers, business, or perform predominantly services to each other.
  - Organisational: companies have the same persons or group of persons as management or management of one company is subordinate to the other company.
- ▶ The main advantages of a VAT fiscal unity are that local supplies between the companies in a VAT fiscal unity are not subject to VAT (cash flow advantage), the VAT fiscal unity may file one combined VAT return (administrative advantage) and it can improve the VAT recovery of the individual companies (mitigating VAT burden). The conditions for the VAT fiscal unity must be met upon closing of Action 7.
- ▶ Companies within the VAT fiscal unity are jointly and severally liable for Dutch VAT due by the other members of the VAT fiscal unity for the period the companies are included in the VAT group. The historic joint and severally liability for the period included in the VAT fiscal unity only ends after the statute of limitation of the year in which the company was included in the VAT fiscal unity has expired.
- ▶ The participation in the VAT fiscal unity ends per the date that the Dutch tax authorities have been notified that a company will exit the VAT fiscal unity

## Dividends

### Dividend received by a Dutch company

- ▶ Dividends received by a Dutch company should be exempt from Dutch corporate income tax where such distribution receipts fall within the Dutch participation exemption.

### Dividend paid by a Dutch company

- ▶ In principle, dividends paid by a Dutch company are subject to 15% domestic Dutch dividend withholding tax (unless the distribution is to a Dutch company in which at least 5% share capital is owned).
- ▶ Any dividends paid by the Dutch companies within the fiscal unity for corporate income tax purposes should be exempt from dividend withholding tax.
- ▶ Dividends paid by a Dutch company to a shareholder who is a resident of the EU (i.e. Allnex Belgium) are exempt from Dutch dividend withholding tax, provided the following conditions are met:
  - The shareholder maintains a holding of at least 5% of the nominal paid-up share capital of the company at the time the dividend is distributed (alternatively, a holding of at least 5% of voting capital must be considered if, under the terms of the double tax treaty with the company's EU state of residence, reduction of taxation on dividends is granted depending on the holding of voting rights).
  - The shareholder is not considered in his EU country of residence to be resident outside the EU under the terms of a tax treaty with a third, non-EU state.
  - The shareholder is not performing activities that are similar to the activities performed by an investment institution (as defined in Articles 6 and 28 of the Dutch Corporate Income Tax Act).
  - Under the terms of the tax treaty concluded by the Netherlands and the state of which the shareholder is resident, the rate reduction is not refused under the anti-abuse provisions (as recorded in the relevant tax treaty).
- ▶ Furthermore, the 15% domestic Dutch dividend withholding tax rate may be reduced depending on the applicable tax treaty between the Netherlands and the country of residence of the company receiving the dividends.

- ▶ As per 1 January 2016 EU Member States have the obligation to deny the benefits of the EU Parent-Subsidiary Directive when a structure is considered abusive. A structure is considered abusive if an arrangement or series of arrangements shall be regarded as artificial to the extent they are not put into place for valid commercial reasons which reflect economic reality. Valid commercial reasons should exist if they are reflected in the substance of the entity holding the substantial interest and the (intermediate) holding companies. These substance requirements are similar to the Dutch substance requirements. If these substance requirements are not met, 15% Dutch dividend withholding tax may be due with respect to dividend distributions from NL NewCo to Allnex Belgium without a reduction of the 15% dividend withholding tax under the Netherlands – Belgium tax treaty.

### Non-resident taxation

- ▶ Proceeds received by Allnex Belgium from NL NewCo (e.g. dividends, capital gains and interest income) may be subject to Dutch corporate income tax if the interest in NL NewCo is held with (one of) the main reason(s) to avoid dividend withholding tax or income tax and the interest in NL NewCo cannot be allocated to an active business. We understand that Allnex Belgium runs an active business to which the interest in NL NewCo can be allocated. Therefore, it should meet this active business test and thus should not be subject to Dutch corporate income tax based on domestic Dutch tax law

## Interest deductibility

### General

- ▶ Interest income is taxed at the statutory rate of 25% and interest expenses are in principle deductible from Dutch corporate income tax.
- ▶ Dutch tax law contains various interest deduction limitation rules that could apply.

### Re-qualification of debt into equity

- ▶ Debt could be re-qualified into equity for Dutch corporate income tax purposes, in which case the interest payments on such loans would be considered non-deductible dividend payments. In general, the legal form (i.e. form under civil law) of the instrument is respected. In case the instrument is not recognized as debt for Dutch tax purposes no interest deduction can be recognized.
- ▶ Based on case law such re-classification could take place three situations:
  - The loan is provided to a borrower that has no capacity to repay which is obvious from the outset.
  - Parties' true intentions were to provide equity instead of a loan and the formal form is not the reflection of the true intentions.
  - The loan has a term of more than 50 years or no term, is subordinated to all other creditors and has a profit dependent interest.

### Arm's length principle

- ▶ According to the arm's length principle, the pricing of transactions between the taxpayer and its affiliated companies should be in line with the pricing of comparable transactions between independent companies in comparable situations. Based on the arm's length principle, the companies involved should be compensated adequately for functions performed, assets used and risks incurred.
- ▶ The terms and conditions (amongst others the interest rate) of a loan agreement should be determined in accordance with the arm's length principle. If the interest rate (or another condition) is not at arm's length, the interest rate (or other conditions) of the loan may be adjusted by the Dutch tax authorities pursuant to Dutch transfer pricing legislation.
- ▶ The Dutch tax authorities not only focus on the arm's length principle with regard to the interest rate, but also try to use the arm's length principle to challenge the

principal amount of the loan in situations where the 'traditional' interest limitation rules are ineffective but significant amounts of shareholder debt are provided. In this respect, it is argued that a taxpayer can effectively not absorb more debt than a third party would be willing to grant and what one would expect on the basis of accepted business financial principles. However, thus far this argument has not been accepted in case law as an additional re-classification basis.

- ▶ In cases where the leverage in connection with related party loans was considered excessive and not at arm's length, only a risk free interest rate was accepted for tax purposes.

### Anti-base erosion rules

- ▶ The deductibility of interest paid, including related costs and foreign currency exchange movements, by a Dutch company on a related party loan may be challenged to the extent that the loan relates to one of the following transactions:
  - dividend distributions or repayments of capital;
  - capital contributions; or
  - the acquisition or extension of an interest in a company that is related to the taxpayer after this acquisition or extension.
- ▶ A party is considered a related party if (i) the Dutch taxpayer has at least a one third interest in the other company, (ii) the other party has at least one third interest in the Dutch party, or (iii) a third company has at least one third interest in both the Dutch taxpayer and the party concerned.
- ▶ These provisions could under circumstances also apply to third party debt. Guarantees from related parties (generally not wholly owned subsidiaries) could lead to a re-qualification of a third party loan into a related party loan, bringing the loan within the reach of the anti-base erosion rules. If the guarantees merely provide for better terms to the loan and not increase the borrowing capacity of the Dutch entity the guarantees should not lead to a re-qualification.
- ▶ This interest deduction limitation does not apply if either of the following conditions is satisfied:
  - The loan and the related transaction are primarily based on business considerations; or
  - At the level of the creditor, the interest on the loan is subject to a tax on income or profits that results in a levy of at least 10% on a tax base

## Interest deductibility

determined under Dutch standards. In addition, such interest income may not be set off against losses incurred in prior years or benefit from other forms or types of relief that were available when the loan was obtained. In addition, the loan may not be obtained in anticipation of losses or other types of relief that arise in the year in which the loan was granted or in the near future.

- ▶ In principle, interest related to the intercompany loan falls within the scope of the anti/base erosion rules since it is a related party loan used for the acquisition of shares. However, the anti-base erosion rules should not limit the interest deductibility with respect to the intercompany loan provided that:
  - (i) the transaction is considered to be primarily based on business reasons. If the acquisition takes place shortly after the acquisition of Nuplex Industries Ltd, it could be argued that this transaction is connected to a third party acquisition. In this respect, it is important that the acquisition of Nuplex Industries B.V. is leveraged taking into account an equity/debt ratio that does not exceed the debt/equity ratio of the acquisition of Nuplex Industries Ltd.
  - (ii) the intercompany loan is considered to be primarily based on business reasons. This is the case if the intercompany loan is properly linked to the bank debt taken up by Allnex S.à r.l. (reference is made to the below).

### Requirement of proper tracing/linking

- ▶ For purposes of deductibility of interest, it is important that the intercompany loan is properly linked the bank debt at the level of Allnex S.à r.l. This is achieved by proper execution of the steps and underlying legal documentation.
- ▶ The terms and conditions of the intercompany loan must mirror the terms and conditions of the bank debt (i.e., most important terms are currency, (re)payment schedule & obligations, term/maturity date, and interest rate (margin is allowed at the level of Allnex S.à r.l.).)
- ▶ Any repayment on the external debt (in the future) by Allnex S.à r.l. is (pro rata) repaid on the intercompany loan by NL NewCo.

### No interest / low interest bearing shareholder loans

- ▶ Deduction of interest, including value changes of the loan, is denied where a loan with no fixed maturity date or a maturity date of more than 10 years after the date of issuance (in the case that a loan agreement is prolonged, the terms should be added up) obtained from a related company bears no interest or an

interest rate which is significantly (at least 30%) lower than what would have been agreed upon between unrelated parties.

### Participation debt rules

- ▶ Generally, the participation debt rules may limit the deduction of interest expense if a Dutch company (taxpayer) has:
  - Debt generating interest expense not restricted under any other tax provision; and
  - One or more subsidiaries (including certain other assets such as a hybrid loan) that falls under the participation exemption; and
  - A fiscal equity that is lower than the purchase price of those subsidiaries.
- ▶ If a Dutch taxpayer has all of the above, a mathematical approach determines the disallowed deduction. Insofar the purchase price of the subsidiaries exceeds the fiscal equity of the Dutch taxpayer; the deduction is disallowed for a pro rata part. Finally, the interest expense is only disallowed to the extent the calculated disallowed portion exceeds an annual threshold of EURk 750 (USDk 833).
- ▶ There are several possible adjustments that can (partially) reduce the impact of the participation debt rules:
  - The exception for operational expansions: pursuant to this exception, the purchase price of the subsidiaries is reduced with amounts contributed to finance the expansion of operational activities. Under a grandfathering rule all subsidiaries acquired prior to December 31, 2006 are deemed to fall under this operational expansion escape for 90%.
  - The exception for active financing companies: pursuant to this exception, loan payables connected to active financing activities are excluded from the loan payables. Active financing activities require financing substance in the Netherlands (e.g. employees, office, etc.). Mere back-to-back financing activities do not qualify under this escape.
- ▶ Please note that the exception for operational expansions cannot be used in certain defined situations, i.e. (i) in case of certain double dips and (ii) if the main reason of the acquisition of the subsidiary was to create a tax deduction in the Netherlands.

## Interest deductibility

- ▶ We understand that after execution of these steps, the NL NewCo fiscal unity will only hold Nuplex Resins (Suzhou) Co. Ltd. and Nuplex Resins LLC (Russia). Depending on the values allocable to Nuplex Resins (Suzhou) Co. Ltd. and Nuplex Resins LLC (Russia), the threshold may be exceeded under the mathematical approach.
- ▶ There are several possible adjustments to the value of a participation for the applicability of these rules that can (partially) reduce the impact of the participation debt rules:
  - (i) the exception for operational expansions, and
  - (ii) the exception for active financing companies.
- ▶ Nuplex management represented that both subsidiaries are operational entities without significant passive activities/assets (such as intercompany financing/licensing activities or holding of significant amounts of 'passive' assets) and therefore the participation debt rules should not limit the interest deductibility at the level of NL NewCo fiscal unity. Under this representation the participation debt rules are not likely to apply).

## Leveraged buy-out rules

- ▶ The leveraged buy-out rules limit the deduction of interest expense on debt used for acquisition of shares of companies or increase in the shareholding interest of companies that are subsequently joined in a fiscal unity for Dutch corporate income tax purposes (bank debt and/or related party debt).
- ▶ Only a certain part of the interest expense is allowed for deduction. The interest expense related to the debt in the amount of 60% of the purchase price of the subsidiaries that are joined in a fiscal unity should still be deductible. This 60% is reduced annually by 5% to 25% (i.e. over a period of seven years).
- ▶ The rules in principle take into account all acquisitions or increases of shareholdings and all debt (except if the interest expense is limited under other rules) used to fund these acquisitions on an aggregate basis in the same financial year. As a result of the above rule, the aggregate purchase price and aggregate debt will have to be calculated.
- ▶ To the extent that the acquisition price of Nuplex Industries B.V. will be financed for more than 60% with debt, the interest expenses related to the debt should be non-deductible. This allowed percentage is reduced by 5% annually to 25% (in year 7).

## Participation exemption

- ▶ In order to qualify for the participation exemption, the following requirements should be met:
  - The Dutch shareholder owns at least 5% of the nominal paid-up capital of the subsidiary, which has capital divided into shares;
  - The subsidiary is not held as (deemed) portfolio investment (“motive test”).

### Motive test

- ▶ The main rule is that the participation exemption does not apply where the shares are held with the aim to simply obtain a return that may be expected from normal (passive) asset management. This non-portfolio investment requirement is based on long-standing Dutch case law. If the ordinary business of the shareholder can be considered as an extension of the ordinary business of the participation, the motive test should, in principle, be met.

### Deemed portfolio investment

- ▶ A subsidiary is deemed to be held as a portfolio investment if more than 50% of the assets of the subsidiary on a consolidated basis generally consist of investments in companies of less than 5%.
- ▶ In addition, a subsidiary is deemed to be held as a portfolio investment, if more than 50% of the function of this subsidiary (and its subsidiaries) comprises of group financing activities.
- ▶ If the subsidiary should be qualified as a deemed portfolio investment, the participation exemption is nevertheless applicable if the subsidiary should meet the conditions of the asset test and/or “effective tax rate” test (see below).
- ▶ Only if both tests are failed will the participation exemption be denied. If the participation exemption regime does not apply, typically a credit could be available.

### Asset test

- ▶ The asset test requires that at least 50% of the assets of the participation are, directly or indirectly, considered to be active assets (and not deemed free portfolio investments). Active assets are assets which are reasonably required within the enterprise of the company holding these investments. Whether or not an asset is considered active is a matter of fact and should be judged on a case-

by-case basis. For the purpose of performing the asset test, a so-called aggregated balance sheet should be drawn up.

### Effective tax rate test

- ▶ If a subsidiary is considered to be held as deemed portfolio investment and does not meet the “asset test”, it has to be subject to a certain level of taxation (“realistic levy”) in order to be eligible for the application of the participation exemption. This test is generally referred to as the “low-taxed test” or “effective tax rate test”. The threshold for determining whether or not a participation should be considered low-taxed, is set at an effective tax rate of 10% calculated on a taxable basis determined under Dutch principles. This means that the taxable basis of participation has to be recalculated based on Dutch rules and regulations.
- ▶ As long as the taxable basis of a subsidiary is determined in a manner that does not differ too significantly from Dutch standards, recalculation is in principle not necessary. Moreover, in the case of application of facilities like tax loss compensation or relief for double taxation, such facility may result in the ultimate effective tax burden at the level of the portfolio subsidiary being less than 10% of the taxable profit, calculated according to Dutch tax principles. However, for the calculation of the effective tax rate this is in principle disregarded.

### Conclusion

- ▶ We understand that Nuplex Industries B.V. holds at least 5% of Nuplex Resins LLC (Russia) and Nuplex Resins (Suzhou) Co. Ltd. (China). We furthermore understand from Nuplex management that Nuplex Resins LLC (Russia) and Nuplex Resins (Suzhou) Co. Ltd. (China) have active operations and their assets do not consist for more than 50% of passive assets.
- ▶ Based on the above, the Dutch participation exemption should apply to Nuplex Resins LLC (Russia) and Nuplex Resins (Suzhou) Co. Ltd. (China) and therefore proceeds received by the fiscal unity from these subsidiaries should be exempt from Dutch corporate income tax.

## Overview of general tax system

### Tax rates in general

- ▶ Corporations (such as Nuplex Industries GmbH and Nuplex Resins GmbH) having their corporate seat or effective place of management in Germany are subject to ordinary taxation, specifically CIT and TT, on their worldwide income, unless otherwise provided in applicable tax treaties.
- ▶ The German CIT rate amounts to 15% plus 5.5% solidarity surcharge thereon resulting to a statutory rate of 15.825%.
- ▶ In addition, municipalities in which the corporation operates a permanent establishment levy TT on the allocable income whereby the tax charge depends on the respective municipality rate. The German TT rate generally varies from 7% to 17.2%.
- ▶ Given that Nuplex Industries GmbH and Nuplex Resins GmbH declared to be in a fiscal unity for CIT and TT purposes, Nuplex Resins GmbH taxable income for CIT and TT purposes is allocated to Nuplex Industries GmbH and taxed at this level (Nuplex Resins GmbH is deemed being a permanent establishment of Nuplex Industries GmbH for TT purposes).
- ▶ Neither CIT (including solidarity surcharge) nor TT are deductible for tax purposes
- ▶ The taxable income for trade tax purposes is generally based on the taxable income for corporate income tax purposes, which is however, subject to certain adjustments.
- ▶ In case at hand
- ▶ Nuplex Industries GmbH and Nuplex Resins GmbH have its legal seat in Bitterfeld-Wolfen. We therefore assume that their permanent establishments are located in Bitterfeld-Wolfen only. As such, the statutory TT rate amounts to 14.0% (levy rate of 400% in FY14 - FY16) leading to a combined statutory income tax rate of 29.825%.

### Tax year

- ▶ Both, Nuplex Industries GmbH and Nuplex Resins GmbH have a fiscal year ending on 30 June and therefore deviating from the calendar year.
- ▶ The tax year is generally the calendar year. However, a taxpayer can choose a fiscal year deviating from the calendar year. Nevertheless, after having chosen initially a fiscal year corresponding to the calendar year, the taxpayer needs the prior consent of the tax authorities before changing his fiscal year end to deviate from the calendar year. In contrast a change back to the calendar year end is always possible. The change of the fiscal year also has to be entered into the commercial register of the respective entity prior to the beginning of the new fiscal year.
- ▶ If a company adopts a fiscal year deviating from the calendar year, tax is assessed for the taxable income of the fiscal year ending in the respective calendar year.
- ▶ If more than one fiscal year ends in one calendar year (e.g. due to a change of the fiscal year from a deviating fiscal year to the calendar year) all fiscal years ending in the respective calendar would be taxed in the respective calendar year. Thus, the taxation would include a longer period than 12 months.

### General note with regard to potential German tax developments

- ▶ Based on the BEPS initiative at OECD level, the German Government has initiated a tax reform of business taxation aspects in Germany. Given that the initiative is still ongoing, there is no draft legislation yet. Nevertheless, the developments should be monitored going forward, whether any changes in law may affect the tax implications mentioned in this report.

## Fiscal unity for CIT and TT purposes

### General conditions including legal requirements and execution

- ▶ To achieve an offsetting of the operating profits of Nuplex Resins GmbH (via Nuplex Industries GmbH due to the declared fiscal unity with Nuplex Resins GmbH) and the financing expenses (i.e. interest charges) and transaction costs occurring at the level of Allnex Holding I Germany GmbH for German tax purposes a fiscal unity ("Organschaft") is required or, amongst other merger routes, through a merger of Nuplex Industries GmbH with and into Allnex Holding I Germany GmbH.
- ▶ Given that Nuplex Industries GmbH is already highly leveraged (see below) and considering that it has tax loss carry-forwards, it needs to be determined at which point in time joining of the fiscal unity which is ultimately headed by Allnex Holding I Germany GmbH is feasible from a tax perspective.
- ▶ According to current tax legislation, the following preconditions for a fiscal unity for CIT and TT purposes have to be met:
  - *Financial integration* between the subsidiary and its parent company during the entire FY of the subsidiary. This precondition is generally fulfilled if the parent in the fiscal unity holds the majority in voting rights of the subsidiary from the beginning of the FY of the subsidiary. In case the subsidiary is established by the parent entity, this precondition is fulfilled as of the establishment of the subsidiary.
  - *Conclusion of PLTA* with a term of at least five calendar years beginning with the FY of the subsidiary for which the PLTA shall be effective. The PLTA needs to be registered with the commercial register of the subsidiaries until the end of the first FY for which the fiscal unity shall be effective.
  - In addition, a valid PLTA requires that for statutory purposes only the profits after an offsetting of existing (pre-fiscal unity) losses according to German GAAP at the level of the subsidiary are transferred to the parent company.
- ▶ It has to be considered that the PLTA is only valid for tax purposes in case it is seriously intended to carry out the agreement for a term of at least 5 consecutive calendar years when it is concluded and the proper execution of the PLPA according to the requirements of German Tax Law is ensured. In particular, any profit will have to be actually transferred, and any loss will have to be actually

compensated for in accordance with sec. 302 SCA. Otherwise, the fiscal unity will be disregarded retroactively for the entire period.

- ▶ With PLTA dated 19 March 2012 (and registration dated 30 May 2012), Nuplex Industries GmbH and Nuplex Resins GmbH have formed a fiscal unity for CIT and TT purposes. As such, the minimum period (full 5 calendar years) of the PLTA has not expired yet. In order to ensure that the fiscal unity will not be disregarded retroactively, we recommend to carve-out Nuplex Industries GmbH out from under Nuplex Resins B.V., but not to transfer the shares in Nuplex Resins GmbH directly.
- ▶ Given that Nuplex Group has a fiscal year ending on 30 June and considering that Allnex Holding I Germany GmbH must have owned the shares in Nuplex Industries GmbH prior to begin of 1 July 2016 to establish a fiscal unity as from 1 July 2016 onwards.
- ▶ The fiscal unity of Allnex Holding I Germany GmbH with Nuplex Industries GmbH cannot be established as from 1 July 2016 onwards if closing of the transaction occurs afterwards. If closing of the transaction occurs after 1 July 2016, it could be contemplated to change Nuplex Industries GmbH' fiscal year to end on 31 December 2016 or to include Nuplex Industries GmbH to the Allnex fiscal unity as from 1 July 2017 onwards. In any case, the exact timing of the integration of German Nuplex entities to the German Allnex fiscal unity needs to be carefully analysed from an interest limitation perspective (see below) depending on the actual financial results of Nuplex Industries GmbH including its subsidiaries going forward.
- ▶ The fiscal unity parent can be either a corporation (tax resident in Germany) or a limited partnership. In the latter case as an additional prerequisite, it has to be considered that the limited partnership has to conduct an own trade or business ("originär gewerbliche Tätigkeit").

### Tax consequences of a fiscal unity

- ▶ A valid fiscal unity would have the following effects for tax purposes:
  - The subsidiary in the fiscal unity is not subject to income taxation (CIT and TT). The taxable income (whether positive or negative) of the subsidiary is allocated to its ultimate parent company. Hence, the taxable income of all entities which are part of the fiscal unity (Nuplex Resins GmbH) is subject to

## Fiscal unity for CIT and TT purposes

income taxation at the level of Nuplex Industries GmbH. For purposes of the interest barrier rule (please see below), the entities of the fiscal unity would be treated as one “business”.

- ▶ In case that Nuplex Industries shall join the fiscal unity with Allnex Holding I Germany GmbH, any TLCFs at the level of the subsidiary (i.e. Nuplex Industries GmbH and Nuplex Resins GmbH) in the fiscal unity for CIT and TT purposes, which incurred prior to the establishment of the fiscal unity, are “frozen” during the fiscal unity, i.e. the TLCFs can neither be used to be offset against its own income (before income allocation to the parent) nor against the income of the parent. However, the TLCFs can be used at the level of the subsidiary itself after the termination of the fiscal unity, if they are still available at that point in time (i.e. not forfeited due to change in ownership rules, etc.). Minimum taxation rule (“Mindestbesteuerung”) as well as change of ownership rules (please see below) have to be considered.
- ▶ Based on the information provided, TLCFs for purposes of CIT or TT exist at the level of Nuplex Industries GmbH as of the end of FY14 (no information was provided for FY15 and FY16). However, a direct or indirect transfer of more than 50% of Nuplex Industries GmbH’s shares would lead to a forfeiture of the entire (remaining and current) CIT and TT loss carry forwards, unless and if and to the extent TLCF survive the envisaged transaction due to the built-in gains exemption (for details see below). This should however not be the case.
- ▶ Where the profit absorbed under the PLTA deviates from the tax balance sheet profit of the fiscal unity subsidiary, and the reason for this deviation is laid outside of the fiscal unity (e.g. a tax balance sheet deviation from a period prior to the fiscal unity being released), such differences (“vororganschaftliche Mehr-/Minderabführungen”) are treated as dividends (in case of a positive deviation) or as contributions respectively (in case of a negative deviation).
- ▶ German dual consolidated loss rules have to be considered in case of a German fiscal unity. Broadly, dual consolidated loss rules disallow any German loss of a parent or subsidiary in a German fiscal unity, if such loss can be considered by any other (non-resident) person.
- ▶ That is, it needs to be ensured that interest expense / loss resulting from interest expenses incurred at the level of the German fiscal unity parent or fiscal unity subsidiary (i.e., at the level of Nuplex Industries GmbH, Nuplex Resins GmbH or

also at Allnex Holding I Germany GmbH level) is not “recognized” abroad (e.g. in Luxembourg), as otherwise interest expense deduction in Germany would be disallowed to the extent a loss is incurred at the level of the respective fiscal unity entity (determined on a stand-alone basis) in Germany.

- ▶ Any interest payments amongst members of a fiscal unity are to be ignored for interest limitation purposes.

## Dividend distribution

### Timing of dividend distributions for trade tax purposes

- ▶ Generally, any dividends received by a German corporation are 95% tax exempt provided that it owns at least 10% of the shares in the distributing entity (portfolio dividends). As such, 5% of the dividend is subject to taxation at ordinary rates leading to an effective tax of approx. 1.5% (5% dividend x approx. 30% tax rate).
- ▶ In order to benefit from the participation exemption for TT, the receiving company has to be a shareholder of the distributing subsidiary from the beginning of the tax assessment year onwards, i.e. 1 January of a given year. The shareholding needs to be at least 15% (affiliation privilege – “gewerbesteuerliches Schachtelpatent”). Otherwise, the received dividend would be fully subject to TT (approx. 14-15%).
- ▶ Please note that the dividend taxation treatment is applicable to both, ordinary and constructive dividends.
- ▶ As such, the timing of any dividends to be distributed by Nuplex Industries GmbH to Allnex Holding I Germany GmbH needs to be carefully reviewed as otherwise, the dividend may be subject to TT (roughly 14% - 15%) at the level of Allnex Holding I Germany GmbH. In any case, no dividends should be paid by Nuplex Industries B.V. to Allnex Holding I Germany GmbH in 2016 due to the expected TT burden.
- ▶ In case of a fiscal unity, any profits of the fiscal unity subsidiary which are upstreamed to the fiscal unity parent are not subject to dividend taxation.

### Withholding tax on dividends

- ▶ Dividends by a German corporation to both resident and non-resident shareholder are generally subject to German withholding tax (WHT) rate of 26.375% (25% plus solidarity surcharge of 5.5% thereon). The WHT has to be retained and paid by the distributing entity when the distribution is made. Any German recipient (e.g., Allnex Holding I Germany GmbH) is able to claim for refund of WHT which was withheld by another German corporation (e.g., Nuplex Industries GmbH).
- ▶ In case of dividend distributions to non-resident shareholders, relief from WHT can be achieved based on an applicable double tax treaty, the EC Parent Subsidiary Directive or based on domestic rules, but subject to the requirements of the anti-treaty shopping rules are fulfilled. Given that it is intended that the

shares in Nuplex Industries GmbH shall be acquired by Allnex Holding I Germany GmbH, which is located in Germany, we did not further comment to these circumstances.

- ▶ In case a tax exemption certificate is in place no WHT occurs.
- ▶ Dividends (including hidden profit distributions) would not trigger WHT in case the capital contribution account for tax purposes (“steuerliches Einlagekonto”) would be used. This would be the case if (i) no distributable reserves are available according to the prior year’s tax balance sheet, (ii) sufficient amount of capital contribution account for tax purposes would be available and (iii) the use of this account would be properly declared in the course of the tax returns for the respective year and the tax notifications issued to the recipient.

## Interest payments

- ▶ Generally, interest expenses of a German taxpayer reduce the taxable income for both, TT and CIT purposes if paid out in cash or accrued for. As the interest payments are based on an interest rate referring to the respective loan amount and will not be profit participating, the interest payments should not be subject to WHT as long as they are not secured by domestic property.
- ▶ However, the following restrictions exist:

### Arm's length principle

- ▶ The interest rate applied to shareholder loan granted by Allnex S.à r.l. has to be agreed at arm's length in order to avoid hidden profit distributions. Tax authorities tend to challenge interest rates on debt granted by a shareholder exceeding senior bank debt level. In any case, proper transfer pricing analysis and documentation should be prepared for the shareholder loan interest rate.
- ▶ This decision is based on the assumption that the relationship of the dominating shareholder towards his company would constitute a security in its own right (resulting from the possibility to exert influence on the borrower) and thereby collateral securities would actually exist without any possibility to argue that a higher spread is the result of the contractual as well as structural subordination compared to the senior bank debt. Any interest expenses exceeding the market rate of senior debt may therefore not be deductible for tax purposes and may be qualified as a hidden profit distribution upon payment.
- ▶ In case of a deemed hidden profit distribution an interest expense deduction would be denied in the respective amount. Furthermore, the interest payment will consequently be considered as a dividend distribution which would trigger WHT upon payment. For the taxation of dividends please see below.
- ▶ Please note that in case the shareholder loan is subordinated to the bank debt the tax treatment (i.e. the tax deductibility of interest on shareholder loan) should not be tangled as long as the shareholder loan is still considered as debt (i.e. is not waived upon).
- ▶ Further to the arm's length character of the interest payments, it will need to be analyzed whether a guarantee fee will need to be paid to the entities granting security (i.e., Nuplex Industries GmbH and Nuplex Resins GmbH) for the external financing (senior facility) of the group. Otherwise, the tax authorities may

assess hidden profit distributions at the level of the entities granting the securities without being granted the respective loans.

### Add-back of interest expense for TT purposes

- ▶ Trade tax is imposed on the tax base for TT purposes and therefore on a different tax base than for CIT purposes. In order to calculate the tax base for TT purposes the tax base for CIT purposes is amended by certain add-backs and cutbacks.
- ▶ These amendments for TT purposes include an add-back of interest expenses in an amount of 25% in case the expenses (together with the proportionate add-back of several other add-backs such as rental and leasing expenses) exceed a threshold of EURk 100 (USDk 111).
- ▶ Costs of procuring funds as well as administration costs and fees which are paid for the procurement of funds are considered as interest expenses as well. However, the add-back does only apply to interest expenses which have reduced the taxable income for CIT purposes, i.e. in case an interest deduction is denied due to German interest barrier rules (please see below) these interest expenses would not have to be added back in so far.

### Interest barrier rule

#### General rule

- ▶ The deduction of interest expenses for tax purposes is limited by the so-called interest barrier rule ("Zinsschranke"). Based on this rule, interest expenses of a business are fully deductible to the extent interest income is generated. The exceeding amount of interest expenses (net interest expenses), is defined as the sum of all interest expenses less the sum of all interest income. The interest expense and interest income definitions are broad and include payments on debts where the holder is entitled either to any return of capital or a return on capital. Income or expenses from original issue discount instruments are treated as interest in this context, according to the tax authorities.
- ▶ Net interest expenses are generally only tax deductible up to 30% of the taxable EBITDA, unless one of the exceptions applies (please see exceptions below). The taxable EBITDA is determined by the taxable income of the year plus interest expenses, minus interest income and plus depreciation and amortization according to tax law. Please note that the taxable income (taxable EBITDA) can

## Interest payments

significantly deviate from the accounting income (accounting EBITDA), e.g. dividend income is tax exempted at 95% and is therefore not included in the taxable EBITDA.

### Excess net interest expenses carry forward

- ▶ Non-deductible interest expenses can be carried forward and can be deducted in later years as interest expenses.

### EBITDA carry forward

- ▶ In case that net interest expenses fall short of 30% of the taxable EBITDA, a five-year excess EBITDA carry forward can be recorded. The EBITDA carry forward would increase the amount of deductible interest expense in subsequent years by increasing the applicable EBITDA as far as the net interest expense is not already deductible on the basis of the EBITDA of the respective year.

### Exception from application of interest barrier rule

- ▶ The interest barrier rule does not apply, if
  - the total net interest expenses do not exceed the threshold of EURm 3 (USDm 3.3); or
  - the company does not belong to a consolidated group; or
  - the so called “escape clause” applies. The escape clause is applicable if the equity ratio of the German business is equal to or higher than the equity ratio of the worldwide group for the applicable year based on balance sheets of the last financial year end. Further requirements and adjustments have to be considered when calculating the relevant equity ratio.

### In the case at hand

- ▶ With regard to the application of the interest limitation rule at Allnex Holding I Germany GmbH level, we understand that Allnex Holding I Germany GmbH's net interest expenses are currently exceeding the EURm 3 (USDm 3.3) threshold. As such, the deductibility of its interest expenses is subject to the 30% EBITDA rule.
- ▶ As such, if Allnex Holding I Germany GmbH's net interest expenses are actually higher than 30% of its EBITDA (including consideration of its controlled subsidiaries which are part of the fiscal unity controlled by it) and assuming that

Nuplex Industries GmbH does not join the fiscal unity ultimately headed by Allnex Holding I Germany GmbH, any additional interest expenses resulting from the post-closing integration in Germany would currently not be tax deductible. However, unused interest will be carried forward. It may therefore be considered that Nuplex Industries GmbH joins the fiscal unity which is headed by Allnex Holding I Germany GmbH. This is however only recommendable from a German tax perspective, if Nuplex Industries GmbH has unused EBITDA following closing, see below).

- ▶ With regard to the application of the interest limitation rule at Nuplex Industries GmbH level, we understand that it did not apply since the net interest expense did not exceed the EURm 3 (USDm 3.3) threshold in FY14 (no information was provided for FY15 and FY16). As such, no EBITDA carry-forwards should have been built-up. In FY14, Nuplex Industries GmbH suffered a tax loss of approx. EURm 1.8 (USDm 2), resulting from the interest expenses.
- ▶ It occurs to us that Nuplex Industries GmbH is at the limit of its debt capacity. That is, Management explained that Nuplex Industries GmbH granted a loan to its Dutch shareholder to create interest income in Germany to push the net interest expenses below the threshold of EURm 3 (USDm 3.3). Upon closing (step 4), we expect that the internal and external debt will be replaced by intercompany loans owed to Allnex S.à r.l. Assuming that the level of debt as well as the applied interest rate will be continued, we would expect that this result should remain.
- ▶ Consequently, under the assumption of the aforesaid, as long as Nuplex Industries GmbH does not join the fiscal unity with Allnex Holding I Germany GmbH and provided that its net interest expenses in a given year does not exceed the threshold of EURm 3 (USDm 3.3), these interest expenses can be fully deducted. If the taxable income will become negative, it can be carried forward to future years which could shelter future taxable income.
- ▶ On the other hand, if Nuplex Industries GmbH joins the fiscal unity which is headed by Allnex Holding I Germany GmbH or if Nuplex Industries GmbH's net interest expenses exceed EURm 3 (USDm 3.3), the deductibility of its interest expenses is limited to 30% of the EBITDA (either the EBITDA of the fiscal unity with Nuplex Resins only, or the EBITDA of the fiscal unity which is ultimately headed by Allnex Holding I Germany GmbH).

## Interest payments

- ▶ Considering the aforesaid, it should be carefully reviewed whether or not or at which point in time Nuplex Industries GmbH should not join the fiscal unity with Allnex Holding I Germany GmbH. This review should be performed once detailed information is available.

## Loss carry forward rules for CIT and TT purposes

### Tax loss carry forwards / carry backs

- ▶ Acc. to German tax law, tax losses for CIT as well as for TT purposes can generally be carried forward indefinitely. For CIT purposes – but not for TT purposes – an optional one year loss carry back limited to EURm 1 (USDm 1.11) is available (minimum taxation rule).

### Minimum taxation rule

- ▶ The utilization of tax losses by offsetting future taxable income against tax loss carry forwards is limited under the so-called minimum taxation rules.
- ▶ The first EURm 1(USDm 1.11) of taxable income of a given year can be fully offset against existing tax loss carry forwards. Only 60% of the exceeding taxable income can be offset against tax loss carry forwards for CIT and TT purposes. The remaining 40% have to be treated as ordinary income for CIT and TT purposes and, thus, will be taxed at the applicable tax rates.

### Loss limitation rules

#### Change of ownership rules

- ▶ As a general rule, if during a period of five years more than 25% and not more than 50% of the shares in a loss carrying corporation are directly or indirectly transferred to a (single) acquirer or a person related to such acquirer (the related party), the tax loss carry forwards that existed at the time of the ownership change are proportionally forfeited (acc. to the percentage of the transferred shares). To prevent a group of four or more unrelated investors from obtaining the benefits of an otherwise inactive loss entity, all persons with “equally phased objectives” are included in the “related party” definition.
- ▶ If, cumulatively, during a period of five years more than 50% of the shares in the loss carrying corporation are directly or indirectly transferred in such manner, the entire (remaining) tax loss carry forwards for corporate income and trade tax purposes are forfeited.
- ▶ These change of ownership rules also apply to losses incurred during the ongoing fiscal year up to closing as well as any EBITDA carry-forwards.

### Built-in gains exception

- ▶ TLCFs are not forfeit upon a relevant change-in-ownership event up to the amount of taxable built-in gains available at the level of the transferred company at point of time when the shares are transferred.
- ▶ Taxable built-in gains in the sense of Sec. 8c CITA are the (taxable) difference between the value of the equity acc. to tax balance sheet and the fair market value of the shares. However, built-in gains which are not subject to taxation in Germany cannot be utilized for these purposes (e.g. built-in gains in subsidiaries, as a capital gain triggered by disposal of the subsidiaries would generally be tax exempt due to German participation exemption acc. to Sec. 8b para. 2 CITA).

### Group restructuring exception

- ▶ Furthermore, there is no harmful change of ownership if the same person holds directly or indirectly 100% of the shares in the transferor and the transferee.

### In the case at hand

- ▶ The TLCFs of Nuplex Industries GmbH amount to EURk 4,105 (USDk 4,560) for CIT purposes and EURk 3,605 (USDk 4,005) for TT purposes for FY 13/14. No actual information was provided for FY15 and FY16.
- ▶ We understand that Nuplex Industries GmbH is a pure holding company only. As such, it should not have any built-in gains in the meaning of the change-in-ownership rules. That is, any built-in gains at Nuplex Resins GmbH level cannot be utilized for a survival of tax losses at Nuplex Industries level. We therefore do not expect that any TLCF as well as current year losses at Nuplex Industries GmbH level will survive the envisaged transaction - even if the taxable income of the fiscal unity is positive at the end of the fiscal year. This is because any positive/negative taxable income of the fiscal unity subsidiary is allocated to the fiscal unity parent at fiscal year-end only. As such, in case of a share transfer during a given year, any expenses at fiscal unity parent level will therefore generally forfeit (unless the group exemption or built-in gains exemption applies).

## Real estate transfer tax

### General

- ▶ Apart from direct transfers of real estate located in Germany, the (direct or indirect) transfer to one acquirer or the unification in one hand of at least 95% of the participation in a real estate owning corporation or partnership triggers RETT.
- ▶ The RETT rates vary between 3.5% to 6.5% depending on where the real estate is located.
- ▶ Tax authorities need to be notified within 14 days about a share transfer triggering RETT upon (unconditional) signing of the SPA. Otherwise, any RETT cannot be refunded in case a transaction which generally triggers RETT is being reversed.
- ▶ The German Constitutional Court confirmed in 2015 that the so far applied tax basis for RETT is not in line with constitutional principles and must not be applied for (also with retroactive effect). Subsequently, the legislator changed the law in 2015 with effect for all open assessments starting 2009, so the RETT basis should be closer to the fair market value, which is typically higher than the RETT basis applied so far.
- ▶ If the tax authorities have not issued RETT assessment notices for the transfer in 2012 so far, the newly defined (higher) RETT assessment basis should generally apply in the case at hand.
- ▶ It should be noted, that the tax base for RETT is generally capped at the fair market value of the respective real estate. Thus, if a value lower than the value according to the new law can be substantiated vis-à-vis the tax authorities, e.g. by a professional opinion, this would lead to lower RETT than estimated.

### In the case at hand

- ▶ Due to the transfer of 100% of the shares in Nuplex Industries (indirect transfer 100% of shares of in German entities), RETT will be triggered on the German real property owned by Nuplex Resins GmbH.
- ▶ That is, Nuplex Group (i.e. Nuplex Resins GmbH) currently owns significant German real estate of statutory with a book value according to German GAAP of approx. EURm 5.7 (USDm 6.3) as of 30 June 2015 located in Bitterfeld-Wolfen, (Saxony-Anhalt), where the applicable RETT rate amounts to 5% on the RETT base. Under the assumption that the FMV equals the RETT base and the FMV

being in a range of EURm 6 (USDm 6.7) to EURm 10 (USDm 11.1) the RETT burden would amount in a range of EURm 0.3 (USDm 0.33) to EURm 0.5 (USDm 0.55). This amount should be verified in the further process.

- ▶ We understand that the transaction will be subject to antitrust approval and the fulfilment of other closing conditions. In such case, RETT should become due at the time of the approval, i.e. at the time of closing.
- ▶ Within two weeks after signing NZ BidCo is obliged to file notice of the transaction with the tax authorities. We understand that signing of the SoA shall occur on [28 March 2016]. As such, NZ BidCo should file the RETT notification by [11 April 2016].

## Overview of general tax system

### Corporate income tax (CIT) and municipal business tax (MBT)

- ▶ Allnex S.à r.l. and Allnex Holdings S.à r.l. are subject to CIT on their worldwide income. The tax rate is 22.47% (if the taxable income exceeds EURk 15 (USDK 16.7)). The tax rate includes an unemployment surcharge of 7% as of 2014 of the amount of CIT.
- ▶ In addition to CIT, MBT is due on its profits derived from business activities carried out by Allnex S.à r.l. and Allnex Holdings S.à r.l. The basic rate of 3% is multiplied by a factor that varies between 225% and 400% depending upon the municipality. In Luxembourg city, this leads to an effective MBT rate of 6.75% (i.e., 225%\*3%). MBT is determined on a basis essentially equal to the basis applied for CIT purposes.
- ▶ The above rates result in an overall tax rate on income of 29.22% for 2016 for companies resident in the municipality of Luxembourg City.

### Net wealth tax (NWT)

- ▶ Allnex S.à r.l. and Allnex Holdings S.à r.l. are subject to NWT at a rate of 0.5% computed on their unitary values as at 1 January of each year. The unitary value of a company corresponds to its net asset value subject to certain adjustments.
- ▶ However, qualifying shareholdings (such as fully taxable EU resident companies as in the case at hand) are exempt under same conditions as for the participation exemption regime for dividends, which are described below, save that the 12 month holding period does not apply.
- ▶ As from 2016, Luxembourg applies a minimum NWT for holding companies in an amount of EUR 3,210 (USDK 3,566). This minimum tax is due for companies who own financial assets exceeding 90% of their total assets and if the total amount of the balance sheet exceeds EURk 350 (USDK 389).

### Holding activities and thin capitalization rules

- ▶ Although there are no formal thin capitalization rules under Luxembourg tax law, the tax administration usually requires that companies observe a debt-to-equity ratio of 85:15 in relation to their holding activities.
- ▶ Please note that debt related to the financing activity, is not taken into account when determining the debt-to-equity ratio.

- ▶ In case the 85% debt ratio is exceeded, a portion of the interest paid on such debt instrument may be characterized as a dividend, and therefore not be tax deductible, and potentially subject to WHT at a rate of 15% unless (i) the conditions of the domestic WHT exemption are met or (ii) exempt / reduced under a double tax treaty.

## Dividend taxation

### Dividends received by Allnex S.à r.l. and Allnex Holdings S.à r.l.

- ▶ Dividends received by Allnex S.à r.l. and Allnex Holdings S.à r.l. are in principle subject to tax in Luxembourg. However, they could benefit from the Luxembourg participation exemption regime if the following conditions are met:
  - The distributing company is either a fully taxable company which is a resident of Luxembourg (or another jurisdiction subject to an effective tax rate of 10.5% or more), or a company resident in an EU member state which falls within the scope of Article 2 of the EC Directive enacted on 23 July 1990 (90/435/CEE, namely the EU Parent Subsidiary Directive).
  - At the date dividends are paid, the recipient company has held the shareholding in the distributing company for at least 12 months (this holding period can be met prospectively), and the shareholding must represent at least 10% of the share capital of the distributing company or has an acquisition price of at least EURm 1.2 (USDm 1.33).
  - However, to the extent dividends are exempt; expenses in direct economic connection with such exempt income will not be tax deductible. In other words, expenses, including interest expenses and write-downs, which have a direct economic relation with the shareholding held by Luxembourg companies will not be deductible for tax purposes up to the amount of any exempt dividend derived during the same financial year. On the other hand, expenses exceeding the amount of the exempt dividend received from such shareholding during the same financial year remain deductible for tax purposes. Such excess may create tax losses to carry forward without limit in time.

### Dividends paid by Allnex S.à r.l. and Allnex Holdings S.à r.l.

- ▶ Dividends paid by Allnex S.à r.l. and Allnex Holdings S.à r.l. are in principle subject to a 15% withholding tax. However, an exemption applies where the shareholder is a qualifying shareholder who has held a participation of at least 10% or EURm 1.2 (USDm 1.33) in the distributing company for an uninterrupted period of 12 months. A qualifying shareholder is a fully taxable Luxembourg company or an EU resident company covered by the EU Parent Subsidiary Directive or a corporate shareholder subject to a minimum CIT rate of 10.5% and which is a resident in a jurisdiction with which Luxembourg has a double tax treaty.

## Capital gains taxation

- ▶ Capital gains realized by Allnex S.à r.l. and Allnex Holdings S.à r.l. are in principle subject to tax in Luxembourg. However, they could benefit from the Luxembourg participation exemption if the following conditions are met:
  - At the time the capital gain is realized, Allnex S.à r.l. and Allnex Holdings S.à r.l. have held the shareholding for at least 12 months;
  - Luxembourg companies hold at least 10% in shareholding in the relevant subsidiary (or at least EURm 6 (USDm 6.7) of acquisition costs);
  - The disposed shareholding is either a fully taxable company which is a resident of Luxembourg (or another jurisdiction subject to an effective tax rate of 10.5% or more), or a company resident in an EU member state which falls within the scope of Article 2 of the EC Directive enacted on 23 July 1990 (90/435/CEE, namely the EU Parent Subsidiary Directive).
- ▶ The exempt amount of the gain will be reduced by the aggregate of expenses which are economically connected to the participation (e.g., interest expenses on the debt instruments used to finance the acquisition of the respective shareholding and write-downs in the value of the participation) to the extent that they have reduced the taxable base of that year or previous years. In other words, the capital gain realized will become taxable up to the amount of the aggregate expenses and write-downs effectively deducted during the respective and previous years in relation to the participation. However, this should be overall tax neutral as tax loss carry forwards should be available up to the amount of recaptured expenses, unless they have been used to offset other taxable income. In case of companies with a holding and financing activity and provided that the arm's length margin on the financing activity is effectively realized at this level, the effect of the 'recapture rule' may translate into a crystallization of the arm's length margin which should become taxable at that moment.

### General anti avoidance

- ▶ Please note that due to the recent implementation of the general anti avoidance rule ("GAAR") in the Luxembourg law, participation exemption would not apply in the context of "an arrangement or a series of arrangements which, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defeats the object or purpose of the EU Parent-Subsidiary Directive, and if the arrangement is not genuine having regard to all relevant

facts and circumstances". The consequences and implications of GAAR are still unclear given recent implementation.

## Financing activity

### Financing activity

- ▶ Allnex S.à r.l. is considered to exercise a financing activity. Further to step 2, Allnex S.à r.l. will increase the volume of its financing activity.
- ▶ For clarity sake, please find below a summary of the conditions to be met by Luxembourg companies performing an intra-group financing activity.
- ▶ Based on the administrative Circular (LIR n°164/2) issued by the Luxembourg tax authorities on 28 January 2011 in relation to the tax treatment of companies carrying out intra-group financing activities in Luxembourg ('the Circular') supporting documentation for the level of the taxable margin to be realized will be required. According to the Circular, this margin should be determined on a comparability analysis, which indicates the following essential comparability factors:
  - Characteristics of the assets transferred or services rendered,
  - Functions assumed by the parties to the transaction,
  - Terms and conditions of the agreements,
  - Economic situation of the parties,
  - Industrial and commercial strategies of the parties.
- ▶ An advance pricing agreement letter ('APA'), supported by an OECD compliant transfer pricing study, may be obtained to the extent that the Luxembourg company has sufficient substance in Luxembourg and that it effectively bears the risks related to the financing transactions for which APA is filed (see "Luxembourg Tax Confirmation Process").
- ▶ The Circular provides for the following criteria to verify whether a Luxembourg company has sufficient substance:
  - The majority of the members of the board of directors or of the managers empowered to engage the Luxembourg companies are either Luxembourg resident individuals or non-resident individuals deriving at least 50% of their professional income from Luxembourg sources. In the case where corporations are members of the board of directors or the managers, that corporation must have its registered office and central administration in Luxembourg

- The directors and managers resident in Luxembourg or deriving more than 50% of their professional income from Luxembourg (in case of individual directors or managers) must have appropriate professional experience and competencies to carry out their duties. Moreover, they must at least have the power to engage the company and to ensure the proper execution of all transactions entered into by the Luxembourg company. Moreover, the Luxembourg company must have qualified personnel (either employees or outsourced) capable to execute and record the transactions carried out. The company must be capable to supervise the work carried out by that personnel.
- The key decisions relating to the management of the Luxembourg company must be taken in Luxembourg. In addition, for those companies which are required by law to hold shareholders meetings, at least one of the shareholders meetings must be held at the place indicated in the companies' by laws.
- The Luxembourg company must have at least one bank account in its own name with a Luxembourg bank or with a Luxembourg branch of a bank established abroad.
- When the clearance request is filed with the Luxembourg tax administration, the Luxembourg company must be compliant with all filing obligations relating to income and net worth taxes.
- The Luxembourg company may not be considered to be tax resident abroad.
- ▶ A Luxembourg company is generally considered to bear the risks relating to the financing transactions if its equity corresponds to 1% of the nominal amount of the receivables, capped at EURm 2 (USDm 2.22), and it can be demonstrated that the company is effectively obliged to use its equity if the risk resulting from the financing activity realizes (a limited recourse clause in the relevant financing documents usually addresses this requirement).

## Taxes and Tax Rates

- ▶ A NZ BidCo will be established in NZ to acquire shares in Nuplex Industries Ltd. We set out in this section a brief outline of the taxation of companies in NZ.

### Income tax

- ▶ The company tax rate is 28%.
- ▶ An income year generally consists of the 12-month period ending 31 March. When a taxpayer has a balance date other than 31 March, it may apply to the Commissioner of the Inland Revenue Department (“IRD”), to file income tax returns in accordance with its annual balance date. For instance, the NZ BidCo and its subsidiaries can apply to use a 31 December balance date that aligns with Allnex.
- ▶ In NZ, a statutory time bar exists so that the IRD’s ability to amend income tax assessments is subject to a 4 year time limit from the end of the income year in which the relevant tax return was filed. No time limit applies if the relevant return is fraudulent, wilfully misleading or omits income of a particular nature or source for which a return is required.
- ▶ Broadly, expenditure is deductible to the extent it is incurred in deriving assessable income; or incurred in the course of carrying on a business for the purpose of deriving assessable income subject to certain limitations (e.g. limitations for capital and private expenditure). Interest incurred by companies is generally deductible without a requirement for nexus to assessable income, subject to the NZ thin capitalisation regime.

### Annual Tax Return and Self-Assessment

- ▶ New Zealand has a self-assessment regime. Taxpayers file an annual tax return and self-assess the tax liability for the year.
- ▶ In preparing the return, the taxpayer calculates the amount of any tax payment outstanding after credits (including taxes deducted at source, provisional tax and foreign taxes).
- ▶ Provisional tax is a way of managing a company’s annual income tax liability by requiring compulsory instalments of tax throughout the year. When a taxpayer files a tax return, the provisional tax paid is credited against the income tax assessed for the year, which will result in either a refund or further tax to pay by way of terminal tax.

- ▶ Corporate taxpayers are often linked to a tax agent, and they receive an extension of time for the lodgement of their returns. The due date for lodgement of their return is 31 March of the following income year if on a tax agency listing.

### Goods and Services Tax (“GST”)

- ▶ GST is a consumption tax which is imposed on the supply of goods and services in NZ and on goods imported into NZ (in addition to any customs duty).
- ▶ GST is levied at the rate of 15% although some supplies (e.g. exports) are zero rated and certain supplies (e.g. financial services) are exempt from GST.
- ▶ GST is normally accounted for on an accrual (invoice) basis.
- ▶ A person must register for GST if the person carries out a taxable activity and the turnover is expected to go over EURk 35.9 (NZDk 60) for the next 12 months. Where turnover is expected to exceed EURm 14.4 (NZDm 24) per annum, a person must register for GST and is required to submit GST returns on a monthly basis.
- ▶ Filing the GST returns every two months reflects the standard taxable period. However, a taxpayer may also choose to file GST returns on a monthly basis, if it expects to receive regular GST refunds, or finds it easier to work out GST for a shorter period.
- ▶ NZ companies (including NZ BidCo) may consider electing to form a GST group, provided:
  - The companies to be grouped must be at least 66% commonly owned (in terms of voting interests or market value interests).
  - Each of the companies is a registered person, or the total value of taxable supplies made by the companies is at least 75% of the total supplies made by the group to persons outside the group.
- ▶ The main consequence of GST group registration is that taxable supplies made between the members of the GST group may be ignored for GST purposes. This would mean that all goods or services that are supplied intra-group would not need to be reflected in the supplier’s or the GST group’s GST return. No tax invoices will need to be issued in respect of the intra-group supplies.

## Taxes and Tax Rates

### Pay As You Earn (“PAYE”) and Kiwisaver/Superannuation

- ▶ Employers are required to withhold tax from salaries / wages paid to employees and must account to the IRD for the amounts withheld (i.e. the “pay as you earn” process).
- ▶ PAYE rates in NZ vary from 10.5% to 33% as the top marginal tax rate.
- ▶ Usually, employers must also deduct employees’ Kiwisaver (a NZ superannuation scheme) contributions from their before-tax pay using the PAYE system, if the employees are members of a Kiwisaver scheme. Employer Superannuation Contribution Tax (“ECST”) must be deducted from employer contributions to an employee’s Kiwisaver account.

### Fringe Benefit Tax (“FBT”)

- ▶ FBT is payable by employers on the value of the non-cash benefits (e.g. motor vehicles, low-interest loans, free or discounted goods etc.) provided to employees and shareholder / employees.
- ▶ An FBT year is divided into quarters. The FBT quarters end with the last day of June, September, December and March. FBT returns are required to be filed within 20 days of the end of the first, second and third quarter. The due date for filing the fourth (March) quarter return is 31 May.
- ▶ Employers can pay FBT at either 43% or 49.25% of the taxable value of fringe benefits provided for the first three quarters of the tax year, with the choice of using the multi-rate calculation method in the fourth quarter.

### Other

- ▶ There are no stamp duties / transfer taxes in NZ.
- ▶ NZ does not have a capital gains tax.

### Residence and Tax Basis

#### Residence and source

- ▶ The worldwide income of NZ tax resident companies is generally subject to NZ income tax.

- ▶ Companies are considered resident in NZ for NZ tax purposes where:
  - They are incorporated in NZ;
  - Control by company directors is exercised in NZ;
  - Centre of management is in NZ; or
  - Head office is in NZ.
- ▶ Additionally, income earned by non-residents is taxable in NZ to the extent it has a NZ source (essentially income earned in or from NZ).

#### Dual residence

- ▶ It is possible for a company resident in NZ (by virtue of being incorporated in NZ) to also be tax resident in another country and hence be “dual resident”. This situation can arise where control, management or head office functions of the company are exercised in another country.
- ▶ A dual resident company is prohibited from maintaining a NZ imputation credit (see below for a discussion of imputation credits) account, meaning imputation credits may not be available to attach to dividends.
- ▶ Tax losses (including those arising from interest deductions in dual resident companies) are also not able to be offset against profits of other group companies.
- ▶ Dual resident companies also cannot form or join a tax consolidated group.

#### Double Tax Agreement (“DTA”) network

- ▶ NZ has a network of 40 DTAs in force with its main trading and investment partners. DTAs reduce tax impediments to cross-border trade and investment and assist tax administration.

## Tax grouping and loss utilisation

### Tax losses carry forward / offsets

- ▶ Tax losses can be carried forward indefinitely for offset against income arising in future years, provided there is continuity of shareholding of at least 49% from the start of the loss year to the end of the utilisation year.
- ▶ Tax losses may be freely offset as between group companies (e.g. between NZ BidCo and Nuplex NZ companies following acquisition) provided there is commonality of ultimate non-corporate ownership of 66% between the entities providing and receiving the losses, from the time the losses were incurred through to the time of the offset.

### NZ tax consolidated group (“TCG”)

- ▶ Under the NZ tax consolidation regime, members of the same wholly-owned group may elect to be essentially treated as a single economic entity for NZ tax purposes.
- ▶ If a TCG exists, it is possible for another eligible company, which is entitled to become a member of the same TCG, to elect, in writing to the Commissioner, to join that TCG. A company joint a TCG must have the same balance date as that TCG.

### Tax consequences of a TCG

- ▶ The TCG rules reflect the intention of the regime to treat intra-group transactions as transactions between branches of the same company so that there are no taxation consequences.
- ▶ Generally income derived from intra-group transactions is excluded from the determination of a TCG's income. Equally, expenditure or losses incurred through transactions with other TCG companies are not deductible.
- ▶ All companies within the TCG will have joint and several liabilities for income tax for the entire TCG for the period that they were within it, regardless of whether they have subsequently left the TCG, subject to obtaining specific IRD approval for release from that joint and several liabilities.
- ▶ Other taxes, such as FBT, PAYE and withholding tax will still be accounted for on an individual basis.

- ▶ Based on the limited information available to us, we understand Nuplex Industries Ltd. and Nuplex Operations (NZ) Ltd. are within an existing TCG, while Nuplex Finance Holdings Ltd, Nuplex US Holdings Ltd. and Plaster Systems Ltd. are individual companies, and are not grouped.
- ▶ As such, NZ BidCo along with the individual companies may wish to elect to join the existing Nuplex TCG. An election to join the Nuplex TCG must be filed within 63 days of the completion date of the proposed transaction, or can later join the TCG if an election is filed with 63 days of the beginning of a new income year.

## Dividend payments

### Company Law and Dividends

- ▶ Under the Companies Act 1993, the Board of Directors may authorise a distribution to shareholders at any time provided the company will satisfy the statutory solvency test immediately after making the distribution.
- ▶ Broadly, the solvency test is satisfied if, immediately after it pays the dividend, the company is able to pay its debts as they become due in the ordinary course of business (i.e., trading solvency) and the value of its assets is greater than the value of its liabilities, including contingent liabilities (i.e., balance sheet solvency).
- ▶ The dividend is not required to be limited to the retained earnings of the company.
- ▶ Generally speaking, dividend payments within a wholly-owned (i.e. 100% owned) NZ group of companies do not have any adverse tax consequences, as they are exempt income to the recipient. Additionally, no resident withholding tax ("RWT") is required to be withheld by the payer, and no imputation credits are required to be attached to the dividend payment.
- ▶ Generally, foreign dividend income is exempt from NZ tax.

### Imputation System

- ▶ The NZ imputation system is designed with the objective of eliminating double taxation on company profits. Under the imputation system, a company effectively attaches income tax credits (known as "imputation credits" representing income tax at company level) to dividends distributed to shareholders.
- ▶ The maximum ratio of imputation credits that may be attached to a dividend (and the amount to ensure a dividend is fully imputed) is 28/72, reflecting the corporate tax rate of 28% as a proportion of the net dividend.

### NRWT

- ▶ Under NZ domestic law, NRWT is imposed on dividend payments to non-resident shareholders at a rate of 30%. However, certain domestic and treaty concessions exist:
  - The NRWT rate is reduced to 0% under NZ domestic law where the dividend is fully imputed and either the non-resident recipient has a 10% or more voting interest in the NZ company or where that company is resident in a

territory where the relevant NZ tax treaty would reduce NRWT to less than 15%.

- If the dividend is not fully imputed, then NRWT would be required to be withheld under domestic law at 30%. This rate is reduced to 15% under the NZ / Belgium DTA. Imputation credits, therefore, are important in determining whether NZ BidCo would be entitled to make a dividend payment without a liability to deduct NRWT.
- ▶ In respect of non-NZ resident shareholders who hold less than 10% of the voting interests, the foreign investor tax credits ("FITC") rules may apply. The FITC regime effectively provides a tax credit to the NZ resident company, which the resident company must use to fund an additional "supplementary dividend" (which is equal to the NRWT payable amount when the dividend is fully imputed). This additional or supplementary dividend effectively grosses up the dividend to the non-resident shareholder for the NRWT deducted.

### Other Returns to Shareholders

- ▶ In some circumstances, a capital repayment or share repurchase/buyback may be preferred over dividends as a means of appropriating value to shareholders.
- ▶ Provided certain 'bright line tests' are met, the company has sufficient available subscribed capital ("ASC") and the return of capital is not seen as being 'in lieu of a dividend', then it should be seen as a tax-free return of capital from a NZ tax perspective, with no withholding tax applying.
- ▶ ASC is a NZ tax concept and broadly represents the total monies subscribed by shareholders for shares in NZ BidCo, including shares issued in repayment of debt (i.e. a debt capitalisation), less any previous capital returns made.

## Interest

### Deductibility

- ▶ NZ companies are generally entitled to a statutory tax deduction in respect of interest expenditure without reference to an income earning nexus.
- ▶ This entitlement is subject to thin capitalisation, transfer pricing and other specific requirements and limitations (see below for details of some of these).

### Interest payments and thin capitalisation requirements

- ▶ NZ inbound thin capitalisation rules operate where a NZ taxpayer company is controlled by a non-resident and has a disproportionately high level of debt. This is a level which exceeds:
  - The NZ group total debt to total asset ratio of 60%; and
  - 110% of the taxpayer's worldwide group's ratio of total debt to total assets.
- ▶ The test is a two-fold test, therefore both levels must be exceeded before an interest deduction is partially denied and an apportionment calculation is performed.
- ▶ The NZ Group (whose debt-asset ratio will be compared against the 60% benchmark) includes:
  - The parent company; and
  - All other companies that are resident in NZ or carrying on a business in NZ through a fixed establishment and are under the control of the NZ parent company.
- ▶ Typically, companies that are required to be included in the consolidated accounts are considered as members of the NZ group for thin capitalisation purposes.
- ▶ The NZ group's total debts and total assets are determined by consolidating the assets and liabilities of the NZ group to eliminate transactions between companies in the group. This consolidation must be performed in accordance with generally accepted accounting principles. Similarly, the worldwide totals must be on a consolidated basis.
- ▶ Given the likely short term nature of the shareholder debt (with this expected to be partially repaid on sale of foreign subsidiaries), NZ thin capitalisation

restrictions may potentially be exceeded for a period of time without triggering NZ tax consequences. This is on the basis that thin capitalisation calculations and resultant tax consequences can either be tested on a daily average, quarterly average or purely year end basis, and thus the year end test would likely occur after the majority of the debt has been repaid.

### Transfer pricing

- ▶ NZ's transfer pricing rules only apply in respect of transactions between NZ resident companies and offshore associated parties
- ▶ The transfer pricing rules apply to cross-border related party transactions such as sale / purchase of goods, services, intangible property, loans etc.
- ▶ For all cross-border related party loans in excess of EURm 6 (NZDm 10) m principal, the IRD requires full transfer pricing documentation to support the interest rate being applied. Loans below this threshold can be supported by more limited analysis / documentation.

### Interest payments - NRWT

- ▶ As a matter of domestic law NRWT in respect of interest payments is levied at a rate of 15%.
- ▶ NRWT on interest between non-associated parties is a final tax. However, NRWT on interest between associated parties is a minimum tax unless a DTA applies between the interest payer and recipient (NZ DTAs generally override the domestic position so that the treaty rate NRWT is a final tax).
- ▶ NZ has a tax treaty with Belgium. Under the New Zealand DTA with Belgium NRWT on interest is reduced to a rate of 10%.
- ▶ We note for completeness that no tax treaty is in force with Luxembourg. Accordingly, NRWT on interest paid by NZ resident companies to associated Luxembourg entities is a minimum rather than final tax.
- ▶ A Luxembourg lender in such circumstances may instead be subject to NZ income tax on its net interest income. The "net interest" in this respect allows for the offset of finance expense in the Luxembourg (or other non-treaty related party) lender to the extent this is attributable to the funds lent to NZ.

## Interest

- ▶ The Luxembourg entity (or other non-treaty related party) would be subject to tax at the higher of 15% NRWT on gross interest and 28% income tax on the net interest. While external bank debt would likely be respected in calculating that net interest income amount if it could be shown to have been used to fund a loan to NZ, if any NZ loan was also partially funded by the use of other instruments such as PECs, those instruments are unlikely to be respected as debt instruments in NZ and therefore no deduction may be allowed to net against the interest income for that portion of the interest expense. In this instance the 28% of net interest income may exceed the 15% of gross interest income, and result in a further tax liability.
- ▶ Generally speaking, NRWT in NZ is imposed on a paid basis, but with a broad definition of 'paid', which can generally capture capitalising or PIKing of interest. We also note that the IRD has announced an intention to amend and further tighten the NRWT rules, with draft legislation expected in late 2016.
- ▶

## Other

### Repayment of debt

- ▶ Generally speaking the repayment of debt by a NZ company (including the proposed partial net-off of shareholder debt principal against p-note receivables) should not give rise to any adverse tax consequences (putting aside foreign currency implications).
- ▶ To the extent the shareholder debt being netted-off is denominated in the same currency there should be no foreign exchange gain/loss implications for NZ income tax purposes. However, if the shareholder debt and the purchase price receivables are in different currencies, foreign exchange variances should be considered.

### Mergers and Amalgamations

- ▶ Reduction of the number of entities in a NZ group is possible through the “amalgamation” regime provided for in NZ companies’ law.
- ▶ Amalgamation is essentially the merging of assets and liabilities of two or more companies with one remaining as the “amalgamated company”. The other companies are removed from the companies’ register.
- ▶ Where companies are in the same group “short form amalgamations” are allowed, meaning amalgamation can occur without shareholder participation (“long form amalgamations” are more common in respect of non-related entities).
- ▶ If only one NZ entity is needed, post-transaction the Nuplex NZ companies may amalgamate into NZ BidCo or another of the NZ entities in the future under a “resident’s restricted amalgamation”, which is subject to various concessionary tax treatment.
- ▶ To the extent an amalgamation takes place within a TCG, there should generally be no adverse tax consequences, but analysis will still be required to confirm this.
- ▶ An amalgamation process may be considered post-acquisition of Nuplex Industries Ltd. in order to reduce the number of NZ entities in the Allnex Group structure.

### Capital Transactions

- ▶ NZ does not have a capital gains tax.

### NZ tax rules regarding certain capital transactions

- ▶ However, the gains from the sale of shares will be taxable if, for example:
  - Shares were acquired with the purpose resale (i.e. the purpose test);
  - The share sales arise as part of an overall business activity such that they are taxable as business profits (i.e. the business profits or share trading test).
  - The taxpayer derives an amount from the sale of shares from carrying on or carrying out a profit-making undertaking or scheme; or
  - the shares are otherwise held on ‘revenue account’.

## Tax implications – dividend income and capital gains

### General

- ▶ As a general rule, Thai limited liability companies are subject to corporate income tax of 20%. Thai tax law provides for a tax holiday scheme of three up to eight years. Any taxpayer must self-assess and is obliged to make pre-payments.
- ▶ Generally, tax losses may be carried forward for a maximum of 5 years or, for certain business categories, 10 years.

### Overview of Thai tax implications on dividend distribution

- ▶ Any dividends amongst Thai companies are exempt from tax provided that the following conditions are met:
  - Minimum shareholding of at least 25%;
  - Minimum holding period of at least three month prior and after the dividend was made; and
  - The distributing entity must not own any shares either directly or indirectly in the Thai recipient.
- ▶ Dividends distributed by a Thai company abroad are subject to 10% WHT without exemption under any DTT. In contrast, dividends distributed by a Thai company having a BOI status can be exempt from WHT provided that the dividend was paid out of BOI profits during tax exemption period.

### Tax on capital gains

- ▶ Any capital gains are subject to taxation at ordinary rates. Capital gains are determined as the difference between the fair value and the acquisition costs (book value for tax purposes). In any case, the purchase price must not be higher than the fair value. Provided that the capital gain is derived by a non-resident company selling shares in a Thai limited liability company, the capital gain is subject to 15 WHT.
- ▶ Relief from WHT can be achieved based on an applicable double tax treaty, but subject to certain conditions.

- ▶ Provided that a share transfer is made amongst non-resident companies only, that is seller and acquirer are located outside of Thailand, any capital gain is deemed as being realized outside of Thailand as well. As such, no Thai corporate income tax on capital gains or WHT would be triggered.
- ▶ Based on the proposed structure, any capital gains which would be triggered upon the transfer of shares in Synthese (Thailand) Ltd. at Nuplex Finance Holdings Ltd. (NZ) would be subject to 15% Thai WHT given that the shares will be acquired by Allnex (Thailand) Ltd., a domestic entity. In the case at hand, the WHT cannot be reduced/exempt under Thailand – New Zealand tax treaty and would therefore become a final tax burden.

### Stamp duty on transfer deed

- ▶ The share transfer deed will be subject to stamp duty of 0.1% on the higher of the share transfer price or the paid-up value.
- ▶ Provided that the share transfer deed is executed and as long as it will be kept outside of Thailand, no stamp duty would become due. However, once the transfer deed was brought to Thailand, stamp duty is triggered.

## Tax implications on interest payment

### Interest deductible expenses

- ▶ Thailand does not have thin capitalization regulations for tax purposes. Instead, other authorities provides for a debt to equity ratio (e.g., 3:1 debt to equity ratio as requested by the Board of Investment (BOI)).
- ▶ If and to the extent interest is at arm's length, it can be fully deducted for tax purposes and provided that the loan was obtained for the use of the business operations of the Thai company which was acquiring.
- ▶ In the case at hand, given that the interest on the intercompany loan between Allnex Belgium and Allnex (Thailand) Ltd. was obtained to acquire the shares in Synthese (Thailand) Ltd., the interest should be tax deductible. That is, the shares were acquired to generate dividend income.

### Withholding tax on interest

- ▶ Interest payment made by a Thai company to a non-resident company, which are not carrying on a business in Thailand will be subject to 15% withholding tax.
- ▶ Relief from WHT (down to 10%) can be achieved based on an applicable double tax treaty provided that the recipient qualifies as financial institution in terms of the DTT (which requires a license from the National Bank). In the case at hand, it occurs to us that the recipient, Allnex Belgium, does not meet these requirements.
- ▶ If the creditor of an interest-bearing loan receivable was changed (e.g., because of assignment of the receivable) any accrued interest is deemed to be paid. As such, 15% WHT will be triggered.

### Stamp duty on loan agreement

- ▶ The loan agreement will be subject to stamp duty of 0.55% on the loan amount but capped at EUR 256 (THB 10,000).

## Overview of tax free business integration

- ▶ Due to lack of tax consolidation scheme in Thailand, an offset of Allnex (Thailand) Ltd.'s interest expenses resulting from the debt push down with operating profits of Synthese (Thailand) Ltd. can only be achieved upon a combination of these entities. Otherwise, Allnex (Thailand) Ltd. will receive tax free dividend income from its subsidiaries only. As such, interest expenses incurred will actually not be utilized.
- ▶ As a general rule, to achieve a business combination of Thai companies, the following options would be feasible:

### Alternative 1: Merger / Amalgamation

- ▶ Subject to confirmation by legal counsel, a tax-free merger / amalgamation refers to the scheme in which two or more companies are merged / amalgamated into a newly-incorporated company. By operation of law, all assets and liabilities (including all rights and entitlements, etc.) of the merging companies will be merged into the new absorbing company, whereby the merging entities will cease to exist. The shareholders of ceasing companies will become shareholders of the new company.
- ▶ To achieve a tax free merger, the following conditions are to be met:
  - The companies to be merged / amalgamated must be a Thai limited company and/or Thai public company incorporated under the law of Thailand.
  - All assets, liabilities and equity of the companies to be merged / amalgamated must be transferred to the new company.
  - All shareholders of the companies to be merged / amalgamated will become shareholders of the new company.
  - The capital of the companies to be merged / amalgamated will be combined as capital of the new absorbing company.
  - The companies to be merged / amalgamated will automatically cease to exist upon the registration of the merger.
  - Any company to be merged / amalgamated must not be a debtor to the Revenue Department as of the merger date unless a bank guarantee can be presented.

- The companies to be merged / amalgamated and the new company have a filing requirement with the Thai Revenue Department within 30 days after the incorporation date of the new company followed by a registration process.
- ▶ In addition to the above, the merger / amalgamation is subject to legal issues/procedures which are to be confirmed by legal counsel. As per our experience in comparable transactions, a merger / amalgamation of Thai companies is quite complex and not so common and flexible within the European Union.

### Alternative 2: Entire Business Transfer (EBT)

- ▶ Given that the merger / amalgamation is rather complex to achieve in Thailand, as an alternative, a tax-free entire business transfer may be considered.
- ▶ Broadly, an EBT scheme is defined as a transfer of all assets and liabilities of one entity (transferor) to another entity, transferee whereby the transferee will be put in liquidation. If performed properly, the EBT can be done tax-free (except of a real estate transfer tax). To achieve a tax neutral entire business transfer, the following conditions are to be met:
  - Both, the transferor and transferee must be a Thai limited company and/or Thai public company incorporated under the law of Thailand.
  - All assets and liabilities of the transferor must be entirely transferred to the transferee.
  - The transferor has to file for a dissolution with the Ministry of Commerce (MOC) and starts the liquidation process within the same accounting period in which the transfer shall take place.
  - Both, the transferor and transferee must not have any outstanding taxes upon the transfer date unless a bank guarantee can be presented.
  - The tax free EBT is subject to a filing requirement to be made within 30 days after the EBT date as well as a registration process.
- ▶ In addition to the above, the merger / amalgamation is subject to legal issues/procedures which are to be confirmed by legal counsel.

## Overview of general tax system

### Basis of taxation

- ▶ A company is resident in the UK if it is incorporated in the UK or if the central management and control of the company is exercised there.
- ▶ UK tax resident companies are subject to UK corporation tax on its worldwide profits, calculated at a rate of 20% (which applies to all companies from 1 April 2015). The rate of corporation tax is due to reduce to 19% as of 1 April 2017 and to 18% as of 1 April 2020.
- ▶ Several exemptions apply under UK law which have the effect of focusing corporation tax on UK-related activities, including in particular the foreign branch exemption. In addition, foreign direct tax suffered on income / gains received by the UK resident company may be credited against corporation tax on the same profits (subject to limitations).

### Foreign branch exception

- ▶ A UK company may elect to exempt income (and losses) of foreign Permanent Establishments ("PEs") from UK corporation tax. This election is irrevocable and takes effect from the accounting period after that in which the election is made.

## Dividend distribution

### Taxation of dividend distributions

- ▶ Under UK tax law, a UK company should be exempt from UK taxation on any dividends it receives, subject to the following conditions:
  - The distribution falls within an exempt class, or if the recipient company is “small”, the payer is resident in the UK or a qualifying territory. “Small company” for these purposes is a micro or small enterprise as defined in the Annex to Commission Recommendation 2003/361/EC of 6 May 2003, where a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EURm 10 (USDm 11.1).
  - The distribution is not of a specified kind (certain interest like distributions).
  - No deduction is allowed to a resident of any territory outside the UK under the law of that territory in respect of the distribution.
- ▶ In the current context, none of the UK companies in the target group are small companies for these purposes, and therefore the distribution must fall within an exempt class for the distribution to be exempt from UK corporation tax.
- ▶ There are five exempt classes – these are:
  - distributions from controlled companies
  - distributions in respect of non-redeemable ordinary shares
  - distributions in respect of portfolio holdings
  - distributions derived from transactions not designed to reduce UK tax
  - dividends in respect of shares accounted for as liabilities
- ▶ This practically leads to most dividends being exempt from UK corporation tax.
- ▶ It is possible for the UK recipient company to elect not to apply the dividend exemption rules. Where such election is made, it should be possible to claim a credit for foreign taxes suffered (e.g. withholding tax, underlying tax), subject to certain limitations.

### Withholding tax

- ▶ Under UK domestic tax rules, no withholding tax applies on dividend payments made by UK companies.

## Interest payments

### Interest deductibility

- ▶ Generally, interest incurred by UK companies should be tax deductible, subject to transfer pricing / thin capitalisation rules, proposals under the BEPS initiative, WWDC and other anti-avoidance provisions.
- ▶ As a general rule, the timing of interest deductibility for UK tax purposes follows accounting principles (in most cases).

### Thin capitalisation and transfer pricing

- ▶ The UK thin capitalisation rules are included within the transfer pricing rules and therefore require related party financing transactions to be undertaken on an arm's length basis (from the perspective of the quantum of the loan and interest rate applied). Financing provided by external banks but guaranteed by related parties is also caught by the UK thin capitalisation rules.
- ▶ There are no safe-harbour rules in the UK in respect of thin capitalisation. The key consideration in determining the level of allowable interest would be the extent to which the UK company would be able on a stand-alone basis (without regard to the wider group) to secure funding from a third party lender at arm's length. In order to assess whether the financing is arm's length, factors such as debt: EBITDA ratio and debt servicing capacity (interest cover) are typically considered against the levels and pricing of debt funding for comparable investments/transactions.
- ▶ Once the thin capitalisation position is established, any interest expense on debt exceeding the arm's length level will be disallowed for UK corporation tax purposes.
- ▶ It is possible to achieve certainty of the corporation tax deduction available on interest under the ATCA procedures.
- ▶ Companies are required to retain adequate records or other documentation to support their compliance with the arm's length principle.

### Worldwide Debt Cap

- ▶ The WWDC is a cap on allowable interest deductions in addition to thin-capitalisation restrictions and other anti-avoidance provisions. The WWDC provisions are designed to restrict the UK tax deduction available for financing

expenses of large groups based on the gross financing expense of the worldwide group.

- ▶ The WWDC provisions include a gateway test. If the gateway test is satisfied, the UK group falls outside of the remaining provisions. Under the gateway test, broadly, the WWDC applies only if a group's UK net debt exceeds 75% of the worldwide gross debt.
- ▶ If the WWDC applies and if the tested expense amount exceeds the available amount, the excess amount is disallowed. Broadly, the tested expense amount is the aggregate net finance expense of all UK group companies that have a net finance expense above EURk 638 (GBPk 500) and the available amount is the group's external worldwide finance expense which is taken from the consolidated financial statements. If a disallowance arises, some interest income may also be exempted from UK tax. The amount of the exempted income is limited to the lower of the aggregate net finance income of all UK group companies (above EURk 638 (GBPk 500)) and the total disallowed amount. It is possible to elect to not apply the EURk 638 (GBPk 500) threshold mentioned above to avoid anomalies that could otherwise result.
- ▶ Whilst the rules are complicated, they should not give rise to a net UK disallowance if the UK level of interest expense is lower than the consolidated group's external interest expense. Based on our understanding of the group and its external financing position, we do not consider that any restrictions under the WWDC rules should apply. [To be confirmed once we have further clarity on the numbers]

### Implications of OECD BEPS Project

- ▶ Interest deductibility is one of the areas under consideration by the OECD as part of their BEPS Project.
- ▶ The OECD report, released in October 2015, recommends that as 'best practice' countries adopt a Fixed Ratio Rule (FRR) which limits an entity's net deductions for interest and payments economically equivalent to interest, to a percentage of its earnings before interest, taxes, depreciation and amortisation (EBITDA). The recommended approach allows a 'corridor' for the ratio of net interest/EBITDA of between 10% and 30% and includes factors which countries should take into account in setting their fixed ratio within this range.

## Interest payments

- ▶ Countries may supplement this approach by a Group Ratio Rule (GRR), allowing entities with net interest expense above a country's fixed ratio to deduct interest up to the level of the net interest/EBITDA ratio of its worldwide group. In calculating this ratio, countries may permit an uplift of 10% to the group's net interest. It is expected that there will be a transitional period and potentially grandfathering of existing third party debt funding arrangements to allow for restructuring.
- ▶ The UK Government released a consultation document following the release of the OECD report. The consultation notes that, if new rules are introduced in the UK, it is unlikely this would be before 1 April 2017. In addition, in January 2016, the European Commissions issued a draft EU Anti-BEPS directive, including detail on interest limitation provisions. These limitations are proposing an entity-by-entity limit on borrowing costs of 30% of taxable EBITDA (or EURm 1 (USDm 1.11) if higher).
- ▶ If ratio based rules are introduced, this may lead to further restrictions on interest deductibility.
- ▶ Furthermore, draft legislation has recently been issued which may restrict interest deductions in the event of hybrid mismatch arrangements involving hybrid entities or hybrid instruments. The mismatch proposals are intended to address cross border situations where either one party receives a tax deduction for a payment while the counter party does not have a taxable receipt or where there is more than one tax deduction for the same expense involving both hybrid instruments and hybrid entities. Broadly, the aim is to ensure that an expense gives rise to a single tax deduction which is contingent on the corresponding receipt being included in the recipient's taxable income.
- ▶ The draft rules are likely to be amended following the upcoming Budget (March 2016) and HMRC guidance is expected to be issued in summer 2016. The rules will come into effect from 1 January 2017 and will apply to payments arising / amounts accruing on new and existing arrangements from this date.
- ▶ Given that the financing of this transaction is likely to be funded by bank debt, these rules are unlikely to be in point in respect of the envisaged steps. However, if the transaction were to be funded by shareholder debt in the form of PECs, then the impact of these rules may need to be considered,

- ▶ The above legislative developments should be monitored on a go-forward basis and appropriate sensitivity analysis undertaken in the model. In addition, the group should review the impact on the existing financing arrangements.

### Withholding tax

- ▶ Broadly, interest paid by UK companies to a non-resident should be subject to interest withholding tax at a rate of 20%. However, this may be reduced or eliminated under the domestic provisions, DTA or the EU Interest and Royalties Directive.
- ▶ Under the domestic provisions, interest payments on "short loans" (i.e. loans with a duration that cannot exceed 364 days), are not subject to UK withholding tax.
- ▶ On the assumption that the loans will be in place for more than 364 days under the current structure, withholding tax should apply on interest payments made by the UK companies to group entities. In the current context, the interest is payable by Nuplex Industries UK Ltd. to a Luxembourg tax resident company. Accordingly, under the DTA or EU Directive, the withholding tax should be reduced to nil provided the recipient company has sufficient substance and can demonstrate beneficial ownership of the interest. Clearance from HMRC must be obtained prior to payment in order to apply the nil rates.

### Foreign exchange

- ▶ Broadly, the tax treatment of foreign exchange movements follows the accounting treatment, with amounts taxable or relievable on an accruals basis subject to some hedging rules.
- ▶ To the extent the loan is denominated in a foreign currency and foreign exchange gains or losses arise, these would be taxable / tax deductible in the hands of the UK company.

## Tax grouping and tax losses

- ▶ Under the UK tax rules, there is no formal tax consolidation regime, however, a tax loss incurred by one UK company can be offset against profits of another UK company under the group relief provisions if certain conditions are met. Broadly, UK companies are within a group relief group where a company is a 75% subsidiary of another (by reference to ownership of ordinary share capital), or they are 75% subsidiaries of a common ultimate direct or indirect parent. In addition to the ownership of ordinary share capital, there must be beneficial entitlement to at least 75% of the profits on a distribution and assets on a winding up.
- ▶ All UK companies within the combined Nuplex/Allnex group (i.e. Nuplex Industries Ltd, its 100% subsidiaries, Allnex Holding UK Ltd. and Allnex UK Ltd.) should be in a group relief group for these purposes.
- ▶ Note that Innospec Valvemaster Ltd. will not be part of the group relief group as the Nuplex group only owns 50% of the company. However, consortium relief may be available in respect of Innospec Valvemaster Ltd. A UK tax resident company is owned by a consortium if 75% or more of its ordinary share capital is owned by other companies, none of which individually has a holding of less than 5%. Based on our understanding that Innospec Valvemaster Ltd. is owned 50% by the Nuplex group and 50% by Innospec Ltd., consortium relief should be available which would allow a proportion of losses to be surrendered between Innospec Valvemaster Ltd. and the combined Nuplex/Allnex group.
- ▶ In the current context, interest expenses arising in Nuplex Industries UK Ltd. should be available to offset against taxable profits arising in the combined Nuplex/Allnex group using the group relief mechanism as described below.
- ▶ Companies in a group relief group can offset current year tax losses in one UK group company against taxable profits of another. Accordingly, Nuplex Industries UK Ltd. could group relieve its tax losses arising in respect of its interest expenses to 75% UK group companies such that the losses can be utilized against those companies' taxable profits. Alternatively, Nuplex Industries UK Ltd. could surrender tax losses of up to 50% of Innospec Valvemaster Ltd.'s taxable profits via consortium relief.
- ▶ Where group companies have non co-terminous accounting periods, the accounting periods need to be apportioned as group relief is only available in respect of corresponding accounting periods.
- ▶ Nuplex Industries UK Ltd. may be paid for surrendering its losses to its group companies which provides an effective mechanism for distributing cash to it. This payment will be tax neutral provided the payment does not exceed £1 for £1 of losses surrendered.
- ▶ Losses of one Group Company that cannot be offset in the current period against profits of the group company will be carried forward in the same company and may become 'trapped' unless they can be offset against future profits of that company. Where tax losses are carried forward in the company, these are carried forward indefinitely.

## VAT grouping

### General

- ▶ A group of companies is permitted to apply to HMRC to form a VAT group, where they satisfy the relevant conditions.
- ▶ The VAT group is treated in the same way as a single company registered for VAT on its own. As such, any transactions between group members are disregarded for VAT purposes (i.e. no VAT applies).
- ▶ One company in the VAT group must be appointed the representative member ("RM"). The RM is responsible for all VAT accounting, however all companies are jointly and severally liable for any VAT due.

### Conditions

- ▶ Subject to the UK anti-avoidance provisions, companies may form a UK VAT group where they meet the control and establishment criteria:
  - One company must control each of the other companies in the VAT group (more than 50% of voting rights); or
  - One person (either a company or an individual) controls all of the companies in the VAT group; or
  - Two or more individuals carrying on a business in a partnership controls all of them; and
- ▶ In addition, each of the bodies must either be:
  - Established in the UK, i.e. headquartered in the UK or the central management and control of the company is in the UK; or
  - Have a fixed establishment in the UK, i.e. have a permanent place of business in the UK with the necessary human and technical resource to carry out business activities, or have a branch in the UK with its own staff and equipment.

### Compliance

- ▶ A VAT group will submit returns and declarations as one grouped entity.

### Recent developments

- ▶ In light of recent case law, HMRC will be launching a formal consultation on the UK's VAT grouping provisions in spring this year.
- ▶ As such, we consider that HMRC's policy on VAT groups is likely to change, particularly in relation to the eligibility criteria and the VAT treatment of supplies to/received into the VAT group from overseas branches/head offices. In addition, the anti-avoidance rules regarding VAT groups are wide, and therefore should be considered when forming a new VAT group.

## Capital gains

### Capital gains

- ▶ A transfer of shares by a UK company to a non-UK tax resident company is a taxable event for UK corporation tax purposes and any gain / loss should be subject to UK corporation tax (currently 20%), in the absence of any reliefs (e.g. SSE – see below).
- ▶ In the current context, this should be in point for the transfer of the shares in Nuplex Industries B.V. by Nuplex Industries UK Ltd, assuming this step is effected for consideration outstanding on inter-company account.
- ▶ SSE should be available to exempt any gain from UK corporation tax provided the qualifying conditions are met, as follows:
  - *Substantial shareholding requirement:* The UK company must have held at least 10% of the company's ordinary share capital, and have had beneficial entitlement to at least 10% of the profits available for distribution and assets on a winding up, for a continuous 12 month period beginning not more than 2 years before the day on which the disposal takes place.
  - *Conditions relating to the “investing” company or group:* The “investing company” (i.e., Nuplex Industries UK Ltd.) must either be a “sole trading company” (i.e., not a member of a group) or a member of a “qualifying group” (i.e., member of a trading group) from the start of the latest 12 month period for which the substantial shareholding requirement (above) is satisfied, until the time of the disposal and immediately afterwards.
  - *Conditions relating to the “investee” company or subgroup:* The “investee” (i.e., Nuplex Industries B.V.) must have been a “qualifying company” (i.e. a trading company or the holding company of a trading group or trading subgroup) from the start of the latest 12 month period for which the substantial shareholding requirement (above) is satisfied, until the time of the disposal, and immediately after the disposal.
- ▶ Based on our understanding of the target group, the substantial shareholding requirement above should be met.
- ▶ In determining whether the “investing” company condition is met, we need to consider whether Nuplex Industries UK Ltd. is a member of a qualifying group. [The qualifying group for this purpose would be the combined Nuplex/Allnex group (subject to confirmation of the holding structure of the Allnex group)] in

respect of the period between the acquisition of the Nuplex group by the Allnex group and the time immediately after the disposal, and the Nuplex group in respect of the period prior to the acquisition (the fact that Nuplex Industries UK Ltd. would be a member of two different groups during the tested 12 month period should not impact the analysis provided that those two groups are both trading groups).

- ▶ A trading group means a group, one or more of whose members carry on trading activities and the activities of the group as a whole does not include, to a substantial extent activities other than trading activities. The legislation does not include any definition of the term “to a substantial extent”. HMRC guidance explains that in this context “substantial” means more than 20%, although this is only guidance with no statutory force. A company group or sub-group whose non-trading activities amount to more than 20% of its total activities (excluding intra-group or intra-subgroup activities) may not therefore meet the trading requirement. HMRC guidance goes on to explain that some or all of the following are among the measures (non-exhaustive tests) that might be taken into account in reviewing a particular company, group or sub-group's status:
  - The level of turnover received from non-trading activities;
  - Whether the value of non-trading assets was substantial in relation to the value of all assets;
  - The expenditure incurred or time spent by officers and employees on non-trading activities; and
  - The company's history
- ▶ There is also a subsidiary exemption under the SSE rules whereby in certain circumstances, gains which do not currently qualify for the main exemption, but which would have qualified in the previous two year period (e.g. where the investing company has been taken over by a non-qualifying SSE group), is exempt. Accordingly, if it is known that the disposal would have qualified for SSE at some point in the previous two years but there is some uncertainty post-acquisition as to whether a disposal would qualify, the subsidiary exemption may provide a practical shortcut to resolving those uncertainties provided the conditions for applying the subsidiary exemption are met.

## Tax overview

### US corporate tax rates

The primary income taxes imposed on a US corporation are federal and state income taxes.

- ▶ The highest federal corporate tax rate is 35%.
- ▶ The state income tax rate is generally between 5% and 10% depending on the state and associated income apportionment. State income taxes may be deducted against federal taxable income.

### Post-acquisition reorganization of the US group

- ▶ In order to facilitate the desired financing structure and to move the Nuplex US business underneath Allnex USA, Inc.:
  - Shortly before Closing Allnex USA Inc. directly obtains new bank debt in the amounts of approx. EURm 270-292 (denominated in USDm 300-325) of which it on-lends EURm 131-154 (denominated in USDm 146-171) to NZ BidCo for funding purposes ("US Funding Receivable") and replaces existing Allnex external debt of EURm 138.6 (denominated in USDm 154).
  - As part of the acquisition of Nuplex Industries, a Section 338 election will be made for Nuplex Industries and Nuplex Finance. Immediately following the acquisition of Nuplex Industries by NZ BidCo, Nuplex US Holdings Ltd. will transfer 100% of the membership interests in Nuplex Resins LLC to Allnex USA, Inc. in exchange for P-Note US. Immediately following the transfer of Nuplex Resins LLC, Nuplex US Holdings Ltd. will distribute the P-Note US to Nuplex Finance then liquidate. Nuplex Finance will distribute the P-Note US up the chain to Nuplex Industries then to NZ BidCo. NZ BidCo settles in full US Funding Receivable owed to Allnex USA, Inc. by transferring P-Note US to Allnex USA, Inc. US Funding Receivable and P-Note US are expected to be equal.
  - Nuplex Resins LLC will continue to be a disregarded entity and therefore its activity will be included in the Allnex US Holding Inc. US federal consolidated income tax return.
- ▶ In general, assuming a valid business purpose exists, the above steps should be treated as a transfer of Nuplex US Holdings Ltd. assets to Allnex USA, Inc. in a transaction that is expected to qualify as a reorganization under IRC Sec.

368(a)(1)(D) (a "D reorganization"). In exchange for the transfer of its assets, Nuplex US Holdings Ltd. would be viewed as receiving the P-Note US and a nominal share of Allnex USA, Inc. equity, which would be distributed by Nuplex Finance in a liquidating distribution.

- The P-Note US and nominal share would then be further distributed up through the chain to Allnex S.à r.l.
- ▶ Nuplex US Holdings should not recognize gain on its transfer of assets in exchange for the consideration since such consideration will be immediately deemed to be distributed to Nuplex Finance in the reorganization.
- ▶ While Nuplex Finance would realize gain on the liquidation of Nuplex US Holdings for US income tax purposes to the extent of the P-Note US consideration, no gain is expected to be recognized as a result of the Section 338(g) election, which will cause Nuplex Finance to receive a fair market value tax basis in the Nuplex US Holdings shares being transferred.

### IRC Section 338 elections

- ▶ An election under IRC Section 338(g) is made unilaterally by a buyer. We do not expect that the sellers would seek to contractually prohibit NZ BidCo from making such an election with respect to the non-US Nuplex entities that are not currently treated as controlled foreign corporations ("CFCs"). In order to make the election, the acquisition must constitute a qualified stock purchase, which is generally defined as the acquisition of 80% or more of the stock of a corporation by another unrelated corporation within a 12-month period. The acquisition of Nuplex Industries by NZ BidCo should constitute a qualified stock purchase ("QSP").
- ▶ Additional elections may be made down the chain of ownership with respect to other non-US corporations in the structure. We expect that an election could be made for Nuplex Finance as well.
  - Such elections would allow the acquisition of these entities to be treated as asset acquisitions made by new corporations solely for US income tax purposes, and will result in the entities obtaining a fair market value basis in their assets, and will reset any accumulated E&P balances to zero.

## Interest deduction for US tax purposes

In general, interest expense associated with external borrowings is deductible for US income tax purposes, subject to the following limitations:

### Debt/Equity Rules

- ▶ When debt is borrowed from or guaranteed by a foreign related party, the determination as to whether an obligation will be respected as "bona fide" debt of the US borrower is dependent upon numerous factors (e.g., the borrower's ability to repay the principal and interest), including:
  - Documentation supporting the position that a third party would lend to Allnex USA Inc. on the same or similar terms absent the related party guarantee (e.g., a bank commitment letter).
  - Documentation benchmarking Allnex USA Inc.'s credit rating and the possible ranges of interest rates on the guaranteed debt is also advisable.
  - If it is determined that the debt should be treated as equity, all interest and principal payments are treated as distributions subject to dividend characterization and potential withholding tax.

### Earnings Stripping Rules

- ▶ IRC Section 163(j) may limit the deductibility of interest of a US corporation on debt owed to or guaranteed by a foreign related person. In order for IRC Section 163(j) to apply and limit the deductible interest expense, three requirements must be met: (i) the taxpayer's debt-to-equity ratio must exceed 1.5 to 1; (ii) the interest must be "disqualified interest"; and (iii) the taxpayer must have excess interest expense.
  - For this purpose, interest is "disqualified interest" if it is: (i) paid to a related person and the interest income is either not subject to US tax or the rate of tax on the interest income is reduced by reason of a US income tax treaty or other exemption, or (ii) paid to an unrelated party on debt guaranteed by a foreign related person and the interest income is either not subject to US tax or the rate of tax on the interest income is reduced by reason of a US income tax treaty or other exemption.
  - A US affiliated group has excess interest expense if its net interest expense exceeds 50% of the US affiliated group's "adjusted taxable income. The term "adjusted taxable income" is generally defined as taxable income of the US

affiliated group computed without regard to its depreciation, amortization, net interest expense and certain other adjustments

- ▶ Any excess interest expense may be carried forward indefinitely.
- ▶ To the extent that a US borrower has excess interest capacity in a given year, that excess capacity may be carried forward for 3 years.

### Applicable High Yield Discount Obligation

- ▶ The Applicable High Yield Discount Obligation ("AHYDO") rules generally apply to loans issued with significant original issue discount ("OID") (e.g., as a result of an equity component associated with the loans such as warrants, conversion feature, equity link, etc., or if the loans include terms which would otherwise create a discount to the loan's face value, such as interest paid-in-kind ("PIK")).
- ▶ Significant OID is generally exists where more than one year's yield remains unpaid following the first accrual period after the fifth anniversary of the issuance.
- ▶ The AHYDO rules defer or permanently disallow interest deductions where the yield to maturity on the instrument exceeds the applicable federal rate published by the IRS, plus 500 and 600 basis points, respectively.
- ▶ Confirmation should be obtained regarding the specific terms of the US borrowing to ensure no adverse tax implications under the AHYDO rules.

### Withholding tax on interest payments

- ▶ Interest payments made by a US borrower to a non-US lender are generally subject to a statutory 30% US withholding tax.
- ▶ Such withholding tax may be reduced or eliminated by an applicable income tax treaty (if the holder of the debt qualifies for treaty benefits) or the portfolio interest exemption.
  - In general, the portfolio interest exemption only applies to interest on an obligation that is issued in "registered form." The exemption is generally only available to non-US holders of such debt if (i) the holder is not a bank and (ii) the holder is not directly or indirectly related to the issuer.

## Interest deduction for US tax purposes

- The US borrowers should obtain appropriate exemption documentation from its lenders (e.g., Form W-8BEN or W-8ECI for Non-US lenders and Form W-9 for US lenders).

## Other

### Dividends

- ▶ Dividends from a US corporation to a non-resident shareholder are generally subject to a 30% statutory withholding tax, which may be reduced or eliminated under an applicable income tax treaty. A distribution is first treated as dividend out of earnings and profits of the corporation, then as a return of share basis, and then capital gain.

### US check-the-box elections

- ▶ A business entity that is not a *per se* corporation can elect to be classified as a corporation or a partnership if it has two or more owners or a corporation or a disregarded entity if it has only one owner. The election may be made or changed by filing Form 8832 with the IRS. The election is effective as of the date stated on the election (which may not be more than 75 days before or 12 months after the election is filed); if no effective date is specified, it is effective when filed. For example, a newly organized entity may make an election effective as of the date of organization if the election is filed within 75 days thereafter.

### Change in Ownership Rules

- ▶ IRC Section 382 imposes an annual limitation on the use of certain tax attributes incurred by a “loss corporation” when there has been an “ownership change.” An ownership change is generally defined as a greater than 50% change in the stock ownership (direct or indirect) of the company (measured by value) over a rolling three-year testing period.

- The Section 382 Limitation is computed based upon the equity value of the Company on the date of the ownership change, which for these purposes may be reduced by certain adjustments including, but not limited to, (1) capital contributions made during the two-year period preceding the ownership change (commonly referred to as anti-stuffing rules), and (2) any “corporate contractions” in value occurring in connection with the ownership change. The adjusted equity value is then multiplied by the applicable federal rate as published by the IRS for the month in which the ownership change occurs in determining the “Section 382 Base Limitation” (i.e., the maximum amount of post-ownership change NOLs that may be utilized on an annual basis).

- The Section 382 Base Limitation may be increased if the company has a net unrealized built-in gain, or “NUBIG,” at the time of the ownership change (i.e., the fair value of the company’s assets exceeds their adjusted tax bases beyond a threshold amount). Conversely, the Section 382 Base Limitation may limit certain amortization and depreciation deductions on assets held by the Company prior to the ownership change if the company has a net unrealized built-in loss, or “NUBIL,” at the time of the ownership change (i.e., the fair value of the company’s assets is less than their adjusted tax bases beyond a threshold amount). Any unused Section 382 Limitation in a given year increases the limitation in the succeeding tax year.

### Tax treatment of deal acquisition costs

- ▶ Any deal acquisition or financing costs incurred at or properly allocable to Nuplex Resins LLC or Allnex USA Inc. should be analysed for deductibility for US income tax purposes. Generally, the following treatment should apply:
  - Costs that are investigatory in nature are generally currently deductible.
  - Amounts incurred that are “inherently facilitative” of the transaction, or incurred after a bright-line date (e.g., date on which the material terms of the transaction are authorized by taxpayers board of directors), must generally be capitalized to the basis of the asset acquired (e.g., stock), and may not be amortizable.
  - For contingent fees (e.g., investment bankers whose payment is contingent on a successful closing), the IRS has provided a safe-harbour allowance whereby taxpayers may treat 70% of such costs as non-facilitative (and therefore currently deductible).
  - For debt financing costs, such costs are generally capitalized to the underlying obligation, and amortized over the term of obligation.

### US Federal Income Tax Consequences of Inbound Type D Reorganization

- ▶ It is currently envisaged that the US branch of Nuplex US Holdings Ltd. will terminate by reason of a D reorganization whereby the assets of the company will be transferred to Allnex USA Inc. In general, such an inbound reorganization can give rise to (i) a deemed dividend of the target company’s “all earnings & profits amount” and (ii) the imposition of branch profits tax at a rate as high as 30% on all of the target company’s non-Previously taxed effectively connected

## Other

earnings and profits. Certain exceptions may mitigate or eliminate these tax consequences if certain requirements are met.

### Deemed Dividend of “All Earnings & Profits Amount” under Section 367(b)

- ▶ In general, a tax-free reorganization or liquidation of a foreign corporation coming inbound into the US is treated as a non-recognition transaction subject to normal tax-free basis and attribute carryover principles; however, the inbound transaction generally requires the US acquirer to include into its taxable income as a deemed dividend the “all earnings & profits amount” of the target company.
  - General rule (to be completed)
  - Exceptions for effectively connected earnings & profits (to be completed)

### Branch Profits Tax

- ▶ In respect of a branch termination, exceptions to the imposition of branch profits tax do exist for section 381 transactions such as inbound D reorganizations; however, several requirements must be satisfied in order for the branch profits tax to not apply and for the non-previously taxed accumulated earnings & profits to carry over to the acquiring US corporation.
  - Requirements to avoid imposition of BPT (to be completed)
  - Carryover to US acquirer of section 381 attributes such as E&P (to be completed)

### Tax Imposed under Foreign Investment in Real Property Tax Act (“FIRPTA”)

- ▶ We understand that Nuplex Resins LLC owns real property (i.e., land and building) that is situated in Kentucky. The land and building were recorded on the books at an aggregate cost of EURm 5.7 (USDm 6.3) (land of approx. EURm 1.9 (USDm 2.1) and building of approx. EURm 5.7 (USDm 6.3), structural improvements of EURm 2.5 (USDm 2.8) less D/A of EURm 4.5 (USDm 5). In connection with the transfer of Nuplex Resins LLC, there may be imposed on the acquirer, Allnex USA Inc., a requirement to withhold and remit tax equal to 15% of the value of the US real property transferred i.e., EURm 0.9 (USDm 1). Nuplex US Holdings Ltd. will be responsible for paying tax on the gain realized on the transfer of such real property and reporting such gain on its final tax return. Tax

is generally imposed at US corporate income tax rates of 35% so if the 15% withholding tax remitted by Allnex US, Inc. on behalf of Nuplex US Holdings Ltd. was in excess of the tax due, Nuplex US Holdings Ltd. can claim a refund of such tax on its US tax return for the year in which the transfer occurred (to be reviewed further).

- ▶ Relief from withholding tax can be obtained if the taxpayer receives a withholding certificate from the IRS that excuses withholding or permits the transferee/acquirer to withhold a reduced amount of tax reflecting the transferor's maximum tax liability. The maximum tax liability would be calculated as 35% of the gain realized on the transfer of the property. The comparison point would be 35% of the gain (if any) versus 15% of the gross value.
- ▶ A calculation and supporting documentation must be filed along with the form and be signed by an officer of the company under penalties of perjury.
- ▶ Practically, to perform this exercise, details of the tax basis of the underlying real property and some form of formal appraisal of the property are required. A valuation would reflect any reduction in value due to contingent or known environmental claims. We recommend that the comparison is done between signing and closing of the envisaged transaction (or at least prior to the actual transfer of Nuplex Resins LLC if access to relevant information is denied).
- ▶ Provided that the application is filed prior to the actual transfer, the withholding tax obligation, if any, may be delayed until 20 days after receipt of the certificate for reduced withholding from the IRS (or denial of the request by the IRS). This can delay the timing of any payment as well. As such, there would not be a funding requirement in the period between when the request for the withholding certificate is filed and when a response is received. We understand based that it can take between 3 and 6 months to receive a response depending on how busy the IRS is with processing of requests.
- ▶ Finally, please note that US real property interests can include certain equipment and personal property associated with the use of the real property, structural components of the building, and immoveable property that is affixed permanently to real property. The definition of real property may also include a bargain or below-market leasehold interests (in which case the value would be measured by the present value of the future payments that could be received if the leasehold were to subleased to a third party).

## **Tax implications of minor importance jurisdictions**

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### **1. General remarks**

## General remarks

- ▶ The acquisition of Nuplex Industries Ltd. leads to an indirect transfer of shares in the following companies:
  - Nuplex Producao de Resinas Ltda., Brazil
  - Nuplex Industries (Hong Kong) Ltd., Hong Kong
  - PT Nuplex Raung Resins, Indonesia
  - Nuplex Resins LLC, Russia
  - Nuplex Singapore Pte, Singapore
  - Cong Ty Nuplex Resins (Vietnam) Pty. Ltd., Vietnam
  - Masterbatch Vietnam Pty. Ltd., Vietnam
- ▶ For prudency purposes, we performed a high level analysis whether the indirect transfer of shares in the aforesaid entities would lead to the tax implications:
  - (Deemed) capital gains taxation
  - Change-of-ownership rules / forfeiture of tax attributes
  - Transfer taxes, such as real estate transfer tax or stamp duty
  - Reporting or notification requirements
  - Other tax implications to be considered
- ▶ For the avoidance of doubt, we did not analyze any tax implications which may arise upon a direct transfer of the aforesaid entities. Nevertheless, based on the applicable tax treaties, we reviewed whether a direct share transfer would impact the dividend WHT. In any case, before a direct transfer of shares is performed, the local tax implications should be carefully analyzed.
- ▶ The potential tax implications - if any – as well as recommendations and considerations are summarized in the below table:

## Overview of tax implications for indirect transfers of minor importance countries

Steps	Jurisdiction	Shares transferred	Description	Recommendations/ Comments
<b>At Closing</b>				
	Brazil	100%	<ul style="list-style-type: none"> <li>▶ No capital gains tax implications upon an indirect share transfer</li> <li>▶ Tax attributes are not affected</li> </ul>	<u>For purpose of a potential future carve-out out from under Nuplex Finance Holdings Ltd.:</u> <ul style="list-style-type: none"> <li>▶ Domestic dividend WHT rate: 0%</li> <li>▶ No treaty between Brazil and New Zealand</li> <li>▶ Dividends to Belgium subject to 10% WHT(if at least 10% shareholding)</li> </ul>
	Hong Kong	100%	<ul style="list-style-type: none"> <li>▶ No capital gains tax implications upon an indirect share transfer</li> <li>▶ Tax attributes are not affected</li> </ul>	<u>For purpose of a potential future carve-out out from under Nuplex Finance Holdings Ltd.:</u> <ul style="list-style-type: none"> <li>▶ Domestic dividend WHT rate: 0%</li> <li>▶ Dividends to New Zealand subject to 5% WHT (if at least 10% shareholding)</li> <li>▶ Dividends to Belgium subject to 5% WHT(if at least 10% shareholding)</li> </ul>
	Indonesia	80%	<ul style="list-style-type: none"> <li>▶ No capital gains tax arises due to treaty with NZ</li> <li>▶ No stamp duty applies</li> </ul>	<u>For purpose of a potential future carve-out out from under Nuplex Finance Holdings Ltd.:</u> <ul style="list-style-type: none"> <li>▶ Domestic dividend WHT rate: 20%</li> <li>▶ Dividend distributions to Belgium: subject to 15% tax rate</li> <li>▶ Dividend distributions to New Zealand subject to 15% WHT</li> </ul>
	Russia	99% by Nuplex Industries B.V. 1% by Nuplex Resins B.V.	<ul style="list-style-type: none"> <li>▶ No capital gains tax implications upon an indirect share transfer provided that not more than 50% of Nuplex Resins LLC's value consists if real property owned by it</li> <li>▶ Tax attributes are not affected</li> </ul>	<u>For purpose of a potential future carve-out out from under Nuplex Finance Holdings Ltd.:</u> <ul style="list-style-type: none"> <li>▶ Domestic dividend WHT rate: 15%</li> <li>▶ Dividend distributions to Nuplex Industries B.V. are subject to dividend WHT of 5% and to Nuplex Resins B.V. of 15% (due to minimum shareholding requirement).</li> <li>▶ Dividend distributions to Allnex Belgium would be subject to dividend WHT of 10%.</li> </ul>

## Overview of tax implications for indirect transfers of minor importance countries

Steps	Jurisdiction	Shares transferred	Description	Recommendations/ Comments
	Singapore	100%	<ul style="list-style-type: none"> <li>▶ No capital gains tax implications upon an indirect share transfer</li> <li>▶ Forfeiture of tax attributes due to a change of ownership event (more than 50% of shares are transferred). Upon application, a relief may be available so that tax losses would survive, if it can be demonstrated that the share transfer was not tax driven</li> </ul>	<ul style="list-style-type: none"> <li>▶ Position of Nuplex Singapore Pte's tax attributes should be analyzed post-closing. Application for relief from change-in-ownership rules to be considered</li> </ul> <p><u>For purpose of a potential future carve-out out under Nuplex Finance Holdings Ltd.:</u></p> <ul style="list-style-type: none"> <li>▶ Domestic dividend WHT rate: 0%</li> <li>▶ Dividends to New Zealand subject to 5% WHT (if at least 10% shareholding)</li> <li>▶ Dividends to Belgium subject to 15% WHT</li> </ul> <ul style="list-style-type: none"> <li>▶ <u>Regarding opposite no. 1:</u> Although Nuplex Operations (Aust) Pty. Ltd. is a holding company, it occurs to us that a capital gains taxation would not be triggered upon an indirect transfer of the Vietnamese entities given that they are owned through an operating entity, Nuplex Industries (Aust) Pty. Ltd. (to be analyzed);</li> <li>▶ <u>Regarding opposite no. 2:</u> If the name of the Vietnamese entities will be renamed following the share transfer, for instance, from Nuplex to Allnex, Vietnamese capital gains taxation might be triggered (to be analyzed).</li> </ul>
	Vietnam Cong Ty Nuplex Resins (Vietnam) Pty. Ltd. and Masterbatch Vietnam Pty. Ltd.	100%	<ul style="list-style-type: none"> <li>▶ Capital gains tax of 20% may arise upon an indirect transfer (within 10 days from SPA), if:           <ol style="list-style-type: none"> <li>1) The "overseas holding company", which will be directly transferred has no actual business function and owns shares of Vietnamese entities only; or</li> <li>2) Indirect transfer at the group level and change of the name of Vietnamese entity</li> </ol> </li> <li>▶ No other taxes/, stamp duty or fees are triggered upon an indirect share transfer</li> </ul>	<p><u>For purpose of a potential future carve-out out under Nuplex Operations (Aus) Pty. Ltd.:</u></p> <ul style="list-style-type: none"> <li>▶ Domestic dividend WHT rate: 0%</li> <li>▶ Dividends to Australia subject to 10% WHT</li> <li>▶ Dividends to Belgium subject to 5% WHT (if at least 50% shareholding)</li> </ul>

## Overview of tax implications for indirect transfers of minor importance countries

Steps	Jurisdiction	Shares transferred	Description	Recommendations/ Comments
<b>Action 4</b>				
	Vietnam			
Cong Ty Nuplex Resins (Vietnam) Pty. Ltd. and Masterbatch Vietnam Pty. Ltd.				
		100%	▶ See above	▶ See above
<b>Action 6 and 7</b>				
Russia	99% by Nuplex Industries B.V.			
	1% by Nuplex Resins B.V.		▶ See above	▶ See above

## **Appendices**

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1. Appendix A: Abbreviations
2. Appendix B: Tax Certifications for Advent's Representation Letter (GPE)
3. Appendix C: Signed engagement letter

## Abbreviations

### Legal forms

AG	Aktiengesellschaft - Stock Corporation (Germany)	
B.V.	Besloten vennootschap - Limited liability company (Netherlands)	
GmbH	Gesellschaft mit beschränkter Haftung - Limited liability company (Austria, Germany, Switzerland)	
Inc.	Incorporated - Limited liability company (US)	
LLC	Limited Liability Company (US)	
Ltd.	Limited - Limited liability company (China, New Zealand, UK)	
NV	Naamloze vennootschap - Stock Corporation (Netherlands)	
Ltda.	Sociedade Limitada – Limited liability company (Brasil)	
Private Ltd.	Private company limited by shares – Limited liability company (Singapore)	
Pty. Ltd.	Proprietary Limited – Limited liability company (Australia)	
S.A.	Société anonyme - Public limited liability company (Luxembourg)	
S.à. r.l.	Société à responsabilité limitée – Limited liability company (France, Luxembourg)	
S.C.A.	Société en commandite par actions - Publicly traded partnership (Luxembourg)	
Sdn. Bhd.	Sendirian Berhad - Private limited company (Malaysia)	
ULC	Unlimited liability corporation	ULC

## Abbreviations

### Companies

AcquiCo	Acquisition company
APSC Ltd.	Asia Pacific Specialty Chemicals Ltd.
APSP	Nuplex Specialties NZ
CNNL	NIBV ConsolElim Company
ENGc	Group Consolidation Eliminations
MPL Pty Ltd.	Multichem Pty. Ltd.
NFH Ltd.	Nuplex Finance Holding Ltd.
NIAL Ltd.	Nuplex Industries (Australia) Ltd.
NIBV NV	Nuplex Industries B.V.
NIDE GmbH	Nuplex Industries GmbH
NINZ Ltd.	Nuplex Industries Ltd. (NZ)
NIUK Ltd.	Nuplex Industries UK Ltd.
NOAL Pty Ltd.	Nuplex Operations Aust Pty. Ltd.
NRCC Co. Ltd.	Nuplex Resins (Changshu) Co. Ltd.
NRCF Co. Ltd.	Nuplex Resins Foshan Co. Ltd.
NRCS Co. Ltd.	Nuplex Resins (Suzhou) Co. Ltd. China
NRDE GmbH	Nuplex Resins Germany GmbH
NRID	PT Nuplex Raung Resins (Indonesia)
NRMY Sdn Bhd	Synthese (Malaysia) Sdn Bhd
NRNL BV	Nuplex Resins B.V.
NRRU LLC	Nuplex Resins LLC
NRSG	Nuplex Resins Singapore
NRTW	Nuplex Resins Taiwan

## Abbreviations

NRUK Ltd.	Nuplex Resins Ltd. UK
NRUS LLC	Nuplex Resins LLC
NRVN	Cong Ty Nuplex Resins (Vietnam)
NSLH Ltd.	Silvertown Land Holdings Ltd.
NUSH Ltd.	Nuplex US Holdings Ltd.
PSLC Ltd.	Plaster Systems Ltd.

## Abbreviations

### Others

ACA	Allocable cost amount
ACT	Australian Capital Territory
APA	Advance pricing agreement
approx.	Approximately
bn	billion
CFC	Controlled foreign company
AHYDO	Applicable High Yield Discount Obligation
ASC	Available subscribed capital
ATCA	Advance Thin Capitalization Agreement
ATO	Australian Taxation Office
AUD	Australian Dollar
BEPS	Base Erosion and Profit Shifting
bps	Basis point
BPT	Branch Profits Tax
CIT	Corporate income tax
CITA	Corporate Income Tax Act
COT	Continuity of ownership test
CTB	Check the box (election)
DD	Due Diligence
EEA	European Economic Area
e.g.	exempli gratia; for example
DTA	Double tax agreement
DTL	Deferred tax liability

## Abbreviations

DTT	Double tax treaty
EBIT	Earnings before interest and tax
EBITDA	Earnings before interest, tax, depreciation and amortization
EBT	Entire business transfer
etc.	Et cetera
EC	European Commission
ECST	Employer Superannuation Contribution Tax
EIT	Earned Income Tax
EU	European Union
EUR	Euro
EY	Ernst & Young
FC	Fiscal Code
FBT	Fringe Benefit Tax
FIE	Foreign invested enterprise
FITC	Foreign investor tax credits
FMV	Fair market value
FTA	Foreign Tax Act
FRR	Fixed Ratio Rule
FTC	Foreign tax credit
FX	Foreign exchange
GAAP	Generally accepted accounting principles
GAAR	General anti-abuse rule
GBP	British Pound
FY	Fiscal year

## Abbreviations

GRR	Group Ratio Rule
GST	Goods & Services Tax
HMRC	Her Majesty's Revenue and Customs
HNTE	High and New Technology Enterprises
i.a.	inter alia; among others
i.e.	id est; this/that means
I/C	Intercompany
ICF	Interest carried forward
IFRS	Internal Financial Reporting Standards
incl.	Including
IRD	Inland Revenue Department
ITA	Income Tax Act
k	Thousands
m	Millions
MOC	Ministry of Commerce
MYR	Malaysian Ringgit
NDZ	New Zealand Dollar
NID	Notional interest deduction
NOL	Net operating losses
NT	Northern Territory (Australia)
NSW	New South Wales (Australia)
NWT	Net Wealth Tax
p.a.	Per anno
OECD	Organisation for Economic Co-operation and Development

## Abbreviations

para.	Paragraph
PAYE	Pay As You Earn
PEC	Preferred equity certificate
PER	Price earning ratio
PFIC	Passive foreign investment company
PLTA	Profit and loss transfer agreement
PPA	Purchase price agreement
PRC	People's Republic of China
Q&A	Question & Answers
Qld	Queensland (Australia)
RETT	Real estate transfer tax
QSP	Qualified stock purchase
RETTA	Real Estate Transfer Tax Act
RPC	Real Property Company
RPGT	Real Property Gains Tax
RWT	Resident withholding tax
SA	South Australia
SAT	State Administration of Taxation
SCA	Senior Credit Agreement
SAFE	State Administration of Foreign Exchange
SBT	Same business test
SC	Securities Commission
SDGR	Stamp duty group relief
SDRT	Stamp Duty Reserve Tax

## Abbreviations

sec.	Section
SHL	Shareholder loan
SoA	Scheme of Arrangement
SPA	Share purchase agreement
SSE	Substantial Shareholding Exemption
STM	Division Science, Technology and Medicine
TCG	Tax consolidated group
TLCF	Tax loss carry forward
TP	Transfer pricing
TT	Trade tax
TTA	Trade Tax Act
UK	United Kingdom
USA or US	The United States of America
USD	United States Dollar
VAT	Value added tax
VDR	Virtual data room
VIC	Victoria (Australia)
VLN	Vendor loan note
WA	Western Australia
WHT	Withholding tax
WWDC	Worldwide debt cap

## Tax Certifications for Advent's Representation Letter (GPE)

- ▶ Neither the Company nor any intermediate holding company is a "domestic reverse hybrid entity" (within the meaning of Treas. Reg. Section 1.894-1(d)(2)). [Rep. sheet question #12.]  
Confirmed by (U.S. tax advisor)
- ▶ The deal does not include purchasing a US corporation through a US limited liability company. [Rep sheet question #13.]  
Confirmed by (U.S. tax advisor)
- ▶ Advent's partnership agreements require that Advent receive written advice (not opinions) that concludes the following for Advent's Delaware and Cayman Limited Partnerships (collectively, the Funds) which are investing:
  - 1.) That the Funds' investments in each local jurisdiction where the Funds' invest, will not cause any Limited Partner, solely as a result of the Limited Partner being a Limited Partner in a Fund, to be required to either (i.) file income tax returns (or any other tax returns relating to the payment of taxes based on the income of the Fund or a Partner) in such country or (ii) pay tax in such country with respect to the Limited Partner's income other than income from the Fund. [Rep. sheet questions #14 & 16, see also footnote a. below]  
Confirmed by (local country advisor); and
  - 2.) That the Funds' investments in each local jurisdiction where the Funds' invest will not cause any Limited partner, solely as a result of the Limited Partner being a Limited Partner in a Fund, to be required to file a Tax Return in any country in which such investment has, or is deemed to have, a permanent establishment.  
Confirmed by (local country advisor); and
- ▶ Discussions have established whether any Fund has (i) acquired a direct or indirect equity interest in (A.) a "controlled foreign corporation, CFC, or (B) a "passive foreign investment company, PFIC or (ii) engaged directly or indirectly in a "listed transaction" or "prohibited reportable transaction." [Rep. sheet question #18].  
Confirmed by (U.S. tax advisor)
- ▶ Due diligence has established that the deal does not involve an intermediate holding company that is a corporate entity under German tax law and that a  
Confirmed by (local advisor)
- ▶ That the limited liability of the Limited Partners under U.S. and Cayman law will be respected by the local jurisdiction where the Funds' have invested.  
Confirmed by (local country advisor)
- ▶ Due diligence has established the taxable status of the U.S., Canadian, Dutch and tax-exempt limited partners upon exit from the deal or upon the payment of interest or dividends. [Rep. sheet question #15]  
Confirmed by (local advisor)
- ▶ Due diligence has established that the deal will not: [Rep question #17.]
  - 1.) Create "unrelated business taxable income" ("UBTI") in the U.S. or,
  - 2.) Cause any Advent fund to be treated as engaged in a "trade or business within the United States" or,
  - 3.) Cause any Advent fund to be deemed to have acquired any "United States real property interests" for federal income tax purposes or,
  - 4.) Cause any non-U.S. investor that is a foreign government to be treated as engaging in a "commercial activity."
- ▶ Due diligence has established that the deal does not involve an intermediate holding company that is a corporate entity under German tax law and that a  
Confirmed by (U.S. tax advisor)

## Tax Certifications for Advent's Representation Letter (GPE)

Fund holds shares in that intermediate holding company directly or indirectly through a tax transparent structure. [Rep. sheet question #19]

Confirmed by (local country advisor)

- a.) *Advice for 1.), 2.) and 3.) is required for all jurisdictions through which the investment is made, that is, for each holding company down to and including the first operating company.*

## Signed engagement letter



Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Reichenbachstrasse 78  
20146 Hamburg

Finance Advisory Services  
Wolfgang Tautz  
Teltow +49 61 96 900 27470  
wolfgang.tautz@de.ey.com  
www.de.ey.com

Transaction Tax  
Michael Kunz  
Teltow +49 61 96 900 28025  
michael.kunz@de.ey.com  
www.de.ey.com

**Addressee only**  
Alinex Belgium SA/NV  
Square Marie Curie 11  
1070 Brussels  
Belgium

24 February 2016

Dear Sirs

**Re: Engagement Agreement – Proposed Acquisition of Nuplex Industries Ltd., New Zealand**

Thank you for choosing Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft ("we" or "EY") to perform certain due diligence and other services (the "Services") for Alinex Belgium SA/NV and its affiliated group entities, listed in Appendix E (collectively, "you" or "Client"). We understand that you are contemplating an acquisition of Nuplex Industries Ltd., New Zealand (the "Target") (the "Transaction"). We appreciate the opportunity to assist you and look forward to working with you.

The attached Statement of Work describes the scope of the Services and any additional arrangements. The Services will be subject to the terms and conditions of this agreement, together with its attachments, including the General Terms and Conditions, the Statement of Work, the Fee Arrangement for the Services (the "Fee Arrangement") and any other Appendices (together, this "Agreement").

Please sign this agreement in the space provided below, the Fee Arrangement and the Declaration regarding the use of information (the "Client Consent") to indicate your agreement with these arrangements and return them to Michael Kunz at your earliest convenience. If you have any questions about any of these materials, please do not hesitate to contact Jan-Rainer Hinz so that we can address any issues you identify before we begin to provide the Services.



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Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Page 2 of 4

Yours sincerely

Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
  
Wolfgang Tautz  
Partner

Michael Kunz  
Partner

**Client Acknowledgement**

We herewith confirm the engagement as outlined in the Agreement as defined above including the limitation of liability according to Sections 16 through 21 of the attached General Terms and Conditions. In derogation of the Maximum Liability Amount as stipulated in Section 16 and according to Section 17 of the General Terms and Conditions we have agreed to a Maximum Liability Amount of EUR 10 million. We understand that a further increase would be possible according to Section 17 of the General Terms and Conditions but do not wish to agree upon a higher Maximum Liability Amount. We agree that you may act for potential investors in the same transaction as outlined in section "Acting for other Clients".

**Alinex Belgium SA/NV**

Brussels, 29 March 2016  
Date, place

Signature(s)

**AI Chem (Luxembourg) Intermediate S.à r.l.**

Date, place \_\_\_\_\_ Signature(s) \_\_\_\_\_

**Alinex (Luxembourg) & Cy S.C.A.**

Date, place \_\_\_\_\_ Signature(s) \_\_\_\_\_

Ergebnis der Absichtserklärung des Klienten (Seite 1 von 2)  
Die folgenden Angaben sind nur für die Absichtserklärung des Klienten bestimmt und müssen nicht im Rahmen einer Rechtsbeziehung berücksichtigt werden.  
Name und Anschrift des Klienten: Alinex Belgium SA/NV, Square Marie Curie 11, 1070 Brüssel, Belgien  
Name und Anschrift der Beraterfirma: Ernst & Young GmbH, Wirtschaftsprüfungsgesellschaft, Reichenbachstrasse 78, 20146 Hamburg, Germany  
Angestellter/-in der Beraterfirma: Wolfgang Tautz, Partner  
Angestellter/-in des Klienten: Michael Kunz, Partner

## Signed engagement letter



Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Page 2 of 4

Yours sincerely

Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft

Wolfgang Taudte  
Partner

Michael Kunz  
Partner

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Allnex Belgium SA/NV

09 March 2016, Brussels  
Date, place

Signature(s)

AI Chem (Luxembourg) Intermediate S.a.r.l.

Date, place

Signature(s)

Allnex (Luxembourg) & Cy S.C.A.

Date, place

Signature(s)

Engagement Agreement  
between Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft and  
Allnex Belgium SA/NV as well as its affiliated group companies as listed in Appendix E dated  
24 February 2016



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Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Page 2 of 4

Yours sincerely

Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft

Wolfgang Taudte  
Partner

Michael Kunz  
Partner

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Allnex Belgium SA/NV

Date, place

AI Chem (Luxembourg) Intermediate S.à r.l.

Luxembourg, 8 March 2016  
Date, place

Allnex (Luxembourg) & Cy S.C.A.

Luxembourg, 8 March 2016  
Date, place

Engagement Agreement  
between Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft and  
Allnex Belgium SA/NV as well as its affiliated group companies as listed in Appendix E dated  
24 February 2016

Myriam Delenne \_\_\_\_\_ Frédéric Francesconi  
Manager Manager

Philippe Chan  
Manager



## Signed engagement letter



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EY & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Page 3 of 4

Allnex S.à r.l.

Date, place

Signature(s)

Allnex Holdings S.à r.l.

Date, place

Signature(s)

Allnex Australia Pty. Ltd.

BROUSSARD, 9<sup>th</sup> March 2016

Date, place

Allnex Brasil Comercio de Produtos Quimicos Ltda.

Date, place

Signature(s)

Allnex Holding I Germany GmbH

BROUSSARD, 9<sup>th</sup> March 2016

Date, place

Engagement Agreement  
between EY & Young GmbH Wirtschaftsprüfungsgesellschaft and  
Allnex (Brasil) S.A.R.L. as well as its affiliated group companies as listed in Appendix I, dated  
14 February 2016



EY & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Page 3 of 4

Allnex S.à r.l.

Date, place

Signature(s)

Allnex Holdings S.à r.l.

Date, place

Signature(s)

Allnex Australia Pty. Ltd.

9,03,2016 MELBOURNE AUSTRALIA

Date, place

Allnex Brasil Comercio de Produtos Quimicos Ltda.

Date, place

Signature(s)

Allnex Holding I Germany GmbH

Date, place

Signature(s)

Engagement Agreement  
between EY & Young GmbH Wirtschaftsprüfungsgesellschaft  
and Allnex (Brasil) S.A.R.L. as well as its affiliated group companies as listed in Appendix I, dated  
14 February 2016

## Signed engagement letter



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Allnex Holding UK Ltd.

BRUSSELS, 9th March 2016  
Date, place

Signature(s)

Allnex Holding USA Inc.

BRUSSELS 9th March 2016  
Date, place

Signature(s)

Allnex Malaysia Sdn. Bhd.

BRUSSELS 9th March 2016  
Date, place

Signature(s)

Allnex (Thailand) Ltd.

BRUSSELS 9th March 2016  
Date, place

Signature(s)

Allnex Resins (Shanghai) Co. Ltd.

BRUSSELS 9th March 2016  
Date, place

Signature(s)

### Enclosures

- ▶ Duplicate of this agreement with all appendices for you to sign (as indicated) and return
- ▶ Appendix A - Statement of Work
- ▶ Appendix B - General Terms and Conditions as of March 2013
- ▶ Appendix C - Declaration regarding the use of information ("Client Consent")
- ▶ Appendix D - Fee Arrangement
- ▶ Appendix E - Overview of parties to this Engagement Agreement

Engagement Agreement  
between EY & Young GmbH Wirtschaftsprüfungsgesellschaft and  
Allnex Belgium SA/NV as well as its affiliated group companies as listed in Appendix E dated  
26 February 2016



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Allnex Holding UK Ltd.

8-MAR-16, LONDON, UK  
Date, place

Signature(s)

Allnex Holding USA Inc.

Date, place

Signature(s)

Allnex Malaysia Sdn. Bhd.

Date, place

Signature(s)

Allnex (Thailand) Ltd.

Date, place

Signature(s)

Allnex Resins (Shanghai) Co. Ltd.

Date, place

Signature(s)

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Engagement Agreement  
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Allnex Belgium SA/NV as well as its affiliated group companies as listed in Appendix E dated  
26 February 2016

## Signed engagement letter



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Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Page 4 of 4

Allnex Holding UK Ltd.

Date, place

Signature(s)

Allnex Holding USA Inc.

8 March 2016 Alpharetta, GA  
Date, place

Signature(s)

Allnex Malaysia Sdn. Bhd.

Date, place

Signature(s)

Allnex (Thailand) Ltd.

Date, place

Signature(s)

Allnex Resins (Shanghai) Co. Ltd.

Date, place

Signature(s)

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Engagement Agreement  
between Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft and  
Allnex Belgium SARL as well as its affiliated group companies as listed in Appendix E dated  
24 February 2016



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Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Page 4 of 4

Allnex Holding UK Ltd.

Date, place

Signature(s)

Allnex Holding USA Inc.

Date, place

Signature(s)

Allnex Malaysia Sdn. Bhd.

Date, place

Signature(s)

Allnex (Thailand) Ltd.

9/3/2016 Bangkok  
Date, place

Signature(s)

Allnex Resins (Shanghai) Co. Ltd.

Date, place

Signature(s)

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Engagement Agreement  
between Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft and  
Allnex Belgium SARL as well as its affiliated group companies as listed in Appendix E dated  
24 February 2016

## Signed engagement letter



EY  
Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Page 4 of 4

Allnex Holding UK Ltd.

Date, place

Signature(s)

Allnex Holding USA Inc.

Date, place

Signature(s)

Allnex Malaysia Sdn. Bhd.

Date, place

Signature(s)

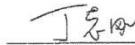
Allnex (Thailand) Ltd.

Date, place

Signature(s)

Allnex Resins (Shanghai) Co. Ltd.

March 9, 2016, Shanghai  
Date, place

  
Signature(s)

**Enclosures**

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- Appendix B - General Terms and Conditions as of March 2013
- Appendix C - Declaration regarding the use of information ("Client Consent")
- Appendix D - Fee Arrangement
- Appendix E - Overview of parties to this Engagement Agreement

Engagement Agreement  
between Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft and  
Allnex Belgium SA/NV as well as its affiliated group companies as listed in Appendix E dated  
24 February 2016

## Signed engagement letter



### Statement of Work

to the Engagement Agreement

between

Allnex Belgium SA/NV and its affiliated group companies as listed in Appendix E

and

Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft

dated 24 February 2016

#### 1. Purpose of the Services

You are contemplating to acquire Nuplex Industries Ltd., New Zealand

#### 2. Scope of Work

The scope of work is set out below. It sets out our understanding, based on discussions with you, of your objectives from the Transaction, the issues that are relevant to those objectives and the work we have agreed to perform. Unless our instructions are later amended in writing, the work we undertake will be restricted to that set out below.

As the engagement progresses, you may decide that you wish to vary the scope of our Services. For example, information that we need to perform our work on may not be available to us, or you may decide you wish us to consider other areas as a result of matters arising from the due diligence process. We will discuss such matters with you and any changes to the scope of our services will be agreed between us in writing (including email).

You have asked us to comment, based on information obtained in performing our work, on matters that may assist you in negotiating the terms of the Transaction or mitigate the key risks identified, including matters requiring further action following completion of the Transaction. However, we will not recommend whether you should or should not complete the Transaction, nor will we recommend the price or other terms upon which the Transaction should be completed. These are matters for your judgment and will require you to consider the advice and work done by your colleagues and other advisers.

Appendix A



### 3. Nature of the Services

The Services excluding any tax structuring work, model review and contract review will be performed as a due diligence engagement. Due diligence is a term used to describe work commissioned by a client involving enquiries into agreed aspects of the accounts, organization and activities as well as of the tax status including the tax risk profile of an undertaking (the target). The Services will consist primarily of applying analytical procedures to the data, information and explanations provided to us by management. Except to the extent that we have agreed to perform specified verification procedures, we will not verify the accuracy, reliability or completeness of the information provided to us. In addition, to the extent that as part of the engagement we use publicly available information or other third party sources, we will not verify the accuracy, reliability or completeness of such information or sources. However, we will consider whether such information is, in general terms, consistent with other information that we use.

The Services will not constitute an audit in accordance with generally accepted auditing standards, or a review, examination or other assurance engagement in accordance with auditing and assurance standards. Accordingly, we will not provide an opinion or any other form of assurance under audit or assurance standards on the Target's financial statements, other financial information (including prospective financial information) or internal controls. If we act or have acted as auditors of the Target, the Services are distinct from any previous audit opinion that we have given in respect of the Target's financial statements.

The Services will not include procedures to detect fraud or illegal acts or to test compliance with the laws or regulations in any jurisdiction. None of the Services or Reports (as defined in the General Terms and Conditions – Appendix B) will constitute any legal opinion or advice.

### 4. Limitations of the Scope

The Services will be based mainly on data and information provided to us by the management of the Target and on enquiries of and discussions with them. Subject to our obligation to conduct our work with reasonable skill and care, we shall have no liability for any loss or damage, of whatsoever nature, arising from information material to the Services being withheld or concealed from us or misrepresented to us by the directors, employees, or agents of the Target or any other person of whom we make enquiries except to the extent that such loss or damage arises as a result of our bad faith or willful default or where the withholding, concealment or misrepresentation should have been apparent to us without further enquiry from the information provided to us and required to be considered by us under the terms of our engagement.

EY logo: Building a better working world  
Version 1.0 dated 3 March 2016  
Page 1 of 31

## Signed engagement letter



Appendix A  
Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
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Notwithstanding the above, if we become aware, in carrying out our work, of any withholding, concealment or misrepresentation which we believe will have material implications for the performance of the Services, we will inform you as soon as reasonably practicable.

Where we make adjustments to financial information provided to us they will be based on analytical procedures carried out on information supplied to us, and should be regarded as illustrative. Such analysis will necessarily be subjective.

References to EY in the Report will relate to our advice, recommendations and analysis and will not indicate that we take any responsibility for the information concerned or are assembling or associating ourselves with any financial information including prospective financial information. Our specific terms and conditions with respect to review of prospective financial information are detailed below.

If our work includes consideration of a vendor due diligence report prepared by another firm of accountants, we will accept no responsibility for such report and will not verify the reliability or completeness of the information contained in it.

The Services do not consider the interests of third parties. They are for you and your internal use (including the use vis-a-vis the tax authorities) only and are therefore not designed or intended to serve third parties as a basis for their decisions, unless we expressly agree otherwise in writing. Third parties can neither infer rights nor otherwise benefit from this Agreement unless we expressly agree otherwise in writing. Your affiliates are also "third parties" in the sense of this Agreement.

### 5. Liability

In derogation of the Maximum Liability Amount as stipulated in section 16 and according to section 17 of the General Terms and Conditions we agree to a Maximum Liability Amount of EUR 10 million for damages resulting from negligence – except for damages resulting from injury to life, body or health. The remaining provisions of section 17 of the General Terms and Conditions remain unaffected.

### 6. Conduct of the Services

#### (a) Access to Information

Our work will require the following access:

Engagement Agreement  
Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft  
Acht-Bogen-SANZ dated  
24 February 2016



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Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Page 4 of 31

- Access to the data room to read selected documents.
- Discussions with the relevant members of the Target's management via experts session/calls.

We understand that we will not be permitted to have access to the auditors' working papers and visit the premises. As a result, it is possible that our work will not reveal all those matters that would otherwise have been identified.

#### (b) Reporting

Our reporting will be based on matters arising from the agreed scope of our work. However if in carrying out our agreed scope we become aware of any matters outside the agreed scope that we consider to be of importance to your assessment of the Transaction, we will bring these to your attention.

During the course of the engagement we will communicate with you regularly to inform you of our progress, significant findings identified, our views as they develop and our expected costs.

Our final written Report will comprise two parts:

#### Part I: Financial Due Diligence

Part I of our Report will comprise three volumes:

A: Financial and Pension Due Diligence on Nuplex Group

B: Financial Due Diligence on Alnex Group

C: Presentation of pro forma combined P&L and balance sheet information for Nuplex and Alnex

Part A and Part B will comprise

- Transaction Insights, where we will summarize our key findings together with references to the supporting analysis, and present our points of view relevant to your stated key objectives, as set out below. It will typically be set out under the following headings:

- Summary of findings
- Transaction overview
- Transaction considerations and corresponding analysis per agreed scope of work
- Next steps

Engagement Agreement  
Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft  
Acht-Bogen-SANZ dated  
24 February 2016

## Signed engagement letter



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Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Page 3 of 31

### Part II: Tax Due Diligence and Tax Structuring

Part II of our Report will comprise two volumes:

- Red Flag Tax Due Diligence covering selected countries
- Tax Structure Memorandum covering selected countries
- Tax Structuring (that is, review of the financial model from a tax perspective, review of the financial agreements, Scheme of Arrangement from a tax perspective)

Whilst each part of the Report addresses different aspects of the work we have agreed to perform, the entire Report should be read for a full understanding of our findings and recommendations.

You agree that there is an inherent risk of misunderstanding resulting from verbal comments or presentations to you about any Report or in relation to the Services. In case you intend to base a decision on such verbal information you will either accept this risk at your sole discretion and responsibility or should seek our written confirmation of your understanding thereof.

During the course of the engagement we may provide status Reports or show drafts of our Reports to you. This is done on the basis that they are provided to inform you of progress and significant findings identified to date, and draft Reports are subject to revision and alteration as further work is performed or further information received.

In order to confirm that our Report addresses to your satisfaction all the matters within the agreed scope, we will submit a draft of our Report to you for your comments prior to issuing it in final form.

### 7. Disclosure of our Report to Third Parties

Notwithstanding section 12 of the General Terms and Conditions (Appendix B) (for Tax Advice section 13 of the General Terms and Conditions shall prevail) you may disclose our Report to your professional advisors (in addition to your lawyers), and your affiliates and their professional advisors, who need to know the content of our Report in order to advise you in connection therewith provided that they treat our Report confidentially and you inform them that we assume no obligation, responsibility or duty of care towards them.

In the event you wish to make copies of our Report available to parties interested in the financing of the Transaction, we are prepared to consent to such a request but only on the basis that we do not owe them any obligation, responsibility or duty of care as a result of giving such consent. To this end we will require a signed Release Letter, a sample of which could be

Engagement Agreement  
between Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft and  
Ameritellus SAVV dated  
21 February 2016



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Wirtschaftsprüfungsgesellschaft  
Page 4 of 31

provided upon request, from those parties who are to receive a copy of our draft Report or our Report. The same applies as far as our Report includes Tax Advice and you ask us to make copies of our draft Report or our Report available to those parties

In the event that you request that we confirm duty of care (Lehre vom Vertrag mit Schutzwirkung zugunsten Dritter) to the bank or banking syndicate that provides the initial financing or participates in the primary syndication of the facilities for the Transaction (the "Initial Finance Parties"), we are prepared to do so on the basis that each of the Initial Finance Parties enters into a Duty of Care Letter a sample of which could be provided upon request. You acknowledge and agree that in the event that such a letter is entered into the limitations on our liability under the terms of this Agreement will apply to the addressee of this Agreement; and all parties entering into the Duty of Care Letter. Also you acknowledge and agree that our duty of care confirmation to these parties will result in sharing the liability cap as set out in this Agreement with these parties.

### 8. Timetable

It is envisaged, that the project will be substantially completed by the end of March 2016. The timeline for specific deliverables to this scope of work will be agreed separately and depending on the progress of the entire project.

We set out below our understanding of the anticipated timetable.

Tbd	Visit the data room
29 February 2016	Obtain access to management
[to be discussed]	Receive information requested
10 March 2016	Provide first draft of our Red Flag Tax Due Diligence Report
10 March 2016	Provide first draft of our Tax Structure Memorandum
10 March 2016	Provide first draft of our Financial Due Diligence Report
17 March 2016	Provide final reports

We will notify you as soon as practicable if it appears likely that there will be any significant delays in the above timetable.

### 9. Team Leaders

The engagement partners responsible for our Services will be Wolfgang Tautz for the financial due diligence and Michael Kunz for the tax due diligence and tax structuring, who will lead our team.

Engagement Agreement  
between Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft and  
Ameritellus SAVV dated  
21 February 2016

## Signed engagement letter

Building Bridges  
around the world

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Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Page 7 of 11

We understand that our principal contacts at Alinex Belgium SA/NV will be Duncan Taylor, CFO and Jan Oversteens, Head of Tax, who have been given overall responsibility for the performance of your obligations under this Agreement and coordinating with us in the performance of the Services.

### 10. Acting for other clients

You acknowledge that EY Firms (as defined in Appendix B) may render professional services to other clients, including in connection with a proposed transaction involving the Target. You agree that any such EY Firms may render these services to other such parties, as long as processes are put into effect to protect any confidential information relating to you and (a) no member of the team serving you is part of any team serving the other parties, and (b) the team serving you does not disclose to any other such team such confidential information, in either case without your prior written consent.

### 11. Prospective Financial Information ("PFI")

The provisions of this section will apply where the scope of the Services specifically includes the consideration of PFI.

Our work relating to the Target's business plan or PFI will not be a bookkeeping service (or other service akin to bookkeeping) and as such, we will not create a mutuality of interests with you. With respect to PFI relative to the Target referenced throughout this Report, we will not examine, compile or apply agreed-upon procedures to such information in accordance with standards established by the American Institute of Certified Public Accountants (AICPA) or Public Company Accounting Oversight Board (PCAOB) and we will express no assurance of any kind on such information.

We will not assist in the preparation of the Target's PFI or in the development of any assumptions therein and we shall only proceed to comment on PFI if we consider it to be of sufficient quality and completeness and if Target's management has provided sufficient information to explain the basis of key assumptions. Our Report may include tables showing or aggregating quantified sensitivities in order to illustrate by way of adjustment the effects of possible alternative assumptions.

Those tables should not be regarded as a restatement of the Target's and/or the Target's management's PFI, or preparation of revised PFI, they will be provided as a means of summarizing our findings and recommendations illustrating the possible effects of alternative

Engagement Agreement  
between Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft and  
Alinex Belgium SA/NV dated  
16 February 2016

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worldwide

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Wirtschaftsprüfungsgesellschaft  
Page 7 of 11

assumptions to assist you in considering their implications for the Transaction. It will be your responsibility to consider our findings and make your own decision based on the information available to you, including such findings and recommendations, and you agree that we do not take any responsibility for any PFI or underlying assumptions.

We will reach factually based conclusions and make recommendations about specific assumptions and components of the PFI herein, where we have sufficient evidence to provide a reasonable basis for them. We will not provide any opinion or any type of assurance about specific assumptions or components of the PFI or on the PFI as a whole.

There will usually be differences between estimated and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. We will take no responsibility for the achievement of projected results.

### 12. Sale and Purchase Agreement and Completion Accounts

We may be asked to propose wording for clauses in the draft sale and purchase agreement or we may be asked to review those sections in the draft sale and purchase agreement that deal with mechanisms for the determination of the purchase price and/or the preparation of the completion accounts and the warranties on tax and accounting matters. The provision of these services requires an explicit agreement in this Agreement or in a separate agreement. In any such case your lawyers will retain the sole responsibility for legal drafting. We explicitly state that we neither owe a duty for legal advice nor do we engage in any such advice on legal matters.

If it is envisaged, in the event that the Transaction takes place, that we are to be instructed to act as your accountants for the purposes of reporting on the completion accounts, our terms of reference for that work will be influenced by the sale and purchase agreement. Therefore, we should be given the opportunity to comment on drafts of the sale and purchase agreement for this purpose. Such work will be covered by a separate engagement agreement and fee arrangement.

### 13. NewCo

If the Transaction is to be effected by a company established for this purpose (the "NewCo"), we are generally prepared to accept that all rights and obligations under this Agreement will be transferred to NewCo by entering into the Transfer and Assumption Agreement, a sample of which is could be provided upon request. This applies especially with regard to the limitation of liability for our Services. The Transfer and Assumption Agreement is to be entered into as soon as NewCo is founded or acquired by you to perform the Transaction (latest before signing of the

Engagement Agreement  
between Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft and  
Alinex Belgium SA/NV dated  
26 February 2016

## Signed engagement letter



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Transaction). You will make sure that NewCo will take all necessary steps required to conclude such Transfer and Assumption Agreement.

The transfer of all rights and obligations under this Agreement to NewCo is subject to the condition subsequent (Auf lösende Bedingung) that NewCo fails to acquire the Target.

### 14. International Financial Reporting Standards ("IFRS") and US GAAP

Where the Services include consideration of the impact of IFRS or US GAAP on the financial statements or financial projections, our work will be performed as part of a due diligence engagement the nature of which is described above. Accordingly, the scope of our work will be significantly less than an audit or an engagement designed to identify all material differences arising as a result of applying IFRS or US GAAP (such as would be the case in an IFRS or US GAAP conversion project). Our work will be restricted to reporting the significant differences in accounting treatment identified from the limited procedures in our agreed scope, based on the information and documentation provided to us. We will not check the accuracy of such information and documentation or perform any audit or review procedures of the underlying transactions or balances. Should you wish us to perform additional procedures designed to identify all material differences, we will discuss with you what further work may be performed but we will not perform such work unless it is agreed in writing and we shall therefore not provide any opinion concerning compliance with IFRS or US GAAP.

Certain IFRS provide a benchmark accounting treatment and an allowed alternative, and there are optional exemptions on first time application of IFRS. Further, IFRS are subject to changes arising from new or revised standards or interpretations and, in addition, an entity's operations or circumstances may change. The above factors may affect the accounting policies that will be applied when the entity prepares its IFRS financial statements and any comments we may make in connection with the impact of IFRS on the Target's financial information should be considered in this context.

### 15. Additional Terms and Conditions where Tax Issues are covered

The scope of our work is restricted to the specific taxes on which we provide advice in the particular case and excludes advice on state aid matters unless otherwise agreed. We would be happy to advise you on the effect of other taxes or on state aid if instructed to do so.

Any advice will be based on the law as it stands at the time the advice is provided.

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20 February 2016



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It is important that you ask us to review any advice already given if a transaction is delayed or is to be repeated, or if an apparently similar transaction is to be undertaken. Our original advice may not be applicable or appropriate in such circumstances.

In our advice, we may indicate areas of risk and possible exposure to challenge by relevant tax authorities and the means by which such risk may be mitigated. Inevitably, it is not possible to guarantee that the tax authorities will not challenge a transaction nor to guarantee the outcome of such a challenge if raised.

Should you have any contact from tax authorities in respect of transactions on which we are advising you, you are recommended to contact us for advice on how to proceed.

Insofar as it becomes apparent to us when providing the Services that additional tax issues which are not subject of this Agreement require a separate examination we will address this with you. Apart from that, unless specifically agreed upon in a separate assignment, we are under no obligation to check whether additional tax issues exist which require a separate examination.

The nature and content of any tax advice we provide will necessarily reflect the specific scope and limitations of assistance that is requested. This Statement of Work shall also detail and specify the Services which we might provide supported by other EY Firms as well as our global Shared Service Center, as specified in the Client Consent.

Also they reflect the amount and accuracy of information provided to us and the timescale within which the tax advice is required. If we are asked to provide our tax advice in an abbreviated format or timescale, you accept that you will not receive all the information you would have received had we provided a full written report or had been able to perform the work without an abbreviated timescale.

### 16. Power of attorney

If so required for the Services you will assign us a non-discretionary limited power of attorney for your representation in the respective tax matters. For the avoidance of doubt the power of attorney shall not allow us to take any decisions for you. Such power of attorney shall take precedence over section 3 of the General Terms and Conditions.

### 17. Specific Terms

In consideration of their mutual positions, the parties to this Agreement expressly agree to partially deviate from the General Terms and Conditions of the Ernst & Young GmbH.

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Wirtschaftsprüfungsgesellschaft attached as Appendix B, for the sole purpose of this Agreement, in the following way:

- Section 32 shall be amended as follows: We may charge additional professional fees if events beyond our control (including your acts or omissions) affect our ability to perform the Services as originally planned or if you ask us to perform additional tasks subject to prior agreement with you.
- Section 42 shall be amended as follows: Upon our request, you must confirm in a written statement drafted by us that the supporting documents and records and the information and explanations provided by you are complete.
- Section 44, last paragraph, 2<sup>nd</sup> and 3<sup>rd</sup> sentences shall be amended as follows: Errors which call into question the conclusions contained in our Reports entitle us to withdraw – also versus third parties – such Reports. In the cases noted we will first seek to hear you
- Section 53, 2<sup>nd</sup> sentence, shall not apply.

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26 February 2016

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### Scope of Work

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#### Part I: Scope of work financial due diligence

Area	Key topics
Preliminary remarks	<ul style="list-style-type: none"> <li>► Our report will consist of three parts:           <ul style="list-style-type: none"> <li>▪ Volume A: covering Nuplex Group</li> <li>▪ Volume B: covering Allnex Group</li> <li>▪ Volume C: covering pro-forma combined financials for Allnex and Nuplex</li> </ul> </li> </ul>
Volume A:	<b>Financial and Pension Due Diligence on Nuplex Group</b>
General	<ul style="list-style-type: none"> <li>► We will present financial information for Nuplex group based on New Zealand Equivalents to International Financial Reporting Standards and in New Zealand Dollars.</li> <li>► The fiscal year of Nuplex Group ends at June. We assume that projected financial information will not be available on calendar year basis. Thus, we will present the financials for the fiscal years.</li> <li>► Review the management presentation and selected dataroom documents with particular focus on the risks identified and implications for Advent, and if appropriate possible mitigation and strategy for the key risks</li> <li>► Attendance of management presentation and financial meetings</li> <li>► Preparation of questions for the expert meeting and for the dataroom Q&amp;A process</li> <li>► Preparation of Due Diligence Report based on information gained from the data room and from expert meetings</li> <li>► Co-ordination, as necessary, with other advisers (e.g. commercial, legal) with respect to financial issues.</li> </ul>
Contents of our Financial Due Diligence Report	<ul style="list-style-type: none"> <li>► Short business overview and key financial &amp; KPI information (if readily available)</li> <li>► Analysis of EBITDA adjustments for FY13A, FY14A, FY15A and LTM December 2015           <ul style="list-style-type: none"> <li>► Assessment of adjustments proposed by management</li> <li>► Identification of any major additional buy-side adjustments on information available</li> <li>► Assessment of material cost and pricing trends by region and product type, including assessment of potential windfall losses/ gains (if any)</li> </ul> </li> </ul>

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#### Part I: Scope of work financial due diligence

Area	Key topics
	<ul style="list-style-type: none"> <li>▶ Analysis of the key drivers of historical and planned growth and profitability (excluding assessment of top line development) for the years FY13A – FY20F</li> <li>▶ Analysis of the main assumptions of the business plan and understanding of underlying planning process</li> <li>▶ Analysis of development of volume, contribution margin (or other relevant profitability KPI) and contribution margin per kg by division and product line</li> <li>▶ Analysis of the impact of changes in prices of major raw materials</li> <li>▶ Analysis of pass through of material costs movements</li> <li>▶ Assessment of FX exposure and FX impacts and calculation of translational and transactional FX impacts on historical trading</li> <li>▶ Development of cost lines below contribution margin (i.e., regional office and head office costs)</li> <li>▶ Impact of achieved and planned savings measures (e.g., plant closures, overhead costs reduction) and of new business development (e.g., Acure technology)</li> <li>▶ Development of plant utilization</li> <li>▶ Analysis of Current Year Trading as of December 2015 and Year-to-go, including <ul style="list-style-type: none"> <li>▶ Review of year to date financial results with regard to budget and last full-year outturn for FY16</li> <li>▶ Analysis of YTD EBITDA adjustments made by management</li> <li>▶ Calculation of (adjusted) LTM EBITDA (as at December 2015)</li> </ul> </li> <li>▶ EBITDA run-rate analysis with regards to initiated restructuring and saving measures</li> <li>▶ Analysis of quarterly development of volumes, sales, contribution margin (or other relevant profitability KPI) and EBIT (if available) for FY14A, FY15A and YTD16A</li> <li>▶ Analysis of net financial debt, debt like items and off-balance sheet financing/ commitments</li> <li>▶ Analysis of historical and projected Working Capital (trade working capital and other working capital items), including <ul style="list-style-type: none"> <li>▶ Working capital analysis by region</li> <li>▶ Calculation of a reference working capital</li> <li>▶ Analysis of impact on Working Capital due to seasonality, material price changes and planned operational</li> </ul> </li> </ul>

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24 February 2015

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### Scope of Work

#### Part I: Scope of work financial due diligence

Area	Key topics
	<ul style="list-style-type: none"> <li>measures</li> <li>► Analysis of the balance sheet information for December 2015 and January 2016 (if available)</li> <li>► Analysis of the cash flow profile of the business for FY13A, FY14A, FY15A and the business plan period, including analysis of historical and planned capex (replacement versus expansion capex)</li> <li>► High level analysis of pension and similar obligations and performance based compensation by our pension due diligence team <ul style="list-style-type: none"> <li>► Overview of group pension and similar obligations and net debt position</li> <li>► Pension obligation and pension assets per country</li> <li>► Brief discussion on actuarial assumptions</li> <li>► Brief overview of pension scheme rules</li> <li>► Overview on accounting for and financial effects of performance based compensation</li> </ul> </li> <li>► Brief assessment of the basis and quality of financial information <ul style="list-style-type: none"> <li>► Significant accounting policies</li> <li>► Quality of financial reporting</li> <li>► Historical budgeting accuracy</li> </ul> </li> </ul>
<b>Volume B:</b> <i>Financial Due Diligence on Allnex Group</i>	
General	<ul style="list-style-type: none"> <li>► We will present financial information for Allnex group based on US-GAAP and in US Dollars.</li> <li>► The fiscal year of Allnex Group ends at December.</li> <li>► Part B of our report will be rather condensed (40-50 pages)</li> <li>► Review of information provided by Allnex on the basis of the agreed Q&amp;A list</li> <li>► Attendance of financial expert meetings</li> <li>► Preparation of questions for the expert meeting and for the dataroom Q&amp;A process</li> <li>► Preparation of Due Diligence Report based on information gained from the data room and from expert meetings</li> </ul>

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#### Part I: Scope of work financial due diligence

Area	Key topics
<p>► Co-ordination, as necessary, with other advisers (e.g. commercial, legal) with respect to financial issues .</p>	
Contents of our Financial Due Diligence Report	<ul style="list-style-type: none"> <li>► Short business overview and key financial &amp; KPI information (if readily available)</li> <li>► Analysis of EBITDA adjustments for FY13A, FY14A, FY15A <ul style="list-style-type: none"> <li>► Assessment of adjustments proposed by management</li> <li>► Identification of any major additional buy-side adjustments</li> <li>► Assessment of material cost and pricing trends by division and product line, including assessment of potential windfall gains</li> </ul> </li> <li>► Analysis of the key drivers of historical and planned growth and profitability (excluding assessment of top line development) for the years FY13A – FY20F <ul style="list-style-type: none"> <li>► Analysis of the main assumptions of the business plan and understanding of underlying planning process</li> <li>► Analysis of development of volume, marginal income and marginal income per kg by division and product line</li> <li>► Analysis of the impact of changes in prices of major raw materials</li> <li>► Analysis of pass through of material costs movements</li> <li>► Assessment of FX exposure and FX impacts</li> <li>► Development of cost lines below marginal income</li> <li>► Impact of planned savings measures and of new business development</li> </ul> </li> <li>► EBITDA run-rate analysis with regards to initiated restructuring and saving measures</li> <li>► Analysis of quarterly development of volumes, sales, marginal income and EBIT (if available) for FY14A and FY15A</li> <li>► Analysis of net financial debt and off-balance sheet financing/ commitments</li> <li>► Analysis of historical and projected Working Capital (trade working capital and other working capital items), including <ul style="list-style-type: none"> <li>► Working capital analysis by region</li> <li>► Analysis of impact on Working Capital due to seasonality, material price changes and planned operational</li> </ul> </li> </ul>

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#### Part I: Scope of work financial due diligence

Area	Key topics
	measures <ul style="list-style-type: none"> <li>▶ Analysis of the balance sheet information for December 2015 and January 2016 (if available)</li> <li>▶ Analysis of the cash flow profile of the business for FY13A, FY14A, FY15A and the business plan period, including analysis of historical and planned capex (replacement versus expansion capex)</li> </ul>
Volume C:	<i>Presentation of pro forma combined P&amp;L and balance sheet information for Nuplex and Allnex</i>
General	<ul style="list-style-type: none"> <li>▶ Part C of our report will present pro forma combined P&amp;L (on calendar year basis) and balance sheet (at December) information for the combination of the two businesses.</li> </ul>
Contents of our Financial Due Diligence Report	<ul style="list-style-type: none"> <li>▶ Identify significant differences between US GAAP applied by Allnex and New Zealand Equivalents to International Financial Reporting Standards applied by Nuplex</li> <li>▶ High level assessment and presentation of US GAAP adjustments required to present the financial information for Allnex and Nuplex on a like-for-like accounting basis</li> <li>▶ Translation of Nuplex P&amp;L information to calendar years</li> <li>▶ Translation of Allnex und Nuplex US-GAAP financials into a uniform reporting currency (either USD or EUR)</li> <li>▶ Presentation of combined financials on a constant currency basis (either USD or EUR)</li> <li>▶ High-level analysis performed and presentation by our operational due diligence team of synergies between Allnex and Nuplex identified and determined by Allnex management</li> <li>▶ Presentation of pro forma combined P&amp;L and balance sheet information for Allnex and Nuplex taking into account adjustments for synergies</li> <li>▶ Presentation of combined sales and margin information by product type and region (if available and possible) and combined windfall losses/gains on the basis of part A and part B</li> </ul>

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### Scope of Work

#### Part II: Scope of work Tax Due Diligence and Tax Structuring

##### Key buyer objective

##### Group-wide issues

To understand and assess current income tax liabilities and receivables and their reflection in commercial books.  
To understand and assess the availability of tax attributes (e.g. tax losses, franking credits, interest carry forwards etc.) and privileges post acquisition.

Tax compliance position may be substantially in arrears and there may be significant open audits with the tax authorities.  
Adequacy of tax balances in audited balance sheet to cover the business's declared income related tax liabilities.  
Certain tax payments or obligations (e.g. withholding tax obligations) may be outstanding.

##### EY work

Review especially of:

- ▶ Corporate income tax returns that are still open to a tax audit and review of tax calculations for periods that are not yet filed with the tax authorities to assess the adequacy of the currently comprised tax expenditures, tax provisions and tax receivables.
- ▶ The results of the latest tax audit and the preliminary assessments of a current tax audit (if any) to detect tax risks for periods that are not yet filed with the tax authorities.
- ▶ The status loss carry forwards, interest carry forwards, tax credits and special tax privilege regimes (each if any) to identify related tax risks for unaudited periods and to assess their availability post transaction.
- ▶ Material tax related correspondence of the target (e.g. with tax authorities, tax advisors etc.)
- ▶ Withholding tax compliance
- ▶ Tax receivables and provisions

Review especially of:

- ▶ Significant historical reorganizations
- ▶ Validity of tax consolidation schemes
- ▶ Special tax agreements such as binding rulings or, APA's

To understand and assess the quantum of tax exposures incl. an estimate of timing and likelihood of the crystallization of such tax exposure

The general approaches to tax compliance by the company are not in line with the regulations. Therefore, effective tax rate may vary materially from the expected tax rate.

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Part II: Scope of work Tax Due Diligence and Tax Structuring		
Key buyer objective	Potential issues	EY work
	<p>Additional income tax liabilities not stated in audited balance sheet identified by tax due diligence, i. e. effective tax rate may vary materially from the expected tax rate.</p> <p>Significant historical reorganizations (incl. debt restructurings) may have taken place which could give rise to future tax liabilities.</p> <p>Various tax losses and privileges may be lost/restricted following the transaction or be calculated inaccurately in past periods.</p>	
Understand nature of and remuneration paid for existing intra-group relationships.	Intra-group relations may not be remunerated at "arm's length", potentially giving rise to transfer pricing adjustments and therefore profit shifts and potentially also double-taxation.	<p>High level review of related party transactions within the target group.</p> <p>High level review of intra-group financing relations.</p> <p>Please note that such review does <u>not</u> include a detailed transfer pricing analysis. We will notify you immediately, if it turns out that transfer prices occur to be inadequate to discuss the further approach.</p>
To understand and assess the material historic <ul style="list-style-type: none"> <li>▶ transfer tax/stamp duty exposures,</li> <li>▶ VAT/sales tax exposures and</li> <li>▶ payroll/wage tax exposures</li> </ul>	<p>Real estate transfer tax may not be filed and assessed properly.</p> <p>Supply and services may not be treated correctly from a VAT/sales tax perspective (e.g. with regard to application of the 0% VAT rate and reverse charge mechanism); inadequate declaration of deductible input</p>	<p>Review filing status.</p> <p>Review tax audit status.</p> <p>With respect to VAT/sales tax issues as well as payroll/wage tax issues scope of work may be extended if specially agreed upon.</p> <p>Labor law aspects and pensions are <u>not</u> considered in the tax due diligence.</p>

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#### Part II: Scope of work Tax Due Diligence and Tax Structuring

Key buyer objective	Potential issues	EY work
VAT, Payroll/wage tax may not be considered adequately, especially with respect to management participation programs and similar benefits as well as other contracts. Adjustments may be imposed as a result of (pending) tax audits.		

To the extent not stated otherwise below, these group-wide issues will be analyzed for all key tax due diligence countries, i.e. Australia, China, Germany, the Netherlands, New Zealand and the USA. Upon request, UK and Vietnam would be included in our tax due diligence analysis. Particular companies and periods under review are specified separately for each jurisdiction below.

#### Tax Due Diligence - Australia

Australian Income Tax What is the historical income tax position of the Target and what are the material historical income tax exposures and/or risks?	The potential income tax issues for the Target include, inter alia: <i>Income tax liabilities and tax attributes</i> ► New or amended legislative provisions may have been enacted which may impact historical tax positions adopted	The following income tax due diligence procedures will be carried out in respect of the years ended 30 June 2012 – 30 June 2015 and year to date ("Income Tax Review Period"): ► Review and comment on any significant capital allowance or capital works adjustments and closing balances ► Review and comment on the application of relevant international tax rules (e.g. controlled foreign company regime etc.) to the Target
Goods & Services Tax ("GST") What is the historical GST position	The Target may have an undisclosed material GST liability.	The following GST due diligence procedures will be carried out in respect of the years ended 30 June 2014, 30 June 2015 and year to

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Key buyer objective	Potential issues	EY work
of the Target and what are the material historical GST exposures?	<p>The GST compliance position may be in arrears (or incomplete) and there may be outstanding matters with the ATO.</p> <p>GST positions adopted in the review period may be incorrect (or not reasonably arguable).</p> <p>There may be unresolved GST audits, risk reviews or other matters (such as private ruling requests) with the ATO.</p>	<p>date ("GST Review Period");</p> <p><i>GST Registration and Compliance</i></p> <ul style="list-style-type: none"> <li>▶ Assess the GST compliance history of the Target (including lodgment and payment history and GST group membership).</li> <li>▶ Qualitatively review the Business Activity Statement ("BAS") preparation process, including any BAS procedure manuals and the BAS lodgment and review process.</li> <li>▶ Review copies of the BASs lodged with the ATO for the period under review.</li> <li>▶ Review copies of working papers prepared by the Target to complete the BAS for two selected tax periods, including reconciliation statements and general ledger reports.</li> <li>▶ Perform a high level comparison between amounts disclosed in the audited financial statements and the sum of GST amounts reported in the BASs for the corresponding period.</li> <li>▶ Review Integrated Client Account for the period under review to assess if GST amounts payable as stated on the BAS have been paid to the ATO on time.</li> </ul> <p><i>Other GST Related Matters</i></p> <ul style="list-style-type: none"> <li>▶ Review the GST treatment adopted by the Target in respect of material transactions undertaken during the review period</li> <li>▶ Assess the reasonableness of GST-free positions taken in respect to sales made by the Target.</li> </ul>

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### Scope of Work

#### Part II: Scope of work Tax Due Diligence and Tax Structuring

Key buyer objective	Potential issues	EY work
Employment taxes Assess, if possible, the risk of any material underpayment of PAYG withholding, Superannuation Guarantee, Fringe Benefits Tax ("FBT") or payroll tax and any breach of compliance / material tax exposure in relation to these areas. Assess, if possible, the existence or otherwise of employment tax procedural deficiencies that may impact on compliance post acquisition.	The Target entities have an undisclosed material PAYG withholding, Superannuation Guarantee, FBT or payroll tax liability. Any material employment tax liability may not be recoverable. There may be non-recoverable administrative penalties and general interest charges associated with any employment tax liability. The Target entities may not have adequate PAYG withholding, superannuation guarantee, FBT or payroll tax systems and processes in place to ensure that employment taxes disclosed are complete and accurate.	<ul style="list-style-type: none"> <li>▶ Assess the reasonableness of any input tax credits claimed on acquisitions relating to input taxed supplies.</li> <li>▶ Review the reasonableness of any input tax credit accelerator or other methodology adopted by the Target to attribute input tax credits.</li> </ul> <p>The following employment taxes due diligence procedures will be carried out in respect of the years ended 30 June 2014 and 30 June 2015 (for PAYG withholding, Superannuation Guarantee and payroll tax and the FBT years ended 31 March 2014 and 31 March 2015 ("Employment Taxes Review Period"))       <ul style="list-style-type: none"> <li>▶ Review the process for ensuring that all FBT, PAYG withholding, superannuation and payroll tax obligations are met.</li> <li>▶ Review payments to the revenue authorities with respect of FBT, PAYG withholding and payroll tax.</li> <li>▶ Discuss process by which personnel are classified as "employees" or "contractors" with management and review any relevant forms, checklists, decision trees or instructions designed to assist in this regard.</li> <li>▶ Review details in relation to employee salary sacrifice arrangements (if any).</li> <li>▶ Review details in relation to employee share plan benefit arrangements (if any) for payroll tax purposes and Employee Share Scheme ("ESS") reporting obligations</li> </ul> </p>

Employment taxes  
Assess, if possible, the risk of any material underpayment of PAYG withholding, Superannuation Guarantee, Fringe Benefits Tax ("FBT") or payroll tax and any breach of compliance / material tax exposure in relation to these areas.  
Assess, if possible, the existence or otherwise of employment tax procedural deficiencies that may impact on compliance post acquisition.

The Target entities have an undisclosed material PAYG withholding, Superannuation Guarantee, FBT or payroll tax liability.  
Any material employment tax liability may not be recoverable.  
There may be non-recoverable administrative penalties and general interest charges associated with any employment tax liability.  
The Target entities may not have adequate PAYG withholding, superannuation guarantee, FBT or payroll tax systems and processes in place to ensure that employment taxes disclosed are complete and accurate.

#### EY work

- ▶ Assess the reasonableness of any input tax credits claimed on acquisitions relating to input taxed supplies.
  - ▶ Review the reasonableness of any input tax credit accelerator or other methodology adopted by the Target to attribute input tax credits.
- The following employment taxes due diligence procedures will be carried out in respect of the years ended 30 June 2014 and 30 June 2015 (for PAYG withholding, Superannuation Guarantee and payroll tax and the FBT years ended 31 March 2014 and 31 March 2015 ("Employment Taxes Review Period"))
  - ▶ Review the process for ensuring that all FBT, PAYG withholding, superannuation and payroll tax obligations are met.
  - ▶ Review payments to the revenue authorities with respect of FBT, PAYG withholding and payroll tax.
  - ▶ Discuss process by which personnel are classified as "employees" or "contractors" with management and review any relevant forms, checklists, decision trees or instructions designed to assist in this regard.
  - ▶ Review details in relation to employee salary sacrifice arrangements (if any).
  - ▶ Review details in relation to employee share plan benefit arrangements (if any) for payroll tax purposes and Employee Share Scheme ("ESS") reporting obligations

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<b>Part II: Scope of work Tax Due Diligence and Tax Structuring</b>		
<b>Key buyer objective</b>	<b>Potential issues</b>	<b>EY work</b>
Stamp Duty Understand what is the historical stamp duty position of the Target and if there are any inherent stamp duty liabilities or contingencies.	Purchaser inheriting exposure to outstanding or unrecognized stamp duty liabilities of the Target.	<p>The following stamp duty due diligence procedures will be carried out in respect of the years ended 30 June 2012 - 30 June 2015 and year to date ("Stamp Duty Review Period").</p> <ul style="list-style-type: none"> <li>▶ Review of major business/asset (including shares in companies or units in a unit trust) acquisitions to determine if duty has been appropriately paid.</li> <li>▶ Confirmation that the appropriate stamp duty has been paid on secured loans.</li> </ul> <p>Our tax due diligence procedures will be focussed on the companies Asia Pacific Speciality Chemicals Ltd., Nuplex (Operations) Aust Pty. Ltd., Aushold Pty. Ltd., Nuplex Industries (Aust) Pty. Ltd. as well as Multichem Pty Ltd. and all periods as listed above. We understand that the following companies Nuplex Industries Ltd., Nuplex Operations Ltd., Plaster Systems Ltd., Nuplex Finance Holdings Ltd., Nuplex Specialties NZ Ltd. as well as Nuplex US Holdings Ltd. are located in New Zealand, but (also) subject to taxation in Australia. As such, the Australian tax due diligence scope for the periods as listed above also covers these entities.</p>
<b>Tax Due Diligence - China</b>		
Seek to identify significant PRC tax issues associated with the current business operations.	Incorrect tax rates applied to income. Eligibility and sustainability of tax benefits, tax holidays and tax incentives.	<p>Inquiry regarding the approach to tax reporting by the companies and the associated control environment.</p> <p>Consider whether tax holidays, preferential rates and other concessions obtained by the companies are supportable and sustainable.</p> <p>Our tax due diligence procedures will be focussed on the companies Nuplex Resins (Suzhou) Co., Ltd., Nuplex Resins (Foshan) Co., Ltd as well as Nuplex Resins (Changshu) and all years not subject to a finalized tax field audit yet.</p>

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Alinex Belgium SA/NV dated  
24 February 2016

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### Scope of Work

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#### Part II: Scope of work Tax Due Diligence and Tax Structuring

Key buyer objective	Potential issues	EY work
<i>Tax Due Diligence – The Netherlands</i>		
Our tax due diligence procedures will be focussed on the companies Nuplex Industries B.V., Nuplex Resins B.V. as well as Nuplex Sino Chemicals B.V. and FYs 13 onwards.		
<i>Tax Due Diligence – New Zealand</i>		
Indirect taxes: New Zealand Goods and Services Tax ("NZGST") and Customs  To understand the Target's historical NZGST position, the processes and procedures used by Target, and identify potential risk areas in relation to NZGST and Customs	There may not be adequate processes and procedures in place to capture all transactions and associated GST treatment.	Review Target's NZGST returns, withholding tax filings, customs filings and supporting workpapers for the last 2 years.
Indirect taxes: Employment-related taxes, specifically, New Zealand Fringe Benefit Tax ("NZFBT") and pay-as-you-earn ("NZPAYE")  To understand the Target's historical NZFBT and NZPAYE position, the processes and	There may not be adequate processes and procedures in place.	Review Target's returns and supporting workpapers for NZFBT and NZPAYE for the last 2 years.  Review and comment on any material NZFBT and NZPAYE advice provided by Target's advisors.

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#### Part II: Scope of work Tax Due Diligence and Tax Structuring

Key buyer objective	Potential issues	EY work
procedures used by Target, and identify potential risk areas in relation to NZFBT and NZPAYE.		<p>Our tax due diligence procedures will be focussed on the companies Nuplex Industries Ltd., Nuplex Operations Ltd., Plaster Systems Ltd., Nuplex Finance Holdings Ltd., Nuplex Specialties NZ Ltd. as well as Nuplex US Holdings Ltd. and all years not subject to a finalized tax field audit yet.</p>

#### Tax Due Diligence - USA

To determine the material historic federal tax exposures.	Tax exposures may exist as a result of past transactions	<p>Review financial statements for the FY12 – FY15 and FY16 interim period ("US Historical Tax Period").</p> <p>Review workpapers and written analysis which were performed with respect to any tax contingency reserves (i.e., uncertain tax positions), including gaining an understanding of what matters were considered to determined that no such reserve is required.</p> <p>Inquire as to whether the US target has considered or engaged in any listed, reportable, or other substantially similar transactions.</p> <p>Inquire regarding tax elections made.</p> <p>Inquire regarding the nature of changes in accounting methods filed for the Historical Tax Period, a rollout of Section 481 adjustments.</p> <p>Review copies of filings to the IRS (Form 3115, Application for Change in Accounting Method) and correspondence from the IRS.</p>
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Our tax due diligence procedures will be focused on the company Nuplex Resins, LLC and tax years FY12 through FY15 and the interim FY16 period ("US Historical Tax Period"). We have assumed that US target elected to be treated as a corporation for US tax purposes.

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#### Part II: Scope of work Tax Due Diligence and Tax Structuring

Key buyer objective	Potential issues	EY work
<i>Tax Due Diligence – UK - Nuplex Industries UK Ltd.</i>		
To understand the historical tax position of the UK entities in the group, and the material historical corporation tax and VAT exposures.	Tax balances in the balance sheet may not be adequate to cover the business' declared corporation tax, and any tax liabilities identified by due diligence.	<p>Our work will include measures to identify key material tax risk areas including, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>▶ Reliefs as at the last accounting date.</li> <li>▶ VAT treatment of supplies and adequacy of controls in place to ensure compliance with the UK VAT legislation.</li> </ul>
Our tax due diligence procedures will be focussed on Nuplex Industries UK Ltd. only. Other entities can be covered optionally (see below).		
<i>Tax Due Diligence – UK (upon request)</i>		
To understand the historical tax position of the UK entities in the group, and the material historical corporation tax and VAT exposures.	Tax balances in the balance sheet may not be adequate to cover the business' declared corporation tax, and any tax liabilities identified by due diligence.	<p>Our work will include measures to identify key material tax risk areas including, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>▶ Reliefs as at the last accounting date.</li> <li>▶ VAT treatment of supplies and adequacy of controls in place to ensure compliance with the UK VAT legislation.</li> </ul>
Our tax due diligence procedures will be focussed on the companies Silvertown Land Holdings Ltd.; Nuplex Resins Ltd. as well as Innospec Valvemaster Ltd. and all years not subject to a finalized tax field audit yet.		
<i>Tax Due Diligence – Vietnam (upon request)</i>		
Seek to identify significant Vietnam	The approaches to tax reporting by the	Review the following tax related areas:

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#### Part II: Scope of work Tax Due Diligence and Tax Structuring

Key buyer objective	Potential issues	EY work
tax issues associated with the current business operations to understand whether more detailed tax procedures are required based on management representations.	Target are not in line with the regulations.	<ul style="list-style-type: none"> <li>▶ Discuss and review on a sampling basis to identify potential material issues in respect of other taxes (e.g. Business License Tax, Import and Export duties, etc. – if any) applicable to the period under review.</li> </ul>
<p>Our tax due diligence procedures will be focussed on the company Nuplex Resins (Vietnam) Pty. Ltd. and all years not subject to a finalized tax field audit yet.</p> <p>For all parts of our tax due diligence procedures we apply a materiality threshold of USD 250k cash tax out per issue.</p>		
<p><b>Tax Structuring</b></p> <p>To be provided with tax advice on potential tax acquisition structuring alternatives and related financing subject to the commercial constraints of the deal.</p> <p>Tax deductibility of interest costs on any acquisition debt.</p> <p>Minimization/avoidance of transfer taxes or stamp duties.</p> <p>Minimization of withholding taxes.</p> <p>Deductibility of transaction costs incl. any VAT issues.</p> <p>After tax returns may not be optimized if tax structure adopted is not efficient and does not suit commercial objectives.</p> <p>Bid structure may not represent optimal use of the existing tax attributes of the Target</p> <p>Optimize structure in order to ensure availability of tax attributes of the Target entities post transaction to the extent possible (e.g. preservation of NOLs).</p> <p><b>The following analysis will primarily be carried out from a perspective of Australia; Belgium and New Zealand:</b></p> <ul style="list-style-type: none"> <li>▶ Analyze possibilities of tax efficient and commercially reasonable allocation of acquisition debt (considering i.a., direct and post-closing debt push downs)</li> <li>▶ Overview of transfer taxes/stamp duties per legal entity which would become due as part of the acquisition.</li> <li>▶ Check on tax structure for future cash repatriation.</li> </ul>		

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#### Part II: Scope of work Tax Due Diligence and Tax Structuring

Key buyer objective	Potential issues	EY work
	entities.	<ul style="list-style-type: none"> <li>▶ Check on VAT status of acquisition vehicles.</li> <li>▶ Check on tax deductibility of transaction costs.</li> <li>▶ Identification of tax consolidation and stamp duty implications of the proposed structure. For completeness, this will not include any detailed calculations.</li> <li>▶ <b>Optionally (upon request):</b> Provide assistance to clients with regard to binding rulings or similar information from the relevant tax authority regarding the open points of the proposed transaction.</li> </ul>

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#### Part II: Scope of work Tax Due Diligence and Tax Structuring

Key buyer objective	Potential issues	EY work
To be provided with tax advice on potential post-closing restructuring alternatives for the optimization of the overall structure and proper implementation of the Target into the existing structure.	Tax deductibility of interest costs on any acquisition debt.  Minimization of withholding taxes.  Minimization/avoidance of transfer taxes or stamp duties.	<p>The following analysis will primarily be carried out from a perspective of China, Germany, the Netherlands, the UK as well as the USA:</p> <ul style="list-style-type: none"> <li>▶ Analyze possibilities of tax efficient and commercially reasonable allocation of acquisition debt (focus on debt push downs by acquisition of several group companies by existing local sub-holdings, by dividend distributions or by setting up tax consolidation schemes).</li> <li>▶ Overview of transfer taxes/stamp duties per legal entity which would become due as part of the acquisition.</li> <li>▶ Check on tax efficient structure for future cash repatriation</li> <li>▶ Identification of tax consolidation, capital gains tax and associated stamp duty implications of the proposed structure. For completeness, this will not include any detailed calculations.</li> <li>▶ Analysis of tax implications due to integration of companies into existing Allnex structure.</li> <li>▶ <b>Optionally:</b> Provide assistance to clients with regard to binding rulings or similar information from the relevant tax authority regarding the open points of the proposed transaction.</li> </ul>

#### Review of Financing Agreements

To ensure that Financing Agreements meet the requirements	Financing Agreements may be structured in a manner that interest deduction on	Review of the (Draft) Financing Agreements limited to tax related matters in respect of the collateral structures to be agreed upon and
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#### Part II: Scope of work Tax Due Diligence and Tax Structuring

Key buyer objective	Potential issues	EY work
for the tax deductibility of interest costs on acquisition and/or refinancing debt as foreseen in the proposed acquisition structure.	acquisition is entirely or partially lost.	support in negotiations upon your request. Such advice will not consider other matters such as legal advice. Your attorneys will be fully responsible for the drafting of the clauses contained in the Financing Agreement and you will decide together with them which items you prioritize in the negotiations.
To identify possible adverse tax implications from key clauses.		Discussion with financial banks which may have requests to the acquisition structure.

#### Tax Model

Consideration of the impact of the proposed acquisition structure on the economics of the transaction.	Proposed acquisition structure may have a significant impact on the economics of the transaction.	Review of the financial model from a tax perspective with respect to the assumptions and tax calculations considering the proposed acquisition structure.
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#### Input for Fund Flow Memorandum (upon request)

To ensure that flow of fund is carried out in an appropriate manner at closing considering the agreements made under the SPA and the proposed acquisition structure.	Support in coordination between financing banks and legal advisers regarding proposed acquisition structure may be required.	Provision of numerical details for the fund flow memorandum considering the proposed acquisition structure. This service does neither entail the preparation of the fund flow memorandum, any review of the correctness of the drawdown details nor a preparation of the drawdown notices.
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#### Part II: Scope of work Tax Due Diligence and Tax Structuring

Key buyer objective	Potential issues	EY work
<b>Management Participation Program (upon request)</b>		
To ensure that the entry of new managers into the existing Allnex management participation program is structured properly from a tax perspective and does not include general tax disadvantages for participating managers from a management's investment vehicle perspective.	Conflict of interests between investor and target group's management.	Investigation of the tax consequences of a management participation program including an overview of the tax consequences for the participating managers on a general basis.

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### Scope of Work

*Below you can find an overview on the companies inside and outside our scope of work:*

Country	Inside scope of work Company	Country	Optional scope of work (not yet included) Company	Country	Outside scope of work Company
Australia	Asia Pacific Speciality Chemicals Ltd.	UK	Silvertown Land Holdings Ltd.	Brazil	Nuplex Producao de Resinas Ltda.
Australia	Nuplex (Operations) Aust Pty. Ltd.	UK	Nuplex Resins Ltd.	Hong Kong	Nuplex Industries (Hong Kong) Limited
Australia	Aushold Pty. Ltd.	UK	Innospec Valvemaster Ltd.	Indonesia	PT Nuplex Raung Resins
Australia	Nuplex Industries (Aust) Pty. Ltd.	Vietnam	Nuplex Resins (Vietnam) Pty. Ltd	Malaysia	Synthese (Malaysia) Sdn bhd
Australia	Multichem Pty Ltd.			Singapore	Nuplex Singapore Pte Ltd
China	Nuplex Resins (Suzhou) Co., Ltd.			Thailand	Synthese (Thailand) Co Limited
China	Nuplex Resins (Foshan) Co., Ltd.			Thailand	Nuplex Resins (Thailand) Limited
China	Nuplex Resins (Changshu) Co., Ltd.			Russia	Nuplex Resins LLC (Russia)
Germany	Nuplex Industries GmbH				Any other company directly or indirectly owned by Nuplex Industries Ltd.
Germany	Nuplex Resins GmbH				
The Netherlands	Nuplex Industries B.V.				
The Netherlands	Nuplex Resins B.V.				
The Netherlands	Nuplex Sino Chemicals B.V.				
New Zealand	Nuplex Industries Ltd.				
New Zealand	Nuplex Operations Ltd.				
New Zealand	Plaster Systems Ltd.				
New Zealand	Nuplex Finance Holdings Ltd.				
New Zealand	Nuplex Specialties NZ Ltd.				
New Zealand	Nuplex US Holdings Ltd.				
USA	Nuplex Resins, LLC				
UK	Nuplex Industries UK Ltd.				

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## Appendix C: Signed engagement letter



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28 With respect to any Services if U.S. Securities and Exchange Commission independence requirements apply to the relationship between you or any of your associated entities and any EY Firm, you represent, to the best of your knowledge, as of the date of this Agreement, that neither you nor any of your affiliates has agreed, either orally or in writing, to any other arrangement that would give you the ability to direct, or may give the tax treatment of, the structure of any transaction to which the Services relate. An agreement of this kind could impair an EY Firm's independence as to your audit or that of any of your affiliates, or require specific tax disclosures as to those transactions. Accordingly, you agree that the impact of any such agreement is your responsibility.

### Data Protection

29 For the Process Purposes referred to in Section 27 above, we and other EY Firms, EY Persons and third parties providing services to us, will collect and process Personal Data that can be linked to specific individuals ("Personal Data") in various jurisdictions in which we and any of them operate (office locations of EY Firms) in accordance with applicable laws and relevant regulations (including (without limitation) the BDSG). We will require any service provider that Processes Personal Data on our behalf to adhere to such requirements.

30. You warrant that you have the authority to provide the Personal Data to us in connection with the performance of the Services and that the Personal Data provided to us has been processed in accordance with applicable law.

### Fees and Expenses Generally

31. You shall pay our professional fees and specific expenses in connection with the Services as detailed in the applicable Statement of Work or any of its appendices. You shall also reimburse us for other reasonable expenses incurred in performing the Services. Our fees are exclusive of travel, similar charges, taxes, customs duties or amounts imposed by virtue of the Services (of which you shall pay (other than taxes imposed on our income generally). We may claim appropriate advances for remuneration and reimbursement of outlays and make the rendering of our Services dependent upon complete satisfaction of our claims against you. Payment under the applicable Statement of Work or Agreement or Fees payment is immediately due following receipt of each of our invoices.

32. We may charge additional professional fees if events beyond our control (including your acts or omissions) affect our ability to perform the Services as originally planned or if you ask us to perform additional tasks.

33. If we are required by applicable law, legal process or government action to produce information or personnel as witnesses with respect to the Services or this Agreement, you shall be liable to us for any professional fees and expenses (including reasonable outlays, legal costs) incurred to respond to the request, unless we are a party to the proceeding or the subject of the investigation or unless we do not fully reimburse by public authority.

34. If you default in accepting the Services offered by us and if you do not provide the assistance incumbencies on you pursuant to Section 7, 8 or otherwise, we are entitled to

<sup>33</sup> Bundesdatenschutzgesetz (German Data Protection Act).

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cancel the Agreement immediately. Our right to compensation for additional expenses as well as for damages caused by the default or the lack of assistance is not affected, even if we do not exercise our right to cancel.

### Force Majeure

35. Neither you nor we shall be liable for breach of this Agreement (other than payment obligations) caused by circumstances beyond your or our reasonable control.

### Term and Termination

36. This Agreement applies to the Services whenever performed (including before the date of this Agreement).

37. This Agreement shall terminate on the completion of the Services. Either of us may terminate it, or any particular Services, earlier upon 90 days' prior written notice to the other. In addition we may terminate this Agreement, or any particular Service, without notice to you if you fail to pay us if we reasonably determine that we can longer provide the Services in accordance with applicable law or professional obligations. Sections 626 and 627 BGB shall remain unaffected.

38. You shall pay us for all work in progress, Services already performed, and expenses incurred by us up to and including the effective date of the termination of this Agreement.

39. Our respective confidentiality obligations under this Agreement, as well as other provisions of this Agreement that give either of us rights or obligations beyond its termination, shall continue indefinitely following the termination of this Agreement.

### Governing Law and Jurisdiction

40. This Agreement, and any non-contractual matters or obligations arising out of this Agreement or the Services, shall be governed by and construed in accordance with the laws of Germany.

41. Any dispute relating to this Agreement or the Services shall be referred to the exclusive jurisdiction of the courts of Stuttgart, Germany, to which each of us agrees to submit for these purposes, or at our discretion, (i) the court located where our office that conducted the main part of the work is registered or (ii) the courts located where you are registered.

### Miscellaneous

42. Upon our request you must confirm in a written statement drafted by us that the supporting documents and records and the information and explanations provided are completed.

43. Your guarantee to refrain from everything which may endanger the independence of our staff. This particularly applies to offers of employment and offers to undertake engagements on one's own account.

44. Where there are deficiencies, you are entitled to subsequently fulfil them. The Agreement may be dissolved or terminated for or on cancellation of the contract only for the failure to subsequently fulfil the Agreement. If the Agreement was awarded by a person carrying on a commercial business as part of that commercial business, a government owned legal person under public law or a special government owned fund under public law, you may demand the cancellation of the Agreement only if the Services rendered are of no interest to you due to the



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failure to subsequently fulfil the Agreement. Section 16 through 21 apply to the extent that claims of damages exist beyond this.

You must assert your claim for the correction of deficiencies in writing without delay. Claims pursuant to the above provisions shall become statute-barred after three years to be enforceable one year after the commencement of the statutory time limit for enforcement.

Obviously deficiencies, such as typos and unimportant errors and deficiencies associated with technicalities contained in a Report may be corrected, and also the applicable version third parties - by us at any time. Errors in our Reports may only cast doubt on the conclusions contained in our Reports, making it difficult for us to defend them; parties - such Reports. In the cases noted now should first hear you, if possible.

45. We retain, for ten years, the supporting documents and records in connection with the compilation of the Agreement that had been provided to us and that we have prepared ourselves, as well as the correspondence with respect to the Agreement.

After the settlement of our claims arising from the Agreement, we, upon your request, must return all supporting documents and records to you. If this does not, however, apply to correspondence exchanged between you and us and to any documents of which you have the original or a copy. We may prepare and retain copies or photocopies of supporting documents and records which we return to you.

46. This Agreement constitutes the entire agreement between us as to the Services and the other matters it covers, and supersedes all prior agreements, understandings and representations, written or oral, including any confidential agreements previously entered.

47. This Agreement (and any Statement of Work hereunder, and modifications to them) must be executed in written form in the sense of Section 120 para. 1 BGB. Each of us may sign a different copy of the same document.

48. Each of us represents that the person signing this Agreement and any Statement of Work hereunder on its behalf is also authorized to execute it and to bind each of us to its terms.

You represent that your affiliates and any others for whom Services are performed shall be bound by the terms of this Agreement and the applicable Statement of Work.

49. You agree that we and the other EY Firms may, subject to professional obligations, act for other clients, including your competitors.

50. Neither of us may assign any of our rights, obligations or claims under this Agreement.

51. If any provision of this Agreement (in whole or part) is held to be illegal, invalid or otherwise unenforceable, the other provisions shall remain in full force and effect.

52. If there is any inconsistency between provisions in different parts of this Agreement, these parts shall have precedence as follows (unless expressly agreed otherwise): (i) the Statement of Work; (ii) the Agreement; (iii) the Client Consent; (d) these General Terms and Conditions and (e) other annexes to this Agreement.



## Signed engagement letter



### Declaration regarding the use of information ("Client Consent")

In order to ensure you receive the requisite support, Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft and certain circumstances grant other members of the global network of Ernst & Young firms ("EY Firms" – office locators of EY Firms are listed at [www.ey.com](http://www.ey.com)) or well-chosen qualified third parties ("Third Parties") access to information in the following cases:

- To effectively perform your engagement, information will under certain circumstances be selectively exchanged with EY Firms/Third Parties:
- When performing the engagement together with other EY Firms/Third Parties within the scope of cross-border issues or where conducive for the performance of the engagement (e.g., subcontracting of experts);
- When subcontracting EY Firms to globally harmonize certain processes particularly regarding central processing or central administrative operations.

(In addition, the following support services are performed by our global network of Service Centers:

- Data book (as defined in the EA) related services (data gathering, Databook preparation, consistency checks and formatting, analysis of financials including KPIs and chart preparation)
- Report related services (consistency reading, detailed consistency checks to tables and Databooks) (as defined in the EA), programming and formating)
- Model reviews (math checks, model code review, analytical review, sensitivity analysis) (of models developed in-house as well as by third parties)
- Project management and support (preparation of project plans, presentations and project documentation)
- Support for Legal Entity Rationalization (LER) services (preparation of structure charts, complexity analysis)

- For the purpose of the enhancement of quality, consistency and efficiency of our systems we use the support services of EY Firms/Third Parties to support us in the design of the running, the servicing and the use of network-wide central or local IT systems as well as standardized performance recording, documentation and accounting systems.

- In our mutual interest, information may be exchanged by other EY Firms in order to grant worldwide protection against potential conflicts of interests, to ensure our independence as well as to perform quality controls.

- We and any subcontracted EY Firms/Third Parties must comply with any domestic or foreign obligation to disclose specific information that may result by law or be imposed by public authorities or the courts. We will inform you without delay to the extent permissible.

- To be able to continuously keep you informed of services and products by Ernst & Young we may store your information relevant to you in our CRM database. We and on our direction other EY Firms may use the data for those purposes particularly to make contact with the contact person named by you even after the termination of the engagement until you revoke this consent.

Generally, the following categories of information may be affected:

- od in the cases listed in this declaration.
- Company data (e.g., company name, address, legal form, general manager(s), management board members, industry, subsidiaries and parent companies, headcount, sales figures, contact persons, contact details);
- Administrative information (e.g., type of engagement, scope of engagement, performance planning, fee distribution information);
- Engagement specific information (e.g., components in working papers); such information is only accessible to persons directly involved in the engagement, but is stored centrally.

Furthermore, you permit us to pass on the information received or generated during the engagement to companies affiliated with you in the meaning of Sec. 15 AktG ("Aktiengesetz", German Stock Corporation Act) upon their request.

In order to enable us to use the relevant information as described above, we ask you to give your consent as follows:

#### Client declaration

We agree to the information being used as described in this document as well as to the precedence of this declaration over any differing confidentiality agreement and we release Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft and its employees from their duty of confidentiality in this respect.

This declaration applies to the current engagement as well as existing engagements. This declaration also applies to the performance of future engagements unless this declaration is revoked.

#### Allinex Belgium S.A./N.V.

Place, Date \_\_\_\_\_

Signature/s \_\_\_\_\_

Place, Date \_\_\_\_\_

#### Appendix C



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Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
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Luxembourg 8 March 2016

Allinex S.à.r.l. \_\_\_\_\_

Place, Date \_\_\_\_\_

Signature/s \_\_\_\_\_

Myriam Deltenre Manager \_\_\_\_\_

Philippe Chan Manager \_\_\_\_\_

Allinex Holdings S.à.r.l. Luxembourg 8 March 2016

Place, Date \_\_\_\_\_

Signature/s \_\_\_\_\_

Myriam Deltenre Manager \_\_\_\_\_

Philippe Chan Manager \_\_\_\_\_

Allinex Australia Pty. Ltd. \_\_\_\_\_

Place, Date \_\_\_\_\_

Signature/s \_\_\_\_\_

Allinex (Thailand) Ltd. \_\_\_\_\_

Place, Date \_\_\_\_\_

Signature/s \_\_\_\_\_

Allinex Brasil Comercio de Produtos Quimicos Ltda. \_\_\_\_\_

Place, Date \_\_\_\_\_

Signature/s \_\_\_\_\_

Allinex Resins (Shanghai) Co. Ltd. \_\_\_\_\_

Place, Date \_\_\_\_\_

Signature/s \_\_\_\_\_

Allinex Holding I Germany GmbH \_\_\_\_\_

Place, Date \_\_\_\_\_

Signature/s \_\_\_\_\_

Allinex Holding UK Ltd. \_\_\_\_\_

Place, Date \_\_\_\_\_

Signature/s \_\_\_\_\_

## Signed engagement letter



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Allnex S.a.r.l.  
Place, Date

Signature/s

Allnex Holdings S.a.r.l.

Place, Date

Signature/s

Allnex Australia Pty. Ltd.

Place, Date

Signature/s

Allnex Brasil Comercio de Produtos Quimicos Ltda

Place, Date

Signature/s

Allnex Holding I Germany GmbH

Place, Date

Signature/s

Allnex Holding UK Ltd.

Place, Date

Signature/s

Appendix C  
Ermittlungsprüfungsgesellschaft  
Seite 2 von 2

Allnex Holding USA Inc.  
BLOUSSES 9/3/2016  
Place, Date

Signature/s

Allnex Malaysia Sdn. Bhd.

Place, Date

Signature/s

Allnex (Thailand) Ltd.

Place, Date

Signature/s

Allnex Resins (Shanghai) Co. Ltd.

Place, Date

Signature/s



Building a better  
working world

Allnex S.a.r.l.  
Place, Date

Signature/s

Allnex Holdings S.a.r.l.

Place, Date

Signature/s

Allnex Australia Pty. Ltd.

Place, Date

Signature/s

Allnex (Thailand) Ltd.

Place, Date

Signature/s

Allnex Brasil Comercio de Produtos Quimicos Ltda

Place, Date

Signature/s

Allnex Holding I Germany GmbH

Place, Date

Signature/s

Allnex Holding UK Ltd.

Place, Date

Signature/s

Appendix C  
Ermittlungsprüfungsgesellschaft  
Seite 2 von 2

Allnex Holding USA Inc.  
Place, Date

Signature/s

Allnex Malaysia Sdn. Bhd.

Place, Date

Signature/s

Allnex (Thailand) Ltd.

Place, Date

Signature/s

Allnex Resins (Shanghai) Co. Ltd.

Place, Date

Signature/s

## Signed engagement letter

<p><b>Alinex S.A.r.l.</b></p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Holdings S.A.r.l.</p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Australia Pty. Ltd.</p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Brasil Comercio de Produtos Quimicos Ltda  <i>Paulo Roberto Vieira Jr., PhD</i>  <i>Tecnico Lider - Latin America</i>  <i>Res. Técnico - CFO nr. 0022967 - IX Região</i>  <i>Alinex Química Brasil Ltda.</i>  <i>CNPJ/MF nº 33.876.124/0001-93 IVA 19.285.284-4 - CPF 117.465.518-29</i>  <i>Alinex</i></p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Holding USA Inc</p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Malaysia Sdn. Bhd.</p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex (Thailand) Ltd.</p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Resins (Shanghai) Co. Ltd  <i>Marcelo Lima</i>  <i>Director Financeiro</i>  <i>CNPJ/MF nº 33.876.124/0001-93 IVA 19.285.284-4 - CPF 117.465.518-29</i>  <i>Alinex</i></p> <p>Place, Date</p> <p>Signatures</p>	<p><b>Alinex Holding USA Inc</b></p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Holdings S.A.r.l.</p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Australia Pty. Ltd.</p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Brasil Comercio de Produtos Quimicos Ltda</p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Holding I Germany GmbH</p> <p>Place, Date</p> <p>Signatures</p>	<p><b>EY</b>  <i>Ernst &amp; Young LLP</i>  <i>Verba Delano - Chicago</i></p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Holdings S.A.r.l.</p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Malaysia Sdn. Bhd.</p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex (Thailand) Ltd.</p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Resins (Shanghai) Co. Ltd.</p> <p>Place, Date</p> <p>Signatures</p> <p>Alinex Holding UK Ltd.</p> <p>Place, Date</p> <p>Signatures</p>	<p><b>Appendix C</b>  <i>Ernst &amp; Young LLP</i>  <i>Verba Delano - Chicago</i>  <i>Date 7 var 2</i></p> <p><b>Appendix C</b>  <i>Ernst &amp; Young LLP</i>  <i>Verba Delano - Chicago</i>  <i>Date 7 var 2</i></p>
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## Signed engagement letter



Building a better  
working world

**Appendix C**  
Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Seite 2 von 2

Alinex S.a.r.l.

Place, Date

Signature/s

Alinex Holdings S.a.r.l.

Place, Date

Signature/s

Alinex Australia Pty. Ltd.

Place, Date

Signature/s

Alinex Brasil Comercio de Produtos Quimicos Ltda

Place, Date

Signature/s

Alinex Holding I Germany GmbH

Place, Date

Signature/s

Alinex Holding UK Ltd.

Place, Date

Signature/s

Alinex Holding USA Inc.

Place, Date

Signature/s

Alinex Malaysia Sdn. Bhd.

Place, Date

Signature/s

Alinex (Thailand) Ltd.

Place, Date

Signature/s

Alinex Resins (Shanghai) Co. Ltd.

Place, Date

Signature/s



Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft

Alinex S.a.r.l.

Place, Date

Signature/s

Alinex Holdings S.a.r.l.

Place, Date

Signature/s

Alinex Australia Pty. Ltd.

Place, Date

Signature/s

Alinex Brasil Comercio de Produtos Quimicos Ltda

Place, Date

Signature/s

Alinex Holding I Germany GmbH

Place, Date

Signature/s

Alinex Holding UK Ltd.

Place, Date

Signature/s

**Appendix C**  
Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Seite 2 von 2



## Signed engagement letter



Appendix C  
Ernst & Young GmbH  
Wirtschaftsprüfungsgesellschaft  
Seite 2 von 2

Allnex S.a.r.l.	Allnex Holding USA Inc.
Place, Date	Place, Date
Signature/s	Signature/s
Allnex Holdings S.à r.l.	Allnex Malaysia Sdn. Bhd.
Place, Date	Place, Date
Signature/s	Signature/s
Allnex Australia Pty. Ltd.	Allnex (Thailand) Ltd.
Place, Date	Place, Date
Signature/s	Signature/s
Allnex Brasil Comercio de Produtos Quimicos Ltda	Allnex Resins (Shanghai) Co. Ltd.
Place, Date	March 9, 2016 Shanghai
Signature/s	J. Guo
Allnex Holding I Germany GmbH	
Place, Date	
Signature/s	
Allnex Holding UK Ltd.	
Place, Date	
Signature/s	

## Signed engagement letter



Appendix E

Overview of affiliated group companies to the Engagement Agreement of Ernst & Young  
GmbH, Wirtschaftsprüfungsgesellschaft  
dated 24 February 2016  
with, Allnex Belgium SA/NV and its following group entities

All Chem (Luxembourg) Intermediate S.à r.l. 76, Grand Rue L-1660 Luxembourg	Allnex Malaysia Sdn. Bhd. PT 12701 Tuanku Jaafar Industrial Park 71450 Seremban
Allnex (Luxembourg) & Cy S.C.A. 76, Grand Rue L-1660 Luxembourg	Allnex (Thailand) Ltd. 12732 Panjathani Tower, 27th Floor Nonsee Road, Chongnonsiee Yannawa, Bangkok, 10120, Thailand
Allnex S.à r.l. 76, Grand Rue L-1660 Luxembourg R.C.S. Luxembourg B 172.541	Hemaraj Eastern Industrial Estate 2 Soi G-2, Pakornsongkhratch Road Tambon Huay Pong, Amphur Munag, Samutprakan, 10270
Allnex Holdings S.à r.l. 76, Grand Rue L-1660 Luxembourg	888 Moo 8, Theparak Road Tambon Samrong Nua, Amphur Munag Samutprakan, 10270
Allnex Australia Pty. Ltd. Level 12, 680 George Street Sydney NSW 2000 Phone. +61-2-8280-7355 Australia	Allnex Holding USA Inc. Level 12, Centerville Road, Suite 400 Wilmington, County of New Castle Delaware 19808
Allnex Brasil Comercio de Produtos Químicos Ltda. Rodeio da Uva PR 417 Barracão 2 -- Roca Grande 83402-000 Colombo/Paraná	Allnex Resins (Shanghai) Co. Ltd. 17H Goldsun Building, 109 Ti Yu West Road, Guangzhou 510620 Guangdong
Allnex Holding I Germany GmbH Kasteler Straße 45 65203 Wiesbaden	No. 251-301 Yao Xin Road Zhuanghang Town, Fengxian Shanghai 201415
Allnex Holding UK Ltd. 7 Albemarle Street London W1S 4HQ United Kingdom	5th Floor, Building 2, 466 Yindu Road, Xu Hui Shanghai, 200231
Allnex Holding USA Inc. 2711 Centerville Road, Suite 400 Wilmington, County of New Castle Delaware 19808	

**EY | Assurance | Tax | Transactions | Advisory**

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**Schedule 1.01(l)**  
**Existing Letters of Credit**

ISSUER	BENEFICIARY	CURRENCY	AMOUNT
Deutsche Bank	RBS	USD	1,048,584.85
Deutsche Bank	Liberty Mutual	USD	960,000.00
Deutsche Bank	KSFW Properties, LLC	USD	750,000.00

**Schedule 1.01(m)**  
**Funding and Logistics Memorandum**

**[Attached.]**

## FUNDING AND LOGISTICS MEMORANDUM

Reference is made to that certain Credit Agreement, dated as of April 15, 2016 (the “Credit Agreement”), by and among Allnex S.à.r.l., (the “Lux Borrower”), Allnex USA Inc. (the “US Borrower”), Allnex (Luxembourg) & Cy S.C.A. (“Holdings”), the other borrowers thereto from time to time, the lenders party thereto from time to time and ING Bank N.V. London Branch, as administrative agent and collateral agent for the lenders (in its capacities as administrative and collateral agent, the “Administrative Agent”). Capitalized terms used herein shall have the meanings set forth below under “Certain Definitions” and, if not defined herein, shall have the meanings given to such terms in the Credit Agreement.

The parties to the Credit Agreement intend to consummate the Closing Date transactions as described below. Notwithstanding anything to the contrary set forth below or in the Credit Agreement or any other Loan Document, if the transaction steps described below in Steps 1, 2, 3, 4A, 4B, 4C and 4D have occurred in the manner and in the order described below, the Closing Date shall be deemed to have occurred under the Credit Agreement and each other Loan Document upon the completion of Step 4D described below:

	Timing (Days relative to the closing date of the Acquisition) <sup>1</sup>	Deliverable	Action
Step 1	<u>No later than CD – 5</u>	Various transaction documents referred to in Step 1	<p>The parties thereto shall have executed and delivered:</p> <ul style="list-style-type: none"> <li>• the notices and acknowledgements contemplated by Section 2.1(a) and (b) of the Computershare Escrow Deed, by Allnex, Computershare and the Approved Bank (as defined in the Computershare Escrow Deed), as applicable,</li> <li>• the Transaction Settlement Agreement, by the Lux Borrower and the Administrative Agent,</li> <li>• the Fronting Agreement, by the Fronting Bank and the Initial Signing Date Lenders party thereto,</li> <li>• the Hedge Settlement Notices, by the Lux Borrower,</li> <li>• the Hedge Bank Instruction Letter, by the Fronting Bank and the Hedge Bank and acknowledged by the Lux Borrower, and</li> <li>• at or before 11:00 a.m. (New York City time) the Closing Date Borrowing Notice by the Lux Borrower.</li> </ul>

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<sup>1</sup> All days referred to herein must be TARGET Days, London business days, New York business days and New Zealand business days. As used herein, “CD” refers to the closing date of the Acquisition and shall be determined with respect to New Zealand days and time. The operative time zone for each step is indicated by **bold underline** with references to days + or – from the closing date of the Acquisition.

	Timing (Days relative to the closing date of the Acquisition) <sup>1</sup>	Deliverable	Action
Step 2	<p><u>CD – 1</u></p> <p><b><u>9:00 a.m. New York City time (CD-2)</u></b></p> <p>2:00 p.m. London time (CD-2)</p> <p>1:00 a.m. New Zealand time</p>	n/a	The Initial Signing Date Lenders (or the Fronting Bank on their behalf) fund in the amounts described in the Closing Date Borrowing Notice in US Dollars and Euros to the Hedge Bank, pursuant to the Contingent FX Hedges.
Step 3	<p><u>CD – 1</u></p> <p>No later than 6:00 p.m. New York City time (CD-2)</p> <p>No later than 11:00 p.m. London time (CD-2)</p> <p><b><u>No later than 10:00 a.m. New Zealand time</u></b></p>	n/a	<p>The Hedge Bank funds up to NZD 1,046,000,000 (the “<u>Computershare Escrow Funds</u>”) to the Escrow Account (as such term is defined in the Computershare Escrow Deed) held with the Bank of New Zealand in the name of Computershare, which funds shall be held in accordance with the Computershare Escrow Deed.</p> <p>Bidco pays the fee described in Section 5.5(a) of the Computershare Escrow Deed to Computershare.</p>
Step 4A	<p><u>CD – 0</u></p> <p><b><u>No later than 12:00 p.m. New York City time (CD-1)</u></b></p> <p><b><u>No later than 5:00 p.m. London time (CD-1)</u></b></p> <p><b><u>No later than 4:00 a.m. New Zealand time</u></b></p>	Section 4.02 Notice; Section 8.01 Notice	<p>Upon the satisfaction or waiver of the documentary conditions set forth in Section 4.02 of the Credit Agreement (other than those conditions that shall be satisfied substantially concurrently with the closing of the Acquisition or the initial Borrowings on the Closing Date), the Administrative Agent delivers the Section 4.02 Notice to the Initial Signing Date Lenders.</p> <p>Promptly upon receipt of the Section 4.02 Notice, the Initial Signing Date Lenders deliver the Section 8.01 Notice to the Administrative Agent.</p>
Step 4B	<p><u>CD – 0</u></p> <p>No later than 2:00 p.m. New York City time (CD-1)</p> <p>No later than 7:00 p.m. London time (CD-1)</p> <p><b><u>No later than 6:00 a.m. New Zealand time</u></b></p>	Escrow CP Confirmation	Promptly upon receipt of the Section 8.01 Notice, the Administrative Agent delivers the written confirmation of conditions precedent (the “ <u>Escrow CP Confirmation</u> ”) to Bidco and Computershare in accordance with Section 2.2(a) of the Computershare Escrow Deed.

	Timing (Days relative to the closing date of the Acquisition) <sup>1</sup>	Deliverable	Action
Step 4C	<p><u>CD – 0</u></p> <p>No later than 4:00 p.m. New York City time (CD-1)</p> <p>No later than 9:00 p.m. London time (CD-1)</p> <p><b><u>No later than 8:00 a.m. New Zealand time</u></b></p>	n/a	In accordance with the terms of Section 3.1 and 3.2 of the Computershare Escrow Deed, Computershare registers the shares of the Target in the name of Bidco and Computershare disburses Computershare Escrow Funds as payment for the consideration under the Acquisition Agreement.
Step 4D	<p><u>CD + 1</u></p> <p>No later than 9:00 a.m. New York City time (CD-0)</p> <p>No later than 2:00 p.m. London time (CD-0)</p> <p><b><u>No later than 1:00 a.m. New Zealand time</u></b></p>	n/a	As soon as possible after completion of Step 4C, the Initial Signing Date Lenders (or the Fronting Bank on their behalf) fund \$[•] and €[•], equal to the proceeds of the Initial Term Loans and Revolving Loans requested in the Closing Date Borrowing Notice (less the amounts funded by the Initial Signing Date Lenders (or the Fronting Bank on their behalf) in Step 2), to consummate the Refinancing and the other Transactions and to make the other payments as set forth in the Closing Date Borrowing Notice.
Step 5	<p><u>CD – 0</u></p> <p>No later than 11:00 p.m. New York City time (CD-1)</p> <p>No later than 4:00 a.m. London time</p> <p><b><u>No later than 3:00 p.m. New Zealand time</u></b></p>	n/a	If the Implementation Date has not occurred by 3:00 p.m. New Zealand time, the Computershare Escrow Funds (including interest as set forth in the Computershare Escrow Deed) shall be paid into the Debt Account (as defined in the Computershare Escrow Deed) held at Morgan Stanley & Co. International PLC in accordance with the terms of the Computershare Escrow Deed.
Step 6	<p><u>CD + 1</u></p> <p><b><u>No later than 10:00 a.m. New York City time (CD + 0)</u></b></p> <p><b><u>No later than 3:00 p.m. London time (CD+0)</u></b></p> <p>No later than 2:00 a.m. New Zealand time</p>	n/a	<p>The Hedge Bank transfers to the Initial Signing Date Lenders (or the Fronting Bank on their behalf) amounts equal to the amounts funded as described in Step 2 in accordance with the Hedge Bank Instruction Letter.</p> <p>The Lux Borrower makes payments to the Administrative Agent required by the terms of the Transaction Settlement Agreement.</p>

Certain Definitions:

“Closing Date Borrowing Notice” means the written notice delivered to the Administrative Agent by the Lux Borrower pursuant to Section 2.03 of the Credit Agreement, with respect to the Initial Term Loans and Revolving Loans to be made on the Closing Date and the disbursement of the proceeds thereof, attaching thereto a funds flow memorandum in the form agreed by the Lux Borrower, the Administrative Agent and the Initial Signing Date Lenders.

“Computershare Escrow Deed” means the Escrow Deed dated June 3, 2016, among Computershare Investor Services Limited (“Computershare”), Allnex New Zealand Limited (“Bidco”), Allnex Belgium SA/NV (“Allnex Belgium”), the Administrative Agent and the Target.

“Contingent FX Hedges” means the deal contingent deliverable FX forward transactions among the Lux Borrower and Morgan Stanley & Co. International plc (the “Hedge Bank”), as evidenced by two confirmation letter agreements dated April 19, 2016.

“Fronting Agreement” means that certain fronting agreement by and among ING Capital LLC (or its affiliate), as fronting bank (the “Fronting Bank”), Barclays Bank PLC, Deutsche Bank AG New York Branch, Goldman Sachs Bank USA, and Morgan Stanley Senior Funding, Inc.

“Hedge Settlement Notice” means each “Settlement Notice” as such term is defined in the Contingent FX Hedges.

“Section 4.02 Notice” means a written confirmation in the form attached hereto as Exhibit A from the Administrative Agent to the Initial Signing Date Lenders that the documentary Conditions Precedent set forth in Section 4.02 of the Credit Agreement have been satisfied.

“Section 8.01 Notice” means a written notice in the form attached hereto as Exhibit B from the Initial Signing Date Lenders to the Administrative Agent authorizing the Administrative Agent to send the Escrow CP Confirmation pursuant to Section 8.01 of the Credit Agreement.

“Transaction Settlement Agreement” means a transaction settlement agreement by and among the Lux Borrower and the Administrative Agent, in form and substance satisfactory to the parties thereto, pursuant to which (a) if the Closing Date occurs at the time contemplated in Steps 4C above, the Initial Term Loans and Revolving Loans in respect of the amounts funded pursuant to Step 2 above by the Initial Signing Date Lenders on the Closing Date shall be deemed to have been made on the date on which Step 2 above occur and the Lux Borrower agrees to pay interest on such Initial Term Loans and Revolving Loans (calculated in a manner consistent with Section 2.12 of the Credit Agreement) for the period commencing on the date on which Step 2 above occur to but excluding, the Closing Date and (b) the Lux Borrower agrees to indemnify, reimburse and/or compensate the Initial Signing Date Lenders (or the Fronting Bank, as applicable) for (x) the failure to receive any interest that would have accrued pursuant to preceding clause (a) after completion of Step 2 above as a result of the Closing Date failing to occur as described in Step 4D above (net of any interest actually received by or on behalf of the Administrative Agent for the account of the Initial Signing Date Lenders (or the Fronting Bank on their behalf, as applicable) pursuant to the Computershare Escrow Deed), (y) any loss on the principal amount of the funds transferred to the Hedge Bank as described in Step 2 above, and (z) any bank fees, other fees, charges, expenses, withholding taxes and other taxes, in each case, paid, withheld or deducted in accordance with the Computershare Escrow Deed and deducted from the Debt Escrow Account and not otherwise reimbursed pursuant to the terms of the Computershare Escrow Deed.

“Hedge Bank Instruction Letter” means a letter agreement among the Hedge Bank, Administrative Agent and the Fronting Bank and acknowledged by the Lux Borrower pursuant to which the Hedge Bank agrees upon its receipt of (i) the funds as described in Step 2 above, to deposit the Computershare Escrow Funds

in the Debt Escrow Account as described in Step 3 above and, if applicable (ii) the Computershare Escrow Funds as described in Step 5 above, to make the payments described in Step 6 above.

Exhibit A to Funding and Logistics Memorandum

**CONDITIONS PRECEDENT CONFIRMATION NOTICE**

ING BANK N.V. LONDON BRANCH  
60 London Wall, London EC2M 5TQ, United Kingdom

[●], 2016

Morgan Stanley Senior Funding, Inc.  
1585 Broadway  
New York, NY 10036  
Attention: [ ]

Deutsche Bank AG New York Branch  
60 Wall Street  
New York, NY 10005  
Attention: [ ]

Goldman Sachs Bank USA  
200 West Street  
New York, NY 10292-2198  
Attention: [ ]

Barclays Bank PLC  
5 The North Colonnade  
London E14 4BB  
Attention: [ ]

ING Capital LLC  
1325 Avenues of the Americas  
New York, NY, 10019  
Attention: [ ]

Dear Sir or Madam,

Reference is made to that certain Credit Agreement, dated as of April 15, 2016, (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the “Credit Agreement”), among Allnex S.à.r.l., as the Lux Borrower, Allnex USA Inc., as the US Borrower, Allnex (Luxembourg) & Cy S.C.A, as Holdings, the Lenders from time to time party thereto, ING Bank N.V. London Branch, as administrative agent and collateral agent for the Lenders, and certain other parties named therein. Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

We hereby confirm that all documentary conditions precedent required to be delivered pursuant to Section 4.02 of the Credit Agreement on the Closing Date have been satisfied (or waived in accordance with Section 9.02 of the Credit Agreement) other than those conditions that shall be satisfied substantially concurrently with the closing of the Acquisition or the initial Borrowings on the Closing Date.

**[Signature Page Follows]**

Yours faithfully,

**ING BANK N.V. LONDON BRANCH**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

*Exhibit B to Funding and Logistics Memorandum*

**NOTICE OF AUTHORIZATION**

MORGAN STANLEY SENIOR  
FUNDING, INC.  
1585 Broadway  
New York, NY 10036

DEUTSCHE BANK AG NEW  
YORK BRANCH  
60 Wall Street  
New York, New York 10005

GOLDMAN SACHS BANK  
USA  
200 West Street  
New York, New York 10282-  
2198

BARCLAYS BANK PLC  
5 The North Colonnade  
London E14 4BB

ING CAPITAL LLC  
1325 Avenues of the Americas  
New York, NY, 10019

[●], 2016

ING Bank N.V. London Branch  
60 London Wall  
London EC2M 5TQ, United Kingdom  
Attention: [Craig Baker]  
Email: [craig.baker@uk.ing.com]  
Telephone: [+44 20 7767 5617]  
Facsimile: [+44 20 7767 7324]

**Re: Allnex S.à.r.l. – Escrow Deed Authorization**

Dear [Mr. Craig Baker],

Reference is made to:

- (i) that certain Escrow Deed, dated as of [●], 2016, (the “Escrow Deed”) among Computershare Investor Services Limited, Allnex New Zealand Limited, Allnex Belgium SA/NV, ING Bank NV, London Branch (the “Administrative Agent”) and Nuplex Industries Limited, a copy of which is attached hereto as Annex I;
- (ii) that certain Credit Agreement, dated as of April 15, 2016, (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the “Credit Agreement”), among Allnex S.à.r.l., as the Lux Borrower, Allnex USA Inc., as the US Borrower, Allnex (Luxembourg) & Cy S.C.A, as Holdings, the Lenders from time to time party thereto, the Administrative Agent, and certain other parties named therein.; and

- (iii) that certain conditions precedent confirmation notice dated on or about the date hereof (the “Confirmation Notice”), delivered to the Initial Signing Date Lenders by the Administrative Agent.

Capitalized terms used but not otherwise defined herein will have the same meanings ascribed to such terms in the Escrow Deed or the Credit Agreement, as applicable.

The Initial Signing Date Lenders acknowledge receipt of the Confirmation Notice. Pursuant to Section 8.01 of the Credit Agreement, the Initial Signing Date Lenders hereby authorize the Administrative Agent to deliver written confirmation to Bidco and Computershare pursuant to Section 2.2(a) of the Escrow Deed, that all conditions precedent in Section 4.02 of the Credit Agreement have been satisfied or waived (or will be satisfied on the making of the payments contemplated in Clause 3.2(a) of the Escrow Deed).

**[Signature Pages Follow]**

Very truly yours,

**MORGAN STANLEY SENIOR FUNDING,  
INC.**

By: \_\_\_\_\_  
Name:  
Title:

[SIGNATURE PAGE TO NOTICE OF AUTHORIZATION]

**DEUTSCHE BANK AG NEW YORK  
BRANCH**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

[SIGNATURE PAGE TO NOTICE OF AUTHORIZATION]

**GOLDMAN SACHS BANK USA**

By: \_\_\_\_\_  
Name:  
Title:

[SIGNATURE PAGE TO NOTICE OF AUTHORIZATION]

**BARCLAYS BANK PLC**

By: \_\_\_\_\_  
Name:  
Title:

[SIGNATURE PAGE TO NOTICE OF AUTHORIZATION]

**ING CAPITAL LLC**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

[SIGNATURE PAGE TO NOTICE OF AUTHORIZATION]

**ANNEX I**

ESCROW DEED

See attached.

**Schedule 3.04**  
**Exceptions to GAAP Treatment**

1. The Lux Borrower amortizes debt discounts/premiums on a straight line basis instead of using the effective interest method. We amortize the bank fees over 6,5 years.
2. The Lux Borrower does not separately classify assets, liabilities and income / loss from minority interests separately in the consolidated financial statements. We receive dividend from Infraserv of about 0,7 KUSD which we book to period cost to net of against service charges which receive.
3. The Lux Borrower does not capitalize fixed asset additions under \$4,000 individually (US entities).
4. The Lux Borrower capitalizes interest only on projects that are greater than six months in duration and have expenditures of greater than \$250,000.
5. The Lux Borrower does not perform an annual actuarial valuation for certain pension plans that are deemed inconsequential to the consolidated financial statements. Belgium (blue collar plan) DC-Plan, France (Retirement indemnity plan), India (gratuity statutory – termination indemnity), Norway (jubilee) and Italy (jubilee). Taiwan – DB Plan for 7people.
6. The Lux Borrower's does not record asset retirement obligations less than \$100,000.
7. Preferred Equity Certificates are recorded as equity in accordance with the Agreement and considered a non GAAP adjustment.
8. The Lux Borrower amortizes certain intangibles (related to Patents) in the “Amortization of acquisition intangibles” line item in the consolidated statement of income, which should be classified in cost of sale.
9. Classification of interest paid in the cashflow statement. Interest paid are presented under net cash provided by financing activities instead of net cash provided by operating activities as required under GAAP.

**Schedule 3.05**  
**Fee Owned Real Estate Assets**

<b>AUSTRALIA</b>		
<u>Owner</u>	<u>Location</u>	<u>Description of Property</u>
Nuplex Industries Australia Ltd	49-61 Stephen Road Botany NSW 2019	Manufacturing and Australia regional office site. Size: 51,980 m <sup>2</sup>
Nuplex Industries Australia Ltd	7 Industrial Ave Wacol, QLD 4076	Manufacturing and office site. Size: 21324 m <sup>2</sup>
Nuplex Industries Australia Ltd	758 Progress Rd Wacol, QLD 4076	Manufacturing and office site. Size: 8206 m <sup>2</sup>
Nuplex Industries Australia Ltd	3 Industrial Wacol, QLD 4076	Manufacturing and office site. Size: 6022 m <sup>2</sup>
Asia Pacific Specialty Chemicals Limited	18 Hamlet St, Cheltenham Vic 3192	Decommissioned site; listed for sale. Size: 11937 m <sup>2</sup>
<b>AUSTRIA</b>		
<u>Owner</u>	<u>Location</u>	<u>Description of Property</u>
Allnex Austria GmbH	Leechgasse 21 & 42, 8010 Graz, Austria	Research and development site. Size: 0.74 acres (0.3 hectares)
Allnex Austria GmbH	Bundesstrasse 175, 8402 Werndorf, Styria, Austria	Manufacturing site. Size: 27 acres (11 hectares)
<b>BELGIUM</b>		
<u>Owner</u>	<u>Location</u>	<u>Description of Property</u>
Allnex Belgium SA/NV	Anderlechtstraat 33, 1620 Drogenbos, Belgium	Manufacturing site. Size: 60 acres (24 hectares)
M.I.O. Schoonaarde NV	Steenwegnaar Wetteren, 20 B-9200 Schoonaarde, Dendermonde, Belgium	Manufacturing site. Size: 3.24 acres (8 hectares)

<b><i>GERMANY</i></b>		
<u>Owner</u>	<u>Location</u>	<u>Description of Property</u>
Allnex Germany GmbH	Helbingstrasse 46, D-22047, Hamburg, Germany	Manufacturing site. Size: 19.3 acres (7.8 hectares)
<b><i>ITALY</i></b>		
<u>Owner</u>	<u>Location</u>	<u>Description of Property</u>
Allnex Italy S.R.L.	Via Matteo Bianchin, 62 36060 Bassano, Romano d'Ezzelino (VI), Italy	Manufacturing site. Size: 24.75 acres (10 hectares)
<b><i>NETHERLANDS</i></b>		
<u>Owner</u>	<u>Location</u>	<u>Description of Property</u>
Nuplex Resins B.V.	Synthesebaan 1, 4612 RB, Bergen op Zoom 4600 AB	Manufacturing and EMEA Regional office site. Size: 10 hectares
<b><i>RUSSIA</i></b>		
<u>Owner</u>	<u>Location</u>	<u>Description of Property</u>
Nuplex Resins LLC (Russia)	29a Rzhevskoye Shosse, Schebokino, Belgorodskaya oblast' 309290	Manufacturing and office site. Size: 2,334m <sup>3</sup>
<b><i>UK</i></b>		
<u>Owner</u>	<u>Location</u>	<u>Description of Property</u>
Silvertown Land Holdings Limited	Nuplex Resins North Woolwich Road, Silvertown, London E16 2AF	Manufacturing and UK office site. Size: approximately 5.4 hectares
<b><i>UNITED STATES</i></b>		
<u>Owner</u>	<u>Location</u>	<u>Description of Property</u>
Allnex USA Inc.	2715 Miller Road Kalamazoo, Michigan (Kalamazoo County)	Manufacturing site. Size: 90 acres (36.5 hectares)
Allnex USA Inc.	403 Carline Road Langley, South Carolina (Aiken County)	Manufacturing site. Size: 14 acres (5.67 hectares)
Allnex USA Inc.	131 Revco Road North Augusta, South Carolina (Aiken County)	Manufacturing site. Size: 207 acres (83.77 hectares)
Allnex USA Inc.	528 South Cherry Street	Manufacturing site.

	Wallingford, Connecticut (New Haven County)	Size: 250 acres (101 hectares)
Nuplex Resins LLC (USA)	Nuplex Resins 4730 Crittenden Drive, Louisville, Kentucky 40209	Manufacturing and US regional office site. Size: 13 acres

**Schedule 3.13**  
Capitalization and Subsidiaries

**PART A**

	<b>Subsidiary</b>	<b>Owner</b>	<b>Ownership Interest</b>	<b>Type of Entity</b>
1.	Allnex S.à r.l.	Allnex (Luxembourg) & Cy S.C.A.	100%	société à responsabilité limitée
2.	Allnex Holdings S.à r.l.	Allnex S.à r.l.	100%	société à responsabilité limitée
3.	Allnex Belgium SA/NV	Allnex Holdings S.à r.l.	99.99%	société anonyme
4.	Allnex Belgium SA/NV	Allnex (Luxembourg) & Cy S.C.A.	0.01%	société anonyme
5.	Allnex Taiwan Ltd.	Allnex Belgium SA/NV	100%	Limited company
6.	Allnex (Thailand) Ltd.	Allnex Belgium SA/NV	94.9555%	Limited company
7.	Allnex Resins (Shanghai) Co. Ltd.	Allnex Belgium SA/NV	100%	有限公司
8.	Allnex Malaysia Sdn. Bhd.	Allnex Belgium SA/NV	100%	sendirian berhad
9.	Allnex Resins Spain, S.L.	Allnex Belgium SA/NV	100%	sociedad limitada
10.	Allnex Mexico, S. de R.L. de CV	Allnex Belgium SA/NV	100%	sociedad de responsabilidad limitada capital variable
11.	M.I.O. Schoonaarde NV	Allnex Belgium SA/NV	100%	Naamloze vennootschap
12.	Allnex Quimica Brasil Ltda.	Allnex Belgium SA/NV	99.994%	Sociedade limitada
13.	Surface Specialties Trading Malaysia Sdn. Bhd.	Allnex Belgium SA/NV	100%	sendirian berhad
14.	Allnex Italy S.R.L.	Allnex Belgium SA/NV	100%	limited liability company
15.	Allnex Norway AS	Allnex Belgium SA/NV	100%	aksjeselskap
16.	AI Chem France Acquisition SAS	Allnex Belgium SA/NV	100%	société par actions simplifiée
17.	Allnex France SAS	AI Chem France Acquisition SAS	100%	société par actions simplifiée
18.	Allnex Holding USA Inc.	Allnex Belgium SA/NV	100%	corporation
19.	Allnex USA Inc.	Allnex Holding USA Inc.	100%	corporation
20.	Allnex IP S.à r.l.	Allnex Belgium SA/NV	100%	société à responsabilité limitée
21.	Allnex Holding I Germany GmbH	Allnex Belgium SA/NV	100%	Gesellschaft mit beschränkter Haftung
22.	Allnex Holding II Germany GmbH	Allnex Holding I Germany GmbH	94%	Gesellschaft mit beschränkter Haftung
23.	Allnex Germany GmbH	Allnex Holding II Germany GmbH	100%	Gesellschaft mit beschränkter Haftung

	Subsidiary	Owner	Ownership Interest	Type of Entity
24.	Allnex Holding Austria GmbH	Allnex Belgium SA/NV	100%	<i>Gesellschaft mit beschränkter Haftung</i>
25.	Allnex Austria GmbH	Allnex Holding Austria GmbH	99.99%	<i>Gesellschaft mit beschränkter Haftung</i>
26.	Allnex Holding UK Ltd.	Allnex Belgium SA/NV	100%	Limited company
27.	Allnex UK Ltd.	Allnex Holding UK Ltd.	100%	Limited liability company
28.	Allnex Japan Inc.	Allnex Belgium SA/NV	100%	<i>kabushiki kaisha</i>
29.	Allnex Korea Co., Ltd.	Allnex Belgium SA/NV	100%	Limited Company
30.	Allnex Canada Inc.	Allnex Belgium SA/NV	100%	Corporation
31.	Allnex Australia Pty. Ltd.	Allnex Belgium SA/NV	100%	Proprietary limited company
32.	Allnex Latvia SIA	Allnex Belgium SA/NV	100%	<i>Sabiedrība ar ierobežotu atbildību</i>
33.	Allnex Resins India Private Ltd.	Allnex Belgium SA/NV	99.99%	Limited liability company
34.	Allnex New Zealand Limited	Allnex Belgium SA/NV	100%	Limited Company
35.	Nuplex Industries Ltd.	Allnex New Zealand Limited	100%	Limited company
36.	Nuplex Operations (NZ) Ltd.	Nuplex Industries Ltd.	100%	Limited company
37.	Plaster Systems Ltd.	Nuplex Industries Ltd.	100%	Limited company
38.	Nuplex Operations (Aust) Pty. Ltd.	Nuplex Industries Ltd.	100%	Proprietary limited company
39.	Aushold Pty. Ltd.	Nuplex Operations (Aust) Pty. Ltd.	100%	Proprietary limited company
40.	Multichem Pty. Ltd.	Aushold Pty. Ltd	100%	Proprietary limited company
41.	Asia Pacific Specialty Chemicals Ltd.	Nuplex Operations (Aust) Pty. Ltd.	100%	Limited company
42.	Nuplex Industries (Aust) Pty. Ltd.	Nuplex Operations (Aust) Pty. Ltd.	100%	Proprietary limited company
43.	Nuplex Resins (Changshu) Co Ltd.	Nuplex Industries (Aust) Pty. Ltd.	100%	有限公司
44.	Nuplex VN Masterbatch Pty. Ltd.	Nuplex Industries (Aust) Pty. Ltd.	100%	Proprietary limited company
45.	Nuplex Resins (Foshan) Co., Ltd.	Nuplex Industries (Aust) Pty. Ltd.	100%	有限公司
46.	Cong Ty Nuplex Resins (Vietnam) Pty. Ltd.	Nuplex Industries (Aust) Pty. Ltd.	100%	Proprietary limited company
47.	Masterbatch Vietnam Pty. Ltd.	Cong Ty Nuplex Resins (Vietnam) Pty. Ltd.	100%	Proprietary limited company
48.	Nuplex Finance Holdings Ltd.	Nuplex Industries Ltd.	100%	Limited company
49.	Nuplex Singapore Pte Ltd.	Nuplex Finance Holdings Ltd.	100%	Private limited company
50.	Nuplex Resins (Thailand) Ltd.	Nuplex Finance Holdings Ltd.	100%	Limited company
51.	Nuplex Producao de Resinas	Nuplex Finance	100%	<i>Sociedade limitada</i>

	<b>Subsidiary</b>	<b>Owner</b>	<b>Ownership Interest</b>	<b>Type of Entity</b>
	Ltda.	Holdings Ltd.		
52.	Nuplex Industries (Hong Kong) Ltd.	Nuplex Finance Holdings Ltd.	100%	Limited company
53.	Nuplex US Holdings Ltd.	Nuplex Finance Holdings Ltd.	100%	Limited company
54.	Nuplex Resins LLC	Nuplex US Holdings Ltd.	100% <sup>3</sup>	Limited liability company
55.	Nuplex Industries UK Ltd.	Nuplex Finance Holdings Ltd.	100%	Limited liability company
56.	Silvertown Land Holdings Ltd.	Nuplex Industries UK Ltd.	100%	Limited liability company
57.	Nuplex Resins Ltd.	Nuplex Industries UK Ltd.	100%	Limited liability company
58.	Nuplex Industries B.V.	Nuplex Industries UK Ltd.	100%	<i>Besloten vennootschap</i>
59.	Nuplex Resins LLC	Nuplex Industries B.V.	99%	Limited liability company
60.	Nuplex Sino Chemicals B.V.	Nuplex Industries B.V.	100%	<i>Besloten vennootschap</i>
61.	Nuplex Resins (Suzhou) Co., Ltd.	Nuplex Sino Chemicals B.V.	100%	Limited company
62.	Nuplex Resins B.V.	Nuplex Industries B.V.	100%	<i>Besloten vennootschap</i>
63.	Nuplex Industries GmbH	Nuplex Resins B.V	100%	<i>Gesellschaft mit beschränkter Haftung</i>
64.	Nuplex Resins GmbH	Nuplex Industries GmbH	100%	<i>Gesellschaft mit beschränkter Haftung</i>

	<b>Joint Venture Subsidiary</b>	<b>Owner</b>	<b>Ownership Interest</b>	<b>Type of Entity</b>
65.	Daicel-Allnex Co., Ltd.	Allnex Belgium SA/NV	55%	Limited company
66.	Allnex-Eternal Resins Corporation Limited	Allnex Belgium SA/NV	51%	Limited company
67.	PT Nuplex Raung Resins	Nuplex Finance Holdings Ltd.	80%	Limited liability company
68.	Synthese (Malaysia) Sdn. Bhd.	Nuplex Finance Holdings Ltd.	62%	<i>sendirian berhad</i>

## PART B

Allnex Holdings S.à r.l.  
 Allnex Belgium SA/NV  
 Allnex New Zealand Limited  
 M.I.O. Schoonaarde NV  
 Allnex Italy S.R.L.  
 Allnex Norway AS

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<sup>3</sup> Nuplex Resins BV holds one share

AI Chem France Acquisition SAS  
Allnex France SAS  
Allnex IP S.à r.l.  
Allnex Holding I Germany GmbH  
Allnex Holding II Germany GmbH  
Allnex Germany GmbH  
Allnex Holding Austria GmbH  
Allnex Austria GmbH  
Allnex Holding UK Ltd.  
Allnex UK Ltd.  
Allnex Japan Inc.  
Allnex Canada Inc.  
Allnex Australia Pty. Ltd.  
Nuplex Industries Ltd.  
Nuplex Finance Holdings Ltd.  
Nuplex Operations (NZ) Ltd.  
Plaster Systems Ltd.  
Nuplex Operations (Aust) Pty. Ltd.  
Nuplex US Holdings Ltd.  
Nuplex Industries UK Ltd.  
Nuplex Industries (Aust) Pty. Ltd.  
Asia Pacific Specialty Chemicals Ltd.  
Silvertown Land Holdings Ltd.  
Nuplex Industries B.V.  
Aushold Pty. Ltd.  
Nuplex VN Masterbatch Pty. Ltd.  
Nuplex Resins B.V.  
Nuplex Sino Chemicals B.V.  
Nuplex Industries GmbH  
Nuplex Resins GmbH  
Multichem Pty. Ltd.

## PART C

Allnex USA Inc.  
Allnex Holding USA Inc.  
Nuplex Resins LLC

**Schedule 4.02(b)**  
Local Counsel

Allen & Overy – special counsel to the Belgian Loan Parties  
Bonn Steichen & Partners – special counsel to the Luxembourg Loan Parties  
Russell McVeagh – special counsel to the New Zealand Loan Parties

**Schedule 5.10**  
**Unrestricted Subsidiaries**

None

## **Schedule 5.14**

### Post-closing Requirements

#### Part 1(a)

No later than 10 days after the Closing Date (or such longer period as the Administrative Agent may agree to in its sole discretion) the Target Revolving Facility shall be repaid in full, all liens shall be released, if any, and all necessary termination agreements shall be executed and filed of record, as appropriate.

#### Part 1(b)

No later than 90 days after the Closing Date (or such longer period as the Administrative Agent may agree to in its sole discretion) the Target USPP Facility shall be repaid in full, all liens shall be released, if any, and all necessary termination agreements shall be executed and filed of record, as appropriate.

#### Part 2(a)

No later than 90 days after the Closing Date (or such longer period as the Administrative Agent may agree to in its sole discretion):

- (i) each applicable Loan Party shall have complied with clause (a)(ii) of the definition of Collateral and Guarantee Requirement with respect to each Material Real Estate listed on Schedule 1.01(g); and
- (ii) the Lux Borrower shall deliver, or cause to be delivered, to the Administrative Agent a customary liability insurance certificate and property insurance certificate and corresponding endorsements naming the Administrative Agent on behalf of Lenders as additional insured or loss payee, as applicable, thereunder to the extent required under Section 5.05.

#### Part 2(b)

No later than 10 Business Days after the Closing Date (or such longer period as the Administrative Agent may agree to in its sole discretion) the Belgian Loan Parties shall have delivered evidence that resolutions of the Belgian Loan Parties approving Section 7.01(j) and any other change of control clause or clause having equivalent effect have been filed with the clerk of the competent commercial court in accordance with Article 556 of the Belgian Companies Code.

#### Part 3

No later than 120 days after the Closing Date (or such longer period as the Administrative Agent may agree to in its sole discretion):

(i) the Lux Borrower shall deliver, or cause to be delivered, to the Administrative Agent documentation required for the Post-Closing Loan Parties to become Subsidiary Guarantors in accordance with clause (b) of the definition of Collateral and Guarantee Requirement;

(ii) each applicable Post-Closing Loan Party shall have complied with clause (a)(ii) of the definition of Collateral and Guarantee Requirement with respect to each Material Real Estate listed on Schedule 1.01(g); and

(iii) each Post-Closing Loan Party shall deliver, or cause to be delivered, to the Administrative Agent, in form and substance reasonably satisfactory to the Administrative Agent, (a) a customary certificate from a director or Responsible Officer thereof, in customary form for each applicable jurisdiction and with appropriate attachments for each applicable jurisdiction, including, (1) Organizational Documents of such Post-Closing Loan Party, (2) customary resolutions, consents or extracts of such Post-Closing Loan Party and (3) incumbency, entitled persons' or specimen signatures which identify by name and title the Responsible Officer or authorized signatory of such Post-Closing Loan Party authorized to sign the documentation required by clause (i) above and (b) a customary good standing certificate (to the extent such concept is known and customary in the relevant jurisdiction) and, if relevant and customary in the applicable jurisdiction, a solvency certificate.

Part 4

No later than 180 days after the Closing Date (or such longer period as the Administrative Agent may agree to in its sole discretion) the transfer of assets and related transactions pursuant to the post-closing steps expressly contemplated by the E&Y Steps Memo shall be completed.

Part 5

No later than eight Business Days after the Closing Date (or such longer period as the Administrative Agent may agree to in its sole discretion) the Lux Borrower shall deliver, or cause to be delivered certificates representing the Capital Stock of US HoldCo and the US Borrower which will replace the certificates representing the Capital Stock of US HoldCo and the US Borrower delivered on the Closing Date and reflect the current issuers' names and holders' names thereof.

**Schedule 6.01**  
**Existing Indebtedness**

1. Loan from Sumitomo Tokyo to Daicel-Allnex Co. Ltd., dated as of August 18, 2016, in the amount of ¥300,000,000.
2. Loan from Bank of Tokyo to Daicel-Allnex Co. Ltd., dated as of August 18, 2016, in the amount of ¥300,000,000.
3. Loan from Mizuho Bank to Daicel-Allnex Co. Ltd., dated as of August 23, 2016, in the amount of ¥101,200,000 and dated as of August 22, 2016, in the amount of ¥100,000.
4. Bangkok Bank facility in the amount of THB 25,000,000.
5. Kasikorn Bank facility in the amount of THB 10,000,000.
6. Bank of America Merrill Lynch facility in the amount of BRL 13,500,000.
7. Bank Itau facility in the amount of BRL 15,000,000.
8. Bank Bradesco facility in the amount of BRL3,000,000.
9. Bank Bradesco credit line in the amount of BRL 2,252,278.
10. Banco do Brazil credit line in the amount of BRL 1,758,665.
11. Bank of America Merrill Lynch credit line in the amount of USD 300,000.
12. Loan from Abwasserverband Aus to Allnex Austria GmbH, dated as of January 1, 2015, in the amount of €31,643.95.
13. Loan from Abwasserverband Aus to Allnex Austria GmbH, dated as of January 1, 2015, in the amount of €69,878.12.
14. Loan from Abwasserverband Aus to Allnex Austria GmbH, dated as of January 1, 2015, in the amount of €129,858.41.
15. Loan from Abwasserverband Aus to Allnex Austria GmbH, dated as of January 1, 2015, in the amount of €250,785.41.
16. Loan from Abwasserverband Aus to Allnex Austria GmbH, dated as of January 1, 2015, in the amount of €20,503.80.
17. ING bank guarantees to Allnex Belgium SA/NV in the amount of 517,200 EUR.
18. ING bank guarantees to Allnex Norway AS in the amount of 140,000 GBP.

19. ING bank guarantees to Allnex Italy SRL in the amount of 63,000 EUR.
20. Kasikorn Bank guarantees to Allnex Thailand Ltd in the amount of 1,439,000 THB.
21. Bank Austria guarantees to Allnex Austria GmbH in the amount of 700,000 EUR.
22. AON SPA guarantee to Allnex Italy SRL in the amount of 30,000 EUR.
23. RBS bank guarantee to Belastingdienst in the amount of 78,000 EUR.
24. RBS bank guarantee to Belgische Staat Federale Overheidstdienst Financien in the amount of 415,000 EUR.
25. RBS bank guarantee to Deutschebank New York in the amount of 110,000 USD.
26. RBS bank guarantee to STATSAUTORISERET REVISIONSAKTIESELSKAB in the amount of 2,800,000 DKK.
27. Liberty Mutual guarantee to US Customs and Border Protection in the amount of 960,000 USD.
28. Loan from ANZ bank to Nuplex Indonesia, in the amount of USD 3,000,000 – Note: it will be replaced by HSBC loan after closing (same amount).
29. Loan from HSBC bank to Nuplex Thailand, in the amount of THB 100,000,000.
30. Westpac bank facility in the amount of AUD 5,000,000.
31. HSBC bank facility in the amount of EUR 2,000,000.
32. 6.125% Series A Guaranteed Senior Notes due 2019 by NUPLEX INDUSTRIES GMBH in the amount of 63,050,000 USD.
33. 6.125% Series B Guaranteed Senior Notes due 2019 by NUPLEX INDUSTRIES B.V. in the amount of 41,950,000 USD.
34. Westpac bank guarantees to Nuplex Australia in the amount of 600,000 AUD.
35. Westpac bank guarantees to Nuplex New Zealand in the amount of 800,000 NZD.
36. ANZ bank guarantees to Nuplex Indonesia in the amount of 3,000,000 USD.
37. HSBC bank guarantees to Nuplex EMEA in the amount of 750,000 USD.
38. Any Indebtedness associated with the liens listed on Schedule 6.02.

**Schedule 6.02**  
**Existing Liens**

<b>Jurisdiction</b>	<b>Debtor</b>	<b>Secured Party</b>	<b>File Number and File Date</b>	<b>Collateral</b>
Delaware DOS	Allnex USA Inc.	NMHG Financial Services, Inc.	2013 5061362 12/20/2013	Equipment
Delaware DOS	Allnex USA Inc.	General Electric Capital Corporation	2014 1023092 3/17/2014	Equipment
Delaware DOS	Allnex USA Inc.	ING Belgium SA/NV	2014 1919273 5/15/2014	Covers the sale, transfer and assignment, under the Receivables Purchase Agreement, by Allnex USA Inc. to ING Belgium SA/NV of all right, title, interest and benefit in and to all U.S. Receivables, future and present, together with all Associated Rights and all cash collections, wire transfers, electronic funds transfers and other cash proceeds of such U.S. Receivable.
Delaware DOS	Allnex USA Inc.	Lenovo Financial Services	2014 3233434 8/12/2014	Equipment
Delaware DOS	Allnex USA Inc.	Wells Fargo Bank, N.A.	2015 6313653 12/29/2015	Equipment
Georgia Superior Court Clerks' Cooperative Authority	Allnex USA, Inc.	Canon Financial Services, Inc.	007-2015-002040 1/27/2015 (Barrow County)	Equipment
Delaware SOS	Nuplex Resins LLC	Dell Financial Services L.P.	2007 4366703 11/15/2007	Equipment
Delaware DOS	Nuplex Resins LLC	U.S. Bank Equipment Finance, a Division of U.S. Bank National Association	2013 1367672 4/10/2013	Equipment
Delaware DOS	Nuplex Resins LLC	U.S. Bank Equipment Finance, a Division of U.S. Bank National Association	2013 3954527 10/9/2013	Equipment
Delaware DOS	Nuplex Resins LLC	U.S. Bank Equipment Finance, a Division of U.S. Bank National Association	2014 1114370 3/21/2014	Equipment

<b>Jurisdiction</b>	<b>Debtor</b>	<b>Secured Party</b>	<b>File Number and File Date</b>	<b>Collateral</b>
Delaware DOS	Nuplex Resins LLC	U.S. Bank Equipment Finance	2014 1193093 3/26/2014	Equipment
Delaware DOS	Nuplex Resins LLC	U.S. Bank Equipment Finance, a Division of U.S. Bank National Association	2014 1412071 4/10/2014	Equipment
Delaware DOS	Nuplex Resins LLC	U.S. Bank Equipment Finance, a Division of U.S. Bank National Association	2014 2268654 6/11/2014	Equipment
Delaware DOS	Nuplex Resins LLC	U.S. Bank Equipment Finance	2014 4717799 11/21/2014	Equipment
Delaware DOS	Nuplex Resins LLC	LaSalle Systems Leasing, Inc.  <u>Partial assignment to:</u> MB Financial Bank, N.A. .	2015 4428388 10/1/2015	Equipment
Kentucky – Jefferson County Clerk	Nuplex Resins LLC	Commonwealth of Kentucky Education Cabinet Ex. Rel., Division of Unemployment Insurance	Lien No. 20082558 Date: 11/27/2008 LB 01050, Pg 0111 1/14/2009	Federal Tax Lien Unemployment Insurance for taxes, SCUF, interest and penalties
Kentucky – Jefferson County Recorder	Nuplex Resins LLC		Cherie Wentworth, et al vs. Nuplex Resins, LLC, et al Case #10-CI-002081 Filed: 3/26/2010	Personal Injury

- Equipment lien covering certain forklifts with MH Equipment as secured party
- Equipment lien covering a certain forklift with De Lage Landen Financial Services as secured party
- Equipment lien covering certain forklifts and computer equipment with La Salle Solutions as secured party

**Schedule 6.06**  
**Existing Investments**

1. Investment by Allnex Belgium SA/NV in Allnex-Eternal Resins Corporation Ltd.
2. Investment by Allnex Belgium SA/NV in Daicel-Allnex Ltd.
3. Investment by Allnex Belgium SA/NV in Entis Co. Ltd.
4. Investment by Nuplex Finance Holdings Ltd. in Synthese (Malaysia) Sdn. Bhd.
5. Investment by Nuplex Finance Holdings Ltd. in PT Nuplex Raung Resins
6. Investment by Nuplex Finance Holdings Ltd. in Synthese (Thailand) Co.

**Schedule 6.07**  
**Dispositions**

1. Potential dispositions of, or related to, real property located at Leechgasse 21 and 42, 8010 Graz, Austria.

## **Schedule 6.08**

### **Sale and Lease-Back Transactions**

1. Potential Sale and Lease-Back transactions of, or related to, real property located at Leechgasse 21 and 42, 8010 Graz, Austria.

**Schedule 6.09**

**Transactions with Affiliates**

None.

**Schedule 9.01**

**Borrowers' Website Address for Electronic Delivery**

None.

[FORM OF]  
REVOLVING BORROWER JOINDER

This REVOLVING JOINDER AGREEMENT (this “**Joinder**”), dated as of [●] [●], 2016, is entered into by and among [●]<sup>1</sup> (the “**Additional Revolving Borrower**”), Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541 and having a registered share capital of \$1,800,005 (the “**Lux Borrower**”), the Revolving Lenders (which, as of the date hereof, constitute the Required Revolving Lenders under the Restated Credit Agreement immediately prior to the Effective Date (as defined below)) party hereto (the “**Required Lenders**”) and ING Bank N.V., London Branch, in its capacity as administrative agent and collateral agent for the Lenders (the “**Administrative Agent**”).

W I T N E S S E T H:

WHEREAS, the Lux Borrower and Allnex USA Inc. (the “**US Borrower**” and together with Lux Borrower the “**Existing Borrowers**”), certain Restricted Subsidiaries of the Lux Borrower party thereto from time to time as Revolving Borrowers, the Lenders party thereto from time to time, the other parties party thereto and the Administrative Agent have entered into the Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”);

WHEREAS, under the Credit Agreement, the Lenders have agreed, upon the terms and subject to the conditions set forth therein, to make Loans available to the Borrowers, and each Issuing Bank has agreed to issue Letters of Credit and each Guarantee Bank has agreed to issue Bank Guarantees, as the case may be, for the account of the Borrowers; and

WHEREAS, the Lux Borrower desires for the Additional Revolving Borrower to become a Revolving Borrower in accordance with Section 2.24 of the Credit Agreement and under the other Loan Documents.

NOW, THEREFORE, in consideration of the premises and the mutual agreements contained herein and in the Credit Agreement, the parties hereto agree as follows:

**SECTION 1. Definitions.** All capitalized terms not otherwise defined herein are used as defined in the Credit Agreement.

**SECTION 2. Joinder.** Effective as of the Effective Date (as defined below) the Additional Revolving Borrower shall join the Credit Agreement as an Additional Revolving Borrower and hereby assumes any and all interests, obligations, rights, duties and liabilities of a Revolving Borrower under the Credit Agreement with the same effect as though the Additional Revolving Borrower were a party to the Credit Agreement. Each reference to a Borrower or Revolving Borrower in the Credit Agreement shall be deemed to include the Additional Revolving Borrower. The Additional Revolving Borrower hereby agrees that it is bound by the terms, conditions and provisions of the Credit Agreement applicable to it.

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<sup>1</sup> Insert name(s) of joining borrower(s).

SECTION 3. Conditions. Section 2 hereof shall become effective on the date (the “**Effective Date**”) when the following conditions have been satisfied or waived:

- (a) Joinder. The Administrative Agent (or its counsel) shall have received an executed counterpart (or written evidence satisfactory to the Administrative Agent (which may include a facsimile or other electronic transmission)) of this Joinder executed by the Required Lenders, Lux Borrower and the Additional Revolving Borrower.
- (b) Other Loan Documents. (i) The Administrative Agent (or its counsel) shall have received from the Additional Revolving Borrower (x) a counterpart (or written evidence satisfactory to the Administrative Agent (which may include a facsimile or other electronic transmission)) of each Promissory Note signed by the Additional Revolving Borrower (to the extent requested by any Revolving Lender at least three Business Days prior to the Effective Date) and (y) [●]<sup>2</sup> and (ii) the requirements under clause (b)(i) of the definition of “Collateral and Guarantee Requirement” shall have been satisfied.

SECTION 4. Representations. The Additional Revolving Borrower represents and warrants to the Administrative Agent that the execution, delivery and performance of this Joinder are within the Additional Revolving Borrower’s corporate or other organizational power and has been duly authorized by all necessary corporate or other organizational action of the Additional Revolving Borrower and this Joinder has been duly executed and delivered by the Additional Revolving Borrower and is a legal, valid and binding obligation of the Additional Revolving Borrower, enforceable in accordance with its terms, subject to the Legal Reservations and the Perfection Requirements.

#### SECTION 5. Miscellaneous.

5.1. Effect on Credit Agreement. Except as expressly supplemented hereby, the Credit Agreement shall remain in full force and effect.

5.2. Notices. All notices, requests and demands pursuant hereto shall be made in accordance with Section 9.01 of the Credit Agreement. All communications and notices hereunder or under the Credit Agreement to the Additional Revolving Borrower shall be given to it in care of the Lux Borrower at the Lux Borrower’s address set forth on Schedule 9.01 to the Credit Agreement

5.3. Loan Document. From and after the execution and delivery hereof by the parties hereto, this Joinder shall constitute a “Loan Document” for all purposes of the Credit Agreement and the other Loan Documents.

5.4. Governing Law. This Agreement and any claim, controversy or dispute arising under or related to this agreement, whether in tort, contract (at law or in equity) or otherwise, shall be governed by and construed and interpreted in accordance with, the laws of the State of New York.

5.5. Successors and Assigns. This Joinder shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

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<sup>2</sup> Insert reference to documentation reasonably requested by Administrative Agent consistent with the definition of Additional Revolving Borrower in the Credit Agreement

5.6. Jurisdiction; Waiver of Jury Trial. The provisions of Sections 9.10 and 9.11 of the Credit Agreement are hereby incorporated by reference and shall apply with like effect to this Joinder.

5.7. Headings. The Section headings in this Joinder are inserted for convenience of reference only and shall not affect the meaning or interpretation of this Joinder or any provision hereof.

5.8. Counterparts. This Joinder may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement, and any of the parties hereto may execute this Joinder by signing any such counterpart. Delivery of an executed counterpart of a signature page of this Joinder by facsimile or in electronic (i.e., "pdf" or "tiff") format shall be effective as delivery of a manually executed counterpart of this Joinder.

[Signatures Follow]

IN WITNESS WHEREOF, the undersigned have caused this Joinder to be duly executed and delivered by their duly authorized officers as of the day and year first above written.

**ALLNEX S.A R.L., as Lux Borrower**

By: \_\_\_\_\_  
Name: [●]  
Title: [●]

By: \_\_\_\_\_  
Name: [●]  
Title: [●]

**Additional Revolving Borrower:**

[●]

By: \_\_\_\_\_  
Name: [●]  
Title: [●]

**ACCEPTED AND AGREED:**

**ING BANK N.V. LONDON BRANCH,**  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

SIGNATURE PAGE TO THE JOINDER, DATED  
AS OF THE DATE FIRST WRITTEN ABOVE,  
AMONG ALLNEX S.À R.L., CERTAIN OF ITS  
SUBSIDIARIES PARTY THERETO FROM TIME  
TO TIME AS ADDITIONAL REVOLVING  
BORROWER(S), THE REVOLVING LENDERS  
PARTY THERETO, AND ING BANK N.V.,  
LONDON BRANCH, AS ADMINISTRATIVE  
AGENT

NAME OF INSTITUTION:

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NAME OF INSTITUTION:

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[FORM OF]  
ASSIGNMENT AND ASSUMPTION

THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF, INCLUDING WRITTEN CONFIRMATIONS OR REFERENCES THERETO, INTO THE REPUBLIC OF AUSTRIA, MAY CAUSE THE IMPOSITION OF AUSTRIAN STAMP DUTY. PRIOR TO THE EXECUTION OF THIS DOCUMENT OR THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF INTO THE REPUBLIC OF AUSTRIA LEGAL ADVICE AS TO AUSTRIAN LAW SHOULD BE SOUGHT.

This Assignment and Assumption (the “**Assignment and Assumption**”) is dated as of the Effective Date set forth below and is entered into by and between **[Insert name of Assignor]** (the “**Assignor**”) and **[Insert name of Assignee]** (the “**Assignee**”). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex I attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below, (i) all of the Assignor’s rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any letters of credit, guarantees and swingline loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the “**Assigned Interest**”). In the case where the Assigned Interest covers all of the Assignor’s rights and obligations under the Credit Agreement, the Assignor shall cease to be a party thereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 9.03 of the Credit Agreement with respect to facts and circumstances occurring on or prior to the Effective Date and subject to its obligations hereunder and under Section 9.13 of the Credit Agreement. Such sale and assignment is (i) subject to acceptance and recording thereof in the Register by the Administrative Agent pursuant to Section 9.05(b)(v) of the Credit Agreement, (ii) without recourse to the Assignor and (iii) except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: \_\_\_\_\_
2. Assignee: \_\_\_\_\_  
[and is an Affiliate/Approved Fund of [identify Lender]<sup>1</sup>]
3. Lux Borrower: Allnex S.à r.l.
4. Administrative Agent: ING Bank N.V., London Branch, as administrative agent under the Credit Agreement.
5. Credit Agreement: The Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among Allnex S.à r.l., a *société à responsabilité limitée* organized and established under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg Companies Register under number B173.541 (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation (the “**US Borrower**” and, together with the Lux Borrower, the “**Borrowers**”), Allnex (Luxembourg) & Cy S.C.A., a *société en commandite par actions* organized and established under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, and registered with the Luxembourg Companies Register under number B172.052 (“**Holdings**”), the Lenders from time to time party thereto and ING Bank N.V., London Branch, as administrative agent and as collateral agent for the Lenders (in its capacity as administrative and as collateral agent, the “**Administrative Agent**”).

6. Assigned Interest:

Aggregate Amount of Commitment/Loans	Class of Loans Assigned	Amount of Commitment/Loans Assigned <sup>2</sup>
[\$][€]		[\$][€]
[\$][€]		[\$][€]
[\$][€]		[\$][€]

Effective Date: \_\_\_\_\_, 20\_\_\_\_ [TO BE INSERTED BY THE  
**ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF  
RECORDATION OF TRANSFER IN THE REGISTER THEREFOR**].

7. **THE PARTIES HERETO ACKNOWLEDGE THAT ANY ASSIGNMENT TO  
ANY DISQUALIFIED INSTITUTION WITHOUT OBTAINING THE REQUIRED**

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<sup>1</sup> Select as applicable.

<sup>2</sup> Except in the case of an assignment to another Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender’s Loans or commitments of any Class, not to be less than \$1,000,000 in the case of Term Loans (or €1,000,000 in the case of any Tranche B-1 Term Loans or other Term Loans denominated in Euros) and €5,000,000 in the case of the Revolving Facility unless each of the Lux Borrower and the Administrative Agent otherwise consent.

CONSENT OF THE LUX BORROWER OR, TO THE EXTENT THE LUX BORROWER'S CONSENT IS REQUIRED UNDER SECTION 9.05 OF THE CREDIT AGREEMENT, TO ANY OTHER PERSON, SHALL BE NULL AND VOID, AND, IN THE EVENT OF ANY SUCH ASSIGNMENT (AND ANY ASSIGNMENT TO ANY AFFILIATE OF ANY DISQUALIFIED INSTITUTION (OTHER THAN A BONA FIDE DEBT FUND)), THE LUX BORROWER SHALL BE ENTITLED TO PURSUE THE REMEDIES DESCRIBED IN SECTION 9.05 OF THE CREDIT AGREEMENT.

[Signature Page Follows]

The terms set forth in this Assignment and Assumption are hereby agreed to:

**ASSIGNOR**

**[NAME OF ASSIGNOR]**

By: \_\_\_\_\_

Name:

Title:

- ASSIGNEE HAS EXAMINED THE LIST OF DISQUALIFIED INSTITUTIONS AND (I) REPRESENTS AND WARRANTS THAT (A) IT IS NOT IDENTIFIED ON SUCH LIST AND (B) IT IS NOT AN AFFILIATE OF ANY INSTITUTION IDENTIFIED ON SUCH LIST [(OTHER THAN, IN THE CASE OF THIS CLAUSE (B), A BONA FIDE DEBT FUND)]<sup>3</sup> AND (II) ACKNOWLEDGES THAT ANY ASSIGNMENT MADE TO AN AFFILIATE OF A DISQUALIFIED INSTITUTION (OTHER THAN A BONA FIDE DEBT FUND) SHALL BE SUBJECT TO SECTION 9.05 OF THE CREDIT AGREEMENT.<sup>4</sup>**

**ASSIGNEE**

[NAME OF ASSIGNEE]

By: \_\_\_\_\_  
Name:  
Title:

Consented to and Accepted:

ING BANK N.V., LONDON BRANCH, as  
Administrative Agent<sup>5</sup>

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

[ISSUING BANK]<sup>6</sup>

By: \_\_\_\_\_  
Name:  
Title:

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<sup>3</sup> Insert bracketed language if Assignee is a Bona Fide Debt Fund and not otherwise identified on the list of Disqualified Institutions.

<sup>4</sup> To be completed by Assignee.

<sup>5</sup> To be added only if the consent of the Administrative Agent is required.

<sup>6</sup> To be added only with respect to an assignment under the Revolving Facility or any Additional Revolving Facility.

**[SWINGLINE LENDER, as Swingline  
Lender]<sup>7</sup>**

By: \_\_\_\_\_  
Name:  
Title:

**[Consented to:]<sup>8</sup>**

Allnex S.à r.l., a société à responsabilité limitée  
organized and established under the laws of  
Luxembourg, as Lux Borrower

By: \_\_\_\_\_  
Name:  
Title:

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<sup>7</sup> To be added only with respect to an assignment under the Revolving Facility or any Additional Revolving Facility.

<sup>8</sup> To be added only if the consent of the Lux Borrower is required by Section 9.05(b)(i)(A) of the Credit Agreement.

**STANDARD TERMS AND CONDITIONS FOR  
ASSIGNMENT AND ASSUMPTION**

**1. *Representations and Warranties.***

**1.1 *Assignor.*** The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) its Commitment, and the outstanding balances of its Loans, in each case without giving effect to assignments thereof which have not become effective, are as set forth herein, (iv) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and (v) [it is] [it is not] a Defaulting Lender; and (b) makes no representation or warranty and assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement, any other Loan Document or any other instrument or document furnished pursuant thereto (other than this Assignment and Assumption) or any collateral thereunder, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrowers, any of their Restricted Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by Holdings, the Borrowers, any of their Restricted Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

**1.2. *Assignee.*** The Assignee (a) represents and warrants that (i) it is an Eligible Assignee and has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement and the other Loan Documents as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement and the Intercreditor Agreement, together with copies of the most recent financial statements referred to in Section 3.04(a) or the most recent financial statements delivered pursuant to Section 5.01 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, (v) it has examined the list of Disqualified Institutions and that it is not (A) a Disqualified Institution or (B) an Affiliate of a Disqualified Institution [(other than, in the case of this Clause (B), a Bona Fide Debt Fund)]<sup>9</sup>, (vi) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to Section 2.16 of the Credit Agreement, duly completed and executed by the Assignee, and (vii) in the case of Holdings, any Borrower or any of their subsidiaries, (1) no Indebtedness incurred under the Revolving Facility or any Additional Revolving Facility has been utilized to fund the purchase of the Assigned Interest and (2) no Default or Event of Default shall have occurred and be continuing at the time of acceptance of bids for any Dutch Auction or the confirmation of any open market purchase; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, (ii) it appoints and authorizes the Administrative Agent to take such action on its behalf and to exercise such powers and

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<sup>9</sup> Insert bracketed language if Assignee is a Bona Fide Debt Fund and not otherwise identified on the list of Disqualified Institutions.

discretion under the Credit Agreement, the other Loan Documents or any other instrument or document furnished pursuant hereto or thereto as are delegated to the Administrative Agent, by the terms thereof, together with such powers as are reasonably incidental thereto, and (iii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

**2. Payments.** From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

**3. General Provisions.** This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and permitted assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by facsimile or by email as a “.pdf” or “.tif” attachment shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be construed in accordance with and governed by the laws of the State of New York.

[FORM OF]  
AFFILIATED LENDER ASSIGNMENT AND ASSUMPTION

THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF, INCLUDING WRITTEN CONFIRMATIONS OR REFERENCES THERETO, INTO THE REPUBLIC OF AUSTRIA, MAY CAUSE THE IMPOSITION OF AUSTRIAN STAMP DUTY. PRIOR TO THE EXECUTION OF THIS DOCUMENT OR THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF INTO THE REPUBLIC OF AUSTRIA LEGAL ADVICE AS TO AUSTRIAN LAW SHOULD BE SOUGHT.

This Affiliated Lender Assignment and Assumption (the “**Affiliated Lender Assignment and Assumption**”) is dated as of the Effective Date set forth below and is entered into by and between [Insert name of Assignor] (the “**Assignor**”) and [Insert name of Affiliated Lender] (the “**Assignee**”). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below, receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex I attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Affiliated Lender Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below, (i) all of the Assignor’s rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any letters of credit, guarantees and swingline loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the “Assigned Interest”). In the case where the Assigned Interest covers all of the Assignor’s rights and obligations under the Credit Agreement, the Assignor shall cease to be a party thereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 9.03 of the Credit Agreement with respect to facts and circumstances occurring on or prior to the Effective Date and subject to its obligations hereunder and under Section 9.13 of the Credit Agreement. Such sale and assignment is (i) subject to acceptance and recording thereof in the Register by the Administrative Agent pursuant to Section 9.05(b)(v) of the Credit Agreement, (ii) without recourse to the Assignor and (iii) except as expressly provided in this Affiliated Lender Assignment and Assumption, without representation or warranty by the Assignor.

Assignor: [●]

Assignee: [●] which is an Affiliated Lender [that is a Non-Debt Fund Affiliate / Holdings, the Borrower or a subsidiary thereof].

Lux Borrower: Allnex S.à r.l.

Administrative Agent: ING Bank N.V., London Branch, as administrative agent under the Credit Agreement.

Credit Agreement: That certain Credit Agreement dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among Allnex S.à.r.l., a *société à responsabilité limitée* organized and established under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg Companies Register under number B173.541 (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation (the “**US Borrower**” and, together with the Lux Borrower, the “**Borrowers**”), Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.), a *société en commandite par actions* organized and established under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, and registered with the Luxembourg Companies Register under number B172.052 (“**Holdings**”), the Lenders from time to time party thereto and ING Bank N.V. London Branch, as administrative agent and as collateral agent for the Lenders (in its capacities as administrative and as collateral agent, the “**Administrative Agent**”).

Assigned Interest:

Aggregate Amount of Term Loans	Class of Term Loans Assigned	Amount of Term Loans Assigned <sup>1</sup>
[\$][€]		[\$][€]
[\$][€]		[\$][€]
[\$][€]		[\$][€]

Effective Date: [●] [●], 20[●] [TO BE INSERTED BY THE ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR].

**THE PARTIES HERETO ACKNOWLEDGE THAT ANY ASSIGNMENT TO AN AFFILIATED LENDER WHICH RESULTS IN THE AGGREGATE PRINCIPAL**

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<sup>1</sup> [Except in the case of an assignment of the entire remaining amount of the assigning Lender's Loans or commitments of any Class, not to be less than \$1,000,000 (or €1,000,000 in the case of any Tranche B-1 Term Loans or other Term Loans denominated in Euros) unless the Lux Borrower and the Administrative Agent otherwise consent.]

**AMOUNT OF TERM LOANS THEN HELD BY ALL AFFILIATED LENDERS EXCEEDING THE AFFILIATED LENDER CAP (AFTER GIVING EFFECT TO ANY SUBSTANTIALLY SIMULTANEOUS CANCELLATIONS OF TERM LOANS) SHALL BE NULL AND VOID WITH RESPECT TO THE AMOUNT IN EXCESS OF THE AFFILIATED LENDER CAP (IN ACCORDANCE WITH SECTION 9.05(g)(iv) OF THE CREDIT AGREEMENT).**

[Signature Page Follows]

The terms set forth in this Affiliated Lender Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: \_\_\_\_\_  
Name:  
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By: \_\_\_\_\_

Name:

Title:

[Consented to:]<sup>2</sup>

Allnex S.à.r.l.,  
as the Lux Borrower

By: \_\_\_\_\_

Name:

Title:

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<sup>2</sup> To be added only if the consent of the Lux Borrower is required by Section 9.05 of the Credit Agreement.

**STANDARD TERMS AND CONDITIONS FOR  
AFFILIATED LENDER ASSIGNMENT AND ASSUMPTION**

*Representations and Warranties.*

A. *Assignor.* The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) the outstanding balances of its Term Loans, in each case without giving effect to assignments thereof which have not become effective, are as set forth herein, (iv) it has full power and authority, and has taken all action necessary, to execute and deliver this Affiliated Lender Assignment and Assumption and to consummate the transactions contemplated hereby and (v) [it is] [it is not] a Defaulting Lender; and (b) makes no representation or warranty and assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement, any other Loan Document or any other instrument or document furnished pursuant thereto (other than this Affiliated Lender Assignment and Assumption) or any collateral thereunder, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrowers, any of their Restricted Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by Holdings, the Borrowers, any of their Restricted Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document. The Assignor acknowledges and agrees that in connection with this Affiliated Lender Assignment and Assumption, (1) the applicable Affiliated Lender or its Affiliates may have, and later may come into possession of, material nonpublic information with respect to Holdings, the Borrowers and/or any subsidiary thereof and/or their respective Securities “MNPI”), (2) it has independently, without reliance on the applicable Affiliated Lender, the Investors, Holdings, the Borrowers, any of their respective subsidiaries, the Administrative Agent, the Arrangers or any of their respective Affiliates, made its own analysis and determination to participate in such assignment notwithstanding the Assignor’s lack of knowledge of the MNPI, (3) none of the applicable Affiliated Lenders, the Investors, Holdings, the Borrowers, any of their respective subsidiaries, the Administrative Agent, the Arrangers or any of their respective Affiliates shall have any liability to the Assignor, and the Assignor hereby waives and releases, to the extent permitted by applicable Requirements of Law, any claims it may have against the applicable Affiliated Lender, the Investors, Holdings, the Borrowers, each of their respective subsidiaries, the Administrative Agent, the Arrangers and their respective Affiliates, under applicable Requirements of Law or otherwise, with respect to the nondisclosure of the MNPI and (4) the MNPI may not be available to the Administrative Agent, the Arrangers or the other Lenders.

B. *Assignee.* The Assignee (a) represents and warrants that (i) it is an Affiliated Lender and has full power and authority, and has taken all action necessary, to execute and deliver this Affiliated Lender Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement and the other Loan Documents as a Lender (including as an Affiliated Lender) thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender (including as an Affiliated Lender) thereunder, (iv) it has received a copy of the Credit Agreement and the Intercreditor Agreement, together with copies of the most recent financial statements referred to in Section 3.04(a) or the most recent financial statements delivered pursuant to Section 5.01 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Affiliated Lender Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, (v) if it is a Foreign Lender, attached to the Affiliated Lender

Assignment and Assumption is any documentation required to be delivered by it pursuant to Section 2.16 of the Credit Agreement, duly completed and executed by the Assignee, (vi) after giving effect to this Affiliated Lender Assignment and Assumption and subject to the provisions of Section 9.05(g)(iv), the aggregate principal amount of all Term Loans then held by all Affiliated Lenders does not exceed the Affiliated Lender Cap (after giving effect to any substantially simultaneous cancellation thereof) and (vii) in the case of any assignment effected pursuant to a Dutch Auction and/or open market purchase conducted by Holdings, any Borrower or any of their subsidiaries, (1) no Indebtedness incurred under the Revolving Facility has been utilized to fund the purchase of the Assigned Interest, (2) no Default or Event of Default shall have occurred and be continuing at the time of acceptance of bids for any Dutch Auction or the confirmation of any open market purchase and (3) the Term Loans in respect of such Assigned Interest shall if acquired by Holdings, any Borrower or any of their respective Restricted Subsidiaries or if contributed by any other Affiliated Lender to any of the foregoing, to the extent permitted by applicable Requirement of Law, be retired and cancelled immediately after the Effective Date; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, (ii) it appoints and authorizes the Administrative Agent to take such action on its behalf and to exercise such powers and discretion under the Credit Agreement, the other Loan Documents or any other instrument or document furnished pursuant hereto or thereto as are delegated to the Administrative Agent, by the terms thereof, together with such powers as are reasonably incidental thereto, and (iii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender. The Assignee agrees that, solely in its capacity as an Affiliated Lender, it will not be entitled to (a) attend (including by telephone) or participate in any meeting or discussions (or portion thereof) among the Administrative Agent or any Lender or among Lenders to which the Loan Parties or their representatives are not invited or (b) receive any information or material prepared by the Administrative Agent or any Lender or any communication by or among the Administrative Agent and one or more Lenders, except to the extent such information or material has been made available by the Administrative Agent or any Lender to any Loan Party or its representatives (and in any case, other than the right to receive notices of Borrowings, prepayments and other administrative notices in respect of its Term Loans required to be delivered to Lenders pursuant to Article 2 of the Credit Agreement).

*Payments.* From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date (other than Assigned Interests that have been retired and cancelled).

*General Provisions.* This Affiliated Lender Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and permitted assigns. This Affiliated Lender Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Affiliated Lender Assignment and Assumption by facsimile or by email as a ".pdf" or ".tif" attachment shall be effective as delivery of a manually executed counterpart of this Affiliated Lender Assignment and Assumption. This Affiliated Lender Assignment and Assumption shall be construed in accordance with and governed by the laws of the State of New York.

[FORM OF]  
BORROWING REQUEST

ING Bank N.V., London Branch,  
as Administrative Agent for the Lenders referred to below  
8-10 Moorgate, London,  
EC2R 6DA

Fax: +44 20 7767 5617  
Email: craig.baker@uk.ing.com

[Date]<sup>1</sup>

Ladies and Gentlemen:

Reference is made to the Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”) by and among, *inter alios*, Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541, (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, as Holdings, the Lenders from time to time party thereto and ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the “**Administrative Agent**”). Terms defined in the Credit Agreement are used herein with the same meanings unless otherwise defined herein.

The undersigned hereby gives you notice pursuant to Section 2.03 of the Credit Agreement that it requests the Borrowings under the Credit Agreement to be made on [insert applicable date], and in that connection sets forth below the terms on which the Borrowings are requested to be made:

(A) Borrower **[Lux Borrower] [US Borrower]**<sup>2</sup>

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<sup>1</sup> The Administrative Agent must be notified in writing and must be received by the Administrative Agent (by hand delivery, fax or other electronic transmission (including “.pdf” or “.tiff”)) not later than 11:00 a.m. (London time), (i) three Business Days (or one Business Day in the case of a Eurocurrency Rate Borrowing to be made on the Closing Date) prior to the requested date of any Borrowing of Eurocurrency Rate Loans and (ii) on the requested date of any Borrowing of ABR Loans (other than Swingline Loans) or the conversion of Eurocurrency Rate Loans to ABR Loans (or, in each case, such later time as shall be acceptable to the Administrative Agent); provided, however, that if the Borrowers wish to request Eurocurrency Rate Loans having an Interest Period other than one, three or six months in duration as provided in the definition of Interest Period, the applicable notice from the respective Borrower must be received by the Administrative Agent not later than 11:00 a.m. (London time) four Business Days prior to the requested date of such Borrowing, conversion or continuation, whereupon the Administrative Agent shall give prompt notice to the appropriate Lenders of such request and determine whether the requested Interest Period is acceptable to them. Not later than 10:00 a.m. (London time) three Business Days before the requested date of such Borrowing, conversion or continuation, the Administrative Agent shall notify the applicable Borrower whether or not the requested Interest Period has been consented to by all the appropriate Lenders.

<sup>2</sup> To the extent there are multiple Borrowings by multiple Borrowers set forth in a single Borrowing Request, detail the information in (A)-(G) separately for each Borrowing/Borrower.

- (B) Date of Borrowing  
 (which shall be a Business Day) \_\_\_\_\_
- (C) Aggregate Amount of Borrowing<sup>3</sup> \_\_\_\_\_
- (D) Type of Borrowing<sup>4</sup> \_\_\_\_\_
- (E) The Class of such Borrowing and if a Revolving Loan or whether such Borrowing will be made Revolving in Euro, whether such Borrowing or in an Alternate Currency \_\_\_\_\_
- (F) Interest Period<sup>5</sup> (in the case of a Eurocurrency Rate Borrowing) \_\_\_\_\_
- (G) Amount, Account Number and Location for **[Lux Borrower] [US Borrower]**

*Wire Transfer Instructions:*

mount	A	[•][\$][ ]
bank:	B	[ ]
BA No.:	A	[ ]
ccount No.:	A	[ ]
ccount Name:	A	[ ]

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the Borrowing:

(A) The representations and warranties of the Loan Parties set forth in the Credit Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the date of the Borrowing with the same effect as though such representations and warranties had been made on and as of the date of such Borrowing; provided that to the extent that a representation and warranty specifically refers to an earlier date, it shall be true and correct in all material respects as of such earlier date.

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<sup>3</sup> Stated in Euros or the applicable Alternate Currency.

<sup>4</sup> State whether an ABR Borrowing or Eurocurrency Rate Borrowing.

<sup>5</sup> Shall be a period contemplated by the definition of "Interest Period".

(B) At the time of and immediately after giving effect to the Borrowing, no Default or Event of Default shall have occurred and be continuing.

[Signature Page Follows]

**[ALLNEX S.À R.L., a société à responsabilité limitée  
organized and established under the laws of  
Luxembourg, as Lux Borrower] [ALLNEX USA  
INC., a Delaware corporation, as US Borrower]**

By: \_\_\_\_\_  
Name:  
Title:

[FORM OF]  
COMPLIANCE CERTIFICATE

[\_\_\_\_\_, 20\_\_]

To: The Administrative Agent and each of the Lenders parties to the Credit Agreement described below

This Compliance Certificate is furnished pursuant to that certain the Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541 (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation, Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party thereto and ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the “**Administrative Agent**”). Unless otherwise defined herein, capitalized terms used in this Compliance Certificate have the meanings ascribed thereto in the Credit Agreement.

THE UNDERSIGNED HEREBY CERTIFIES, AS A RESPONSIBLE OFFICER OF THE LUX BORROWER, IN SUCH CAPACITY AND NOT IN AN INDIVIDUAL CAPACITY, THAT:

1. I am the duly elected \_\_\_\_\_ of the Lux Borrower and a Responsible Officer of the Lux Borrower;
2. I have reviewed the terms of the Credit Agreement and I have made, or have caused to be made under my supervision, a review in reasonable detail of the transactions and conditions of the Lux Borrower and its Restricted Subsidiaries, on a consolidated basis, during the **[Fiscal Quarter][Fiscal Year]** covered by the financial statements attached hereto as Annex A;
3. Attached hereto as Annex B is the Narrative Report required to be delivered with the attached financial statements pursuant to Section 5.01(c) of the Credit Agreement.
4. **[Attached hereto as Annex C is the Perfection Certificate Supplement, either confirming that there has been no change in such information with respect to the Collateral owned by any US Loan Party since the date of the Perfection Certificate delivered on the Closing Date or the date of the most recent Compliance Certificate or most recent report delivered pursuant to Section 5.01(j).]<sup>1</sup>**
5. **[Any Expected Cost Savings added back in calculating Consolidated Adjusted EBITDA in reliance on clause (x) of the definition of “Consolidated Adjusted EBITDA” during the [Fiscal Quarter/Fiscal Year] covered by the attached financial statements is, in my good faith determination, reasonably identifiable and factually supportable.]**

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<sup>1</sup> Include in connection with annual financial statements only. Borrowers should deliver any information with respect to the Collateral of Non-US Loan Parties as may be required by Section 5.01(j)(ii) of the Credit Agreement and local law Security Document

6. [The attached financial statements fairly present, in all material respects, in accordance with GAAP, the consolidated financial condition of the Lux Borrower as at the dates indicated and the results of its operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments; provided that such financial statements only reflect purchase accounting adjustments relating to the Acquisition or any other consummated acquisition to the extent that the annual financial statements pursuant to Section 5.01(b) have been delivered with respect to the Fiscal Year in which the Acquisition or such other acquisition, as applicable, were consummated.]<sup>2</sup>;

7. [Except as described in the disclosure set forth below, the] [The] examinations described in paragraph 2 did not disclose, and I have no knowledge of [(i)] the existence of any condition or event which constitutes a Default or Event of Default that has occurred and is continuing as of the date of this Compliance Certificate [and (ii) the disclosure set forth below specifies, in reasonable detail, the nature of any such condition or event and any action taken or proposed to be taken with respect thereto];

8. [Schedule 1 attached hereto sets forth reasonably detailed calculations of Excess Cash Flow for such Fiscal Year.]<sup>3</sup>

9. [Attached as Schedule 2 hereto is an updated list of each joint venture in which the Lux Borrower directly or indirectly maintains Investments that the Lux Borrower hereby designates as being excluded from the definition of “subsidiary” for all purposes under the Credit Agreement and the other Loan Documents.] [There has been no change in the list of joint venture entities excluded from the definition of “subsidiary” for all purposes under the Credit Agreement and the other Loan Documents since the delivery of the last Compliance Certificate pursuant to Section 5.01(c) of the Credit Agreement.]

10. [Attached as Schedule 3 hereto is a summary of the pro forma adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries from the financial statements delivered pursuant to Section 5.01 of the Credit Agreement.]<sup>4</sup>

11. [Attached as Schedule 4 hereto are calculations in reasonable detail of the First Lien Leverage Ratio as of the last day of the most recently ended Test Period and, to the extent the Revolving Facility Test Condition is satisfied on the last day of such Test Period, calculations demonstrating compliance with the covenant set forth in Section 6.15(a) of the Credit Agreement.]<sup>5</sup>

12. [Attached as Schedule 5 hereto is consolidating information that fairly presents in reasonable detail the information regarding the Parent Company to which the attached financial

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<sup>2</sup> Include in connection with unaudited quarterly financial statements only.

<sup>3</sup> For annual certificates (commencing with the Fiscal Year ending on or about December 31, 2017).

<sup>4</sup> Only required if a subsidiary of the Lux Borrower is designated as an Unrestricted Subsidiary at the time of delivery of the applicable Compliance Certificate.

<sup>5</sup> Include only in connection with any change to the Applicable Rate pursuant to the terms thereof or to the extent the Revolving Facility Test Condition is satisfied on the last day of the relevant Test Period.

statements relate, on the one hand, and the information relating to the Lux Borrower on a standalone basis, on the other hand.]<sup>6</sup>

[The description below sets forth the exceptions to paragraph 7 by listing, in reasonable detail, the nature of the condition or event, the period during which it has existed and the action which either Borrower has taken, is taking, or proposes to take with respect to each such condition or event:

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[Signature Page Follows]

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<sup>6</sup> Only required if the attached financial statements are prepared at the level of a Parent Company.

The foregoing certifications, together with the information set forth in the Schedules hereto and the financial statements delivered with this Compliance Certificate in support hereof, are made and delivered as of the date first written above.

ALLNEX S.À R.L., a *société à responsabilité limitée* organized and established under the laws of Luxembourg, as Lux Borrower

By: \_\_\_\_\_  
Name:  
Title:

ANNEX A

Financial Statements

ANNEX B

Narrative Report

ANNEX C

[Perfection Certificate Supplement][and additional information in accordance with section 4]

SCHEDULE 1

Calculation of Excess Cash Flow

Schedule 1 to Compliance Certificate

WEIL:\95797733\5\13196.0005

SCHEDULE 2

Joint Ventures designated as Non-Subsidiaries

SCHEDULE 3

Summary of Pro Forma Adjustments

SCHEDULE 4

First Lien Leverage Ratio [with calculation demonstrating compliance with Section 6.15(a)]<sup>7</sup>

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<sup>7</sup> If applicable.

SCHEDE 5

Consolidating Information

Schedule 5 to Compliance Certificate

EXHIBIT E

[Reserved]

**[FORM OF]  
INTEREST ELECTION REQUEST**

ING BANK N.V., LONDON BRANCH,  
as Administrative Agent for the Lenders referred to below  
at 8-10 Moorgate, London,  
EC2R 6DA

Attention: Craig Baker  
Fax: + 44 20 7767 7324  
Email: craig.baker@uk.ing.com

**[Date]<sup>6</sup>**

Ladies and Gentlemen:

Reference is made to the Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016, by and among, *inter alios*, Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541, (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation, Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party thereto and ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”). Terms defined in the Credit Agreement are used herein with the same meanings unless otherwise defined herein.

The undersigned hereby gives you notice pursuant to Section 2.07 of the Credit Agreement of an interest rate election, and in that connection sets forth below the terms thereof:

(A) [on **[insert applicable date]** (which is a Business Day), the undersigned will convert \$[●]<sup>7</sup> of the aggregate outstanding principal amount of the **[Tranche B-2][Tranche B-3][Revolving]** Loans denominated in Dollars, bearing interest at the **[ABR][Eurocurrency Rate]**, into a(n) **[Eurocurrency] [ABR] Loan [and, in the case of a Eurocurrency Rate Loan, having an Interest Period of [●] month(s)]**<sup>8</sup>; and].]]

(B) [on **[insert applicable date]** (which is a Business Day) , the undersigned will continue [€][\$][●] of the aggregate outstanding principal amount of the **[Tranche B-1][Tranche**

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<sup>6</sup> The Administrative Agent must be notified in writing (by hand delivery, fax or other electronic transmission (including “.pdf” or “.tiff”)), with said writing being signed by a Responsible Officer of the Lux Borrower not later than 11:00 a.m. (London time), (i) three Business Days (or one Business Day in the case of a Eurocurrency Rate Borrowing to be made on the Closing Date) prior to the requested date of any Borrowing of Eurocurrency Rate Loans and (ii) on the requested date of any Borrowing of ABR Loans (other than Swingline Loans) or the conversion of Eurocurrency Rate Loans to ABR Loans (or, in each case, such later time as shall be acceptable to the Administrative Agent); provided, however, that if the Borrowers wish to request Eurocurrency Rate Loans having an Interest Period other than one, three or six months in duration as provided in the definition of Interest Period, the applicable notice from the respective Borrower must be received by the Administrative Agent not later than 11:00 a.m. (London time) four Business Days prior to the requested date of such Borrowing, conversion or continuation, whereupon the Administrative Agent shall give prompt notice to the appropriate Lenders of such request and determine whether the requested Interest Period is acceptable to them. Not later than 10:00 a.m. (London time) three Business Days before the requested date of such Borrowing, conversion or continuation, the Administrative Agent shall notify the applicable Borrower whether or not the requested Interest Period has been consented to by all the appropriate Lenders.

<sup>7</sup> Not less than an aggregate principal amount as indicated in Section 2.02(c) of the Credit Agreement and in an integral multiple as indicated therein.

<sup>8</sup> Shall be a period contemplated by the definition of “Interest Period”.

**B-2][Tranche B-3][Revolving]** Loans denominated in [●], bearing interest at the Eurocurrency Rate, as Eurocurrency Loans having an Interest Period of [●] month(s)<sup>9</sup>.]

**[ALLNEX S.À R.L., a société à responsabilité limitée organized and established under the laws of Luxembourg, as Lux Borrower] [ALLNEX USA INC., a Delaware corporation, as US Borrower]**

By: \_\_\_\_\_  
Name:  
Title:

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<sup>9</sup> Shall be a period contemplated by the definition of “Interest Period”.

[FORM OF]  
PERFECTION CERTIFICATE

[•], 2016

Reference is hereby made to (i) that certain Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541, Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party thereto and ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the “**Administrative Agent**”) and (ii) that certain US Pledge and Security Agreement, dated as of the date hereof (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**US Security Agreement**”), by and among the US Borrower, Allnex Holding USA Inc., a Delaware corporation (“**US Holdco**”), the other US Subsidiary Parties from time to time party thereto and the Administrative Agent. Capitalized terms used but not defined herein have the meanings assigned to such terms in the US Security Agreement.

As used herein, the term “**Companies**” means the US Borrower together with US Holdco.

As of the date hereof, the undersigned hereby certify to the Administrative Agent as follows:

1. Names. (a) The exact legal name of each Company, as such name appears in its respective Organizational Documents filed with the Secretary of State of such Company’s jurisdiction of organization is set forth in **Schedule 1(a)**. Each Company is the type of entity disclosed next to its name in **Schedule 1(a)**. Also set forth in **Schedule 1(a)** is the organizational identification number, if any, of each Company, the Federal Taxpayer Identification Number of each Company and the jurisdiction of organization of each Company.

(b) Except as otherwise disclosed in **Schedule 1(d)**, set forth in **Schedule 1(b)** hereto is any other legal name that each Company has had in the past four months, together with the date of the relevant change.

(c) Set forth in **Schedule 1(c)** is a list of each trade name or assumed name, if any, used by each Company during the past four months.

(d) Set forth in **Schedule 1(d)** is a list of the information required by Section 1(a) of this certificate for any other Person (i) to which each Company became the successor by merger, consolidation or acquisition or (ii) that has been liquidated into, or transferred all or substantially all of its assets to, any Company, at any time within the past four months preceding the date hereof.

(e) Except as set forth in **Schedule 1(e)**, or as otherwise disclosed in **Schedule 1(d)**, no Company has changed its jurisdiction of organization or form of entity at any time during the past four months.

2. Locations. (a) The chief executive office of each Company is currently located at the addresses set forth in **Schedule 2(a)** hereto.

(b) Set forth in **Schedule 2(b)** are all other locations where each Company maintains any material books or records relating to any Collateral.

3. Stock Ownership and Other Equity Interests. Attached hereto as **Schedule 3** is a true and correct list of each of all of the issued and outstanding stock, partnership interests, limited liability company membership interests or other equity interests owned by each Company constituting Pledged Stock, the beneficial owner(s) of such stock, partnership interests, membership interests or other equity interests and the percentage of the total issued and outstanding stock, partnership interests, membership interests or other equity interests represented thereby.

4. Instruments and Tangible Chattel Paper. Attached hereto as **Schedule 4** is a true and correct list of all Instruments (other than checks to be deposited in the ordinary course of business) and Tangible Chattel Paper, in each case (other than in the case of any intercompany loans made on or about the Closing Date using the proceeds of any Term Loans) having a face amount exceeding €10,000,000, held by each Company as of the date hereof, including the names of the obligors, amounts owing and the due dates.

5. Intellectual Property. Attached hereto as **Schedule 5(a)** is a schedule setting forth all of each Company's material United States Patents and United States Trademarks registered with (or applied for in) and published by the United States Patent and Trademark Office (excluding, for the avoidance of doubt, any United States Patent or United States Trademark that has expired or been abandoned in the same manner as permitted in the Credit Agreement, but including United States Trademarks that would constitute Collateral upon the filing of a "Statement of Use" or an "Amendment to Allege Use" with respect thereto), including the name of the registered owner and the registration number (or, if applicable, the applicant and the application number) of each such United States Patent and United States Trademark. Attached hereto as **Schedule 5(b)** is a schedule setting forth all of each Company's material Copyrights registered with (or applied for in) the United States Copyright Office (excluding, for the avoidance of doubt, any Copyright that has expired or been abandoned in the same manner as permitted in the Credit Agreement), including the name of the registered owner and the registration number (or, if applicable, the applicant and the application number) of each such Copyright.

6. Commercial Tort Claims. Attached hereto as **Schedule 6** is a true and correct list of all Commercial Tort Claims asserting damages in excess of €10,000,000, held by each Company, including a brief description thereof.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the undersigned has hereunto signed this Perfection Certificate as of the date first written of above.

ALLNEX HOLDING USA INC.  
ALLNEX USA INC.

By: \_\_\_\_\_  
Name: [•]  
Title: [•]

**Schedule 1(a)**  
LEGAL NAMES

Ref	Entity	Jurisdiction	Type	Organizational Number	Federal Taxpayer Identification Number
1.					

**Schedule 1(b)**  
PRIOR ORGANIZATIONAL NAMES

Company	Prior Name	Date of Change

**Schedule 1(c)**  
TRADE NAMES OR ASSUMED NAMES

<b>Company</b>	<b>State of Formation</b>	<b>List of All Other Names Used During Past Four Months</b>

**Schedule 1(d)**  
CHANGES IN CORPORATE IDENTITY

**Schedule 1(e)**  
CHANGES IN JURISDICTION OR FORM

**Schedule 2(a)**  
CHIEF EXECUTIVE OFFICES

Company	Address	County	State

**Schedule 2(b)**  
LOCATION OF BOOKS AND RECORDS

Company	Address	County	State

**Schedule 3**  
PLEDGED STOCK

<b>Issuer</b>	<b>Holder</b>	<b>Certificate No.</b>	<b>% of Shares Issued and Outstanding</b>

**Schedule 4**  
INSTRUMENTS AND TANGIBLE CHATTEL PAPER

1. Promissory Notes/Instruments:
2. Tangible Chattel Paper:

**Schedule 5(a) and 5(b)**  
PATENTS, TRADEMARKS AND COPYRIGHTS

TRADEMARKS

REGISTERED OWNER	TRADEMARK	REGISTRATION NO.	REGISTRATION DATE

TRADEMARK APPLICATIONS

APPLICANT	TRADEMARK APPLICATION	APPLICATION SERIAL NO.	APPLICATION FILING DATE

PATENTS

REGISTERED OWNER	PATENT DESCRIPTION	PATENT NUMBER	ISSUE DUE

PATENT APPLICATIONS

APPLICANT	PATENT DESCRIPTION	APPLICATION SERIAL NO.	APPLICATION FILING DATE

COPYRIGHTS

REGISTERED OWNER	COPYRIGHT TITLE	REGISTRATION NO.

COPYRIGHT APPLICATIONS

APPLICANT	APPLICATION SERIAL NO.	APPLICATION FILING DATE

**Schedule 6**  
COMMERCIAL TORT CLAIMS

[FORM OF]  
PERFECTION CERTIFICATE SUPPLEMENT

[Insert date]

Reference is hereby made to (i) that certain Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541, Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party thereto and ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the “**Administrative Agent**”), (ii) that certain US Pledge and Security Agreement, dated as of [●], 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**US Security Agreement**”), by and among the US Borrower, Allnex Holding USA Inc., a Delaware corporation (“**US Holdco**”), the other US Subsidiary Parties from time to time party thereto and the Administrative Agent. As used herein, the term “**Companies**” means the US Borrower together with US Holdco and (iii) The Perfection Certificate, dated as of [●], 2016 (as supplemented by any perfection certificate supplements delivered prior to the date hereof, the “**Prior Perfection Certificate**”), executed by US Holdco and the US Borrower and delivered to the Administrative Agent. Capitalized terms used but not defined herein have the meanings assigned to such terms in the US Security Agreement.

As used herein, the term “**Companies**” means the US Borrower together with US Holdco.

As of the date hereof, the undersigned hereby certify to the Administrative Agent as follows:

1. Names. Except as listed on **Schedule 1(a)** hereto, Schedule 1(a) of the Prior Perfection Certificate sets forth, with respect to each Company, (a) the exact legal name of each Company, as such name appears in its respective Organizational Documents filed with the Secretary of State of such Company’s jurisdiction of organization, the type of entity of such Company, the organizational identification number, if any, of each Company, and the Federal Taxpayer Identification Number of each Company and the jurisdiction of organization of each Company.

(b) Except as listed on **Schedule 1(b)** hereto or otherwise disclosed on **Schedule 1(d)** hereto, Schedule 1(b) of the Prior Perfection Certificate sets forth any other legal name that each Company has had in the past four months, together with the date of the relevant change.

(c) Except as listed on **Schedule 1(c)** hereto, Schedule 1(c) of the Prior Perfection Certificate lists each trade name or assumed name, if any, used by each Company during the past four months.

(d) Except as listed on **Schedule 1(d)** hereto, Schedule 1(d) of the Prior Perfection Certificate lists the information required by **Section 1(a)** of this certificate for any other Person (i) to which each Company became the successor by merger, consolidation or acquisition or (ii) that has been liquidated into, or transferred all or substantially all of its assets to, any Company, at any time within the past four months.

(e) Except as set forth in **Schedule 1(e)** hereto or otherwise disclosed on **Schedule 1(d)** hereto, no Company has changed its jurisdiction of organization or form of entity at any time during the past four months except as listed in Schedule 1(e) of the Prior Perfection Certificate.

2. **Locations.** (a) Except as updated on **Schedule 2(a)** hereto, the chief executive office of each Company is currently located at the address set forth in Schedule 2(a) of the Prior Perfection Certificate.

(b) Except as updated on **Schedule 2(b)** hereto, Schedule 2(b) of the Prior Perfection Certificate sets forth all other locations where each Company maintains any material books or records relating to any Collateral.

3. **Stock Ownership and Other Equity Interests.** Except as updated on **Schedule 3** hereto, Schedule 3 of the Prior Perfection Certificate sets forth a true and correct list of each of all of the issued and outstanding stock, partnership interests, limited liability company membership interests or other equity interests owned by each Company constituting Pledged Stock, the beneficial owner(s) of such stock, partnership interests, membership interests or other equity interests and the percentage of the total issued and outstanding stock, partnership interests, membership interests or other equity interests represented thereby.

4. **Instruments and Tangible Chattel Paper.** Except as updated on **Schedule 4** hereto, Schedule 4 of the Prior Perfection Certificate sets forth a true and correct list of all Instruments (other than checks to be deposited in the ordinary course of business) and Tangible Chattel Paper, in each case having a face amount exceeding €10,000,000, held by each Company as of the date hereof, including the names of the obligors, amounts owing, and the due dates.

5. **Intellectual Property.** Except as updated on **Schedule 5(a)** hereto, Schedule 5(a) of the Prior Perfection Certificate sets forth all of each Company's material United States Patents and United States Trademarks registered with (or applied for in) and published by the United States Patent and Trademark Office (excluding, for the avoidance of doubt, any United States Patent or United States Trademark that has expired or been abandoned in the same manner as permitted in the Credit Agreement, but including United States Trademarks that would constitute Collateral upon the filing of a "Statement of Use" or an "Amendment to Allege Use" with respect thereto), including the name of the registered owner and the registration number (or, if applicable, the applicant and the application number) of each such United States Patent and United States Trademark. Except as updated on **Schedule 5(b)** hereto, Schedule 5(b) of the Prior Perfection Certificate sets forth all of each Company's material Copyrights registered with (or applied for in) the United States Copyright Office (excluding, for the avoidance of doubt, any Copyright that has expired or been abandoned in the same manner as permitted in the Credit Agreement), including the name of the registered owner and the registration number (or, if applicable, the applicant and the application number) of each such Copyright.

6. **Commercial Tort Claims.** Except as updated on **Schedule 6** hereto, Schedule 6 of the Prior Perfection Certificate sets forth a true and correct list of all Commercial Tort Claims asserting damages in excess of €10,000,000, held by each Company, including a brief description thereof.

[Signature Page Follows]

**IN WITNESS WHEREOF**, the undersigned have signed this Perfection Certificate Supplement as of the date first written of above.

ALLNEX HOLDING USA INC.  
ALLNEX USA INC.

By: \_\_\_\_\_  
Name: [•]  
Title: [•]

[ANY US SUBSIDIARY PARTIES]

By: \_\_\_\_\_  
Name: [•]  
Title: [•]

**Schedule 1(a)**  
LEGAL NAMES

Ref	Entity	Jurisdiction	Type	Registered Organization (yes/no)	Organizational Number	Federal Taxpayer Identification Number
1.						

**Schedule 1(b)**  
PRIOR ORGANIZATIONAL NAMES

<b>Company</b>	<b>Prior Name</b>	<b>Date of Change</b>

**Schedule 1(c)**  
TRADE NAMES OR ASSUMED NAMES

<b>Company</b>	<b>State of Formation</b>	<b>List of All Other Names Used During Past Four Months</b>

**Schedule 1(d)**  
CHANGES IN CORPORATE IDENTITY

**Schedule 1(e)**  
CHANGES IN JURISDICTION OR FORM

**Schedule 2(a)**  
CHIEF EXECUTIVE OFFICES

Company	Address	County	State

**Schedule 2(b)**  
LOCATION OF BOOKS

Company	Address	County	State

**Schedule 3**  
PLEDGED STOCK

<b>Issuer</b>	<b>Holder</b>	<b>Certificate No.</b>	<b>% of Shares Issued and Outstanding</b>

**Schedule 4**  
INSTRUMENTS AND TANGIBLE CHATTEL PAPER

1. Promissory Notes/Instruments:
2. Tangible Chattel Paper:

**Schedule 5(a) and 5(b)**  
PATENTS, TRADEMARKS AND COPYRIGHTS

TRADEMARKS

REGISTERED OWNER	TRADEMARK	REGISTRATION NO.	REGISTRATION DATE

TRADEMARK APPLICATIONS

APPLICANT	TRADEMARK APPLICATION	APPLICATION SERIAL NO.	APPLICATION FILING DATE

PATENTS

REGISTERED OWNER	PATENT DESCRIPTION	PATENT NUMBER	ISSUE DUE

PATENT APPLICATIONS

APPLICANT	PATENT DESCRIPTION	APPLICATION SERIAL NO.	APPLICATION FILING DATE

COPYRIGHTS

REGISTERED OWNER	COPYRIGHT TITLE	REGISTRATION NO.

COPYRIGHT APPLICATIONS

APPLICANT	APPLICATION SERIAL NO.	APPLICATION FILING DATE

**Schedule 6**  
COMMERCIAL TORT CLAIMS

[FORM OF]  
PROMISSORY NOTE

[\$[•]][€[•]][£[•]][[Alternate Currency]•]

New York, New York  
[Date]

FOR VALUE RECEIVED, the undersigned, **[Allnex S.à r.l., a private limited liability company (société à responsabilité limitée) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541][Allnex USA Inc., a Delaware corporation]** (the “Borrower”), hereby promises to pay on demand to [•] (the “Lender”) or its registered assigns, at the office of ING Bank N.V., London Branch at 8-10 Moorgate, London, EC2R 6DA, **[Tranche B-1][Tranche B-2][Tranche B-3][Revolving Loans][Swingline Loans]** in the principal sum of **[\$[•]][€[•]][£[•]][[Alternate Currency]•]** or such lesser amount as is outstanding from time to time, on the dates and in the amounts set forth in the Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Credit Agreement”), among, *inter alios*, Allnex S.à r.l., a private limited liability company (société à responsabilité limitée) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541, Allnex USA Inc., a Delaware corporation, Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (société en commandite par actions) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party thereto and ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the “Administrative Agent”), in **[Euros][lawful money of the United States of America][enter name of other Alternate Currency in which such loans are borrowed]**. The Borrower also promises to pay interest from the date of such Loans on the principal amount thereof from time to time outstanding, in like funds, at said office, in each case, in the manner and at the rate or rates per annum and payable on the dates provided in the Credit Agreement. Terms used but not defined herein shall have the meanings assigned to them in the Credit Agreement.

The Borrower promises to pay interest on any overdue principal and, to the extent permitted by law, overdue interest from the due dates, in each case, in the manner and at the rate or rates provided in the Credit Agreement.

The Borrower hereby waives diligence, presentment, demand, protest and notice of any kind to the extent possible under any Requirements of Law. The non-exercise by the holder hereof of any of its rights hereunder in any particular instance shall not constitute a waiver thereof in that or any subsequent instance.

All Borrowings evidenced by this promissory note and all payments and prepayments of the principal hereof and interest hereon and the respective dates thereof shall be endorsed by the holder hereof on the schedules attached hereto and made a part hereof or on a continuation thereof which shall be attached hereto and made a part hereof, or otherwise recorded by such holder in its internal records; *provided, however,* that the failure of the holder hereof to make such a notation or any error in such notation shall not affect the obligations of the Borrower under this Note.

This promissory note is one of the promissory notes referred to in the Credit Agreement that, among other things, contains provisions for the acceleration of the maturity hereof upon the happening of certain events, for optional and mandatory prepayment of the principal hereof prior to the maturity hereof

and for the amendment or waiver of certain provisions of the Credit Agreement, all upon the terms and conditions therein specified. This promissory note is entitled to the benefits of the Credit Agreement and is guaranteed and secured as provided therein and in the other Loan Documents referred to in the Credit Agreement.

[Remainder of Page Intentionally Left Blank]

THE ASSIGNMENT OF THIS NOTE AND ANY RIGHTS WITH RESPECT THERETO IS SUBJECT TO THE PROVISIONS OF THE CREDIT AGREEMENT, INCLUDING THE PROVISIONS GOVERNING THE REGISTER AND THE PARTICIPANT REGISTER.

THIS PROMISSORY NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

[**ALLNEX S.À R.L., a société à responsabilité limitée organized and established under the laws of Luxembourg, as Lux Borrower**] [**ALLNEX USA INC., a Delaware corporation, as US Borrower**]

By: \_\_\_\_\_  
Name:  
Title:

SCHEDULE A

**Schedule A to Note**

LOANS, CONVERSIONS AND REPAYMENTS OF ABR LOANS

Date	Amount of ABR Loans	Amount Converted to ABR Loans	Amount of Principal of ABR Loans Repaid	Amount of ABR Loans Converted to Eurocurrency Rate Loans	Unpaid Principal Balance of ABR Loans	Notation Made By

SCHEDULE B

**Schedule B to Note**

LOANS, CONTINUATIONS, CONVERSIONS AND REPAYMENTS OF EUROCURRENCY RATE LOANS  
DENOMINATED IN DOLLARS

Date	Amount of Eurocurrency Rate Loans	Amount Converted to Eurocurrency Rate Loans	Interest Period and Eurocurrency Rate with Respect Thereto	Amount of Principal of Eurocurrency Rate Loans Repaid	Amount of Eurocurrency Rate Loans Converted to ABR Loans	Unpaid Principal Balance of Eurocurrency Rate Loans	Notation Made By

SCHEDULE C

**Schedule C to Note**

LOANS, CONTINUATIONS, CONVERSIONS AND REPAYMENTS OF EUROCURRENCY RATE LOANS  
DENOMINATED IN AN ALTERNATE CURRENCY

Date	Amount of Eurocurrency Rate Loans	Amount Converted to Eurocurrency Rate Loans	Interest Period and Eurocurrency Rate with Respect Thereto	Amount of Principal of Eurocurrency Rate Loans Repaid	Amount of Eurocurrency Rate Loans Converted to ABR Loans	Unpaid Principal Balance of Eurocurrency Rate Loans	Notation Made By

[FORM OF]  
TRADEMARK SECURITY AGREEMENT

THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF, INCLUDING WRITTEN CONFIRMATIONS OR REFERENCES THERETO, INTO THE REPUBLIC OF AUSTRIA, MAY CAUSE THE IMPOSITION OF AUSTRIAN STAMP DUTY. PRIOR TO THE EXECUTION OF THIS DOCUMENT OR THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF INTO THE REPUBLIC OF AUSTRIA LEGAL ADVICE AS TO AUSTRIAN LAW SHOULD BE SOUGHT.

This TRADEMARK SECURITY AGREEMENT is entered into as of [●], 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, this “**Agreement**”), among [●] (the “**Grantors**”) and ING Bank N.V., London Branch, as collateral agent (in its capacity as collateral agent, the “**Collateral Agent**”) for the Secured Parties.

Reference is made to that certain US Pledge and Security Agreement, dated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**US Security Agreement**”), among Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex Holding USA Inc., a Delaware corporation, the other US Subsidiary Parties from time to time party thereto and the Collateral Agent. The Lenders have extended credit to the US Borrower and Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541 (the “**Lux Borrower**”) subject to the terms and conditions set forth in that certain Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, the Lux Borrower, the US Borrower, Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party thereto and the Collateral Agent. Consistent with the requirements of Section 5.12 of the Credit Agreement and pursuant to and in accordance with Sections 2.01 and 4.03(c) of the US Security Agreement, the parties hereto agree as follows:

SECTION 1. **Terms.** Capitalized terms used in this Agreement and not otherwise defined herein have the meanings specified in the US Security Agreement.

SECTION 2. **Grant of Security Interest.** As security for the prompt and complete payment or performance, as the case may be, in full of the Secured Obligations, each Grantor, pursuant to the US Security Agreement, did and hereby does pledge, collaterally assign, mortgage, transfer and grant to the Collateral Agent, its successors and permitted assigns, on behalf of and for the ratable benefit of the Secured Parties, a continuing security interest in all of its right, title or interest in, to or under all of the following assets, whether now owned or at any time hereafter acquired by or arising in favor of such Grantor and regardless of where located (collectively, the “**Trademark Collateral**”):

- A. all Trademarks, including those Trademark registrations and registration applications in the United States Patent and Trademark Office listed on Schedule I hereto;
- B. all goodwill associated with or symbolized by the Trademarks;

- C. all assets, rights and interests that uniquely reflect or embody the Trademarks;
- D. the right to sue third parties for past, present and future infringements of any Trademark; and
- E. all proceeds of and rights associated with the foregoing.

SECTION 3. ***US Security Agreement.*** The security interests granted to the Collateral Agent herein are granted in furtherance, and not in limitation of, the security interests granted to the Collateral Agent pursuant to the US Security Agreement. Each Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the Trademark Collateral are more fully set forth in the US Security Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Agreement and the US Security Agreement, the terms of the US Security Agreement shall govern.

SECTION 4. ***Governing Law.*** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

[•]

By: \_\_\_\_\_  
Name: [•]  
Title: [•]

ING BANK N.V., LONDON BRANCH  
as Collateral Agent

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

***Schedule I***

Trademarks

<u>Registered Owner</u>	<u>Trademark</u>	<u>Registration Number</u>	<u>Registration Date</u>

Trademark Applications

<u>Applicant</u>	<u>Trademark Application</u>	<u>Application Serial Number</u>	<u>Application Filing Date</u>

**Exhibit A**

[FORM OF]  
TRADEMARK SECURITY AGREEMENT SUPPLEMENT

THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF, INCLUDING WRITTEN CONFIRMATIONS OR REFERENCES THERETO, INTO THE REPUBLIC OF AUSTRIA, MAY CAUSE THE IMPOSITION OF AUSTRIAN STAMP DUTY. PRIOR TO THE EXECUTION OF THIS DOCUMENT OR THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF INTO THE REPUBLIC OF AUSTRIA LEGAL ADVICE AS TO AUSTRIAN LAW SHOULD BE SOUGHT.

This TRADEMARK SECURITY AGREEMENT SUPPLEMENT is entered into as of [●] (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, this “Trademark Security Agreement Supplement”), among [●] (the “Grantor”) and ING Bank N.V., London Branch, as collateral agent (in its capacity as collateral agent, the “Collateral Agent”) for the Secured Parties.

Reference is made to that certain US Pledge and Security Agreement, dated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “US Security Agreement”), by and among Allnex USA Inc., a Delaware corporation (the “US Borrower”), Allnex Holding USA Inc., a Delaware corporation, the other US Subsidiary Parties from time to time party thereto and the Collateral Agent. The Lenders have extended credit to the US Borrower and Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541 (the “Lux Borrower”) subject to the terms and conditions set forth in that certain Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Credit Agreement”), by and among, *inter alios*, the Lux Borrower, the US Borrower, Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party thereto and the Collateral Agent. Consistent with the requirements of Section 5.12 of the Credit Agreement, the Grantor and the Collateral Agent have entered into that certain Trademark Security Agreement, dated as of [●], 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Trademark Security Agreement”). Under the terms of the US Security Agreement, the Grantor has granted to the Collateral Agent for the benefit of the Secured Parties a security interest in the Additional Trademark Collateral (as defined below) and have agreed, consistent with the requirements of Section 5.12 of the Credit Agreement and pursuant to and in accordance with Sections 2.01 and 4.03(c) of the US Security Agreement, to execute this Trademark Security Agreement Supplement. Now, therefore, the parties hereto agree as follows:

**SECTION 1. *Terms.*** Capitalized terms used in this Trademark Security Agreement Supplement and not otherwise defined herein have the meanings specified in the US Security Agreement.

**SECTION 2. *Grant of Security Interest.*** As security for the prompt and complete payment or performance, as the case may be, in full of the Secured Obligations, the Grantor, pursuant to the US Security Agreement, did and hereby does pledge, collaterally assign, mortgage, transfer and grant to the Collateral Agent, its successors and permitted assigns, on behalf of and for the ratable benefit of the

Secured Parties, a continuing security interest in all of its right, title or interest in, to or under all of the following assets, whether now owned or at any time hereafter acquired by or arising in favor of the Grantor and regardless of where located (collectively, the “**Additional Trademark Collateral**”):

- A. the Trademark registrations and registration applications in the United States Patent and Trademark Office listed on Schedule I hereto;
- B. all goodwill associated with or symbolized by such Trademark registrations and registration applications;
- C. all assets, rights and interests that uniquely reflect or embody such Trademark registrations and registration applications;
- D. the right to sue third parties for past, present and future infringements of such Trademark registrations and registration applications; and
- E. all proceeds of and rights associated with the foregoing.

SECTION 3. ***US Security Agreement.*** The security interests granted to the Collateral Agent herein are granted in furtherance, and not in limitation of, the security interests granted to the Collateral Agent pursuant to the US Security Agreement. The Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the Additional Trademark Collateral are more fully set forth in the US Security Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Trademark Security Agreement Supplement and the US Security Agreement, the terms of the US Security Agreement shall govern.

SECTION 4. ***Governing Law.*** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Trademark Security Agreement Supplement as of the day and year first above written.

[•]

By: \_\_\_\_\_  
Name: [•]  
Title: [•]

ING BANK N.V., LONDON BRANCH,  
as Collateral Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

***Schedule I***

Trademarks

<u>Registered Owner</u>	<u>Trademark</u>	<u>Registration Number</u>	<u>Registration Date</u>

Trademark Applications

<u>Applicant</u>	<u>Trademark Application</u>	<u>Application Serial Number</u>	<u>Application Filing Date</u>

[FORM OF]  
PATENT SECURITY AGREEMENT

THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF, INCLUDING WRITTEN CONFIRMATIONS OR REFERENCES THERETO, INTO THE REPUBLIC OF AUSTRIA, MAY CAUSE THE IMPOSITION OF AUSTRIAN STAMP DUTY. PRIOR TO THE EXECUTION OF THIS DOCUMENT OR THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF INTO THE REPUBLIC OF AUSTRIA LEGAL ADVICE AS TO AUSTRIAN LAW SHOULD BE SOUGHT.

This PATENT SECURITY AGREEMENT is entered into as of [●], 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, this “**Agreement**”), among [●] (the “**Grantors**”) and ING Bank N.V., London Branch, as collateral agent (in its capacity as collateral agent, the “**Collateral Agent**”) for the Secured Parties.

Reference is made to that certain US Pledge and Security Agreement, dated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**US Security Agreement**”), by and among Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex Holding USA Inc., a Delaware corporation, the other US Subsidiary Parties from time to time party thereto and the Collateral Agent. The Lenders have extended credit to the US Borrower and Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541 (the “**Lux Borrower**”) subject to the terms and conditions set forth in that certain Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, the Lux Borrower, the US Borrower, Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party thereto and the Collateral Agent. Consistent with the requirements of Section 5.12 of the Credit Agreement and pursuant to and in accordance with Sections 2.01 and 4.03(c) of the US Security Agreement, the parties hereto agree as follows:

SECTION 1. **Terms.** Capitalized terms used in this Agreement and not otherwise defined herein have the meanings specified in the US Security Agreement.

SECTION 2. **Grant of Security Interest.** As security for the prompt and complete payment or performance, as the case may be, in full of the Secured Obligations, each Grantor, pursuant to the US Security Agreement, did and hereby does pledge, collaterally assign, mortgage, transfer and grant to the Collateral Agent, its successors and permitted assigns, on behalf of and for the ratable benefit of the Secured Parties, a continuing security interest in all right, title or interest in, to or under all of the following assets, whether now owned or at any time hereafter acquired by or arising in favor of such Grantor and regardless of where located (collectively, the “**Patent Collateral**”):

A. all Patents, including those Patent registrations and pending applications in the United States Patent and Trademark Office listed on Schedule I hereto;

- B. the right to sue third parties for past, present and future infringements of any Patent; and
- C. all proceeds of and any right associated with the foregoing.

**SECTION 3. *US Security Agreement.*** The security interests granted to the Collateral Agent herein are granted in furtherance, and not in limitation of, the security interests granted to the Collateral Agent pursuant to the US Security Agreement. Each Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the Patent Collateral are more fully set forth in the US Security Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Agreement and the US Security Agreement, the terms of the US Security Agreement shall govern.

**SECTION 4. *Governing Law.*** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

[•]

By: \_\_\_\_\_  
Name: [•]  
Title: [•]

ING BANK N.V., LONDON BRANCH,  
as Collateral Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

***Schedule I***

Patents

<u>Registered Owner</u>	<u>Patent Description</u>	<u>Patent Number</u>	<u>Issue Date</u>

Patent Applications

<u>Applicant</u>	<u>Patent Description</u>	<u>Application Serial Number</u>	<u>Application Filing Date</u>

**Exhibit A**

[FORM OF]  
PATENT SECURITY AGREEMENT SUPPLEMENT

THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF, INCLUDING WRITTEN CONFIRMATIONS OR REFERENCES THERETO, INTO THE REPUBLIC OF AUSTRIA, MAY CAUSE THE IMPOSITION OF AUSTRIAN STAMP DUTY. PRIOR TO THE EXECUTION OF THIS DOCUMENT OR THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF INTO THE REPUBLIC OF AUSTRIA LEGAL ADVICE AS TO AUSTRIAN LAW SHOULD BE SOUGHT.

This PATENT SECURITY AGREEMENT SUPPLEMENT is entered into as of [●], 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, this “**Patent Security Agreement Supplement**”), among [●] (the “**Grantor**”) and ING Bank N.V., London Branch, as collateral agent (in its capacity as collateral agent, the “**Collateral Agent**”) for the Secured Parties.

Reference is made to that certain US Pledge and Security Agreement, dated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**US Security Agreement**”), by and among Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex Holding USA Inc., a Delaware corporation, the other US Subsidiary Parties from time to time party thereto and the Collateral Agent. The Lenders have extended credit to the US Borrower and Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541 (the “**Lux Borrower**”) subject to the terms and conditions set forth in that certain Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, the Lux Borrower, the US Borrower, Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party thereto and the Collateral Agent. Consistent with the requirements of Section 5.12 of the Credit Agreement, the Grantor and the Collateral Agent have entered into that certain Patent Security Agreement, dated as of [●], 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Patent Security Agreement**”). Under the terms of the US Security Agreement, the Grantor has granted to the Collateral Agent for the benefit of the Secured Parties a security interest in the Additional Patent Collateral (as defined below) and have agreed, consistent with the requirements of Section 5.12 of the Credit Agreement and pursuant to and in accordance with Sections 2.01 and 4.03(c) of the US Security Agreement, to execute this Patent Security Agreement Supplement. Now, therefore, the parties hereto agree as follows:

SECTION 1. **Terms.** Capitalized terms used in this Patent Security Agreement Supplement and not otherwise defined herein have the meanings specified in the US Security Agreement.

SECTION 2. **Grant of Security Interest.** As security for the prompt and complete payment or performance, as the case may be, in full of the Secured Obligations, the Grantor, pursuant to the US Security Agreement, did and hereby does pledge, collaterally assign, mortgage, transfer and grant to the

Collateral Agent, its successors and permitted assigns, on behalf of and for the ratable benefit of the Secured Parties, a continuing security interest in all right, title or interest in, to or under all of the following assets, whether now owned or at any time hereafter acquired by or arising in favor of the Grantor and regardless of where located (collectively, the “**Additional Patent Collateral**”):

- A. the Patent registrations and pending applications in the United States Patent and Trademark Office listed on Schedule I hereto;
- B. the right to sue third parties for past, present and future infringements of such Patent registrations and pending applications; and
- C. all proceeds of and any right associated with the foregoing.

SECTION 3. ***US Security Agreement.*** The security interests granted to the Collateral Agent herein are granted in furtherance, and not in limitation of, the security interests granted to the Collateral Agent pursuant to the US Security Agreement. The Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the Additional Patent Collateral are more fully set forth in the US Security Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Patent Security Agreement Supplement and the US Security Agreement, the terms of the US Security Agreement shall govern.

SECTION 4. ***Governing Law.*** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Patent Security Agreement Supplement as of the day and year first above written.

[•]

By: \_\_\_\_\_  
Name: [•]  
Title: [•]

ING BANK N.V., LONDON BRANCH,  
as Collateral Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

***Schedule I***

Patents

<u>Registered Owner</u>	<u>Patent Description</u>	<u>Patent Number</u>	<u>Issue Date</u>

Patent Applications

<u>Applicant</u>	<u>Patent Description</u>	<u>Application Serial Number</u>	<u>Application Filing Date</u>

[FORM OF]  
COPYRIGHT SECURITY AGREEMENT

THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF, INCLUDING WRITTEN CONFIRMATIONS OR REFERENCES THERETO, INTO THE REPUBLIC OF AUSTRIA, MAY CAUSE THE IMPOSITION OF AUSTRIAN STAMP DUTY. PRIOR TO THE EXECUTION OF THIS DOCUMENT OR THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF INTO THE REPUBLIC OF AUSTRIA LEGAL ADVICE AS TO AUSTRIAN LAW SHOULD BE SOUGHT.

This COPYRIGHT SECURITY AGREEMENT is entered into as of [●], 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, this “**Agreement**”), among [●] (the “**Grantors**”) and ING Bank N.V., London Branch, as collateral agent (in its capacity as collateral agent, the “**Collateral Agent**”) for the Secured Parties.

Reference is made to that certain US Pledge and Security Agreement, dated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**US Security Agreement**”), by and among Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex Holding USA Inc., a Delaware corporation, the other US Subsidiary Parties from time to time party thereto and the Collateral Agent. The Lenders have extended credit to the US Borrower and Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541 (the “**Lux Borrower**”) subject to the terms and conditions set forth in that certain Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, the Lux Borrower, the US Borrower, Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party thereto and the Collateral Agent. Consistent with the requirements of Section 5.12 of the Credit Agreement and pursuant to and in accordance with Sections 2.01 and 4.03(c) of the US Security Agreement, the parties hereto agree as follows:

**SECTION 1. Terms.** Capitalized terms used in this Agreement and not otherwise defined herein have the meanings specified in the US Security Agreement.

**SECTION 2. Grant of Security Interest.** As security for the prompt and complete payment or performance, as the case may be, in full of the Secured Obligations, each Grantor, pursuant to the US Security Agreement, did and hereby does pledge, collaterally assign, mortgage, transfer and grant to the Collateral Agent, its successors and permitted assigns, on behalf of and for the ratable benefit of the Secured Parties, a continuing security interest in all right, title or interest in, to or under all of the following assets, whether now owned or at any time hereafter acquired by such Grantor and regardless of where located (collectively, the “**Copyright Collateral**”):

- A. all Copyrights, including those Copyright registrations and pending applications for registration in the United States Copyright Office listed on Schedule I;

B. the right to sue third parties for past, present and future infringements of any Copyright, and

C. all proceeds of and rights associated with the foregoing.

SECTION 3. ***US Security Agreement.*** The security interests granted to the Collateral Agent herein are granted in furtherance, and not in limitation of, the security interests granted to the Collateral Agent pursuant to the US Security Agreement. Each Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the Copyright Collateral are more fully set forth in the US Security Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Agreement and the US Security Agreement, the terms of the US Security Agreement shall govern.

SECTION 4. ***Governing Law.*** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

[•]

By: \_\_\_\_\_

Name: [•]

Title: [•]

ING BANK N.V., LONDON BRANCH,  
as Collateral Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

***Schedule I***

Copyrights

<u>Registered Owner</u>	<u>Copyright Title</u>	<u>Registration Number</u>	<u>Registration Date</u>

Copyright Applications

<u>Applicant</u>	<u>Application Serial Number</u>	<u>Application Filing Date</u>

**Exhibit A**

[FORM OF]  
COPYRIGHT SECURITY AGREEMENT SUPPLEMENT

THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF, INCLUDING WRITTEN CONFIRMATIONS OR REFERENCES THERETO, INTO THE REPUBLIC OF AUSTRIA, MAY CAUSE THE IMPOSITION OF AUSTRIAN STAMP DUTY. PRIOR TO THE EXECUTION OF THIS DOCUMENT OR THE TAKING OF THIS DOCUMENT OR ANY CERTIFIED COPY OR ANY DOCUMENT CONSTITUTING SUBSTITUTE DOCUMENTATION THEREOF INTO THE REPUBLIC OF AUSTRIA LEGAL ADVICE AS TO AUSTRIAN LAW SHOULD BE SOUGHT.

This COPYRIGHT SECURITY AGREEMENT SUPPLEMENT is entered into as of [●], 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, this “**Copyright Security Agreement Supplement**”), among [●] (the “**Grantor**”) and ING Bank N.V., London Branch, as collateral agent (in its capacity as collateral agent, the “**Collateral Agent**”) for the Secured Parties.

Reference is made to that certain US Pledge and Security Agreement, dated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**US Security Agreement**”), by and among Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex Holding USA Inc., a Delaware corporation, the other US Subsidiary Parties from time to time party thereto and the Collateral Agent. The Lenders have extended credit to the US Borrower and Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541 (the “**Lux Borrower**”) subject to the terms and conditions set forth in that certain Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, the Lux Borrower, the US Borrower, Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party thereto and the Collateral Agent. Consistent with the requirements of Section 5.12 of the Credit Agreement, the Grantor and the Collateral Agent have entered into that certain Copyright Security Agreement, dated as of [●], 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Copyright Security Agreement**”). Under the terms of the US Security Agreement, the Grantor has granted to the Collateral Agent for the benefit of the Secured Parties a security interest in the Additional Copyright Collateral (as defined below) and have agreed, consistent with the requirements of Section 5.12 of the Credit Agreement and pursuant to and in accordance with Sections 2.01 and 4.03(c) of the US Security Agreement, to execute this Copyright Security Agreement Supplement. Now, therefore, the parties hereto agree as follows:

SECTION 1. **Terms.** Capitalized terms used in this Copyright Security Agreement Supplement and not otherwise defined herein have the meanings specified in the US Security Agreement.

**SECTION 2. *Grant of Security Interest.*** As security for the prompt and complete payment or performance, as the case may be, in full of the Secured Obligations, the Grantor, pursuant to the US Security Agreement, did and hereby does pledge, collaterally assign, mortgage, transfer and grant to the Collateral Agent, its successors and permitted assigns, on behalf of and for the ratable benefit of the Secured Parties, a continuing security interest in all right, title or interest in, to or under all of the following assets, whether now owned or at any time hereafter acquired by the Grantor and regardless of where located (collectively, the “**Additional Copyright Collateral**”):

- A. the Copyright registrations and pending applications for registration in the United States Copyright Office listed on Schedule I hereto;
- B. the right to sue third parties for past, present and future infringements of such Copyright registrations and pending applications for registration, and
- C. all proceeds of and rights associated with the foregoing.

**SECTION 3. *US Security Agreement.*** The security interests granted to the Collateral Agent herein are granted in furtherance, and not in limitation of, the security interests granted to the Collateral Agent pursuant to the US Security Agreement. The Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the Additional Copyright Collateral are more fully set forth in the US Security Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Copyright Security Agreement Supplement and the US Security Agreement, the terms of the US Security Agreement shall govern.

**SECTION 4. *Governing Law.*** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Copyright Security Agreement Supplement as of the day and year first above written.

[•]

By: \_\_\_\_\_  
Name: [•]  
Title: [•]

ING BANK N.V., LONDON BRANCH,  
as Collateral Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

***Schedule I***

Copyrights

<u>Registered Owner</u>	<u>Copyright Title</u>	<u>Registration Number</u>	<u>Registration Date</u>

Copyright Applications

<u>Applicant</u>	<u>Application Serial Number</u>	<u>Application Filing Date</u>

## [Form of] GUARANTY AGREEMENT

THIS LOAN GUARANTY (as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, this “**Loan Guaranty**”) is entered into as of September 13, 2016 by and among Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541 (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation (the “**US Borrower**” and, together with the Lux Borrower, the “**Borrowers**”), Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052 (“**Holdings**”), the Subsidiary Parties (as defined below) from time to time party hereto (the Borrowers, Holdings and the Subsidiary Parties, collectively, the “**Loan Guarantors**”) and ING Bank N.V., London Branch, in its capacity as administrative agent for the lenders party to the Credit Agreement referred to below (in such capacity, the “**Administrative Agent**”).

## PRELIMINARY STATEMENT

Reference is hereby made to that certain Credit Agreement dated as of April 15, 2016 and amended and restated as of the date hereof (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), among the Borrowers, Holdings, the Lenders (as defined below) and the Administrative Agent.

The Loan Guarantors are entering into this Loan Guaranty in order to induce the Lenders to enter into and extend credit to the Borrowers under the Credit Agreement and to guarantee the Secured Obligations, including in the case of each Loan Guarantor that is a Borrower, the obligations of the other respective Borrower under the Credit Agreement.

Each Loan Guarantor will obtain benefits from the incurrence of Loans by the Borrowers and the issuance of, and participation in, Letters of Credit for the account of the Borrowers under the Credit Agreement and the incurrence by the Loan Parties of the Secured Obligations.

ACCORDINGLY, the parties hereto agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

Section 1.01. Definitions of Certain Terms Used Herein. As used in this Loan Guaranty, in addition to the terms defined in the preamble and Preliminary Statement above, the following terms shall have the following meanings:

“**Accommodation Payment**” has the meaning assigned to such term in Section 2.11.

“**Administrative Agent**” has the meaning assigned to such term in the preamble.

“**Agreement Currency**” has the meaning assigned to such term in Section 4.16(b).

“**Article**” means a numbered article of this Loan Guaranty, unless another document is specifically referenced.

**“Borrowers”** has the meaning assigned to such term in the preamble.

**“Corresponding Debt”** has the meaning assigned to such term in Section 3.01(b).

**“Credit Agreement”** has the meaning assigned to such term in the Preliminary Statement.

**“Exhibit”** refers to a specific exhibit to this Loan Guaranty, unless another document is specifically referenced.

**“Guaranteed Obligations”** has the meaning assigned to such term in Section 2.01.

**“Guarantor Percentage”** has the meaning assigned to such term in Section 2.11.

**“Guaranty Supplement”** has the meaning assigned to such term in Section 4.04.

**“Judgment Currency”** has the meaning assigned to such term in Section 4.16(b).

**“Lenders”** has the meaning assigned to such term in the Credit Agreement.

**“Loan Guarantors”** has the meaning assigned to such term in the preamble.

**“Loan Guaranty”** has the meaning assigned to such term in the preamble.

**“Lux Borrower”** has the meaning assigned to such term in the preamble.

**“Lux Party”** has the meaning assigned to such term in the Credit Agreement.

**“Maximum Liability”** has the meaning assigned to such term in Section 2.11.

**“New Zealand Guarantor”** means any Loan Guarantor incorporated in New Zealand.

**“Non-Paying Guarantor”** has the meaning assigned to such term in Section 2.11.

**“Obligated Party”** has the meaning assigned to such term in Section 2.02.

**“Parallel Debt”** has the meaning assigned to such term in Section 3.01(b).

**“Paying Guarantor”** has the meaning assigned to such term in Section 2.11.

**“Section”** means a numbered section of this Loan Guaranty, unless another document is specifically referenced.

**“Subsidiary Parties”** means (a) the Restricted Subsidiaries of the Lux Borrower identified on Exhibit A hereto and (b) each other Restricted Subsidiary that becomes a party to this Loan Guaranty as a Subsidiary Party after the date hereof, in accordance with Section 4.04 herein and Section 5.12 or Section 5.14 of the Credit Agreement.

**“UFCA”** has the meaning assigned to such term in Section 2.11(a).

**“UFTA”** has the meaning assigned to such term in Section 2.11(a).

**“US Borrower”** has the meaning assigned to such term in the preamble.

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms. Capitalized terms used in this Loan Guaranty and not otherwise defined herein shall have the meanings set forth in the Credit Agreement. To the extent that the jurisdiction of formation of any Loan Guarantor that becomes a party to this Agreement pursuant to Section 4.04 requires the insertion of additional provisions in this Loan Guaranty pursuant to Section 2.10 or Section 3.02 hereof, any defined terms used therein shall be deemed automatically incorporated by reference into this Section 1.01. Where it relates to any Non-US Loan Party, Section 1.16 through and including Section 1.25 of the Credit Agreement shall be applicable when the terms referred to therein are used herein.

## ARTICLE 2 LOAN GUARANTY

**Section 2.01. Guaranty.** Except as otherwise provided for herein (including under Section 2.09, Section 2.10, Article 3 and Section 4.15), each Loan Guarantor hereby agrees that it is jointly and severally liable for, and, as primary obligor and not merely as surety, and absolutely and unconditionally and irrevocably guarantees to the Administrative Agent (acting as agent and, for the purposes of Italian law to the extent applicable to any Italian Guarantor, as *mandatario con rappresentanza* of the Secured Parties, pursuant to Article 8 of the Credit Agreement) for the ratable benefit of the Secured Parties the full and prompt payment, when and as the same shall become due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, of the Secured Obligations, together with any and all expenses which may be incurred by the Administrative Agent and the other Secured Parties in collecting any of the Guaranteed Obligations, to the extent reimbursable in accordance with Section 9.03 of the Credit Agreement; provided that it is understood and agreed that each Loan Guarantor guarantees the Guaranteed Obligations of each other Loan Guarantor (including all Hedging Obligations that would otherwise be deemed to be Excluded Swap Obligations) and that each such guaranty is intended as a “guaranty” as described under Section 1a(18) of the Commodity Exchange Act (collectively the “**Guaranteed Obligations**”). Each Loan Guarantor further agrees that the Guaranteed Obligations may be extended or renewed in whole or in part without notice to or further assent from it, and that it remains bound upon its guarantee notwithstanding any such extension or renewal. If any or all of the Guaranteed Obligations becomes due and payable hereunder, each Loan Guarantor, unconditionally and irrevocably, promises to pay such Guaranteed Obligations to the Administrative Agent and/or the other Secured Parties, on demand. Each Loan Guarantor unconditionally and irrevocably guarantees the payment of any and all of the Guaranteed Obligations to the Secured Parties whether or not due or payable by the Borrowers upon the occurrence of any of the Events of Default specified in Sections 7.01(f) or 7.01(g) of the Credit Agreement. Each Loan Guarantor irrevocably and unconditionally promises to pay such Guaranteed Obligations to the Secured Parties, on demand, in Euros or Dollars, as applicable, or with respect to any Secured Obligation resulting from a Borrowing or issuance of a Letter of Credit, in each case, in an Alternate Currency (other than Dollars) in such Alternate Currency (other than Dollars). This Loan Guaranty is a continuing one and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon.

**Section 2.02. Guaranty of Payment.** This Loan Guaranty is a guaranty of payment and not of collection. Each Loan Guarantor waives any right to require the Administrative Agent or any Lender to sue any Borrower, any other Loan Guarantor, any other guarantor, or any other Person obligated for all or any part of the Guaranteed Obligations (each, an “**Obligated Party**”), or otherwise to enforce its rights in respect of any Collateral securing all or any part of the Guaranteed Obligations. The Administrative Agent may enforce this Loan Guaranty upon the occurrence and during the continuance of an Event of Default.

Section 2.03. No Discharge or Diminishment of Loan Guaranty.

(a) Except as otherwise provided for herein (including under Section 2.09, Section 2.10, Article 3 and Section 4.15), the obligations of each Loan Guarantor hereunder are unconditional, irrevocable and absolute and not subject to any reduction, limitation, impairment or termination for any reason, including: (i) any claim of waiver, release, extension, renewal, settlement, surrender, alteration, or compromise of any of the Guaranteed Obligations, by operation of law or otherwise; (ii) any change in the corporate existence, structure or ownership of any Borrower or any other guarantor of or other Person liable for any of the Guaranteed Obligations; (iii) any insolvency, bankruptcy, reorganization or other similar proceeding affecting any other Obligated Party, or their assets or any resulting release or discharge of any obligation of any Obligated Party; (iv) the existence of any claim, setoff or other rights which any Loan Guarantor may have at any time against any Obligated Party, the Administrative Agent, any Lender or any other Person, whether in connection herewith or in any unrelated transactions; (v) any direction as to application of payments by any Borrower or by any other party; (vi) any other continuing or other guaranty, undertaking or maximum liability of a guarantor or of any other party as to the Guaranteed Obligations; (vii) any payment on or in reduction of any such other guaranty or undertaking; (viii) any dissolution, termination or increase, decrease or change in personnel by the Borrowers or (ix) any payment made to any Secured Party on the Guaranteed Obligations which any such Secured Party repays to any Borrower pursuant to court order in any bankruptcy, reorganization, arrangement, moratorium or other debtor relief proceeding, and each Loan Guarantor waives any right to the deferral or modification of its obligations hereunder by reason of any such proceeding.

(b) Except for termination of a Loan Guarantor's obligations hereunder or as expressly permitted by Section 4.15, the obligations of each Loan Guarantor hereunder are not subject to any defense or setoff, counterclaim, recoupment, or termination whatsoever by reason of the invalidity, illegality, or unenforceability of any of the Guaranteed Obligations or otherwise, or any provision of applicable law or regulation purporting to prohibit payment by any Obligated Party, of the Guaranteed Obligations or any part thereof.

(c) Further, the obligations of any Loan Guarantor hereunder are not discharged or impaired or otherwise affected by: (i) the failure of the Administrative Agent or any Secured Party to assert any claim or demand or to enforce any remedy with respect to all or any part of the Guaranteed Obligations; (ii) any waiver or modification of or supplement to any provision of any agreement relating to the Guaranteed Obligations (subject to (x) applicable limitations under local law set forth under Section 2.09 and Section 2.10, which shall remain unchanged unless otherwise expressly consented in writing by the affected Loan Guarantor and (y) to the extent required under local law, the obtainment of appropriate consents by the applicable governing body of such Loan Guarantor and the taking of any other necessary corporate action); (iii) any release, non-perfection, or invalidity of any indirect or direct security for the obligations of the Borrowers for all or any part of the Guaranteed Obligations or any obligations of any other guarantor of or other Person liable for any of the Guaranteed Obligations; (iv) any action or failure to act by the Administrative Agent or any Secured Party with respect to any Collateral securing any part of the Guaranteed Obligations; or (v) any default, failure or delay, willful or otherwise, in the payment or performance of any of the Guaranteed Obligations, or any other circumstance, act, omission or delay that might in any manner or to any extent vary the risk of such Loan Guarantor or that would otherwise operate as a discharge of any Loan Guarantor as a matter of law or equity (other than as set forth in Section 4.15).

Section 2.04. Defenses Waived. To the fullest extent permitted by applicable law, and except for termination of a Loan Guarantor's obligations hereunder or as expressly permitted by Section 4.15, each Loan Guarantor hereby waives any defense based on or arising out of any defense of any Borrower or any other Loan Guarantor or arising out of the disability of the Borrowers or any other Loan Guarantor or any other party or the unenforceability of all or any part of the Guaranteed Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any Borrower or any other Loan Guarantor. Without limiting the generality of the foregoing, each Loan Guarantor irrevocably waives acceptance hereof, presentment, demand, protest and, to the fullest extent permitted by law, any notice not provided for herein, including notices of nonperformance, notices of protest, notices of dishonor, notices of acceptance of this Loan Guaranty, and notices of the existence, creation or incurring of new or additional Guaranteed Obligations, as well as any requirement that at any time any action be taken by any Person against any Obligated Party, or any other Person, including any right (except as shall be required by applicable law and cannot be waived) to require any Secured Party to (i) proceed against any Borrower, any other guarantor or any other party, (ii) proceed against or exhaust any security held from any Borrower, any other Loan Guarantor or any other party or (iii) pursue any other remedy in any Secured Party's power whatsoever. The Administrative Agent may, at its election, foreclose on any Collateral held by it by one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable (to the extent permitted by applicable law), accept an assignment of any such Collateral in lieu of foreclosure or otherwise act or fail to act with respect to any Collateral securing all or a part of the Guaranteed Obligations, and the Administrative Agent may, at its election, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with any Obligated Party or exercise any other right or remedy available to it against any Obligated Party, or any security, without affecting or impairing in any way the liability of such Loan Guarantor under this Loan Guaranty, except as otherwise provided in Section 4.15. To the fullest extent permitted by applicable law, each Loan Guarantor waives any defense arising out of any such election even though that election may operate, pursuant to applicable law, to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Loan Guarantor against any Obligated Party or any security.

Section 2.05. Authorization. The Loan Guarantors authorize the Secured Parties without notice or demand (except as shall be required by applicable law and cannot be waived), and without affecting or impairing its liability hereunder (except as set forth in Section 4.15), from time to time to:

(a) change the manner, place or terms of payment of, and/or change or extend the time of payment of, renew, increase, accelerate or alter, any of the Guaranteed Obligations (including any increase or decrease in the principal amount thereof or the rate of interest or fees thereon), any security therefor, or any liability incurred directly or indirectly in respect thereof, and this Guaranty shall apply to the Guaranteed Obligations as so changed, extended, renewed or altered, but in any event subject to (x) applicable limitations under local law set forth under Section 2.09 and Section 2.10, which shall remain unchanged unless otherwise expressly consented in writing by the affected Loan Guarantor and (y) to the extent required under local law, the obtainment of appropriate consents by the applicable governing body of such Loan Guarantor and the taking of any other necessary corporate action;

(b) take and hold security for the payment of the Guaranteed Obligations and sell, exchange, release, impair, surrender, realize upon or otherwise deal with in any manner and in any order any property by whomsoever at any time pledged or mortgaged to secure, or howsoever securing, the Guaranteed Obligations or any liabilities (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and/or any offset there against;

(c) exercise or refrain from exercising any rights against any of the Borrowers, any other Loan Party or others or otherwise act or refrain from acting;

(d) release or substitute any one or more endorsers, guarantors, the Borrowers, other Loan Parties or other obligors;

(e) settle or compromise any of the Guaranteed Obligations, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any liability (whether due or not) of the Borrowers to their creditors other than the Secured Parties;

(f) apply any sums by whomsoever paid or howsoever realized to any liability or liabilities of any of the Borrowers to the Secured Parties regardless of what liability or liabilities of the Borrowers remain unpaid;

(g) consent to or waive any breach of, or any act, omission or default under, this Loan Guaranty, the Credit Agreement, any other Loan Document, any Hedge Agreement with respect to any Secured Hedging Obligations or any of the instruments or agreements referred to herein or therein, or otherwise amend, modify or supplement this Loan Guaranty, the Credit Agreement, any other Loan Document, any Hedge Agreement with respect to any Secured Hedging Obligations or any of such other instruments or agreements; and/or

(h) take any other action which would, under otherwise applicable principles of common law, give rise to a legal or equitable discharge of the Loan Guarantors from their respective liabilities under this Loan Guaranty.

Section 2.06. Rights of Subrogation. No Loan Guarantor will assert any right, claim or cause of action, including a claim of subrogation, contribution or indemnification that it has against any Loan Party in respect of this Loan Guaranty until the occurrence of the Termination Date; provided that if any amount shall be paid to such Loan Guarantor on account of such subrogation rights at any time prior to the Termination Date, then unless such Loan Guarantor shall have already discharged its liabilities under this Loan Guaranty in an amount equal to such Loan Guarantor's Maximum Liability as of such date, such amount shall be held in trust for the benefit of the Secured Parties and shall forthwith be paid to the Administrative Agent to be credited and applied upon the Guaranteed Obligations, whether matured or unmatured, in accordance with Section 2.17(b) of the Credit Agreement.

Section 2.07. Reinstatement; Stay of Acceleration. If at any time any payment of any portion of the Guaranteed Obligations is rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, or reorganization of any Borrower or otherwise, each Loan Guarantor's obligations under this Loan Guaranty with respect to that payment shall be reinstated at such time as though the payment had not been made. If acceleration of the time for payment of any of the Guaranteed Obligations is stayed upon the insolvency, bankruptcy or reorganization of any Borrower, all such amounts otherwise subject to acceleration under the terms of any agreement relating to the Guaranteed Obligations shall nonetheless be payable by the other Loan Guarantors forthwith on demand by the Administrative Agent.

Section 2.08. Information. Each Loan Guarantor assumes all responsibility for being and keeping itself informed of the Borrowers' financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks that each Loan Guarantor assumes and incurs under this Loan Guaranty, and agrees that none of the Administrative Agent, any Lender or any other Secured Party shall have any duty to advise any Loan Guarantor of information known to it regarding those circumstances or risks.

Section 2.09. Local Law Guaranty Limitations. Notwithstanding anything to the contrary contained in this Loan Guaranty or in any other Loan Document, it is agreed and acknowledged that the

liability of each Loan Guarantor that is not a Domestic Subsidiary shall be limited by the applicable local law provisions and limitations set forth in Exhibit C hereto.

Section 2.10. Additional Foreign Guarantor Limitations/Waivers. To the extent that the jurisdiction of formation of any Loan Guarantor that is not a Domestic Subsidiary that becomes a party to this Agreement pursuant to Section 4.04 requires additional local law provisions and limitations with respect to such new Loan Guarantor's guarantee obligations, such provisions, set out in Section 3 of the Guaranty Supplement (if any), shall be deemed automatically incorporated by reference into this Section 2.10.

Section 2.11. Contribution; Subordination; Maximum Liability.

(a) In the event any Loan Guarantor (a "**Paying Guarantor**") shall make any payment or payments under this Loan Guaranty or shall suffer any loss as a result of any realization upon any Collateral granted by it to secure its obligations under this Loan Guaranty (each such payment or loss, an "**Accommodation Payment**"), each other Loan Guarantor (each a "**Non-Paying Guarantor**") shall contribute to such Paying Guarantor an amount equal to such Non-Paying Guarantor's "Guarantor Percentage" of such Accommodation Payments by such Paying Guarantor. For purposes of this Article 2, each Non-Paying Guarantor's "**Guarantor Percentage**" with respect to any such Accommodation Payments by a Paying Guarantor shall be determined as of the date on which such Accommodation Payment was made by reference to the ratio of (a) such Non-Paying Guarantor's Maximum Liability (as defined below) as of such date to (b) the aggregate Maximum Liability of all Loan Guarantors hereunder (including such Paying Guarantor) as of such date. As of any date of determination, the "**Maximum Liability**" of each Loan Guarantor (a) organized or formed under the laws of a state in the U.S. or the District of Columbia, shall be equal to the maximum amount of liability which could be asserted against such Loan Guarantor hereunder and under the Credit Agreement without (i) rendering such Loan Guarantor "insolvent" within the meaning of Section 101(32) of the Bankruptcy Code, Section 2 of the Uniform Fraudulent Transfer Act ("**UFTA**") or Section 2 of the Uniform Fraud Conveyance Act ("**UFCA**"), (ii) leaving such Loan Guarantor with unreasonably small capital or assets, within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA or Section 5 of the UFCA, or (iii) leaving such Loan Guarantor unable to pay its debts as they become due within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA or Section 5 of the UFCA or (b) organized or formed under any law other than the law of a state in the U.S. or the District of Columbia, shall be equal to the maximum amount of liability which could be asserted against such Loan Guarantor hereunder and under the Credit Agreement after giving effect to the limitations, if any, described in Sections 2.09 and 2.10, in the case of each of clauses (a) and (b), after taking into account (x) any Accommodation Payment already made by the relevant Non-Paying Guarantor under this Loan Guaranty (with respect to clause (b), solely to the extent permitted by applicable law), (y) such Loan Guarantor's rights of contribution and indemnification from any other Loan Guarantor under applicable law or otherwise and (z) any payment or payments already made by the relevant Non-Paying Guarantor under this Loan Guaranty to the Administrative Agent, but before taking into account any liability under any other guarantee, other than a guarantee of any Refinancing Indebtedness (to the extent incurred to refinance any Indebtedness incurred under Section 6.01(a) of the Credit Agreement) or any Incremental Equivalent Debt that is secured on a *pari passu* basis with the Obligations. Nothing in this provision shall affect any Loan Guarantor's several liability for the entire amount of the Guaranteed Obligations (up to such Loan Guarantor's Maximum Liability). For greater certainty, the several liability for the entire amount of the Guaranteed Obligations of any Canadian Guarantor shall be unlimited. Each of the Loan Guarantors covenants and agrees that its right to receive any contribution under this Loan Guaranty from a Non-Paying Guarantor shall be

subordinate and junior in right of payment to the Secured Obligations until the Termination Date. If, prior to the Termination Date, any such contribution payments are received by a Paying Guarantor, to the extent an Event of Default has occurred and is continuing such contribution payments shall be collected, enforced and received by such Loan Guarantor as trustee for the Secured Parties and be paid over to the Administrative Agent on account of the Secured Obligations, but without affecting or impairing in any manner the liability of such Loan Guarantor under the other provisions of this Loan Guaranty. This provision is for the benefit of the Administrative Agent, the Lenders and the other Secured Parties and may be enforced by any one, or more, or all of them in accordance with the terms hereof. The parties agree that in relation to any Non-Paying Guarantor incorporated under the laws of the Netherlands, the aforementioned subordination also constitutes an agreement on ranking within the meaning of Article 3:277(2) of the Netherlands Civil Code (*Burgerlijk Wetboek*).

(b) It is the desire and intent of the Loan Guarantors and the Secured Parties that this Loan Guaranty shall be enforced against the Loan Guarantors to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought, including, for the absence of doubt, those limitations described in Sections 2.09 and 2.10. The provisions of this Loan Guaranty are severable, and in any action or proceeding involving any state corporate law, or any state, Federal or foreign bankruptcy, insolvency, reorganization or other law affecting the rights of creditors generally, if the obligations of any Loan Guarantor under this Loan Guaranty would otherwise be held or determined to be avoidable, invalid or unenforceable on account of the amount of such Loan Guarantor's liability under this Loan Guaranty, then, notwithstanding any other provision of this Loan Guaranty to the contrary, the amount of such liability shall, without any further action by the Loan Guarantors or the Secured Parties, be automatically limited and reduced to such Loan Guarantor's Maximum Liability. Each Loan Guarantor agrees that the Guaranteed Obligations may at any time and from time to time exceed the Maximum Liability of each Loan Guarantor without impairing this Loan Guaranty or affecting the rights and remedies of the Secured Parties hereunder; provided that nothing in this sentence shall be construed to increase any Loan Guarantor's obligations hereunder beyond its Maximum Liability.

**Section 2.12. Representations and Warranties.** Each Loan Guarantor hereby makes each representation and warranty made in the Loan Documents by the Borrowers with respect to such Loan Guarantor, as applicable, and each Loan Guarantor hereby further acknowledges and agrees with respect to such Loan Guarantor that such Loan Guarantor has, independently and without reliance upon any Secured Party and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Loan Guaranty and each other Loan Document to which it is or is to be a party, and such Loan Guarantor has established adequate means of obtaining from each other Loan Guarantor on a continuing basis information pertaining to the business, condition (financial or otherwise), operations, performance, properties and prospects of each other Loan Guarantor. In addition, each New Zealand Guarantor represents and warrants to the Secured Parties:

(a) it is able to pay its due debts and will not become unable to pay its due debts as a result of its entry into and performance of the Loan Documents and the transactions contemplated thereby;

(b) it is able to meet the solvency test under the Companies Act and, immediately after the entering into the Loan Documents, satisfy the solvency test under the Companies Act;

(c) it is not insolvent within the meaning of Section 346 of the Property Law Act of 2007; and

(d) it is not, nor is it about to engage, in a business or transaction for which its assets are, given the nature of its business or transaction, unreasonably small within the meaning of Section 346 of the Property Law Act of 2007.

Section 2.13. Covenants. Each Loan Guarantor covenants and agrees that until the occurrence of the Termination Date, such Loan Guarantor will perform and observe, and cause each of its respective Restricted Subsidiaries to perform and observe, all of the terms, covenants and agreements set forth in the Loan Documents that the Borrowers have agreed to cause such Loan Guarantor or such Restricted Subsidiaries to perform or observe.

Section 2.14. Conditions Precedent with Respect to Certain Loan Guarantors. The obligation of certain Loan Guarantors to enter into this Loan Guaranty is subject to the satisfaction of the conditions precedent set forth on Exhibit D hereto.

### ARTICLE 3 PARALLEL DEBT

#### Section 3.01. Covenant to Pay the Administrative Agent.

(a) Notwithstanding any other provision of this Loan Guaranty, each Loan Guarantor, by way of an independent payment obligation, hereby irrevocably and unconditionally undertakes to pay to the Administrative Agent, as creditor in its own right and not as agent, representative or trustee of the other Secured Parties, sums equal to and in the currency of each amount payable by such Loan Guarantor to each of the Secured Parties under each of the Loan Documents as and when that amount falls due for payment under the relevant Loan Document or would have fallen due but for any discharge from failure of another Secured Party to take appropriate steps, in insolvency proceedings affecting that Loan Guarantor, to preserve its entitlement to be paid that amount.

(b) Each Loan Guarantor and the Administrative Agent acknowledge that the obligations of each Loan Guarantor under paragraph (a) are several and are separate and independent from, and shall not in any way limit or affect, the corresponding obligations of that Loan Guarantor to any Secured Party under any Loan Document (its "**Corresponding Debt**") nor shall the amounts for which each Loan Guarantor is liable under paragraph (a) (its "**Parallel Debt**") be limited or affected in any way by its Corresponding Debt provided that: (x) the Administrative Agent shall not demand payment with regard to the Parallel Debt of each Loan Guarantor to the extent that such Loan Guarantor's Corresponding Debt has been irrevocably paid or (in the case of guarantee obligations) discharged and (y) neither the Administrative Agent nor any Secured Party shall demand payment with regard to the Corresponding Debt of each Loan Guarantor to the extent that such Loan Guarantor's Parallel Debt has been irrevocably paid or (in the case of guarantee obligations) discharged.

(c) The Administrative Agent acts in its own name and not as agent, representative or trustee of the other Secured Parties and it shall have its own independent right to demand payment of the amounts payable by each Loan Guarantor under this Section 3.01, irrespective of any discharge of such Loan Guarantor's obligation to pay those amounts to the other Secured Parties resulting from failure by them to take appropriate steps, in insolvency proceedings affecting that Loan Guarantor, to preserve their entitlement to be paid those amounts.

(d) Any amount due and payable by a Loan Guarantor to the Administrative Agent under this Section 3.01 shall be decreased to the extent that the other Secured Parties have received (and are able to retain) payment of the corresponding amount under the other provisions of the Loan Documents and any amount due and payable by a Loan Guarantor to the other Secured Parties under those provisions shall be decreased to the extent that the Administrative Agent has received (and is able to retain) payment of the corresponding amount under this Section 3.01.

(e) The rights of the Secured Parties (other than the Administrative Agent) to receive payment of amounts payable by each Loan Guarantor under the Loan Documents are several and are separate and independent from, and without prejudice to, the rights of the Administrative Agent to receive payment under this Section 3.01.

(f) Without limiting or affecting the Administrative Agent's rights against the Loan Guarantors (whether under this Section 3.01 or under any other provision of the Loan Documents), each Loan Guarantor acknowledges that: (x) nothing in this Section 3.01 shall impose any obligation on the Administrative Agent to advance any sum to any Loan Guarantor or otherwise under any Loan Document, except in its capacity as lender thereunder and (y) for the purpose of any vote taken under any Loan Document, the Administrative Agent shall not be regarded as having any participation or commitment other than those which it has in its capacity as a lender.

(g) Notwithstanding anything to the contrary contained in this Section 3.01, the obligations and undertakings of the Borrowers, in their capacity as Borrowers, under this Section 3.01 shall only apply to its Guaranteed Obligations hereunder and not its Obligations under the Credit Agreement.

(h) For the avoidance of doubt, to the extent not applicable, this Section 3.01 shall not apply to any Loan Guarantor organized under the laws of Italy.

Section 3.02. Additional Parallel Debt Provisions. To the extent that the jurisdiction of formation of any Loan Guarantor that becomes a party to this Agreement pursuant to Section 4.04 requires amendments to this Article 3 or additional parallel debt or other local law provisions with respect to such new Loan Guarantor's guarantee obligations, such provisions, set out in Section 4 of the Guaranty Supplement (if any), shall be deemed automatically incorporated by reference into this Article 3. For the avoidance of doubt, any payment or enforcement limitations under any Loan Document (including under this Loan Guaranty) applicable to a Loan Party or any payments it is required to make pursuant to a Loan Document, shall apply *mutatis mutandis* to the Parallel Debt to the same extent as they are applicable in relation to the respective Corresponding Debt.

## ARTICLE 4 GENERAL PROVISIONS

Section 4.01. Liability Cumulative. The liability of each Loan Guarantor under this Loan Guaranty is in addition to and shall be cumulative with all liabilities of such Loan Guarantor to the Administrative Agent and the Lenders under the Credit Agreement and the other Loan Documents to which such Loan Guarantor is a party or in respect of any obligations or liabilities of the other Loan Guarantors, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

Section 4.02. No Waiver; Amendments. No delay or omission of the Administrative Agent or any Secured Party to exercise any right or remedy granted under this Loan Guaranty shall impair such right or remedy or be construed to be a waiver of any Default or an acquiescence therein, and any single or partial exercise of any such right or remedy shall not preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver, amendment or other variation of the terms, conditions or provisions of this Loan Guaranty whatsoever shall be valid unless in writing signed by the Loan Guarantors and the Administrative Agent with the concurrence or at the direction of the Lenders required under Section 9.02 of the Credit Agreement and then only to the extent specifically set forth in such writing.

Section 4.03. Severability of Provisions. To the extent permitted by law, any provision of this Loan Guaranty held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions of this Loan Guaranty; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 4.04. Additional Subsidiaries. Certain Restricted Subsidiaries (other than an Excluded Subsidiary) of the Lux Borrower may be required to enter into this Loan Guaranty as a Subsidiary Party pursuant to and in accordance with Section 5.12 or 5.14 of the Credit Agreement. Upon execution and delivery by the Administrative Agent and such Restricted Subsidiary of an instrument in substantially the form of Exhibit B hereto (each, a “**Guaranty Supplement**”), such Restricted Subsidiary shall become a Subsidiary Party hereunder with the same force and effect as if originally named as a Subsidiary Party herein. The execution and delivery of any such instrument shall not require the consent of any other Loan Guarantor hereunder. The rights and obligations of each Loan Guarantor hereunder shall remain in full force and effect notwithstanding the addition of any new Loan Guarantor as a party to this Loan Guaranty.

Section 4.05. Headings. The title of and section headings in this Loan Guaranty are for convenience of reference only, and shall not govern the interpretation of any of the terms and provisions of this Loan Guaranty.

Section 4.06. Entire Agreement. This Loan Guaranty, the other Loan Documents, the Fee Letter and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire agreement among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

Section 4.07. CHOICE OF LAW. THIS LOAN GUARANTY AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS LOAN GUARANTY, WHETHER IN TORT, CONTRACT (AT LAW OR IN EQUITY) OR OTHERWISE, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY OTHER LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

If a Loan Guarantor incorporated under the laws of the Netherlands is represented by an attorney in connection with the signing of this Loan Guaranty or any other deed, agreement or document referred to in this Loan Guaranty or made pursuant to this Loan Guaranty, it is hereby expressly acknowledged and accepted by the other parties to this Loan Guaranty that the existence and extent of the attorney’s authority and the effects of the attorney’s exercise or purported exercise of his authority shall be governed by the laws of the Netherlands.

Section 4.08. CONSENT TO JURISDICTION; CONSENT TO SERVICE OF PROCESS.

(a) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF ANY U.S. FEDERAL OR NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK (OR ANY APPELLATE COURT THEREFROM) OVER ANY SUIT, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS LOAN GUARANTY AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING SHALL (EXCEPT AS PERMITTED BELOW) BE HEARD AND DETERMINED IN SUCH NEW YORK STATE OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT SERVICE OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENTS BY REGISTERED MAIL ADDRESSED TO SUCH PERSON SHALL BE EFFECTIVE SERVICE OF PROCESS AGAINST SUCH PERSON FOR ANY SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT AND ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE ADMINISTRATIVE AGENT AND THE LENDERS RETAIN THE RIGHT TO BRING PROCEEDINGS AGAINST ANY LOAN GUARANTOR IN THE COURTS OF ANY OTHER JURISDICTION SOLELY IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER THIS LOAN GUARANTY.

(b) TO THE EXTENT PERMITTED BY LAW, EACH PARTY TO THIS LOAN GUARANTY HEREBY IRREVOCABLY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL (OR ANY SUBSTANTIALLY SIMILAR FORM OF MAIL) DIRECTED TO IT AT ITS ADDRESS FOR NOTICES AS PROVIDED FOR IN SECTION 9.01 OF THE CREDIT AGREEMENT. EACH PARTY TO THIS AGREEMENT HEREBY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SERVICE OF PROCESS WAS INVALID AND INEFFECTIVE. NOTHING IN THIS LOAN GUARANTY WILL AFFECT THE RIGHT OF ANY PARTY TO THIS LOAN GUARANTY TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

Section 4.09. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS LOAN GUARANTY, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER

PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS LOAN GUARANTY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 4.10. Indemnity. Subject to the limitations set forth in Section 2.09 and Section 2.10, each Loan Guarantor hereby agrees to indemnify the Administrative Agent and the Secured Parties, and their respective successors, permitted assigns, agents and employees, as set forth in Section 9.03 of the Credit Agreement.

Section 4.11. Counterparts. This Loan Guaranty may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Loan Guaranty by facsimile or by email as a ".pdf" or ".tif" attachment shall be effective as delivery of a manually executed counterpart of this Loan Guaranty.

Section 4.12. INTERCREDITOR AGREEMENT GOVERNS. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE GUARANTEE OF THE GUARANTEED OBLIGATIONS GRANTED TO THE ADMINISTRATIVE AGENT, FOR THE BENEFIT OF THE SECURED PARTIES, PURSUANT TO THIS LOAN GUARANTY AND THE EXERCISE OF ANY RIGHT OR REMEDY BY THE ADMINISTRATIVE AGENT AND THE OTHER SECURED PARTIES HEREUNDER ARE SUBJECT TO THE PROVISIONS OF THE INTERCREDITOR AGREEMENT. IN THE EVENT OF ANY CONFLICT BETWEEN THE PROVISIONS OF THE INTERCREDITOR AGREEMENT AND THIS LOAN GUARANTY, THE PROVISIONS OF THE INTERCREDITOR AGREEMENT SHALL GOVERN AND CONTROL.

Section 4.13. Successors and Assigns. Whenever in this Loan Guaranty any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party; and all covenants, promises and agreements by or on behalf of any Loan Guarantor or the Administrative Agent that are contained in this Loan Guaranty shall bind and inure to the benefit of their respective permitted successors and assigns. Except in a transaction expressly permitted under the Credit Agreement, no Loan Guarantor may assign any of its rights or obligations hereunder without the written consent of the Administrative Agent.

Section 4.14. Survival of Agreement. Without limitation of any provision of the Credit Agreement or Section 4.10 hereof, all covenants, agreements, indemnities, representations and warranties made by the Loan Guarantors in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Loan Guaranty or any other Loan Document shall be considered to have been relied upon by the Lenders and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such Lender or on its behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended under the Credit Agreement, and shall continue in full force and effect until the Termination Date, or with respect to any individual Loan Guarantor until such Loan Guarantor is otherwise released from its obligations under this Loan Guaranty in accordance with Section 4.15.

Section 4.15. Release of Loan Guarantors. A Subsidiary Party shall automatically be released from its obligations hereunder and its Loan Guaranty shall be automatically released (a) upon the consummation of any transaction or related series of transactions permitted under the Credit Agreement if as a result thereof such Subsidiary Party shall cease to be a Restricted Subsidiary (or becomes an Excluded Subsidiary) or (b) upon the occurrence of the Termination Date; provided that (i) no such release under clause (a) hereof shall occur solely because a Subsidiary Party has become an Immaterial Subsidiary or a non-Wholly-Owned Subsidiary unless (x) the Lux Borrower so elects and (y) after giving

effect to such release, the Lux Borrower shall be in compliance with the Collateral Coverage Requirement on a Pro Forma Basis, (ii) to the extent any Restricted Subsidiary became a Subsidiary Party in order to consummate a merger, consolidation or amalgamation permitted under Section 6.07(a)(iii)(x) of the Credit Agreement, any such release under clause (a) hereof shall constitute an Investment as if such merger, consolidation or amalgamation had been consummated pursuant to Section 6.07(a)(iii)(y) of the Credit Agreement as of the date of such release and (iii) no such release under clause (a) hereof shall occur with respect to any Subsidiary Party that is a Revolving Borrower, unless such Subsidiary Party complies (or has complied with) Section 2.24(c) of the Credit Agreement substantially contemporaneously therewith. In connection with any such release, the Administrative Agent shall promptly execute and deliver to any Loan Guarantor, at such Loan Guarantor's expense, all documents that such Loan Guarantor shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to the preceding sentence of this Section 4.15 shall be without recourse to or warranty by the Administrative Agent (other than as to the Administrative Agent's authority to execute and deliver such documents).

Section 4.16. Payments.

(a) All payments made by any Loan Guarantor hereunder will be made without setoff, counterclaim or other defense and on the same basis as payments are made by the Borrowers under Sections 2.16 and 2.17 of the Credit Agreement.

(b) If for the purpose of obtaining judgment against any Loan Guarantor in any court or in any jurisdiction, it becomes necessary to convert a sum due hereunder in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Loan Guarantors in respect of any such sum due from it to the Administrative Agent hereunder shall, notwithstanding any judgment in a currency (the "**Judgment Currency**") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "**Agreement Currency**"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Loan Guarantors in the Agreement Currency, the Loan Guarantors agree, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Loan Guarantors (or to any other Person who may be entitled thereto under applicable Requirements of Law).

Section 4.17. Interest Act (Canada). For purposes of the *Interest Act (Canada)* and with respect to any Loan Guarantor incorporated, formed or established under the laws of Canada or any province or territory thereof, (i) whenever any interest or fee under this Loan Guaranty is calculated using a rate based on a year of 360 days or 365 days, as the case may be, the rate determined pursuant to such calculation, when expressed as an annual rate, is equivalent to (x) the applicable rate based on a year of 360 days or 365 days, as the case may be, (y) multiplied by the actual number of days in the calendar year in which the period for which such interest or fee is payable (or compounded) ends, and (z) divided by 360 or 365, as the case may be, (ii) the principle of deemed reinvestment of interest does not apply to any interest

calculation under this Loan Guaranty, and (iii) the rates of interest stipulated in this Loan Guaranty are intended to be nominal rates and not effective rates or yields.

Section 4.18. Notice, etc. All Notices and other communications provided for hereunder shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or email, as follows:

- (a) if to any Loan Guarantor, addressed to it in care of the Lux Borrower at its address specified in Section 9.01 of the Credit Agreement;
- (b) if to the Administrative Agent or any Lender, at its address specified in Section 9.01 of the Credit Agreement;
- (c) if to any Secured Party in respect of any Secured Hedging Obligations, at its address specified in the Hedge Agreement to which it is a party; or
- (d) if to any Secured Party in respect of any Banking Services Obligations, at its address specified in the relevant documentation to which it is a party.

Section 4.19. Set Off. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence and during the continuance of an Event of Default, each Secured Party shall be entitled to rights of setoff to the extent provided in Section 9.09 of the Credit Agreement.

Section 4.20. Italian transparency provisions. For the purposes of the transparency provisions set forth in the CICR Resolution of 4 March 2003, including “*Disciplina della trasparenza delle condizioni contrattuali delle operazioni e dei servizi bancari e finanziari*”, as amended from time to time, and in the “*Disposizioni sulla trasparenza delle operazioni e dei servizi bancari e finanziari. Correttezza delle relazioni tra intermediari e client*” issued by the Bank of Italy and as amended from time to time, each party hereby acknowledges and confirms that (a) it has appointed and has been assisted by its respective legal counsel in connection with the negotiation, preparation and execution of the Loan Guaranty; and (b) the Loan Guaranty, and all of its terms and conditions, including the recitals and the Exhibits thereto, have been specifically negotiated (*oggetto di trattativa individuale*) between the parties hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, each Loan Guarantor and the Administrative Agent have executed this Loan Guaranty as of the date first above written.

ALLNEX S.À R.L.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

ALLNEX (LUXEMBOURG) & CY S.C.A.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

ALLNEX USA, INC.

By: \_\_\_\_\_  
Name:  
Title:

ALLNEX HOLDING USA INC.

By: \_\_\_\_\_  
Name:  
Title:

ALLNEX BELGIUM SA/NV

By: \_\_\_\_\_  
Name:  
Title:

Executed and delivered as a deed by  
ALLNEX NEW ZEALAND LIMITED

By: \_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Print Name

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

\_\_\_\_\_  
Print Name

ALLNEX HOLDINGS S.À R.L.

By: \_\_\_\_\_  
Name:  
Title:

ING BANK N.V., LONDON BRANCH, as  
Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**  
**SUBSIDIARY PARTIES**

Allnex Holdings S.à r.l.

Allnex Belgium SA/NV

Allnex Holding USA Inc.

Allnex USA Inc.

Allnex New Zealand Limited

**EXHIBIT B**  
**JOINDER AGREEMENT**

THIS JOINDER AGREEMENT (this “**Agreement**”), dated as of \_\_\_\_\_, 20\_\_\_\_\_, is entered into among \_\_\_\_\_, a \_\_\_\_\_ (the “**New Subsidiary**”), and ING Bank N.V., London Branch, as administrative agent (in such capacity, the “**Administrative Agent**”) under that certain Loan Guaranty dated as of [●], 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Loan Guaranty**”), among, Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541 (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation (the “**US Borrower**” and, together with the Lux Borrower, the “**Borrowers**”), Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.), a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052 (“**Holdings**”), the Subsidiary Parties from time to time party thereto (the Borrowers and the Subsidiary Parties, collectively, the “**Loan Guarantors**”) and the Administrative Agent. All capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Loan Guaranty.

The New Subsidiary and the Administrative Agent, for the benefit of the Secured Parties, hereby agree as follows:

1. The New Subsidiary hereby acknowledges, agrees and confirms that, by its execution of this Agreement, the New Subsidiary will be deemed to be a Loan Guarantor under the Loan Guaranty and a Loan Guarantor for all purposes of the Credit Agreement and shall have all of the rights, benefits, duties and obligations of a Loan Guarantor thereunder as if it had executed the Loan Guaranty. The New Subsidiary hereby ratifies, as of the date hereof, and agrees to be bound by, all of the terms, provisions and conditions contained in the Loan Guaranty. Without limiting the generality of the foregoing terms of this paragraph 1, the New Subsidiary, subject to the limitations set forth in Sections 2.09, 2.10 and 2.11 of the Loan Guaranty, hereby absolutely and unconditionally guarantees, jointly and severally with the other Loan Guarantors, to the Administrative Agent and the Secured Parties, the prompt payment of the Guaranteed Obligations in full when due (whether at stated maturity, upon acceleration or otherwise) to the extent of and in accordance with the Loan Guaranty.

2. The New Subsidiary hereby waives acceptance by the Administrative Agent and the Secured Parties of the guaranty by the New Subsidiary upon the execution of this Agreement by the New Subsidiary.

3. **[INSERT ADDITIONAL LOCAL LAW GUARANTEE LIMITATIONS TO THE EXTENT APPLICABLE]**<sup>1</sup> The provisions of this Section shall be deemed automatically incorporated by reference into the Loan Guaranty.

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<sup>1</sup> To the extent the jurisdiction of formation of the New Subsidiary requires additional guarantee limitations, the Borrowers and the Administrative Agent shall negotiate such provisions in good faith at the time of entry into such guaranty supplement, and such additional provisions shall be reasonably satisfactory to the Administrative Agent.

4. [INSERT ADDITIONAL LOCAL LAW PARALLEL DEBT OR OTHER SIMILAR LANGUAGE TO THE EXTENT APPLICABLE]<sup>2</sup> The provisions of this Section shall be deemed automatically incorporated by reference into the Loan Guaranty.

5. The undersigned hereby (x) makes, as of the date hereof, each representation and warranty set forth in Section 2.12 of the Loan Guaranty and (y) agrees to perform and observe, and to cause each of its Restricted Subsidiaries to perform and observe, the covenants set forth in Section 2.13 of the Loan Guaranty.

6. From and after the execution and delivery hereof by the parties hereto, this Agreement shall constitute a “Loan Document” for all purposes of the Credit Agreement and the other Loan Documents.

7. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or by email as a “.pdf” or “.tif” attachment shall be effective as delivery of a manually executed counterpart of this Agreement.

8. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

9. Section 4.08 and Section 4.09 of the Loan Guaranty are hereby incorporated into this Agreement by reference, *mutatis mutandis*, and each party hereto agrees to be bound thereby, as if fully set forth herein.

[Signature Page Follows]

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With respect to any Norwegian Guarantor to include, without limitation, the following: “The Maximum Liability shall be limited to [specified figure, which may be the whole amount of the Secured Obligations].”

<sup>2</sup> To the extent the jurisdiction of formation of the New Subsidiary requires amendments to the existing parallel debt provisions or additional parallel debt and other local law limitations, the Borrowers and the Administrative Agent shall negotiate such provisions in good faith at the time of entry into such guaranty supplement, and such additional provisions shall be reasonably satisfactory to the Administrative Agent.

IN WITNESS WHEREOF, the New Subsidiary has caused this Agreement to be duly executed by its authorized officer and the Administrative Agent, for the benefit of the Secured Parties, has caused the same to be accepted by its authorized officer, as of the day and year first above written.

[NEW SUBSIDIARY]

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged and accepted:

ING BANK N.V., LONDON BRANCH, as  
Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT C**  
**LOCAL LAW GUARANTY LIMITATIONS**

(a) Guaranty Limitation – Germany.

(i) Scope.

(A) To the extent a Loan Guarantor incorporated under the laws of Germany as a limited liability company (*Gesellschaft mit beschränkter Haftung*) (a “**German Guarantor**”) guarantees the indebtedness of its direct or indirect shareholder(s) or of a subsidiary of such shareholder (the “**German Guaranty**”), the Administrative Agent’s and any Secured Party’s right to demand payment under this Guaranty shall be limited as set out below.

(B) To the extent the German Guaranty granted by the German Guarantor refers to indebtedness of any of its direct or indirect subsidiaries this clause (a) shall not apply.

(C) The restrictions set out in clause (a)(iii) shall not apply to the extent the German Guarantor secures any indebtedness under any Loan Document in respect of (A) Loans to the extent they are passed on (directly or indirectly) to the relevant German Guarantor or its subsidiaries and such amount passed on is not repaid or (B) bank guarantees or Letters of Credit that are issued to secure obligations of the German Guarantor or the German Guarantor’s direct or indirect subsidiaries.

(ii) Profit transfer and/or domination agreement (*Gewinnabführungs- und/oder Beherrschungsvertrag*)

The restrictions set out in clause (a)(iii) shall not apply to the extent, at the time a demand is made under the German Guaranty, the relevant German Guarantor is the dominated company under a profit transfer and/or domination agreement (*Gewinnabführungs- und/oder Beherrschungsvertrag*) according to section 291 of the German Stock Corporation Act (*Aktiengesetz* “**AktG**”) (either directly or via a chain of profit transfer and/or domination agreements) with (A) a Loan Party as the dominating company; provided that the German Guarantor is a (direct or indirect) subsidiary of such Loan Party and such Loan Party’s indebtedness is guaranteed by the German Guaranty, or (B) a (direct or indirect) holding company of both such German Guarantor and a Loan Party as the dominating company; provided that the German Guarantor is an affiliated company (*Schwestergesellschaft*) of such Loan Party and such Loan Party’s indebtedness is guaranteed by the German Guaranty.

(iii) Capital Impairment

(A) Notwithstanding anything to the contrary contained in this Loan Guaranty or in any other Loan Document, the parties to this Loan Guaranty agree that if payment under the German Guaranty would cause the amount of a German Guarantor’s net assets, as calculated pursuant to clause (a)(iv)(A) below, to fall below the amount of its registered share capital (*Stammkapital*) (or increase an existing shortage of its registered share capital) in violation of section 30

GmbHG, (such event is hereinafter referred to as a “**German Capital Impairment**”), then the Administrative Agent, as agent for the Secured Parties, shall demand payment under the German Guaranty from such German Guarantor only to the extent such German Capital Impairment would not occur.

(B) Notwithstanding anything to the contrary contained in this Loan Guaranty or in any other Loan Document, if the Administrative Agent or any Secured Party is entitled to set off any claim arising under the German Guaranty against any claim of that German Guarantor (within the meaning of section 387 of the German Civil Code (*Bürgerliches Gesetzbuch*)), the Administrative Agent or such Secured Party may only set-off to the extent it would not result in the personal liability of the managing directors of such German Guarantor pursuant to section 64 sentence 3 GmbHG; provided that the managing director has presented reasonably sufficient information to the Administrative Agent or such Secured Party for it to be able to limit any such set-off.

(iv) Net Assets

(A) The calculation of net assets (the “**German Net Assets**”) shall be determined in accordance with the principle of orderly bookkeeping (*Grundsätze ordnungsmäßiger Buchführung*), applying the same accounting principles (*Bilanzierungsgrundsätze*) that have been consistently applied by the relevant German Guarantor in preparing its unconsolidated balance sheets (*Jahresabschluss*) (section 42 GmbHG, sections 242, 264 German Commercial Code (*Handelsgesetzbuch*)) in previous fiscal years; provided that the following balance sheet items shall be adjusted as follows:

(1) the amount of any increase in the registered share capital of such German Guarantor, which occurred after such German Guarantor became a party to this Loan Guaranty, without the prior written consent of the Administrative Agent, shall be deducted from the amount of the registered share capital of such German Guarantor;

(2) so long as the registered share capital is not paid in full, the amount not yet paid shall be deducted from the amount of the registered share capital of such German Guarantor;

(3) loans provided to such German Guarantor by a member of the Group shall be disregarded, if and to the extent that such loans are subordinated pursuant to section 39 paragraph 1 Nr. 5 or section 39 paragraph 2 of the German Insolvency Code (*Insolvenzordnung*) (or would be subordinated in case of insolvency); and

(4) financial liabilities incurred by such German Guarantor in breach of the Loan Documents shall not be taken into account as liabilities.

(B) Within 10 Business Days after the Administrative Agent has notified such German Guarantor of its intention to demand payment under the German Guaranty, the relevant German Guarantor will notify the Administrative Agent in writing in reasonable detail whether and to what extent a German

Capital Impairment would occur if a payment under the German Guaranty was made (the “**Management Notification**”). Demanding payment under the German Guaranty from such German Guarantor up to the amount which, according to the Management Notification, would not result in a Capital Impairment is permitted without limitation.

(C) The relevant German Guarantor will provide an auditors’ determination by a firm of recognized international auditors with German qualified professionals and a practice in Germany (the “**Auditors**”) within 30 Business Days from the date on which the Administrative Agent received the Management Notification (the “**Auditors’ Determination**”). Such Auditor’s Determination shall set out the following:

(1) the amount of German Net Assets of such German Guarantor taking into account the adjustments set out in clause (a)(iv)(A) above, and

(2) the extent of the German Capital Impairment taking into account the anticipated payment.

Demanding payment under the German Guaranty from such German Guarantor up to the amount which, according to the Auditors’ Determination, would not result in a German Capital Impairment is permitted without limitation. The results of the Auditors’ Determination are binding on all parties, other than with respect to manifest errors.

(D) If the relevant German Guarantor does not provide the Management Notification or the Auditors’ Determination within the time frames set out above, demanding payment under the German Guaranty shall not be limited by this clause (a), and clause (a)(iii) shall not be applicable in that regard. In particular neither the Administrative Agent nor any Secured Party shall be obliged to make available to that German Guarantor any amounts received.

(E) If and to the extent the German Net Assets as determined by the Auditors’ Determination are lower than the amount enforced in accordance with the Management Notification, the relevant German Guarantor shall be entitled to demand in writing within 5 Business Days after the date of the Auditors’ Determination

(1) if and to the extent the relevant enforcements proceeds have not been paid to the Secured Parties, from the Administrative Agent, or

(2) if and to the extent the relevant enforcements proceeds have been already paid to the Secured Parties, from the Secured Parties;

to repay within 15 Business Days after the written demand has been delivered by the relevant German Guarantor the amount equal to the difference between the amount paid according to the Management Notification and the amount payable as determined by the Auditor’s Determination.

(v) Improvement of Financial Condition

If the Administrative Agent ascertains that the financial condition of the relevant German Guarantor as set out in the Auditors' Determination has improved, the Administrative Agent may, at the relevant German Guarantor's cost and expense, demand from the German Guarantor the preparation by the Auditors who prepared the Auditors' Determination of an updated balance sheet of the relevant German Guarantor by applying the same principles that were used for the preparation of the Auditors' Determination in order for such Auditors to determine whether (and, if so, to what extent) the German Capital Impairment has been cured as a result of the improvement of the financial condition of the relevant German Guarantor. The Administrative Agent may consequently demand payment under the German Guaranty to the extent that the Auditors determine that the German Capital Impairment has been cured.

(vi) No Waiver

This clause (a) shall not affect the enforceability (other than as specifically set out herein), legality or validity of the German Guaranty, and the Administrative Agent, on behalf of the Secured Parties, is entitled to claim in court that making payments under this Loan Guaranty by the relevant German Guarantor does not fall within the scope of section 30 of the GmbHG. The Administrative Agent's rights to any remedies it may have against the relevant German Guarantor shall not be limited pursuant to this clause (a) if it is finally ascertained in court that section 30 of the GmbHG does not apply in relation to the enforcement of the German Guaranty. The agreement of the Administrative Agent to abstain from demanding any or part of the payment under this Loan Guaranty in accordance with the provisions above shall not constitute a waiver (*Verzicht*) of any right granted under this Loan Guaranty or any other Loan Document to the Administrative Agent or any Secured Party.

(vii) GmbH & Co KG

In the case of a limited partnership incorporated under the laws of Germany with a limited liability company as its general partner (*GmbH & Co. KG*), the Administrative Agent may only enforce the Loan Guaranty provided hereunder up to an amount which does not cause such German Guarantor to be over-indebted within the meaning of section 19 of the German Insolvency Code (*Insolvenzordnung*). The aforementioned provisions of this clause (a), including with respect to the Management Notification and the Auditors' Determination shall apply *mutatis mutandis* and all references to German Capital Impairment and German Net Assets shall be construed as a reference to capital impairment and net assets of the general partner of such German Guarantor.

(viii) For the purposes of this clause (a):

“**GmbHG**” means the German Act on Limited Liability Companies (*GmbH-Gesetz*).

(b) Guaranty Limitation – Luxembourg.

(i) Notwithstanding anything to the contrary contained in this Loan Guaranty or in any other Loan Document, the aggregate obligations and exposure of a Luxembourg Guarantor in respect of the obligations of any Borrower or any of its

subsidiaries which is not a direct or indirect subsidiary of such Luxembourg Guarantor under the Loan Documents and the Loan Documents (as defined under the Second Lien Credit Agreement or any other document governing any Second Lien Facility) shall be limited at any time to an aggregate amount not exceeding 95% of the greater of (in each case, without duplication):

(A) an amount equal to the sum of such Luxembourg Guarantor's net assets (*capitaux propres*) and its subordinated debt (*dettes subordonnées*), as reflected in the financial information of the Luxembourg Guarantor as at the date of this Loan Guaranty, including (x) its most recently and duly approved financial statements (*comptes annuels*) as at the date of this Loan Guaranty and (y) any (unaudited) interim financial statements signed by its board of managers; and

(B) an amount equal to the sum of such Luxembourg Guarantor's net assets (*capitaux propres*) and its subordinated debt (*dettes subordonnées*), as reflected in the financial information of the Luxembourg Guarantor as of the date the Administrative Agent has made a demand with respect to such Luxembourg Guarantor hereunder, including (x) its most recently and duly approved financial statements (*comptes annuels*) as of the date such demand is made and (y) any (unaudited) interim financial statements signed by its board of managers.

For the purposes hereof "net assets (*capitaux propres*)" will be valued in accordance with GAAP or International Financial Reporting Standards (IFRS), as applicable, and the relevant provisions of the Luxembourg RCS Act.

(ii) The limitation set forth in clause (b)(i) shall not apply to any amounts borrowed under the Credit Agreement and the Second Lien Credit Agreement and made available, in any form whatsoever, to such Luxembourg Guarantor or any of its direct or indirect subsidiaries.

(iii) In respect of any Luxembourg Guarantor, such Luxembourg Guarantor's obligations under this Loan Guaranty will not extend to include any obligations or liabilities if such inclusion would constitute a breach of the financial assistance prohibitions contained at Article 49-6 (where applicable) of the Luxembourg act on commercial companies of August 10, 1915, as amended (the "**Luxembourg Companies Act**".)

(iv) For the purposes of this clause (b):

**"Luxembourg Guarantor"** means any Lux Party that is acting as a Loan Guarantor.

**"Luxembourg RCS Act"** means the Luxembourg law dated 19 December 2002 relating to the Register of Commerce and Companies as well as the Accounting and the Annual Accounts of Companies, as amended.

(c) Guaranty Limitation – Belgium.

(i) Notwithstanding anything to the contrary contained in this Loan Guaranty or in any other Loan Document, the aggregate amount payable by any Loan

Guarantor incorporated under Belgian law (each a “**Belgian Guarantor**”) under this Loan Guaranty shall not include any liability which would constitute illegal financial assistance (as determined in Article 629 or 329 (or its equivalent) of the Belgian Company Code) and shall be limited, at any time, to the sum of:

(A) the greater of:

(1) 70 per cent of the Belgian Net Assets (as defined below) of such Belgian Guarantor, calculated on the basis of the latest published annual accounts as of the date of this Loan Guaranty; provided that following the implementation of the post-closing restructuring transactions described in the E&Y Steps Memo (the “**Restructuring**”), the Belgian Net Assets under this clause (A)(1) shall be calculated on the basis of (x) the first annual accounts of such Belgian Guarantor published after the implementation of the Restructuring, or (y) if the annual accounts referred to in clause (x) are not yet published, a certificate of such Belgian Guarantor’s Auditor confirming the amount of Belgian Net Assets; and

(2) 70 per cent of the Belgian Net Assets of such Belgian Guarantor calculated on the basis of the latest audited annual accounts available as of the date on which the relevant demand on such Belgian Guarantor under this Loan Guaranty is made; and

(B) the highest level of On-Lending (as defined below) to such Belgian Guarantor and its subsidiaries reached at any time between the date of this Loan Guaranty and the date on which a demand is made on such Belgian Guarantor (it being understood that under this clause (B), only subsidiaries which are subsidiaries of the Belgian Guarantor on the date on which a demand is made on such Belgian Guarantor shall be taken into account).

(ii) For the purposes of clause (c)(i) above:

“**Belgian Net Assets**” (*netto actief*) has the meaning given to it in Article 617 or 320 of the Belgian Company Code, it being understood that any indebtedness owed by a Belgian Guarantor to another member of the Group or under this Loan Guaranty will not be taken into account for the purpose of calculating such Belgian Guarantor’s Belgian Net Assets and, in the event of a dispute with respect to the amount thereof, a certificate of such amount from the statutory auditors of such Belgian Guarantor (or, if none, the Auditor) shall be conclusive, other than in the case of manifest error.

“**On-Lending**” means the aggregate amount of all Loans drawn by any Loan Party under the Credit Agreement and made available, directly or indirectly, to such Belgian Guarantor or any of its subsidiaries (in each case, irrespective of whether retained or on-lent by such Belgian Guarantor or the subsidiary in question), it being understood that the amount of each such Loan will only be counted once when calculating the aggregate amount.

“**Group**” means the Lux Borrower and its subsidiaries from time to time.

(d) Guaranty Limitation – France. Notwithstanding anything to the contrary contained in this Loan Guaranty or in any other Loan Document and that this Loan Guaranty is a guaranty of all sums payable under the Guaranteed Obligations, it is agreed and acknowledged that the liability of each Loan Guarantor incorporated in France (a “**French Guarantor**”) shall be limited to:

(i) the obligations of such French Guarantor’s Subsidiaries under the Guaranteed Obligations otherwise than in their capacity as Loan Guarantors; plus

(ii) the obligations under the Guaranteed Obligations of (each such person a “**Guaranteed Loan Party**”):

(A) any Subsidiary of such French Guarantor in its capacity as Loan Guarantor; and

(B) any other Guaranteed Loan Party where that Guaranteed Loan Party is not a Subsidiary of such French Guarantor, in each case, up to an amount equal to the aggregate outstanding principal amount made available to that French Guarantor or its Subsidiaries (as increased by any fees, interest, late payment interest, commissions, expenses and any other similar payments related thereto) (either directly or indirectly) by such Guaranteed Loan Party by way of intra-group loans, advances and/or shareholders’ account or other on-lending arrangements (the “**French Guaranteed Amount**”) out of funds made available under such Guaranteed Obligations to such Guaranteed Loan Party (either directly or indirectly and if indirectly, by way of intra group loans, advances and/or shareholders’ account or other on-lending arrangements) as at the date on which any demand is made on such French Guarantor under this Loan Guaranty, it being specified for the avoidance of doubt that any amount paid by such French Guarantor under this Loan Guaranty relating to such payment obligations of that Guaranteed Loan Party under the Guaranteed Obligations shall immediately thereafter reduce *pro tanto* the amount outstanding under such intercompany loans, advances and/or shareholders’ account or other on-lending arrangements; provided, however, that under no circumstance shall any such French Guaranteed Amount in respect of a Guaranteed Loan Party exceed for the purpose of determining the liability of a French Guarantor, the amount of the sums owed by the relevant Guaranteed Loan Party under the relevant Guaranteed Obligations; provided, further, that no Loan Guaranty granted by a French Guarantor shall extend to cover any indebtedness which, if it did so extend would (i) constitute misuse of corporate assets as defined under article L. 242-6 of the French *Code de commerce* or (ii) infringe the prohibition of financial assistance as defined in article L.225-216 of the French *Code de commerce*. It is acknowledged that no French Guarantor is acting jointly and severally with the other Loan Guarantors and shall be considered as a *co-débiteur solidaire* as to its obligations pursuant to this Loan Guaranty.

For the purposes of this clause (d):

“**Subsidiary**” means in relation to any company, another company which is controlled by it within the meaning of article L.233-3 of the French *Code de commerce*.

(e) Guaranty Limitation – Italy. Notwithstanding anything to the contrary contained in this Loan Guaranty or in any other Loan Document, the guaranty obligations of any Loan Guarantor organized under the laws of Italy (an “**Italian Guarantor**”) under this Loan Guaranty in respect of the payment obligations of any Loan Party which is not a direct or indirect subsidiary of such Italian Guarantor shall not exceed an amount equal to the aggregate amount of the intercompany loans (or other financial support in any form including equity or quasi-equity, in each case, determined without duplication) advanced and/or made available from time to time to such Italian Guarantor (and/or any of its direct or indirect subsidiaries pursuant to article 2359 of the Italian Civil Code) by any Loan Party, directly or indirectly, as determined by reference to the most recent financial statements (being, to the extent available, the annual, the semi-annual and the quarterly financial statements, as the case may be) duly approved by the shareholders’ meeting as regards to any annual financial statements or the board of directors as regards to any semi-annual and quarterly financial statements of such Italian Guarantor and/or any of its direct or indirect subsidiaries, as the case may be.

Notwithstanding any provision to the contrary under this Loan Guaranty or any other Loan Document:

(i) for the purposes of Article 1938 of the Italian Civil Code (to the extent applicable), the maximum amount that any Italian Guarantor may be required to pay in respect of this Loan Guaranty shall never exceed the amount specified in the Guaranty Supplement executed by the relevant Italian Guarantor; and

(ii) in order to comply with the provisions of Italian law as to financial assistance, an Italian Guarantor shall not guarantee the repayment of any amounts made available under the Loans and used by any Loan Party to purchase or subscribe such Italian Guarantor’s shares (and/or the shares of any Person directly or indirectly controlling such Italian Guarantor), as determined by reference to the E&Y Steps Memo.

For the purposes of this clause (e):

(i) “**Italian Civil Code**” means the Italian civil code, enacted by Royal Decree No. 262 of 16 March 1942, as subsequently amended and supplemented.

(f) Guaranty Limitation – Norway. Notwithstanding anything to the contrary contained in this Loan Guaranty or in any other Loan Document, the obligations of any Loan Guarantor incorporated in Norway (a “**Norwegian Guarantor**”) in its capacity as a Loan Guarantor under this Loan Guaranty shall be limited to the extent necessary to comply with the mandatory provisions of Sections 8-7 and 8-10 of the Norwegian Limited Companies Act (act of 13 June 1997 no 44), regarding unlawful financial assistance and other restrictions on a Norwegian limited liability company’s ability to grant guarantees, loans or securities in favor of other group companies (as determined under the Norwegian Limited Companies Act). The obligations of the Norwegian Guarantors shall, however, be interpreted so as to be as broad as legally possible without contravening the limitations of the Norwegian Limited Companies Act.

(g) Guaranty Limitation – Canada. The obligations of any Loan Guarantor incorporated, formed or established under the laws of Canada or any province or territory thereof (a “**Canadian Guarantor**”) shall be unlimited hereunder.

(h) Guaranty Limitation – England and Wales. The obligations of any Loan Guarantor incorporated, formed or established under the laws of England and Wales shall not

apply to any liability to the extent that it would result in this Loan Guaranty constituting unlawful financial assistance within the meaning of sections 678 or 679 of the Companies Act 2006.

**EXHIBIT D**  
**CONDITIONS PRECEDENT WITH RESPECT TO CERTAIN LOAN GUARANTORS<sup>3</sup>**

(a) Conditions Precedent with Respect to Belgian Guarantors. Any Belgian Guarantor's obligations to enter into this Loan Guaranty is subject to the satisfaction of the following conditions:

- (i) a certified copy of the *oprichtingsakte/acte constitutif* and *statuten/statuts* of such Belgian Guarantor;
- (ii) a non-bankruptcy certificate and an extract from the Crossroads Bank for Enterprises (*Kruispuntbank van Ondernemingen / Banque-Carrefour des Entreprises*) dated no more than one Business Day prior to the date such Belgian Guarantor enters into this Loan Guaranty;
- (iii) passage of board resolutions with respect to such Belgian Guarantor authorizing the granting of such Loan Guaranty; and
- (iv) if applicable, a copy of the minutes of the shareholders' meeting or a unanimous written resolution of the shareholders of such Belgian Guarantor approving, to the extent required by law, the terms of, and the transactions contemplated by, the Loan Guaranty for the purpose of Article 556 of the Belgian Companies Code, as well as evidence of the filing of the extract of the minutes of the shareholders' meeting or a unanimous written resolution with the clerk of the competent commercial court in accordance with Article 556 of the Belgian Companies Code.

(b) Conditions Precedent with Respect to Norwegian Guarantors. Any Norwegian Guarantor's obligation to enter into this Loan Guaranty is subject to the satisfaction of the following conditions in accordance with Section 3-8 of the Norwegian Limited Companies Act (act of 13 June 1997 no 44):

- (i) passage of board resolutions with respect to such Norwegian Guarantor authorizing the granting of such Loan Guaranty;
- (ii) completion of a board report with respect to such Norwegian Guarantor, which shall include a declaration stating that there is a reasonable relationship between the value of the compensation to be paid by such Norwegian Guarantor and the value of the compensation to be received by such Norwegian Guarantor, (and which shall be attached to the notice for the general meeting of the board); and
- (iii) approval of this Loan Guaranty by the general meeting of the shareholders.

(c) Conditions Precedent with Respect to Luxembourg Guarantors. Any Luxembourg Guarantor's obligation to enter into this Loan Guaranty is subject to the satisfaction of the following conditions:

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<sup>3</sup> Subject to local counsel review and comment.

- (i) passage of board resolutions of the board of managers of the Luxembourg Guarantor authorizing the granting of such Loan Guaranty;
- (ii) delivery to the Administrative Agent of a certified copy of the Articles of Association of such Luxembourg Guarantor, which provides in the indication of the corporate purpose (*objet social*) of the Luxembourg Guarantor that such Luxembourg Guarantor is authorized to provide guaranties and security rights to any member of its group of companies;
- (iii) delivery to the Administrative Agent of an electronic certified excerpt of the Luxembourg Companies Register with respect to such Luxembourg Guarantor dated no more than one Business Day prior to the date such Luxembourg Guarantor enters into this Loan Guaranty; and
- (iv) delivery to the Administrative Agent of a true and complete copy of a certificate of non-inscription of judicial decision (*certificat de non-inscription d'une décision judiciaire*), issued by the Luxembourg Companies Register on the date of such Luxembourg Guarantor's entrance into this Loan Guaranty and certifying that, as of the date of the Business Day immediately preceding such certificate, such Luxembourg Guarantor has not been declared bankrupt (*en faillite*), and that it has not applied for general settlement or composition with creditors (*concordat préventif de faillite*), controlled management (*gestion contrôlée*) or reprieve from payment (*sursis de paiement*), judicial or voluntary liquidation (*liquidation judiciaire ou volontaire*) or such other proceedings listed in Article 13, items 2 to 12 and Article 14 of the Luxembourg RCS Act (and which include foreign court decisions as to *faillite*, *concordat* or analogous procedures according to the Counsel Regulation 1346/2000 of 29 May 2000 on insolvency proceedings).

(d) Conditions Precedent with Respect to Italian Guarantors. Any Italian Guarantor's obligation to enter into this Loan Guaranty is subject to the satisfaction of the following conditions:

- (i) delivery to the Administrative Agent of a copy of the deed of incorporation (*atto costitutivo*) and of the current by-laws (*statuto*) of such Italian Guarantor;
- (ii) delivery to the Administrative Agent of a certificate of registration (*certificato di iscrizione*) of such Italian Guarantor with the relevant Companies' Register dated no more than 3 Business Days prior to the date of the execution of the Loan Guaranty by such Italian Guarantor, confirming that no insolvency procedures have been started in relation to such Italian Guarantor; and
- (iii) if applicable, a copy of a resolution of the board of directors (and the shareholders' meeting, if so requested under the relevant by-laws) of any Italian Guarantor (a) approving the terms of, and the transactions contemplated by, the Loan Documents to which it is expressed to be a party and resolving that it execute the Loan Documents to which it is expressed to be a party; (b) authorizing a specified person or persons to execute the Loan Documents to which it is expressed to be a party on its behalf; and (c) authorizing a specified person or persons, on its behalf, to sign and/or dispatch all documents and notices to be signed and/or dispatched by it under or in connection with the Loan Documents to which it is expressed to be a party.

## [Form of] US PLEDGE AND SECURITY AGREEMENT

THIS US PLEDGE AND SECURITY AGREEMENT (as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, this “**Security Agreement**”) is entered into as of [●], 2016, by and among Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex USA Holding, Inc., a Delaware corporation (“**US Holdco**”), the US Subsidiary Parties (as defined below) from time to time party hereto (the foregoing, collectively, the “**US Loan Parties**”) and ING Bank N.V., London Branch (“**ING**”), in its capacity as administrative agent and collateral agent for the lenders party to the Credit Agreement referred to below (in such capacity, the “**Agent**”).

### PRELIMINARY STATEMENT

The US Loan Parties, the Agent, the Lenders and others have entered or are entering into that certain Credit Agreement, dated as of April 15, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, Allnex S.à.r.l., a *société à responsabilité limitée* organized and established under the laws of Luxembourg (the “**Lux Borrower**”), the US Borrower, Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.), a *société en commandite par actions* organized and established under the laws of Luxembourg, the lenders from time to time party thereto, and the Agent. The Grantors are entering into this Security Agreement in order to induce the Lenders to enter into and extend credit to the Borrowers under the Credit Agreement and to secure the Secured Obligations, including their obligations under the Loan Guaranty.

ACCORDINGLY, the parties hereto agree as follows:

### ARTICLE 1 DEFINITIONS

Section 1.01. *Terms Defined in Credit Agreement.* All capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Credit Agreement.

Section 1.02. *Terms Defined in UCC.* Terms defined in the UCC that are not otherwise defined in this Security Agreement or the Credit Agreement are used herein as defined in Articles 8 or 9 of the UCC, as the context may require (including without limitation, as if such terms were capitalized in Article 8 or 9 of the UCC, as the context may require, the following terms: “**Account**,” “**Chattel Paper**,” “**Commercial Tort Claim**,” “**Deposit Accounts**,” “**Document**,” “**Electronic Chattel Paper**,” “**Equipment**,” “**Fixture**,” “**General Intangible**,” “**Goods**,” “**Instruments**,” “**Inventory**,” “**Investment Property**,” “**Letter-of-Credit Right**,” “**Supporting Obligation**” and “**Tangible Chattel Paper**”).

Section 1.03. *Definitions of Certain Terms Used Herein.* As used in this Security Agreement, in addition to the terms defined in the preamble and Preliminary Statement above, the following terms shall have the following meanings:

“**Agent**” has the meaning set forth in the preamble.

“**Article**” means a numbered article of this Security Agreement, unless another document is specifically referenced.

“**Collateral**” has the meaning set forth in Article 2.

**“Contract Rights”** means all rights of any Grantor under each Contract, including, without limitation, (i) any and all rights to receive and demand payments under any or all Contracts, (ii) any and all rights to receive and compel performance under any or all Contracts and (iii) any and all other rights, interests and claims now existing or in the future arising in connection with any or all Contracts.

**“Contracts”** means all contracts between any Grantor and one or more additional parties (including, without limitation, any Hedge Agreements, licensing agreements and any partnership agreements, joint venture agreements and limited liability company agreements).

**“Control”** has the meaning set forth in Article 8 or, if applicable, in Section 9-104, 9-105, 9-106 or 9-107 of Article 9 of the UCC.

**“Copyrights”** means, with respect to any Grantor, all Copyrights (as defined in the Credit Agreement).

**“Domain Names”** means all Internet domain names and associated URL addresses in or to which any Grantor is the registrant.

**“Excluded Assets”** has the meaning set forth in the Credit Agreement.

**“Exhibit”** refers to a specific exhibit to this Security Agreement, unless another document is specifically referenced.

**“Grantors”** means the US Borrower, US Holdco and each of the US Subsidiary Parties.

**“ING”** has the meaning set forth in the preamble.

**“Intellectual Property Security Agreement Supplements”** means (a) a Trademark Security Agreement Supplement, (b) a Patent Security Agreement Supplement or (c) a Copyright Security Agreement Supplement, in each case, substantially in the form of Exhibit A to the relevant Intellectual Property Security Agreement, as applicable.

**“Licenses”** means, with respect to any Grantor, all of such Grantor’s right, title, and interest in and to (a) any and all licensing agreements or similar arrangements in and to its owned (1) Patents, (2) Copyrights, (3) Trademarks, (4) Trade Secrets or (5) Software, (b) all income, royalties, damages, claims, and payments now or hereafter due or payable under and with respect thereto, including, without limitation, damages and payments for past and future breaches thereof, and (c) all rights to sue for past, present, and future breaches thereof.

**“Money”** has the meaning set forth in Article 1 of the UCC.

**“Patents”** means, with respect to any Grantor, all Patents (as defined in the Credit Agreement).

**“Permits”** shall mean, to the extent permitted to be assigned by the terms thereof or by applicable law, all licenses, permits, rights, orders, variances, franchises or authorizations of or from any governmental authority or agency.

**“Pledged Collateral”** means all Pledged Stock, including all stock certificates, options or rights of any nature whatsoever in respect of the Pledged Stock that may be issued or granted to, or held by, any Grantor while this Security Agreement is in effect, all Instruments, Securities and other Investment

Property owned by any Grantor, whether or not physically delivered to the Agent pursuant to this Security Agreement, whether now owned or hereafter acquired by such Grantor and any and all Proceeds thereof, excluding any items constituting Excluded Assets.

**“Pledged Stock”** means, with respect to any Grantor, the shares of Capital Stock described in Schedule 3 to the Perfection Certificate as held by such Grantor, together with any other shares of Capital Stock required to be pledged by such Grantor pursuant to the Loan Documents.

**“Proceeds”** has the meaning assigned in Article 9 of the UCC and, in any event, shall also include, but not be limited to, (i) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to the Agent or any Grantor from time to time with respect to any of the Collateral, (ii) any and all payments (in any form whatsoever) made or due and payable to any Grantor from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any governmental authority (or any Person acting under color of governmental authority), (iii) any and all Stock Rights and (iv) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral.

**“Receivables”** means the Accounts, Chattel Paper, Documents, Investment Property, Instruments and any other rights or claims to receive money that are General Intangibles or that are otherwise included as Collateral, excluding any items constituting Excluded Assets.

**“Section”** means a numbered section of this Security Agreement, unless another document is specifically referenced.

**“Security Agreement”** has the meaning set forth in the preamble.

**“Software”** means computer programs, source code, object code and supporting documentation including “software” as such term is defined in Article 9 of the UCC, as well as computer programs that may be construed as included in the definition of Goods.

**“Stock Rights”** means all dividends, instruments or other distributions and any other right or property which any Grantor shall receive or shall become entitled to receive for any reason whatsoever with respect to, in substitution for or in exchange for any Capital Stock constituting Collateral, any right to receive any Capital Stock constituting Collateral and any right to receive earnings, in which such Grantor now has or hereafter acquires any right, issued by an issuer of such Capital Stock.

**“Trade Secrets”** means, with respect to any Grantor, all of such Grantor’s right, title and interest in and to the following: (a) confidential and proprietary information, including unpatented inventions, invention disclosures, engineering or other data, information, production procedures, know-how, financial data, customer lists, supplier lists, business and marketing plans, processes, schematics, algorithms, techniques, analyses, proposals, source code, and data collections; (b) all income, royalties, damages, and payments now or hereafter due or payable with respect thereto, including, without limitation, damages, claims and payments for past and future infringements thereof; (c) all rights to sue for past, present and future infringements of the foregoing, including the right to settle suits involving claims and demands for royalties owing; and (d) all rights corresponding to any of the foregoing.

**“Trademarks”** means, with respect to any Grantor, all Trademarks (as defined in the Credit Agreement).

**“UCC”** means the Uniform Commercial Code as in effect from time to time in the State of New York or such other jurisdiction as the context may require.

**“US Borrower”** has the meaning set forth in the preamble.

**“US Holdco”** has the meaning set forth in the preamble.

**“US Loan Parties”** has the meaning set forth in the preamble.

**“US Subsidiary Parties”** means each Domestic Subsidiary that becomes a party to this Security Agreement as a US Subsidiary Party after the date hereof, in accordance with Section 7.10 herein and Section 5.12 and 5.14 of the Credit Agreement.

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms.

## ARTICLE 2 GRANT OF SECURITY INTEREST

Section 2.01. *Grant of Security Interest.* (a) As security for the prompt and complete payment or performance, as the case may be, in full of the Secured Obligations, each Grantor hereby pledges, collaterally assigns, mortgages, transfers and grants to the Agent, its successors and permitted assigns, on behalf of and for the ratable benefit of the Secured Parties, a continuing security interest in all of its right, title and interest in, to and under all personal property and other assets, whether now owned by or owing to, or hereafter acquired by or arising in favor of such Grantor, and regardless of where located (all of which are collectively referred to as the **“Collateral”**), including:

- (i) all Accounts;
- (ii) all Chattel Paper (including, without limitation, all Tangible Chattel Paper and all Electronic Chattel Paper);
- (iii) all Copyrights, Patents, Trademarks and Trade Secrets;
- (iv) all Documents;
- (v) all Equipment;
- (vi) all Fixtures;
- (vii) all General Intangibles;
- (viii) all Goods;
- (ix) all Instruments;
- (x) all Inventory;
- (xi) all Investment Property;

- (xii) all Money, cash and cash equivalents;
- (xiii) all letters of credit and Letter-of-Credit Rights;
- (xiv) all Deposit Accounts, Securities Accounts, Commodities Accounts and all other demand, deposit, time, savings, cash management, passbook and similar accounts maintained by such Grantor with any bank or other financial institution and all monies, securities, Instruments and other investments deposited or required to be deposited in any of the foregoing;
- (xv) all Security Entitlements in any or all of the foregoing;
- (xvi) all Commercial Tort Claims;
- (xvii) all Permits;
- (xviii) all Software and all recorded data of any kind or nature, regardless of the medium of recording;
- (xix) all Domain Names;
- (xx) all Contracts, together with all Contract Rights arising thereunder;
- (xxi) all Licenses;
- (xxii) all Pledged Collateral;
- (xxiii) all other personal property not otherwise described in clauses (i) through (xxii) above;
- (xxiv) all Supporting Obligations; and
- (xxv) all accessions to, substitutions and replacements for, Proceeds and products of the foregoing, together with all books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records related thereto and any General Intangibles at any time evidencing or relating to any of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing.

(b) Notwithstanding the foregoing, the term “Collateral” (and any component definition thereof) shall not include any Excluded Assets. Notwithstanding anything to the contrary contained herein, immediately upon the ineffectiveness, lapse or termination of any restriction or condition set forth in the definition of “Excluded Assets” in the Credit Agreement, the Collateral shall include, and the Grantors shall be deemed to have granted a security in, all relevant previously restricted or conditioned rights, interests or other assets, as the case may be, as if such restriction or condition had never been in effect.

## ARTICLE 3 REPRESENTATIONS AND WARRANTIES

The Grantors, jointly and severally, represent and warrant to the Agent on (to the extent required by Section 4.02 of the Credit Agreement) and as of the Closing Date and on and as of the date of each Credit Extension, for the benefit of the Secured Parties, that:

*Section 3.01. Title, Perfection and Priority; Filing Collateral.* Subject to the Legal Reservations, this Security Agreement is effective to create a legal, valid and enforceable Lien on and security interest in the Collateral in which a security interest may be perfected by filing a financing statement under the UCC in favor of the Agent for the ratable benefit of the Secured Parties and, subject to the terms of the last paragraph of Section 4.02 of the Credit Agreement and the Perfection Requirements, the Agent will have a fully perfected first priority Lien on such Collateral, subject to Permitted Liens.

*Section 3.02. Names, Type and Jurisdiction of Organization, Organizational and Identification Numbers.*

(a) (i) As of the Closing Date, the exact legal name of each Grantor, as such name appears in its respective Organizational Documents filed with the Secretary of State of such Grantor's jurisdiction of organization, is set forth in Schedule 1(a) to the Perfection Certificate and (ii) as of the Closing Date, each Grantor is the type of entity disclosed next to its name in Schedule 1(a) to the Perfection Certificate. Also, as of the Closing Date, set forth in Schedule 1(a) to the Perfection Certificate is the organizational identification number, if any, of each Grantor, the Federal Taxpayer Identification Number of each Grantor and the jurisdiction of organization of each Grantor.

(b) Except as otherwise disclosed in Schedule 1(d) to the Perfection Certificate, as of the Closing Date, set forth in Schedule 1(b) to the Perfection Certificate is any other legal name that any Grantor has had in the past four months, together with the date of the relevant change.

(c) As of the Closing Date, set forth in Schedule 1(c) to the Perfection Certificate is a list of each trade name or assumed name, if any, used by each Grantor during the past four months.

(d) As of the Closing Date, set forth in Schedule 1(d) to the Perfection Certificate is a list of the information required by Section 1(a) of the Perfection Certificate for any other Person (i) to which any Grantor became the successor by merger, consolidation or acquisition or (ii) that has been liquidated into, or transferred all or substantially all of its assets to, any Grantor, at any time within the past four months preceding the date of the Perfection Certificate.

(e) As of the Closing Date, except as set forth in Schedule 1(e) to the Perfection Certificate or as otherwise disclosed in Schedule 1(d) to the Perfection Certificate, no Grantor has changed its jurisdiction of organization or form of entity at any time during the past four months.

*Section 3.03. Locations.*

(a) The address of each Grantor's chief executive office as of the Closing Date is accurately disclosed on Schedule 2(a) to the Perfection Certificate.

(b) As of the Closing Date, set forth in Schedule 2(b) to the Perfection Certificate are all other locations where any Grantor currently maintains any material books or records relating to any Collateral.

Section 3.04. *Intellectual Property.*

(a) As of the Closing Date, attached as Schedule 5(a) to the Perfection Certificate is a schedule setting forth all of each Grantor's material United States Patents and United States Trademarks registered with (or applied for in) and published by the United States Patent and Trademark Office (excluding, for the avoidance of doubt, any Patent or Trademark that has expired or been abandoned in the same manner as permitted in the Credit Agreement, but including United States Trademarks that would constitute Collateral upon the filing of a "Statement of Use" or an "Amendment to Allege Use" with respect thereto), including the name of the registered owner and the registration number (or, if applicable, the applicant and the application number) of each such United States Patent and United States Trademark.

(b) As of the Closing Date, attached as Schedule 5(b) to the Perfection Certificate is a schedule setting forth all of each Grantor's material United States Copyrights registered with (or for which registration has been applied for in) the United States Copyright Office (excluding, for the avoidance of doubt, any Copyright that has expired or been abandoned in the same manner as permitted in the Credit Agreement), including the name of the registered owner and the registration number (or, if applicable, the applicant and the application number) of each such United States Copyright.

(c) Upon filing of appropriate financing statements with the Secretary of State of the state of organization of such Grantor and the filing of the applicable Intellectual Property Security Agreement with the United States Copyright Office or the United States Patent and Trademark Office, as applicable, the Agent shall have a fully perfected first priority Lien on the Collateral, subject to Permitted Liens, constituting United States registered Patents, Trademarks and Copyrights under the UCC (and applications therefor) and the laws of the United States for the ratable benefit of the Secured Parties, and such perfected security interests shall be enforceable as such as against any and all creditors of and purchasers from the Grantors, subject to the Legal Reservations.

(d) Each Grantor represents and warrants that such Grantor is not aware of any third-party claim (i) that any of its owned Patent, Trademark or Copyright registrations or applications is invalid or unenforceable, or (ii) challenging Grantor's rights to such registrations and applications, and no Grantor is aware of any basis for such claims, other than, in each case, to the extent any such third-party claims would not reasonably be expected to have a Material Adverse Effect.

Section 3.05. *Pledged Collateral; Instruments and Chattel Paper.*

(a) As of the Closing Date, attached as Schedule 3 to the Perfection Certificate is a true and correct list of each of all of the issued and outstanding stock, partnership interests, limited liability company membership interests or other equity interests owned by each Grantor constituting Pledged Stock, the beneficial owner of such stock, partnership interests, membership interests or other equity interests and the percentage of the total issued and outstanding stock, partnership interests, membership interests or other equity interests represented thereby.

(b) As of the Closing Date, attached as Schedule 4 to the Perfection Certificate is a true and correct list of all Instruments (other than checks to be deposited in the ordinary course of business) and Tangible Chattel Paper, in each case (other than in the case of any intercompany loans made on or about the Closing Date using the proceeds of any Term Loans) having a face amount exceeding €10,000,000, held by any Grantor as of the date of the Perfection Certificate, including the names of the obligors, amounts owing and due dates.

(c) Each Grantor further represents and warrants that (i) all Pledged Stock has been (to the extent such concepts are relevant with respect to such Pledged Collateral) duly authorized and validly issued by the issuer thereof and is fully paid and non-assessable, (ii) it is the direct owner, beneficially and of record, of the Pledged Stock, (iii) it holds such Pledged Stock free and clear of all Liens (other than Permitted Liens), (iv) with respect to any certificates delivered to the Agent (or its bailee) representing Capital Stock, either such certificates are Securities as defined in Article 8 of the UCC as a result of actions by the issuer or otherwise, or, if such certificates are not Securities, such Grantor has taken the necessary steps so that the Agent may perfect its security interest therein as a General Intangible and (v) all certificates or instruments representing or evidencing the Pledged Collateral, which, if acquired by any Grantor after the Closing Date, would be required to be delivered pursuant to Section 4.02 hereof, have been delivered to the Agent in suitable form for transfer by delivery or accompanied by duly executed instruments of transfer or assignment in blank and that the Agent has a perfected first priority security interest therein.

Section 3.06. *Commercial Tort Claims.* As of the Closing Date, attached as Schedule 6 to the Perfection Certificate is a true and correct list of all Commercial Tort Claims asserting damages in excess of €10,000,000, held by any Grantor, including a brief description thereof.

Section 3.07. *Recourse.* This Security Agreement is made with full recourse to each Grantor and pursuant to and upon all the warranties, representations, covenants and agreements on the part of such Grantor contained herein, in the Loan Documents and otherwise in writing in connection herewith and therewith.

## ARTICLE 4 COVENANTS

From the date hereof, and thereafter until the Termination Date:

Section 4.01. *General.*

(a) *Authorization to File Financing Statements; Ratification.* Each Grantor hereby authorizes the Agent to file, and, if requested agrees to execute and deliver to the Agent, all financing statements, in form appropriate for filing under the UCC of the relevant jurisdiction, and other documents and take such other actions as may from time to time be reasonably requested by the Agent in order to establish and maintain a first priority, valid, enforceable (subject to the Legal Reservations) and perfected security interest in and, with respect to Pledged Collateral to the extent required under Section 4.02, Control of, the Collateral. Each Grantor shall pay any applicable filing fees, recordation fees and related expenses relating to its Collateral in accordance with Section 9.03(a) of the Credit Agreement. Any financing statement filed by the Agent may be filed in any filing office in any applicable UCC jurisdiction and may (i) be filed without the signature of such Grantor where permitted by law, (ii) indicate the Collateral (A) as

all assets of the applicable Grantor or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the UCC of such jurisdiction, or (B) by any other description which reasonably approximates the description contained in this Security Agreement, and (iii) contain any other information required by part 5 of Article 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including (A) in each case to the extent applicable, whether the Grantor is an organization, the type of organization and any organization identification number issued to the Grantor and (B) in the case of a financing statement filed as a fixture filing, a sufficient description of real property to which the Collateral relates. Each Grantor also agrees to furnish any such information to the Agent promptly upon request.

(b) *Further Assurances.* Each Grantor agrees, at its own expense, to take any and all actions reasonably necessary to defend title to the Collateral against all Persons (other than Persons holding Permitted Liens on such Collateral that have priority over the Agent's Lien) and to defend the security interest of the Agent in the Collateral and the priority thereof against any Lien that is not a Permitted Lien.

(c) *Change of Name, Etc.* Following delivery of any notice required by Section 5.01(i) of the Credit Agreement, the relevant Grantor shall promptly make all filings required under the UCC or other applicable law and take all other actions reasonably requested by the Agent and deemed by the Agent to be necessary or reasonable and appropriate to ensure that the Agent shall continue at all times following such change to have a valid, legal, enforceable (subject to the Legal Reservations) and perfected first priority Lien in such Collateral for its benefit and the benefit of the other Secured Parties.

#### Section 4.02. *Pledged Collateral.*

(a) *Delivery of Certificated Securities, Tangible Chattel Paper, Instruments and Documents.* Each Grantor will, subject to the last paragraph of Section 4.02 of the Credit Agreement and the Intercreditor Agreement, (a) on the Closing Date, deliver to the Agent for the benefit of the Secured Parties, the originals of all (x) certificated Securities and (y) Tangible Chattel Paper and Instruments, in each case under this clause (y) (other than in the case of any intercompany loans made on or about the Closing Date using the proceeds of any Term Loans), having a face amount in excess of €10,000,000, in each case under clauses (x) and (y), constituting Collateral owned by such Grantor as of the Closing Date, accompanied by undated instruments of transfer or assignment duly executed in blank, (b) after the Closing Date, hold in trust for the Agent upon receipt and, on or prior to the later to occur of (i) 45 days following the date of such receipt and (ii) the earlier of the date of the required delivery of the next Compliance Certificate following such receipt and the date which is 60 days after the end of the most recently ended Fiscal Quarter (or, in each case, such later date as the Agent may agree to in its reasonable discretion), deliver to the Agent for the benefit of the Secured Parties any (x) certificated Securities to the extent required by Section 5.12 of the Credit Agreement and (y) Tangible Chattel Paper and Instruments, in each case under this clause (y), having an outstanding balance in excess of €10,000,000, in each case under clauses (x) and (y), constituting Collateral received after the date hereof, accompanied by undated instruments of transfer or assignment duly executed in blank and (c) upon the occurrence and during the continuance of an Event of Default and upon the Agent's request, deliver to the Agent, and thereafter hold in trust for the Agent upon receipt and promptly deliver to the Agent any other Document evidencing or constituting Collateral.

(b) *Uncertificated Securities and Pledged Collateral.* With respect to any partnership interest or limited liability company interest of any Grantor required to be pledged to the Agent pursuant to the Collateral and Guarantee Requirement (other than a partnership interest or limited liability company interest held by a Clearing Corporation, Securities Intermediary or other financial intermediary of any kind) not represented by a certificate and which is not a Security for purposes of the UCC, such Grantor shall not permit any issuer of such partnership interests or limited liability company interests to (A) enter into any agreement with any Person, other than the holder of a Permitted Lien, whereby such issuer effectively delivers "control" of such partnership interests or limited liability company interests (as applicable) under the UCC to such Person, or (B) allow such partnership interests or limited liability company interests (as applicable) to become Securities unless such Grantor complies with the procedures set forth in Sections 4.02(a) within the time period prescribed therein. Each Grantor which is an issuer of any uncertificated Pledged Collateral described in this Section 4.02(b) hereby agrees to comply with all instructions originated by it from the Agent without further consent by such Grantor, in each case subject to the notice requirements set forth in Section 5.01(a)(iv) hereof.

(c) *Registration in Nominee Name; Denominations.* Subject to the terms of the Intercreditor Agreement, the Agent, on behalf of the Secured Parties, shall hold certificated Pledged Collateral required to be delivered to the Agent under clause (a) above in the name of the applicable Grantor, endorsed or assigned in blank or in favor of the Agent, but following the occurrence and during the continuance of an Event of Default and upon three Business Days' notice to the Lux Borrower, the Agent shall have the right (in its sole and absolute discretion) to hold the Pledged Collateral in its own name as pledgee, or in the name of its nominee (as pledgee or as sub-agent). Subject to the terms of the Intercreditor Agreement, following the occurrence and during the continuance of an Event of Default, the Agent shall at all times have the right to exchange the certificates representing Pledged Collateral for certificates of smaller or larger denominations for any purpose consistent with this Security Agreement.

(d) *Exercise of Rights in Pledged Collateral.* Subject, in each case, to the Intercreditor Agreement,

(i) without in any way limiting the foregoing and subject to clause (ii) below, each Grantor shall have the right to exercise all voting rights or other rights relating to the Pledged Collateral for all purposes not inconsistent with this Security Agreement, the Credit Agreement or any other Loan Document;

(ii) each Grantor will permit the Agent or its nominee at any time after the occurrence and during the continuance of an Event of Default to exercise the rights and remedies provided under Section 5.01(a)(iv) (subject to the notice requirements set forth therein); and

(iii) subject to Section 5.01(a)(iv), each Grantor shall be entitled to receive and retain any and all dividends, interest, principal and other distributions paid on or distributed in respect of the Pledged Collateral; *provided* that any non-cash dividends or other distributions that would constitute Pledged Collateral, whether resulting from a subdivision, combination or reclassification of the outstanding Capital Stock of the issuer of any Pledged Collateral or received in exchange for Pledged Collateral or any part thereof, or in redemption thereof, or as a result of any merger, consolidation, acquisition or other exchange of assets to which such issuer may be a party or otherwise, shall, to the

extent constituting Collateral, be and become part of the Pledged Collateral, and, if received by any Grantor, shall be delivered to the Agent as and to the extent required by clause (a) above. So long as no Event of Default has occurred and is continuing, the Agent shall promptly deliver to each Grantor (without recourse and without any representation or warranty) any Pledged Collateral in its possession if requested to be delivered to the issuer thereof in connection with any redemption or exchange of such Pledged Collateral permitted by the Credit Agreement.

Section 4.03. *Intellectual Property.* (a) Upon the occurrence and during the continuance of an Event of Default and upon the written request of the Agent, each Grantor will (i) use its commercially reasonable efforts to obtain all consents and approvals necessary or appropriate for the assignment to or for the benefit of the Agent of any License held by such Grantor in the U.S. to enable the Agent to enforce the security interests granted hereunder and (ii) to the extent required pursuant to any material License in the U.S. under which such Grantor is the licensee, deliver to the licensor thereunder any notice of the grant of security interest hereunder or such other notices required to be delivered thereunder in order to permit the security interest created or permitted to be created hereunder pursuant to the terms of such License.

(b) Each Grantor shall notify the Agent promptly if it knows that any application or registration of any Patent, Trademark, Domain Name, or Copyright (now or hereafter existing) may become abandoned or dedicated to the public, or if it knows of any determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court) abandoning such Grantor's ownership of any such Patent, Trademark or Copyright, its right to register the same, or to keep and maintain the same, except, in each case, for Dispositions permitted under the Credit Agreement or where such occurrences individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect on the business of such Grantor.

(c) In the event that a Grantor files an application for the registration of any Patent, Trademark or Copyright with the United States Patent and Trademark Office or the United States Copyright Office, or acquires any such application or registration by purchase or assignment, in each case, after the Closing Date, it shall, on or prior to the later to occur of (i) 45 days following the date of such filing or acquisition and (ii) the earlier of the date of the required delivery of the next Compliance Certificate following such filing or acquisition and the date which is 45 days after the end of the most recently ended Fiscal Quarter (or, in each case, such later date as the Agent may agree to in its reasonable discretion), execute and deliver to the Agent, at such Grantor's expense, any and all Intellectual Property Security Agreements or Intellectual Property Security Agreement Supplements, as applicable, or other instruments as the Agent may reasonably require to evidence the Agent's security interest in such registered Patent, Trademark or Copyright (or application therefor), and the General Intangibles of such Grantor relating thereto or represented thereby.

(d) Each Grantor shall take all actions necessary to maintain and pursue each application and to obtain and maintain the registration of each of the Patents, Trademarks, Domain Names and Copyrights (now or hereafter existing), including by filing of applications for renewal, affidavits of use, affidavits of noncontestability and, if consistent with good business judgment, by initiating opposition and interference and cancellation proceedings against third parties, except where failure to do so (i) could not reasonably be expected to result in a Material

Adverse Effect on the business of the Grantors, taken as a whole, or (ii) is otherwise permitted under the Credit Agreement.

(e) Each Grantor shall promptly notify the Agent of any material infringement or misappropriation of such Grantor's Patents, Trademarks, Copyrights or Trade Secrets of which it becomes aware and shall take such actions as are reasonable and appropriate under the circumstances to protect such Patent, Trademark, Copyright or Trade Secret, except where such infringement, misappropriation or dilution could not reasonably be expected to cause a Material Adverse Effect.

Section 4.04. *Commercial Tort Claims.* After the Closing Date, on or prior to the later to occur of (i) 45 days following the date of such acquisition and (ii) the earlier of the date of the required delivery of the next Compliance Certificate following such acquisition and the date which is 60 days after the end of the most recently ended Fiscal Quarter (or, in each case, such later date as the Agent may agree to in its reasonable discretion), each relevant Grantor shall notify the Agent of any Commercial Tort Claim asserting damages in excess of €10,000,000 acquired by it, together with a Perfection Certificate Supplement including an update to Schedule 6 of the Perfection Certificate describing the details thereof, and such Commercial Tort Claims shall automatically be subject to a first priority security interest of the Agent therein and in the Proceeds thereof, all upon the terms of this Security Agreement.

Section 4.05. *Insurance.* Subject to the Intercreditor Agreement and except to the extent otherwise permitted to be retained by the Grantors or applied by the Grantors pursuant to the terms of the Loan Documents, the Agent shall, at the time any proceeds of any insurance are distributed to the Secured Parties, apply such proceeds in accordance with Section 5.04 hereof. Each Grantor assumes all liability and responsibility in connection with the Collateral acquired by it and the liability of such Grantor to pay the Secured Obligations shall in no way be affected or diminished by reason of the fact that such Collateral may be lost, destroyed, stolen, damaged or for any reason whatsoever unavailable to such Grantor.

Section 4.06. *Grantors Remain Liable Under Contracts.* Each Grantor (rather than the Agent or any Secured Party) shall remain liable (as between itself and any relevant counterparty) to observe and perform all the conditions and obligations to be observed and performed by it under each contract, agreement or instrument relating to the Collateral, all in accordance with the terms and conditions thereof. Neither the Agent nor any other Secured Party shall have any obligation or liability under any Contract by reason of or arising out of this Security Agreement or the receipt by the Agent or any other Secured Party of any payment relating to such Contract pursuant hereto, nor shall the Agent or any other Secured Party be obligated in any manner to perform any of the obligations of any Grantor under or pursuant to any Contract, to make any payment, to make any inquiry as to the nature or sufficiency of any performance or to collect the payment of any amounts which may have been assigned to them or to which they may be entitled at any time or times.

Section 4.07. *Grantors Remain Liable Under Accounts.* Anything herein to the contrary notwithstanding, the Grantors shall remain liable under each of the Accounts to observe and perform all of the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any agreement giving rise to such Accounts. Neither the Agent nor any other Secured Party shall have any obligation or liability under any Account (or any agreement giving rise thereto) by reason of or arising out of this Security Agreement or the receipt by the Agent or any other Secured Party of any payment relating to such Account pursuant hereto, nor shall the Agent or any other Secured Party be obligated in any manner to perform any of the obligations of any Grantor under or pursuant to any Account (or any agreement giving rise thereto), to make any payment, to make any inquiry as to the

nature or the sufficiency of any payment received by them or as to the sufficiency of any performance by any party under any Account (or any agreement giving rise thereto), to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to them or to which they may be entitled at any time or times.

## ARTICLE 5 REMEDIES

Section 5.01. *Remedies.* (a) Each Grantor agrees that, upon the occurrence and during the continuance of an Event of Default, the Agent may exercise any or all of the following rights and remedies (in addition to the rights and remedies existing under applicable law):

- (i) those rights and remedies provided in this Security Agreement, the Credit Agreement, or any other Loan Document; *provided that this Section 5.01(a) shall not be understood to limit any rights available to the Agent and the Lenders prior to an Event of Default;*
- (ii) those rights and remedies available to a secured party under the UCC (whether or not the UCC applies to the affected Collateral) or under any other applicable law (including, without limitation, any law governing the exercise of a bank's right of setoff or bankers' Lien) when a debtor is in default under a security agreement;
- (iii) without notice (except as specifically provided in Section 7.01 or elsewhere herein), demand or advertisement of any kind to any Grantor or any other Person, personally, or by agents or attorneys, enter the premises of any Grantor where any Collateral is located (through self-help and without judicial process) to collect, receive, assemble, process, appropriate, sell, lease, assign, grant an option or options to purchase or otherwise dispose of, deliver, or realize upon, the Collateral or any part thereof in one or more parcels at public or private sale or sales (which sales may be adjourned or continued from time to time with or without notice and may take place at such Grantor's premises or elsewhere), for cash, on credit or for future delivery without assumption of any credit risk, and upon such other terms as the Agent may deem commercially reasonable;
- (iv) Upon three Business Days' written notice to the Grantors, transfer and register in its name or in the name of its nominee the whole or any part of the Pledged Collateral, to exchange certificates or instruments representing or evidencing Pledged Collateral for certificates or instruments of smaller or larger denominations, to exercise the voting and all other rights as a holder with respect thereto, to collect and receive all cash dividends, interest, principal and other distributions made thereon and to otherwise act with respect to the Pledged Collateral as though the Agent was the outright owner thereof; and
- (v) take possession of the Collateral or any part thereof, by directing such Grantor in writing to deliver the same to the Agent at any reasonable place or places designated by the Agent, in which event such Grantor shall at its own expense:
  - (1) forthwith cause the same to be moved to the place or places so designated by the Agent and there delivered to the Agent;

(2) store and keep any Collateral so delivered to the Agent at such place or places pending further action by the Agent; and

(3) while the Collateral shall be so stored and kept, provide such security and maintenance services as shall be reasonably necessary to protect the same and to preserve and maintain it in good condition.

(b) Each Grantor acknowledges and agrees that compliance by the Agent, on behalf of the Secured Parties, with any applicable state or federal law requirements in connection with a disposition of the Collateral will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral.

(c) The Agent shall have the right upon any public sale or sales and, to the extent permitted by law, upon any private sale or sales, to purchase for the benefit of the Agent and the Secured Parties, the whole or any part of the Collateral so sold, free of any right of equity redemption, which equity redemption each Grantor hereby expressly releases.

(d) Until the Agent is able to effect a sale, lease, transfer or other disposition of Collateral under this Section 5.01, the Agent shall have the right to hold or use Collateral, or any part thereof, to the extent that it deems appropriate for the purpose of preserving Collateral or the value of the Collateral, or for any other purpose deemed reasonably appropriate by the Agent. Upon the occurrence and during the continuance of an Event of Default, the Agent may, if it so elects, seek the appointment of a receiver or keeper to take possession of Collateral and to enforce any of the Agent's remedies (for the benefit of the Agent and Secured Parties), with respect to such appointment without prior notice or hearing as to such appointment.

(e) Notwithstanding the foregoing, neither the Agent nor the Secured Parties shall be required to (i) make any demand upon, or pursue or exhaust any of their rights or remedies against, the Grantors, any other obligor, guarantor, pledgor or any other Person with respect to the payment of the Secured Obligations or to pursue or exhaust any of their rights or remedies with respect to any Collateral therefor or any direct or indirect guarantee thereof, (ii) marshal the Collateral or any guarantee of the Secured Obligations or to resort to the Collateral or any such guarantee in any particular order, or (iii) effect a public sale of any Collateral.

(f) Each Grantor recognizes that the Agent may be unable to effect a public sale of any or all the Pledged Collateral and may be compelled to resort to one or more private sales thereof. Each Grantor also acknowledges that any private sale may result in prices and other terms less favorable to the seller than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall not be deemed to have been made in a commercially unreasonable manner solely by virtue of such sale being private. The Agent shall be under no obligation to delay a sale of any of the Pledged Collateral for the period of time necessary to permit any Grantor or the issuer of the Pledged Collateral to register such securities for public sale under the Securities Act of 1933, as amended, or under applicable state securities laws, even if any Grantor and the issuer would agree to do so.

(g) Notwithstanding the foregoing, any rights and remedies provided in this Section 5.01 shall be subject to the Intercreditor Agreement.

Section 5.02. *Grantors' Obligations Upon Default.* Upon the request of the Agent after the occurrence and during the continuance of an Event of Default, each Grantor will:

- (a) at its own cost and expense (i) assemble and make available to the Agent the Collateral and all books and records relating thereto at any place or places reasonably specified by the Agent, whether at such Grantor's premises or elsewhere, (ii) deliver all tangible evidence of its Accounts and Contract Rights (including, without limitation, all documents evidencing the Accounts and all Contracts) and such books and records to the Agent or to its representatives (copies of which evidence and books and records may be retained by such Grantor) and (iii) if the Agent so directs, such Grantor shall legend, in form and manner reasonably satisfactory to the Agent, the Accounts and the Contracts, as well as books, records and documents (if any) of such Grantor evidencing or pertaining to such Accounts and Contracts with an appropriate reference to the fact that such Accounts and Contracts have been assigned to the Agent and that the Agent has a security interest therein; and
- (b) permit the Agent, by the Agent's representatives and agents, to enter, occupy and use any premises where all or any part of the Collateral, or the books and records relating thereto, or both, are located, to take possession of all or any part of the Collateral or the books and records relating thereto, or both, to remove all or any part of the Collateral or the books and records relating thereto, or both, and to conduct sales of the Collateral, without any obligation to pay any Grantor for such use and occupancy.

Section 5.03. *Intellectual Property Remedies.* (a) For the purpose of enabling the Agent to exercise the rights and remedies under this Article 5 upon the occurrence and during the continuance of an Event of Default and at such time as the Agent shall be lawfully entitled to exercise such rights and remedies, each Grantor hereby grants to the Agent a power of attorney to sign any document which may be required by the United States Patent and Trademark Office, the United States Copyright Office or similar registrar in order to effect an absolute assignment of all right, title and interest in each registered Patent, Trademark, Domain Name, and Copyright and each application for such registration, and record the same. If an Event of Default shall occur and be continuing, the Agent may (i) declare the entire right, title and interest of such Grantor in and to each Patent, Trademark, Domain Name, Copyright or Trade Secret vested in the Agent for the benefit of the Secured Parties, in which event such rights, title and interest shall immediately vest, in the Agent for the benefit of the Secured Parties, and the Agent shall be entitled to exercise the power of attorney referred to in this Section 5.03 to execute, cause to be acknowledged and notarized and record said absolute assignment with the applicable agency or registrar; (ii) sell any Grantor's Inventory directly to any Person, including without limitation Persons who have previously purchased any Grantor's Inventory from such Grantor and in connection with any such sale or other enforcement of the Agent's rights under this Security Agreement, may (subject to any restrictions contained in applicable third party licenses entered into by a Grantor) sell Inventory which bears any Trademark owned by or licensed to any Grantor and any Inventory that is covered by any Copyright owned by or licensed to such Grantor and the Agent may finish any work in process and affix any relevant Trademark owned by or licensed to any Grantor and sell such Inventory as provided herein; (iii) direct such Grantor to refrain, in which event such Grantor shall refrain, from using any Patent, Trademark, Domain Name, Copyright, and Trade Secret in any manner whatsoever, directly or indirectly; and (iv) assign or sell the Patents, Trademarks, Copyrights, Domain Names, and Trade Secrets, as well as the goodwill of such Grantor's business symbolized by such Trademarks and the right to carry on the business and use the assets of such Grantor in connection with which such Trademarks or Domain Names have been used.

(b) Each Grantor hereby grants to the Agent an irrevocable (until the Termination Date), nonexclusive license to its right to use, license or sublicense any Patents, Trademarks, Copyrights, Domain Names and Trade Secrets now owned or hereafter acquired by such Grantor, wherever the same may be located, and including in such license access to all media in which any of the licensed items may be recorded or stored and (to the extent not prohibited by any applicable license) to all computer software and programs used for compilation or printout thereof. The use of the license granted pursuant to the preceding sentence to the Agent may be exercised, at the option of the Agent, only upon the occurrence and during the continuance of an Event of Default; *provided*, however, that any license, sublicense or other transaction entered into by the Agent in accordance with this clause (b) shall be binding upon each Grantor notwithstanding any subsequent cure of an Event of Default.

Section 5.04. *Application of Proceeds.* (a) Subject to the Intercreditor Agreement, the Agent shall apply the proceeds of any collection, sale, foreclosure or other realization upon any Collateral, as well as any Collateral consisting of Cash, as set forth in Section 2.17(b) of the Credit Agreement.

(b) Except as otherwise provided herein or in the other Loan Documents, the Agent shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Security Agreement. Upon any sale of Collateral by the Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), a receipt by the Agent or of the officer making the sale of such proceeds, moneys or balances shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Agent or such officer or be answerable in any way for the misapplication thereof. It is understood that the Grantors shall remain jointly and severally liable to the extent of any deficiency between the amount of the proceeds of the Collateral and the aggregate amount of the Secured Obligations.

## ARTICLE 6 ACCOUNT VERIFICATION; ATTORNEY IN FACT; PROXY

Section 6.01. *Account Verification.* The Agent may at any time and from time to time following the occurrence and during the continuance of an Event of Default, in the Agent's own name, in the name of a nominee of the Agent, or in the name of any Grantor communicate (by mail, telephone, facsimile or otherwise) with the Account Debtors of such Grantor, parties to contracts with such Grantor and obligors in respect of Instruments of such Grantor to verify with such Persons, to the Agent's reasonable satisfaction, the existence, amount, terms of, and any other matter relating to, Accounts, Instruments, Chattel Paper, payment intangibles and/or other Receivables that are Collateral.

Section 6.02. *Authorization for the Agent to Take Certain Action.* (a) Each Grantor hereby irrevocably authorizes the Agent and appoints the Agent (and all officers, employees or agents designated by the Agent) as its true and lawful attorney in fact (i) at any time and from time to time in the sole discretion of the Agent (A) to execute (to the extent necessary under the law of the applicable jurisdiction) on behalf of such Grantor as debtor and to file financing statements necessary or desirable in the Agent's reasonable discretion to perfect and to maintain the perfection and priority of the Agent's security interest in the Collateral, (B) to file a carbon, photographic or other reproduction of this Security Agreement or any financing statement with respect to the Collateral as a financing statement and to file any other financing statement or amendment of a financing statement (which would not add new collateral or add a debtor, except as otherwise provided for herein or in any other Loan Document) in

such offices as the Agent in its reasonable discretion deems necessary or desirable to perfect and to maintain the perfection and priority of the Agent's security interest in the Collateral, and (C) to contact and enter into one or more agreements with the issuers of uncertificated securities which are Pledged Collateral or with securities intermediaries holding Pledged Collateral as may be necessary or advisable to give the Agent Control over such Pledged Collateral (subject to the terms of the Intercreditor Agreement); (ii) at any time following the occurrence and during the continuance of an Event of Default in the sole discretion of the Agent (in the name of such Grantor or otherwise), (A) to endorse and collect any cash proceeds of the Collateral and to apply the proceeds of any Collateral received by the Agent to the Secured Obligations as provided herein or in the Credit Agreement or any other Loan Document, subject to the terms of the Intercreditor Agreement, (B) to demand payment or enforce payment of the Receivables in the name of the Agent or any Grantor and to endorse any and all checks, drafts, and other instruments for the payment of money relating to the Receivables, (C) to sign any Grantor's name on any invoice or bill of lading relating to the Receivables, drafts against any Account Debtor of such Grantor, assignments and verifications of Receivables, (D) to exercise all of any Grantor's rights and remedies with respect to the collection of the Receivables and any other Collateral, (E) to settle, adjust, compromise, extend or renew the Receivables, (F) to settle, adjust or compromise any legal proceedings brought to collect Receivables, (G) to prepare, file and sign any Grantor's name on a proof of claim in bankruptcy or similar document against any Account Debtor of such Grantor, (H) to prepare, file and sign any Grantor's name on any notice of Lien, assignment or satisfaction of Lien or similar document in connection with the Receivables, (I) to change the address for delivery of mail addressed to any Grantor to such address as the Agent may designate and to receive, open and dispose of all mail addressed to such Grantor (provided copies of such mail is provided to such Grantor), (J) to discharge past due taxes, assessments, charges, fees or Liens on the Collateral (except for Permitted Liens), (K) to make, settle and adjust claims in respect of Collateral under policies of insurance and endorse the name of such Grantor on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance, (L) to make all determinations and decisions with respect thereto and (M) to obtain or maintain the policies of insurance of the types referred to in Section 5.05 of the Credit Agreement or to pay any premium in whole or in part relating thereto; and (iii) to do all other acts and things or institute any proceedings which the Agent may reasonably deem to be necessary or advisable (pursuant to this Security Agreement and the other Loan Documents and in accordance with applicable law) to carry out the terms of this Security Agreement and to protect the interests of the Secured Parties; and, when and to the extent required pursuant to Section 9.03(a) of the Credit Agreement, each Grantor agrees to reimburse the Agent for any payment made in connection with this paragraph or any expense (including attorneys' fees, court costs and expenses) and other charges related thereto incurred by the Agent in connection with any of the foregoing and any such sums shall constitute additional Secured Obligations; *provided* that, this authorization shall not relieve any Grantor of any of its obligations under this Security Agreement or under the Credit Agreement.

(b) All acts of said attorney or designee are hereby ratified and approved by the Grantors. The powers conferred on the Agent, for the benefit of the Agent and Secured Parties, under this Section 6.02 are solely to protect the Agent's interests in the Collateral and shall not impose any duty upon the Agent or any Secured Party to exercise any such powers.

Section 6.03. *PROXY.* EACH GRANTOR HEREBY IRREVOCABLY CONSTITUTES AND APPOINTS THE AGENT AS ITS PROXY AND ATTORNEY-IN-FACT (AS SET FORTH IN SECTION 6.02 ABOVE) WITH RESPECT TO THE PLEDGED COLLATERAL, INCLUDING THE RIGHT TO VOTE SUCH PLEDGED COLLATERAL, WITH FULL POWER OF SUBSTITUTION TO DO SO. IN ADDITION TO THE RIGHT TO VOTE ANY SUCH PLEDGED COLLATERAL, THE APPOINTMENT OF THE AGENT AS PROXY AND ATTORNEY-IN-FACT SHALL INCLUDE THE

RIGHT TO EXERCISE ALL OTHER RIGHTS, POWERS, PRIVILEGES AND REMEDIES TO WHICH A HOLDER OF SUCH PLEDGED COLLATERAL WOULD BE ENTITLED (INCLUDING GIVING OR WITHHOLDING WRITTEN CONSENTS OF SHAREHOLDERS, CALLING SPECIAL MEETINGS OF SHAREHOLDERS AND VOTING AT SUCH MEETINGS). SUCH PROXY SHALL BE EFFECTIVE, AUTOMATICALLY AND WITHOUT THE NECESSITY OF ANY ACTION (INCLUDING ANY TRANSFER OF ANY SUCH PLEDGED COLLATERAL ON THE RECORD BOOKS OF THE ISSUER THEREOF) BY ANY PERSON (INCLUDING THE ISSUER OF SUCH PLEDGED COLLATERAL OR ANY OFFICER OR AGENT THEREOF), IN EACH CASE ONLY UPON THE OCCURRENCE AND DURING THE CONTINUANCE OF AN EVENT OF DEFAULT AND UPON THREE BUSINESS DAYS' PRIOR WRITTEN NOTICE TO THE GRANTORS.

Section 6.04. *NATURE OF APPOINTMENT; LIMITATION OF DUTY.* THE APPOINTMENT OF THE AGENT AS PROXY AND ATTORNEY-IN-FACT IN THIS ARTICLE 6 IS COUPLED WITH AN INTEREST AND SHALL BE IRREVOCABLE UNTIL THE DATE ON WHICH THIS SECURITY AGREEMENT IS TERMINATED IN ACCORDANCE WITH SECTION 7.12. NOTWITHSTANDING ANYTHING CONTAINED HEREIN, NEITHER THE AGENT, NOR ANY SECURED PARTY, NOR ANY OF THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES SHALL HAVE ANY DUTY TO EXERCISE ANY RIGHT OR POWER GRANTED HEREUNDER OR OTHERWISE OR TO PRESERVE THE SAME AND SHALL NOT BE LIABLE FOR ANY FAILURE TO DO SO OR FOR ANY DELAY IN DOING SO, EXCEPT TO THE EXTENT SUCH DAMAGES ARE ATTRIBUTABLE TO THEIR OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AS FINALLY DETERMINED BY A COURT OF COMPETENT JURISDICTION; *PROVIDED* THAT, IN NO EVENT SHALL THEY BE LIABLE FOR ANY PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES; *PROVIDED, FURTHER*, THAT THE FOREGOING EXCEPTION SHALL NOT BE CONSTRUED TO OBLIGATE THE AGENT TO TAKE OR REFRAIN FROM TAKING ANY ACTION WITH RESPECT TO THE COLLATERAL.

## ARTICLE 7 GENERAL PROVISIONS

Section 7.01. *Waivers.* To the maximum extent permitted by applicable law, each Grantor hereby waives notice of the time and place of any judicial hearing in connection with the Agent's taking possession of the Collateral or of any public sale or the time after which any private sale or other disposition of all or any part of the Collateral may be made, including without limitation, any and all prior notice and hearing for any prejudgment remedy or remedies. To the extent such notice may not be waived under applicable law, any notice made shall be deemed reasonable if sent to the Grantors, addressed as set forth in Article 8, at least ten days prior to (a) the date of any such public sale or (b) the time after which any such private Disposition may be made. To the maximum extent permitted by applicable law, each Grantor waives all claims, damages, and demands against the Agent or any Secured Party arising out of the repossession, retention or sale of the Collateral, except such as arise out of the gross negligence or willful misconduct of the Agent or such Secured Party as determined by a court of competent jurisdiction in a final and non-appealable judgment. To the extent it may lawfully do so, each Grantor absolutely and irrevocably waives and relinquishes the benefit and advantage of, and covenants not to assert against the Agent or any Secured Party, any valuation, stay, appraisal, extension, moratorium, redemption or similar laws and any and all rights or defenses it may have as a surety now or hereafter existing which, but for this provision, might be applicable to the sale of any Collateral made under the judgment, order or decree of any court, or privately under the power of sale conferred by this Security Agreement, or otherwise. Except as otherwise specifically provided herein, each Grantor hereby

waives presentment, demand, protest, any notice (to the maximum extent permitted by applicable law) of any kind or all other requirements as to the time, place and terms of sale in connection with this Security Agreement or any Collateral.

*Section 7.02. Limitation on Agent's and Secured Party's Duty with Respect to the Collateral.* Neither the Agent nor any Secured Party shall have any obligation to clean up or otherwise prepare the Collateral for sale. The Agent and each Secured Party shall use reasonable care with respect to the Collateral in its possession; *provided* that the Agent and each such Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its possession if such Collateral is accorded treatment substantially equal to which it accords its own property. Neither the Agent nor any Secured Party shall have any other duty as to any Collateral in its possession or control or in the possession or control of any agent or nominee of the Agent or such Secured Party, or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto. To the extent that applicable law imposes duties on the Agent to exercise remedies in a commercially reasonable manner, each Grantor acknowledges and agrees that it would be commercially reasonable for the Agent (a) to fail to incur expenses deemed significant by the Agent to prepare Collateral for Disposition or otherwise to transform raw material or work in process into finished goods or other finished products for Disposition, (b) to fail to obtain third party consents for access to Collateral to be Disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or Disposition of Collateral to be collected or Disposed of, (c) to fail to exercise collection remedies against Account Debtors or other Persons obligated on Collateral or to remove Liens on or any adverse claims against Collateral, (d) to exercise collection remedies against Account Debtors and other Persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (e) to advertise Dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (f) to contact other Persons, whether or not in the same business as the Grantor, for expressions of interest in acquiring all or any portion of such Collateral, (g) to hire one or more professional auctioneers to assist in the Disposition of Collateral, whether or not the Collateral is of a specialized nature, (h) to Dispose of Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (i) to Dispose of assets in wholesale rather than retail markets, (j) to disclaim Disposition warranties, such as title, possession or quiet enjoyment, (k) to purchase insurance or credit enhancements to insure the Agent against risks of loss in connection with any collection or Disposition of Collateral or to provide to the Agent a guaranteed return from the collection or Disposition of Collateral or (l) to the extent deemed appropriate by the Agent, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Agent in the collection or Disposition of any of the Collateral. Each Grantor acknowledges that the purpose of this Section 7.02 is to provide non-exhaustive indications of what actions or omissions by the Agent would be commercially reasonable in the Agent's exercise of remedies against the Collateral and that other actions or omissions by the Agent shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 7.02. Without limitation upon the foregoing, nothing contained in this Section 7.02 shall be construed to grant any rights to any Grantor or to impose any duties on the Agent that would not have been granted or imposed by this Security Agreement or by applicable law in the absence of this Section 7.02.

*Section 7.03. Compromises and Collection of Collateral.* Each Grantor and the Agent recognize that setoffs, counterclaims, defenses and other claims may be asserted by obligors with respect to certain of the Receivables, that certain of the Receivables may be or become uncollectible in whole or in part and that the expense and probability of success in litigating a disputed Receivable may exceed the amount that reasonably may be expected to be recovered with respect to a Receivable. In view of the

foregoing, each Grantor agrees that the Agent may at any time and from time to time, if an Event of Default has occurred and is continuing, compromise with the obligor on any Receivable, accept in full payment of any Receivable such amount as the Agent in its sole discretion shall determine or abandon any Receivable, and any such action by the Agent shall be commercially reasonable so long as the Agent acts in good faith based on information known to it at the time it takes any such action.

**Section 7.04. *Agent Performance of Debtor Obligations.*** Without having any obligation to do so, the Agent may, during the continuance of an Event of Default, perform or pay any obligation which any Grantor has agreed to perform or pay under this Security Agreement and which obligation is due and unpaid and not being contested by such Grantor in good faith, and such Grantor shall reimburse the Agent for any amounts paid by the Agent pursuant to this Section 7.04. Each Grantor's obligation to reimburse the Agent pursuant to the preceding sentence shall be a Secured Obligation payable in accordance with Section 9.03(a) of the Credit Agreement.

**Section 7.05. *No Waiver; Amendments; Cumulative Remedies.*** No delay or omission of the Agent or any Secured Party to exercise any right or remedy granted under this Security Agreement shall impair such right or remedy or be construed to be a waiver of any Default or an acquiescence therein, and any single or partial exercise of any such right or remedy shall not preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver, amendment or other variation of the terms, conditions or provisions of this Security Agreement whatsoever shall be valid unless in writing signed by the Grantors and the Agent with the concurrence or at the direction of the Lenders required under Section 9.02 of the Credit Agreement and then only to the extent in such writing specifically set forth. All rights and remedies contained in this Security Agreement or by law afforded shall be cumulative and all shall be available to the Agent and the other Secured Parties until the Termination Date.

**Section 7.06. *Limitation by Law; Severability of Provisions.*** All rights, remedies and powers provided in this Security Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Security Agreement are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they shall not render this Security Agreement invalid, unenforceable or not entitled to be recorded or registered, in whole or in part. To the extent permitted by law, any provision of this Security Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions of this Security Agreement; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

**Section 7.07. *Security Interest Absolute.*** All rights of the Agent hereunder, the security interests granted hereunder and all obligations of each Grantor hereunder shall be absolute and unconditional irrespective of (a) any lack of validity or enforceability of the Credit Agreement, any other Loan Document, any agreement with respect to any of the Secured Obligations or any other agreement or instrument relating to any of the foregoing, (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from the Credit Agreement, any other Loan Document or any other agreement or instrument relating to the foregoing, (c) any exchange, release or nonperfection of any Lien on any Collateral, or any release or amendment or waiver of or consent under or departure from any guaranty, securing or guaranteeing all or any of the Secured Obligations, (d) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or the like of any Grantor, (e) any exercise or non-exercise, or any waiver of, any right, remedy, power or privilege under or in respect of

this Security Agreement or any other Loan Document or (f) any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Grantor in respect of the Secured Obligations or this Security Agreement.

**Section 7.08. *Benefit of Security Agreement.*** The terms and provisions of this Security Agreement shall be binding upon and inure to the benefit of each Grantor, the Agent and the other Secured Parties and their respective successors and permitted assigns (including all Persons who become bound as a debtor to this Security Agreement), except that, other than in a transaction permitted by Section 6.07 of the Credit Agreement, no Grantor shall have the right to assign its rights or delegate its obligations under this Security Agreement or any interest herein, without the prior written consent of the Agent. No sales of participations, assignments, transfers, or other Dispositions of any agreement governing the Secured Obligations or any portion thereof or interest therein shall in any manner impair the Lien granted to the Agent, for the benefit of the Agent and the other Secured Parties, hereunder.

**Section 7.09. *Survival of Representations.*** All representations and warranties of each Grantor contained in this Security Agreement shall survive the execution and delivery of this Security Agreement.

**Section 7.10. *Additional Subsidiaries.*** Pursuant to and in accordance with Section 5.12 and 5.14 of the Credit Agreement, each Domestic Subsidiary (other than an Excluded Subsidiary) that is a Restricted Subsidiary of the Lux Borrower that was not in existence or not a Restricted Subsidiary on the date of the Credit Agreement, that has ceased to be an Excluded Subsidiary, or was not required to be party to this Agreement on the Closing Date, is required to enter in this Security Agreement as a US Subsidiary Party and Grantor upon becoming a Restricted Subsidiary, ceasing to be an Excluded Subsidiary or as required by Section 5.14 of the Credit Agreement, in each case, within the time periods specified in Sections 5.12 or 5.14 of the Credit Agreement, as applicable. Upon execution and delivery by the Agent and such Restricted Subsidiary of an instrument in the form of Exhibit A hereto, such Restricted Subsidiary shall become a US Subsidiary Party and Grantor hereunder with the same force and effect as if originally named as a US Subsidiary Party and Grantor herein. The execution and delivery of any such instrument shall not require the consent of any other US Loan Party hereunder. The rights and obligations of each US Loan Party hereunder shall remain in full force and effect notwithstanding the addition of any new US Loan Party as a party to this Security Agreement.

**Section 7.11. *Headings.*** The title of and section headings in this Security Agreement are for convenience of reference only, and shall not govern the interpretation of any of the terms and provisions of this Security Agreement.

**Section 7.12. *Termination or Release.*** (a) This Security Agreement shall continue in effect until the Termination Date, and the Liens granted hereunder shall automatically be released in the circumstances described in clauses (a)(i), (ii), (iii), (iv) and (vi) of the Release Provisions and Section 9.23 of the Credit Agreement.

(b) In connection with any termination or release pursuant to paragraph (a) above, the Agent shall promptly execute and deliver to any Grantor, at such Grantor's expense, all UCC termination statements and similar documents that such Grantor shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section 7.12 shall be without recourse to or representation or warranty by the Agent or any Secured Party. The Lux Borrower shall reimburse the Agent for all costs and expenses, including the fees, charges and expenses of counsel, incurred by it in connection with any action contemplated by this Section 7.12 pursuant to Section 9.03(a) of the Credit Agreement.

(c) At any time that a Grantor desires that the Agent take any action to acknowledge or give effect to any release of Collateral pursuant to the foregoing Section 7.12(a), such Grantor shall deliver to the Agent a certificate signed by a Responsible Officer of such Grantor stating that the release of the respective Collateral is permitted pursuant to such Section 7.12(a) and the terms of the Credit Agreement. At any time that any Grantor desires that a Restricted Subsidiary of such Grantor be released hereunder, it shall deliver to the Agent a certificate signed by a Responsible Officer of the Lux Borrower and such Grantor stating that the release of the respective Grantor (and its Collateral) is permitted pursuant to such Section 7.12(a) and the terms of the Credit Agreement.

(d) The Agent shall have no liability whatsoever to any other Secured Party as the result of any release of Collateral by it in accordance with (or which the Agent in good faith believes to be in accordance with) the terms of this Section 7.12.

Section 7.13. *Entire Agreement.* This Security Agreement, together with the other Loan Documents, embodies the entire agreement and understanding between each Grantor and the Agent relating to the Collateral and supersedes all prior agreements and understandings between any Grantor and the Agent relating to the Collateral.

Section 7.14. **CHOICE OF LAW.** THIS SECURITY AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS SECURITY AGREEMENT, WHETHER IN TORT, CONTRACT (AT LAW OR IN EQUITY) OR OTHERWISE, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

Section 7.15. **CONSENT TO JURISDICTION; CONSENT TO SERVICE OF PROCESS.**

(a) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF ANY U.S. FEDERAL OR NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK (OR ANY APPELLATE COURT THEREFROM) OVER ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT, AND EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS, CONTROVERSIES OR DISPUTES IN RESPECT OF ANY SUCH ACTION OR PROCEEDING SHALL (EXCEPT AS PERMITTED BELOW) BE HEARD AND DETERMINED IN SUCH NEW YORK STATE OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT SERVICE OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENTS BY REGISTERED MAIL ADDRESSED TO SUCH PERSON SHALL BE EFFECTIVE SERVICE OF PROCESS AGAINST SUCH PERSON FOR ANY SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE

TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT IN ANY SUCH COURT. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CLAIM OR DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION, SUIT OR PROCEEDING IN ANY SUCH COURT. EACH PARTY HERETO AGREES THAT THE AGENT AND LENDERS RETAIN THE RIGHT TO BRING PROCEEDINGS AGAINST ANY GRANTOR IN THE COURTS OF ANY OTHER JURISDICTION SOLELY IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER THIS SECURITY AGREEMENT.

(b) TO THE EXTENT PERMITTED BY LAW, EACH PARTY TO THIS SECURITY AGREEMENT HEREBY IRREVOCABLY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL (OR ANY SUBSTANTIALLY SIMILAR FORM OF MAIL) DIRECTED TO IT AT ITS ADDRESS FOR NOTICES AS PROVIDED FOR IN SECTION 9.01 OF THE CREDIT AGREEMENT. EACH PARTY TO THIS SECURITY AGREEMENT HEREBY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SERVICE OF PROCESS WAS INVALID AND INEFFECTIVE. NOTHING IN THIS SECURITY AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY TO THIS SECURITY AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

Section 7.16. *WAIVER OF JURY TRIAL.* EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION, LEGAL PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS SECURITY AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 7.17. *Indemnity.* Each Grantor hereby agrees to indemnify the Indemnitees, as set forth in Section 9.03 of the Credit Agreement.

Section 7.18. *Counterparts.* This Security Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Security Agreement by facsimile or by email as a ".pdf" or ".tif" attachment or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Security Agreement.

Section 7.19. *INTERCREDITOR AGREEMENT GOVERNS.* NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE LIENS AND SECURITY INTERESTS GRANTED TO THE AGENT, FOR THE BENEFIT OF THE SECURED PARTIES, PURSUANT TO THIS

SECURITY AGREEMENT AND THE EXERCISE OF ANY RIGHT OR REMEDY BY THE AGENT AND THE OTHER SECURED PARTIES WITH RESPECT TO ANY COLLATERAL HEREUNDER ARE SUBJECT TO THE PROVISIONS OF THE INTERCREDITOR AGREEMENT. IN THE EVENT OF ANY CONFLICT BETWEEN THE PROVISIONS OF THE INTERCREDITOR AGREEMENT AND THIS SECURITY AGREEMENT, THE PROVISIONS OF THE INTERCREDITOR AGREEMENT SHALL GOVERN AND CONTROL.

Section 7.20. *Mortgages.* In the case of a conflict between this Security Agreement and any Mortgages with respect to any Material Real Estate Asset that is also subject to a valid and enforceable Lien under the terms of the Mortgage (including Fixtures), the Mortgages shall govern.

Section 7.21. *Successors and Assigns.* Whenever in this Security Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party; and all covenants, promises and agreements by or on behalf of any Grantor or the Agent that are contained in this Security Agreement shall bind and inure to the benefit of their respective permitted successors and assigns. Except in a transaction expressly permitted under the Credit Agreement, no Grantor may assign any of its rights or obligations hereunder without the written consent of the Agent.

Section 7.22. *Survival of Agreement.* Without limitation of any provision of the Credit Agreement or Section 7.17 hereof, all covenants, agreements, indemnities, representations and warranties made by the Grantors in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Security Agreement or any other Loan Document shall be considered to have been relied upon by the Lenders and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such Lender or on its behalf and notwithstanding that the Agent or any Lender may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended under the Credit Agreement, and shall continue in full force and effect until the Termination Date, or with respect to any individual Grantor until such Grantor is otherwise released from its obligations under this Security Agreement in accordance with the terms hereof.

## ARTICLE 8 NOTICES

Section 8.01. *Sending Notices.* Any notice required or permitted to be given under this Security Agreement shall be delivered in accordance with Section 9.01 of the Credit Agreement (it being understood and agreed that references in such Section to "herein", "hereunder" and other similar terms shall be deemed to be references to this Security Agreement).

Section 8.02. *Change in Address for Notices.* Each of the Grantors, the Agent and the Lenders may change the address or facsimile number for service of notice upon it by a notice in writing to the other parties.

## ARTICLE 9 THE AGENT

ING has been appointed Agent for the Lenders hereunder pursuant to Article 8 of the Credit Agreement. It is expressly understood and agreed by the parties to this Security Agreement that any authority conferred upon the Agent hereunder is subject to the terms of the delegation of authority made by the Lenders to the Agent pursuant to the Credit Agreement, and that the Agent has agreed to act (and any successor Agent shall act) as such hereunder only on the express conditions contained in such Article

8. Any successor Agent appointed pursuant to Article 8 of the Credit Agreement shall be entitled to all the rights, interests and benefits of the Agent hereunder.

By accepting the benefits of this Security Agreement and each other Loan Document, the Secured Parties expressly acknowledge and agree that this Security Agreement and each other Loan Document may be enforced only by the action of the Agent and that no other Secured Party shall have any right individually to seek to enforce or to enforce this Security Agreement or to realize upon the security to be granted hereby, it being understood and agreed that such rights and remedies may be exercised by the Agent for the benefit of the Secured Parties upon the terms of this Security Agreement and the other Loan Documents.

[Signature Pages Follow]

IN WITNESS WHEREOF, each Grantor and the Agent have executed this Security Agreement as of the date first above written.

ALLNEX USA INC.

BY: \_\_\_\_\_  
Name:  
Title:

ALLNEX USA HOLDING, INC.

BY: \_\_\_\_\_  
Name:  
Title:

*Signature Page to Security Agreement*

ING BANK N.V., LONDON BRANCH, as Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

*Allnex Signature Page to US Security Agreement*

## EXHIBIT A

### [FORM OF] US SECURITY AGREEMENT JOINDER

SUPPLEMENT NO. [●] dated as of [●] (this “**Supplement**”), to the US Pledge and Security Agreement dated as of [●], 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Security Agreement**”), by and among Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex USA Holding, Inc., a Delaware corporation (“**US Holdco**”), each Restricted Subsidiary of the Lux Borrower party from time to time thereto (each such Restricted Subsidiary individually a “**US Subsidiary Party**” and collectively, the “**US Subsidiary Parties**”; the US Subsidiary Parties, US Holdco and the US Borrower are referred to collectively herein as the “**Grantors**”), and ING Bank N.V., London Branch, as administrative agent and as collateral agent (in such capacity, the “**Agent**”).

A. Reference is made to the Credit Agreement, dated as of April 15, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, Allnex S.à.r.l., a *société à responsabilité limitée* organized and established under the laws of Luxembourg (the “**Lux Borrower**”), the US Borrower, Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.), a *société en commandite par actions* organized and established under the laws of Luxembourg, the lenders from time to time party thereto, and the Agent.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement or the Security Agreement, as applicable.

C. The Grantors have entered into the Security Agreement in order to induce the Lenders to make Loans. Section 7.10 of the Security Agreement and Section 5.12 and 5.14 of the Credit Agreement provide that additional Domestic Subsidiaries of the Lux Borrower (other than Excluded Subsidiaries) may become US Subsidiary Parties under the Security Agreement by execution and delivery of an instrument in the form of this Supplement. The undersigned Restricted Subsidiary (the “**New Subsidiary**”) is executing this Supplement in accordance with the requirements of the Credit Agreement to become a US Subsidiary Party under the Security Agreement in order to induce the Lenders to make additional Loans and as consideration for Loans previously made.

Accordingly, the Agent and the New Subsidiary agree as follows:

SECTION 1. In accordance with Section 7.10 of the Security Agreement, the New Subsidiary by its signature below becomes a US Subsidiary Party and a Grantor under the Security Agreement with the same force and effect as if originally named therein as a US Subsidiary Party and the New Subsidiary hereby agrees to all the terms and provisions of the Security Agreement applicable to it as a US Subsidiary Party and Grantor thereunder. In furtherance of the foregoing, the New Subsidiary, as security for the payment and performance in full of the Secured Obligations, does hereby create and grant to the Agent, its successors and assigns, for the benefit of the Secured Parties, their successors and permitted assigns, a security interest in and Lien on all of the New Subsidiary’s right, title and interest in and to the Collateral of the New Subsidiary. Each reference to a “**Grantor**” and “**US Subsidiary Party**” in the Security Agreement shall be deemed to include the New Subsidiary. The Security Agreement is hereby incorporated herein by reference.

*Allnex Signature Page to US Security Agreement (2016)*

**SECTION 2.** The New Subsidiary represents and warrants to the Agent and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to the Legal Reservations.

**SECTION 3.** This Supplement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective when the Agent shall have received a counterpart of this Supplement that bears the signature of the New Subsidiary and the Agent has executed a counterpart hereof. Delivery of an executed signature page to this Supplement by facsimile transmission or by email as a ".pdf" or ".tif" attachment shall be as effective as delivery of a manually signed counterpart of this Supplement.

**SECTION 4.** Attached hereto is a duly prepared, completed and executed Perfection Certificate Supplement with respect to the New Subsidiary, the information set forth in which is correct and complete in all material respects as of the date hereof.

**SECTION 5.** Except as expressly supplemented hereby, the Security Agreement shall remain in full force and effect.

**SECTION 6. THIS SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

**SECTION 7.** In case any one or more of the provisions contained in this Supplement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and in the Security Agreement shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

**SECTION 8.** All communications and notices hereunder shall be in writing and given as provided in Section 8.01 of the Security Agreement.

**SECTION 9.** The New Subsidiary agrees to reimburse the Agent for its expenses in connection with this Supplement, including the fees, other charges and disbursements of counsel in accordance with Section 9.03(a) of the Credit Agreement.

**SECTION 10.** This Supplement shall constitute a Loan Document, under and as defined in, the Credit Agreement.

IN WITNESS WHEREOF, the New Subsidiary and the Agent have duly executed this Supplement to the Security Agreement as of the day and year first above written.

[NAME OF NEW SUBSIDIARY]

By: \_\_\_\_\_

*Allnex Signature Page to US Security Agreement (2016)*

Name:

Title:

*Allnex Signature Page to US Security Agreement (2016)*

ING BANK N.V., LONDON BRANCH, as Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

[FORM OF]  
LETTER OF CREDIT REQUEST

[Applicable Issuing Bank],<sup>10</sup>

as Issuing Bank

Attention: [Name]  
[Address]  
Fax: [•]

with a copy to: ING Bank N.V., London Branch,  
as Administrative Agent for the Lenders referred to below

Attention: Craig Baker  
at 8-10 Moorgate, London,  
EC2R 6DA  
Fax: + 44 20 7767 7324

[Date]<sup>11</sup>

Ladies and Gentlemen:

We hereby request that [•]<sup>12</sup>, as an Issuing Bank, in its individual capacity, [issue, amend, renew, extend] [a/an] [existing] [Standby] [Commercial] Letter of Credit on [•]<sup>13</sup> (the “**Date of Issuance**”), which Letter of Credit shall be denominated in [United States Dollars] [specify Alternate Currency], shall be in the aggregate amount of [•]<sup>14</sup> and shall be for the account of [•]<sup>15</sup>. The beneficiary of the requested Letter of Credit is [•]<sup>16</sup>, and such Letter of Credit will be in support of [•]<sup>17</sup> and will have a stated expiration date of [•]<sup>18</sup>. For the purposes of this Letter of Credit Request, unless otherwise defined herein, all capitalized terms used herein and defined in the Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), among, *inter alios*, Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541, Allnex USA Inc., a Delaware corporation, Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of

---

<sup>10</sup> Insert name and address of the applicable Issuing Bank.

<sup>11</sup> The applicable Revolving Borrower shall deliver to the applicable Issuing Bank and the Administrative Agent, at least three Business Days in advance of the requested date of issuance, amendment, extension or renewal (or such shorter period as is acceptable to the applicable Issuing Bank).

<sup>12</sup> Insert name of the applicable Issuing Bank.

<sup>13</sup> Insert date of issuance, which must be a Business Day.

<sup>14</sup> Insert aggregate initial amount of the Letter of Credit.

<sup>15</sup> Insert name of account party, which must be a Revolving Borrower or, so long as such Revolving Borrower is a joint and several co-applicant, a Restricted Subsidiary of such Revolving Borrower.

<sup>16</sup> Insert name and address of beneficiary.

<sup>17</sup> Insert brief description of obligation(s) to be supported by the Letter of Credit.

<sup>18</sup> Date may not be later than the date referred to in Section 2.05(a) of the Credit Agreement.

Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party thereto and ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the "**Administrative Agent**"), shall have the respective meaning assigned to such terms in the Credit Agreement.

We hereby certify that:

- (A) The representations and warranties of the Loan Parties set forth in the Credit Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the Date of Issuance with the same effect as though such representations and warranties had been made on and as of the Date of Issuance; provided that to the extent that a representation and warranty specifically refers to an earlier date, it shall be true and correct in all material respects as of such earlier date.
- (B) At the time of and immediately after giving effect to the Credit Extension, no Default or Event of Default shall have occurred and be continuing.

[Signature Page Follows]

[APPLICABLE REVOLVING BORROWER],  
as Revolving Borrower

By: \_\_\_\_\_  
Name:  
Title:

[FORM OF]  
BANK GUARANTEE REQUEST

[Applicable Guarantee Bank]<sup>19</sup>  
as Guarantee Bank

Attention: [Name]  
[Address]  
Fax: [•]

with a copy to: ING Bank N.V., London Branch,  
as Administrative Agent for the Lenders referred to below

Attention: Craig Baker  
at 8-10 Moorgate, London,  
EC2R 6DA  
Fax: + 44 20 7767 7324

[Date]<sup>20</sup>

Ladies and Gentlemen:

We hereby request that [•]<sup>21</sup>, as an Guarantee Bank, in its individual capacity, [issue, amend, renew, extend] [a/an] [existing] [Standby] [Commercial] Bank Guarantee on [•]<sup>22</sup> (the “**Date of Issuance**”), which Bank Guarantee shall be denominated in [United States Dollars] [specify Alternate Currency], shall be in the aggregate amount of [•]<sup>23</sup> and shall be for the account of [•]<sup>24</sup>. The beneficiary of the requested Bank Guarantee is [•]<sup>25</sup>, and such Bank Guarantee will be in support of [•]<sup>26</sup> and will have a stated expiration date of [•]<sup>27</sup>. For the purposes of this Bank Guarantee Request, unless otherwise defined herein, all capitalized terms used herein and defined in the Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), among, *inter alios*, Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541, Allnex USA Inc., a Delaware corporation, Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party

<sup>19</sup> Insert name and address of the applicable Guarantee Bank.

<sup>20</sup> The applicable Revolving Borrower shall deliver to the applicable Guarantee Bank and the Administrative Agent, at least three Business Days in advance of the requested date of issuance, amendment, extension or renewal (or such shorter period as is acceptable to the applicable Guarantee Bank).

<sup>21</sup> Insert name of the applicable Guarantee Bank.

<sup>22</sup> Insert date of issuance, which must be a Business Day.

<sup>23</sup> Insert aggregate initial amount of the Bank Guarantee.

<sup>24</sup> Insert name of account party, which must be a Revolving Borrower or, so long as such Revolving Borrower is a joint and several co-applicant, a Restricted Subsidiary of such Revolving Borrower.

<sup>25</sup> Insert name and address of beneficiary.

<sup>26</sup> Insert brief description of obligation(s) to be supported by the Bank Guarantee.

<sup>27</sup> Date may not be later than the date referred to in Section 2.05(b) of the Credit Agreement.

thereto and ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the “**Administrative Agent**”), shall have the respective meaning assigned to such terms in the Credit Agreement.

We hereby certify that:

- (A) The representations and warranties of the Loan Parties set forth in the Credit Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the Date of Issuance with the same effect as though such representations and warranties had been made on and as of the Date of Issuance; provided that to the extent that a representation and warranty specifically refers to an earlier date, it shall be true and correct in all material respects as of such earlier date.
- (B) At the time of and immediately after giving effect to the Credit Extension, no Default or Event of Default shall have occurred and be continuing.

[Signature Page Follows]

[APPLICABLE REVOLVING BORROWER],  
as Revolving Borrower

By: \_\_\_\_\_  
Name:  
Title:

[FORM OF]  
U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541, (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the “**Administrative Agent**”), and each Lender from time to time party thereto.

Pursuant to the provisions of Section 2.16(f)(ii)(B)(3) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Promissory Notes evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a “10-percent shareholder” of the US Borrower within the meaning of Section 881(c)(3)(B) of the Code and (iv) it is not a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the US Borrower with a duly executed certificate of its non-U.S. Person status on IRS Form W-8BEN or W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (i) if the information provided on this certificate changes, the undersigned shall promptly so inform each of the US Borrower and the Administrative Agent, and (ii) the undersigned shall have at all times furnished each of the US Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_, 20[•]

[FORM OF]  
U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541, (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the “**Administrative Agent**”), and each Lender from time to time party thereto.

Pursuant to the provisions of Section 2.16(f)(ii)(B)(4) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a “10-percent shareholder” of the US Borrower within the meaning of Section 881(c)(3)(B) of the Code, and (iv) it is not a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender and the Administrative Agent with a duly executed certificate of its non-U.S. Person status on IRS Form W-8BEN or W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (i) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and the Administrative Agent in writing, and (ii) the undersigned shall have at all times furnished such Lender and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

**[NAME OF PARTICIPANT]**

By: \_\_\_\_\_  
Name:  
Title:

Date: \_\_\_\_\_, 20[•]

[FORM OF]  
U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541, (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the “**Administrative Agent**”), and each Lender from time to time party thereto.

Pursuant to the provisions of Section 2.16(f)(ii)(B)(4) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect to such participation, neither the undersigned nor any of its direct or indirect partners/members is a “bank” extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a “10-percent shareholder” of the US Borrower within the meaning of Section 881(c)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender and the Administrative Agent with a duly executed IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or W-8BEN-E, as applicable, or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or W-8BEN-E, as applicable, from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and the Administrative Agent and (2) the undersigned shall have at all times furnished such Lender and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

**[NAME OF PARTICIPANT]**

By: \_\_\_\_\_  
Name:  
Title:

Date: \_\_\_\_\_, 20[•]

**[FORM OF]**  
**U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among, *inter alios*, Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541, (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation (the “**US Borrower**”), Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the “**Administrative Agent**”), and each Lender from time to time party thereto.

Pursuant to the provisions of Section 2.16(f)(ii)(B)(4) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Promissory Notes evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Promissory Notes(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a “bank” extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a “10-percent shareholder” of the US Borrower within the meaning of Section 881(c)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Lux Borrower with a duly executed IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or W-8BEN-E, as applicable, or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or W-8BEN-E, as applicable, from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the US Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the US Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

**[NAME OF LENDER]**

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_, 20[•]

[FORM OF]  
SOLVENCY CERTIFICATE

[●], 2016

This Solvency Certificate (this “**Solvency Certificate**”) is being executed and delivered pursuant to Section 4.02(h) of that certain Credit Agreement, dated as of April 15, 2016 and amended and restated as of September 13, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time the “**Credit Agreement**”; the terms defined therein being used herein are as defined therein unless otherwise defined herein), by and among, *inter alios*, Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541 (the “**Lux Borrower**”), Allnex USA Inc., a Delaware corporation, Allnex (Luxembourg) & Cy S.C.A., a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052, the Lenders from time to time party thereto, ING Bank N.V., London Branch, as administrative agent and collateral agent for the Lenders, and the other agents party thereto.

I, [●], as a Responsible Officer of the Lux Borrower, in such capacity and not in an individual capacity, hereby certify as follows:

1. I am generally familiar with the businesses and assets of the Lux Borrower and its Restricted Subsidiaries, taken as a whole, and am duly authorized to execute this Solvency Certificate on behalf of the Lux Borrower pursuant to the Credit Agreement; and
2. As of the date hereof and after giving effect to the Transactions and the incurrence of the indebtedness and obligations being incurred in connection with the Credit Agreement and the Transactions, that, (i) the sum of the debt (including contingent liabilities) of the Lux Borrower and its Restricted Subsidiaries, taken as a whole, does not exceed the fair value of the present assets of the Lux Borrower and its Restricted Subsidiaries, taken as a whole; (ii) the present fair saleable value of the assets of the Lux Borrower and its Restricted Subsidiaries, taken as a whole, is not less than the amount that will be required to pay the probable liabilities (including contingent liabilities) of the Lux Borrower and its Restricted Subsidiaries, taken as a whole, on their debts as they become absolute and matured; (iii) the capital of the Lux Borrower and its Restricted Subsidiaries, taken as a whole, is not unreasonably small in relation to the business of the Lux Borrower or its Restricted Subsidiaries, taken as a whole, contemplated as of the date hereof and (iv) the Lux Borrower and its Restricted Subsidiaries, taken as a whole, do not intend to incur, or believe that they will incur, debts (including current obligations and contingent liabilities) beyond their ability to pay such debts as they mature in the ordinary course of business. For the purposes hereof, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

[Signature Page Follows]

IN WITNESS WHEREOF, I have executed this Solvency Certificate on the date first above written.

ALLNEX S.À R.L., a *société à responsabilité limitée* organized and established under the laws of Luxembourg, as Lux Borrower

By: \_\_\_\_\_  
Name:  
Title:

[Form of]

INTERCREDITOR AGREEMENT

Among

**Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.),**  
as Holdings,

**Allnex S.à r.l.,**  
as the Lux Borrower,

**Allnex USA Inc. (f/k/a AI Chem & Cy U.S. AcquiCo, Inc.),**  
as the US Borrower,

the other Grantors party hereto,

**Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.)**  
and  
**AI Chem (Luxembourg) Intermediate S.à r.l.,**  
as the Original Investors,

the Intra-Group Lenders from time to time party hereto,

**ING Bank N.V., London Branch,**  
as Senior Representative for the  
First Lien Credit Agreement Secured Parties,

the First Lien Hedge Counterparties from time to time party hereto,

and

each additional Representative from time to time party hereto

dated as of September 13, 2016

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INTERCREDITOR AGREEMENT, dated as of September 13, 2016 (as amended, supplemented or otherwise modified from time to time, this “Agreement”), among ING Bank N.V., London Branch, as Representative for the First Lien Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the “First Lien Collateral Agent”), each Second Priority Representative and Senior Representative that from time to time becomes a party hereto pursuant to Section 16.13 and the First Lien Hedge Counterparties (as defined below) from time to time party hereto, Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.), a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052 and AI Chem (Luxembourg) Intermediate S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 171.968 (the “Original Investors”) and the Intra-Group Lenders (as defined below) from time to time party hereto and acknowledged and agreed to by Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.), a partnership limited by shares (*société en commandite par actions*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 172.052 (“Holdings”), Allnex S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 76, Grand-Rue, L-1660 Luxembourg, registered with the Luxembourg trade and companies register under number B 173.541 and having a registered share capital of \$1,800,005, (the “Lux Borrower”), Allnex USA Inc., a Delaware corporation (the “US Borrower” and together with the Lux Borrower, the “Initial Borrowers”) and the other Grantors (as defined below) from time to time party hereto.

In consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the First Lien Collateral Agent (for itself and on behalf of the First Lien Credit Agreement Secured Parties), the Designated Shared Collateral Agent, each additional Senior Representative party hereto (for itself and on behalf of the Additional Senior Debt Parties under the applicable Additional Senior Debt Facility), each Second Priority Representative party hereto (for itself and on behalf of the Second Priority Debt Parties under the applicable Second Priority Debt Facility), each First Lien Hedge Counterparty party hereto, the Original Investors and the Intra-Group Lenders agree as follows:

## ARTICLE I

### Definitions

Section 1.01. Certain Defined Terms. Capitalized terms used but not otherwise defined herein, until the Discharge of the Senior Obligations, have the meanings set forth in the First Lien Credit Agreement or, if defined in the New York UCC or the PPSA, as applicable, the meanings specified therein. As used in this Agreement, the following terms have the meanings specified below:

**“Acceleration Event”** means:

(a) in relation to a Senior Facility, the Senior Representative in relation thereto has exercised any acceleration right to demand (or any acceleration provision being automatically invoked which requires) repayment of any Senior Obligations outstanding thereunder, in each case under and in accordance with the terms of the related Senior Financing Agreement following the occurrence of an Event of Default which is continuing (in each case other than placing amounts on demand or cancelling undrawn commitments, but including making a demand for repayment of amounts placed on demand) (a “Senior Acceleration Event”); or

(b) in relation to a Second Priority Debt Facility, the Second Priority Representative in relation thereto has exercised any acceleration right to demand (or any acceleration provision being automatically invoked which requires) repayment of any Second Priority Debt Obligations outstanding thereunder, in each case under and in accordance with the terms of the related Second Priority Financing Agreement following the occurrence of an Event of Default which is continuing (in each case other than placing amounts on demand or cancelling undrawn commitments, but including making a demand for repayment of amounts placed on demand).

**“Acquiring Counterparty”** has the meaning assigned to such term in Section 3.12(b)(iii).

**“Additional Creditor”** means, with respect to any series, issue or claim of Additional Debt, the holders of such Indebtedness, the Additional Creditor Representative and the beneficiaries of each indemnification obligation undertaken by any borrower or any guarantor under any related Additional Debt Document.

**“Additional Creditor Representative”** means, in the case of any Additional Debt and the Additional Creditors thereunder, any trustee, administrative agent, collateral agent, security agent or similar agent that is named as the Representative in respect of such Additional Creditors in respect of such Additional Debt in the applicable Joinder Agreement.

**“Additional Debt”** means any Indebtedness that is issued, borrowed or guaranteed by any Borrower and/or any other Grantor (other than Indebtedness constituting Secured Obligations) provided, however, that (i) such Indebtedness is permitted to be incurred and guaranteed on such basis by each then extant Senior Debt Document and Second Priority Debt Document and (ii) the Representative for the holders of such Indebtedness shall have become party to this Agreement pursuant to, and by satisfying the conditions set forth in, Section 16.15 hereof.

**“Additional Debt Document”** means with respect to any series, issue or class of Additional Debt, the promissory notes, credit agreements, indentures or other operative agreements evidencing or governing such Indebtedness and any document evidencing, granting or governing any Lien or Guarantee relating to such Indebtedness.

**“Additional Debt Obligations”** means, with respect to any series, issue or class of Additional Debt, all advances to, and debts, liabilities, obligations, covenants and duties of, any

Borrower or any other Grantor arising under any Additional Debt Document, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees and other amounts, if any, that accrue after the commencement by or against any Borrower or any other Grantor of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and other amounts, if any, are allowed claims in such proceeding.

**“Additional Senior Debt”** means any Indebtedness that is incurred, issued or guaranteed by any Borrower and/or any other Grantor (other than Indebtedness constituting First Lien Credit Agreement Secured Obligations) which Indebtedness and Guarantees are secured by the Senior Collateral (or a portion thereof) on a pari passu basis (but without regard to control of remedies) with the First Lien Credit Agreement Secured Obligations; provided, however, that (i) such Indebtedness is permitted to be incurred, secured and guaranteed on such basis by each then extant Senior Debt Document and Second Priority Debt Document and (ii) the Representative for the holders of such Indebtedness shall have (A) executed and delivered this Agreement as of the date hereof or become party to this Agreement pursuant to, and by satisfying the conditions set forth in, Section 16.13 hereof and (B) become a party to any First Lien Intercreditor Agreement pursuant to, and by satisfying the conditions set forth in, Section 5.13 thereof; provided further that, if such Indebtedness will be the initial Additional Senior Debt incurred by one or more Borrowers, then the Guarantors, the First Lien Collateral Agent and the Representative for such Indebtedness shall have executed and delivered any First Lien Intercreditor Agreement.

**“Additional Senior Debt Documents”** means, with respect to any series, issue or class of Additional Senior Debt, the promissory notes, credit agreements, indentures, Senior Collateral Documents or other definitive agreements evidencing or governing such Indebtedness and any document evidencing, granting or governing any Lien or Guarantee relating to such Indebtedness.

**“Additional Senior Debt Facility”** means each series, issue or class of any Additional Senior Debt.

**“Additional Senior Debt Obligations”** means, with respect to any series, issue or class of Additional Senior Debt, all amounts owing pursuant to the terms of such Additional Senior Debt, including, without limitation, the obligation (including guarantee obligations) to pay principal, interest, letter of credit commissions, reimbursement obligations, charges, expenses, fees, attorneys costs, indemnities and other amounts payable by a Grantor under any Additional Senior Debt Document (including interest, fees and other amounts, if any, that accrue after the commencement by or against any Borrower or any other Grantor of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and other amounts, if any, are allowed claims in such proceeding).

**“Additional Senior Debt Parties”** means, with respect to any series, issue or class of Additional Senior Debt, the holders of such Indebtedness, the Representative with respect thereto, and the beneficiaries of each indemnification obligation undertaken by the Borrowers or any Guarantor under any related Additional Senior Debt Documents.

**“Affiliated Lenders”** means any “Affiliated Lender” under and as defined in the First Lien Credit Agreement and any equivalent term in any other Senior Financing Agreement or Second Priority Financing Agreement, as applicable.

**“Agreement”** has the meaning assigned to such term in the introductory paragraph of this Agreement.

**“Ancillary Documents”** means any **“Ancillary Document”** under and as defined in the First Lien Credit Agreement and any equivalent term in any other Senior Financing Agreement.

**“Ancillary Lender”** means any **“Ancillary Lender”** under and as defined in the First Lien Credit Agreement and any equivalent term in any other Senior Financing Agreement.

**“Ancillary Lender/Issuing Bank/Guarantee Bank/Banking Services Provider Intercreditor Joinder Agreement”** means a joinder to this Agreement entered into by an Ancillary Lender, Issuing Bank, Guarantee Bank and/or Banking Services Provider, as applicable, substantially in the form of Annex IV hereto or such other form as shall be approved by the Designated Senior Representative.

**“Ancillary Obligations”** means any **“Ancillary Obligation”** under and as defined in the First Lien Credit Agreement and any equivalent term in any other Senior Financing Agreement.

**“Austrian Guarantor”** means a First Lien Loan Party that is incorporated and registered with the Austrian companies register (*Firmenbuch*) or, if a company incorporated and registered in a non EU member state, has the real seat of its administration in the Republic of Austria.

**“Bank Guarantee”** means (a) a **“Bank Guarantee”** under, and as defined in, the First Lien Credit Agreement and (b) any bank guarantee or other similar or equivalent instrument issued under or pursuant to the terms of any Additional Senior Debt Document.

**“Banking Services”** means each and any of the **“Banking Services”** under and as defined in the First Lien Credit Agreement (and any equivalent term in any other Senior Financing Agreement) provided by any Banking Services Provider to any Grantor pursuant to a Banking Services Agreement.

**“Banking Services Agreement”** means all agreements, instruments and other documents at any time executed or delivered by any Grantor in connection with, or related to, Banking Services Obligations.

**“Banking Services Obligations”** means any **“Banking Services Obligation”** under and as defined in the First Lien Credit Agreement and any equivalent term in any other Senior Financing Agreement.

**“Banking Services Provider”** means each provider of Banking Services Obligations to any Grantor.

**“Bankruptcy Case”** means a case under the Bankruptcy Code or any other Debtor Relief Law.

**“Bankruptcy Code”** means Title 11 of the United States Code, as now or hereafter in effect.

**“Borrowers”** means (i) the Lux Borrower, US Borrower, any other Subsidiary of Holdings which is a Revolving Borrower under and as defined in the First Lien Credit Agreement and (ii) any other Subsidiary of Holdings which is a borrower or issuer of Senior Facilities and/or Second Priority Debt.

**“Cash Collateral”** means any cash collateral provided by any member of the Group pursuant to cash collateralization of Obligations by such member of the Group.

**“Class Debt”** has the meaning assigned to such term in Section 16.13.

**“Class Debt Parties”** has the meaning assigned to such term in Section 16.13.

**“Class Debt Representatives”** has the meaning assigned to such term in Section 16.13.

**“Close-Out Netting”** means (a) in respect of a First Lien Hedge Agreement based on a 1992 ISDA Master Agreement, any step involved in determining the amount payable in respect of an Early Termination Date (as defined in the 1992 ISDA Master Agreement) under section 6(e) of the 1992 ISDA Master Agreement before the application of any subsequent Set off (as defined in the 1992 ISDA Master Agreement); (b) in respect of a First Lien Hedge Agreement based on a 2002 ISDA Master Agreement, any step involved in determining an Early Termination Amount (as defined in the 2002 ISDA Master Agreement) under section 6(e) of the 2002 ISDA Master Agreement; and (c) in respect of a First Lien Hedge Agreement not based on a 1992 or 2002 ISDA Master Agreement, any step involved on a termination of the hedging transactions under that First Lien Hedge Agreement pursuant to any provision of that First Lien Hedge Agreement which has a similar effect to either provision referenced in clauses (a) and (b) above.

**“Collateral”** means the Senior Collateral and the Second Priority Collateral.

**“Collateral Documents”** means the Senior Collateral Documents and the Second Priority Collateral Documents.

**“Collateralize”** means to (i) pledge and deposit with or deliver to the Senior Representative, for the benefit of the Senior Secured Parties, or directly with (x) an issuing bank of letters of credit or (y) a guarantee bank of bank guarantees, as collateral for the letters of credit exposure or bank guarantee exposure, as applicable, cash or deposit account balances and/or (ii) to issue back to back letters of credit and/or back to back bank guarantees for the benefit of the issuing bank of letters of credit or guarantee bank of bank guarantees, as applicable, in each case in accordance with the requirements specified in the applicable Senior Debt Documents and otherwise pursuant to documentation in form and substance reasonably satisfactory to the applicable Senior Representative.

**“Competitive Sales Process”** means (a) any auction or other competitive sales process conducted with the advice of a Financial Advisor appointed by, or approved by, the Relevant Designated Representative pursuant to Section 9.10 and (b) any enforcement of the Shared Collateral carried out by way of auction or other competitive sales process pursuant to requirements of applicable Requirements of Law.

**“Credit Related Close-Out”** means a termination or close-out in whole or in part of any hedging transaction under a First Lien Hedge Agreement prior to its stated maturity in accordance with Section 3.09 other than a Non-Credit Related Close-Out.

**“Creditors”** means the Secured Parties, the Additional Creditors, the Intra-Group Lenders and the Original Investors.

**“Debt Document”** means each of this Agreement, the Senior Debt Documents, the Second Priority Debt Documents, the Senior Collateral Documents, the Second Priority Collateral Documents, any Additional Debt Document and any agreement evidencing the terms of the Intra-Group Obligations or the Investor Obligations.

**“Debt Facility”** means any Senior Facility and any Second Priority Debt Facility.

**“Debt Financing Agreement”** means any Senior Financing Agreement and/or any Second Priority Financing Agreement, as the context requires.

**“Debtor Relief Laws”** means the Bankruptcy Code of the United States, the United Kingdom’s Insolvency Act 1986, the Companies’ Creditors Arrangement Act (Canada), the Bankruptcy and Insolvency Act (Canada), the Winding-Up and Restructuring Act (Canada) and all other liquidation, conservatorship, bankruptcy, general assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally including any proceeding under applicable corporate law seeking a compromise or arrangement of, or stay of proceedings to enforce, some or all of the debts of any Person.

**“Designated Shared Collateral Agent”** means ING Bank N.V., London Branch, as designated as such in accordance with Section 16.27 of this Agreement.

**“Designated Second Priority Representative”** means the Second Priority Representative designated from time to time by the Second Priority Majority Representatives, in a notice to the Designated Senior Representative and the Borrowers hereunder, as the “Designated Second Priority Representative” for purposes hereof.

**“Designated Senior Representative”** means (i) if at any time there is only one Senior Representative for a Senior Facility and/or First Lien Hedge Agreement with respect to which the Discharge of Senior Obligations has not occurred, such Senior Representative and (ii) if at any time there is more than one Senior Representative for a Senior Facility and/or First Lien Hedge Agreement with respect to which the Discharge of Senior Obligations has not occurred, the Senior Representative designated as the “Designated Senior Representative” for purposes of this Agreement in the applicable First Lien Intercreditor Agreement, or if no such designation is

made, the Senior Representative granted authority over decisions on exercise of remedies in respect of Collateral under the terms of such First Lien Intercreditor Agreement.

“DIP Consent Limit” means 120% of the sum of (i) aggregate outstanding balance of the Senior Obligations (excluding any First Lien Hedge Obligation) on the date the relevant Insolvency or Liquidation Proceeding was commenced plus (ii) the maximum amount of undrawn revolving credit commitments under the Senior Debt Documents immediately prior to the commencement of such Insolvency or Liquidation Proceeding (with respect to this clause (ii), without giving effect to any automatic reductions in or terminations of any such revolving credit commitments resulting from the commencement of such Insolvency or Liquidation Proceeding).

“DIP Financing” has the meaning assigned to such term in Section 12.01.

“Discharge” means, with respect to any Shared Collateral and any Debt Facility or First Lien Hedge Agreement (as applicable), the date on which such Debt Facility or First Lien Hedge Agreement (as applicable) and the Senior Obligations or Second Priority Debt Obligations thereunder, as the case may be, are no longer secured or required to be secured by such Shared Collateral pursuant to the terms of the documentation governing such Debt Facility or First Lien Hedge Agreement (as applicable). The term “Discharged” shall have a corresponding meaning.

“Discharge of First Lien Credit Agreement Obligations” means, with respect to any Shared Collateral, the Discharge of the First Lien Credit Agreement Secured Obligations with respect to such Shared Collateral (to include, (a) in the case of any Ancillary Obligations (not constituting loans) or Banking Services Obligations, except as otherwise provided in clause (b) below, the cash collateralization or backstopping of such Ancillary Obligations or Other Obligations on terms reasonably satisfactory to the applicable lender or counterparty, as applicable) that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest are paid (other than any indemnification obligations for which no claim or demand for payment, whether oral or written, has been made at such time); or (b) termination or cash collateralization or backstopping (in an amount and manner reasonably satisfactory to the applicable Issuing Banks, but in no event greater than 100% of the aggregate undrawn face amount) of all Letters of Credit issued under the Senior Debt Documents and constituting Senior Obligations); provided that the Discharge of First Lien Credit Agreement Obligations shall not be deemed to have occurred in connection with a Refinancing of such First Lien Credit Agreement Secured Obligations with an Additional Senior Debt Facility secured by such Shared Collateral under one or more Additional Senior Debt Documents which has been designated in writing by the First Lien Collateral Agent (under the First Lien Credit Agreement so Refinanced) to the Designated Senior Representative as the “First Lien Credit Agreement” for purposes of this Agreement.

“Discharge of Senior Obligations” means the occurrence of the Discharge of First Lien Credit Agreement Obligations, the Discharge of all First Lien Hedge Obligations and the Discharge of each Additional Senior Debt Facility.

“Disposal Obligations” has the meaning assigned to such term in Section 9.01(a).

“Disposed Entity” has the meaning assigned to such term in Section 9.01(a).

“Enforcement Action” means:

(a) in respect of any Obligations, (i) the acceleration of any Obligations or the making of any declaration that any Obligations are prematurely due and payable (other than as a result of it becoming unlawful for a Secured Party to perform its obligations under, or of any voluntary or mandatory prepayment arising under, any of the Debt Documents); (ii) the making of any valid declaration that any Obligations are payable on demand; (iii) the making of a demand in respect of an Obligation that is payable on demand; (iv) the making of any demand against any Grantor in respect of any guarantee, indemnity or assurance against loss of Grantor granted pursuant to the Debt Documents; (v) the exercise of any right to require any Grantor to acquire any Obligation (including exercising any put or call option against any Grantor for the redemption or purchase of any Obligation but excluding any such right which arises as a result of Section 9.05 (*Successors and Assigns*) of the First Lien Credit Agreement or any other similar or equivalent provision of any of the Senior Debt Documents or Second Priority Debt Documents and/or any other Obligations Acquisition or transaction which any Grantor is not prohibited from entering into by the terms of the Senior Debt Documents and the Second Priority Debt Documents and excluding any mandatory offer arising on or as a result of a change of control or asset sale (however described) as set out in the First Lien Credit Agreement or any other similar or equivalent provision of any of the Senior Debt Documents); (vi) the exercise of any right of set off, account combination or payment netting against any Grantor in respect of any Obligations other than the exercise of any such right (A) as Close-Out Netting by a First Lien Hedge Counterparty, (B) as Payment Netting by a First Lien Hedge Counterparty, (C) as Inter-Hedge Agreement Netting by a First Lien Hedge Counterparty, (D) which is otherwise permitted by the terms of the Senior Debt Documents and (if in existence) the Second Priority Debt Documents; and (vii) the suing for, commencing or joining of any legal or arbitration proceedings against any Grantor to recover any Obligations;

(b) the premature termination or close-out of any hedging transaction under any First Lien Hedge Agreement (except to the extent permitted by this Agreement);

(c) the taking of any steps to enforce or require the enforcement of any Shared Collateral;

(d) the entering into of any composition, compromise, assignment or similar arrangement with any Grantor which owes any Obligations, or has given any Collateral, guarantee or indemnity or other assurance against loss in respect of the Obligations (other than any assignment or transfer permitted under this Agreement or pursuant to any debt buy-back, tender offer, exchange offer or similar or equivalent arrangement not otherwise prohibited by the Debt Documents); or

(e) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, examiner, administrator or similar officer) in respect of, the winding up, dissolution, examinership, administration or reorganization of any Grantor which owes any Obligations, or has given any Collateral, guarantee, indemnity or other assurance against loss in respect of any of the Obligations, or any of such Grantor’s assets or any

suspension of payments or moratorium of any indebtedness of any such Grantor or any analogous procedure or step in any jurisdiction,

provided that the following shall not constitute Enforcement Action:

(i) the taking of any action falling above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Obligations, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods; or

(ii) a Secured Party bringing legal proceedings against any person solely for the purpose of:

(1) obtaining injunctive relief (or any analogous remedy outside England and Wales) to restrain any actual or putative breach of any Debt Document to which it is party;

(2) obtaining specific performance (other than specific performance of an obligation to make a payment) with no claim for damages; or

(3) requesting judicial interpretation of any provision of any Debt Document to which it is party with no claim for damages; or

(iii) bringing legal proceedings against any person in connection with any securities violation, securities or listing regulations or common law fraud; or

(iv) to the extent entitled by law, the taking of any action against any Creditor (or any agent, trustee or receiver acting on behalf of that Creditor) to challenge the basis on which any sale or disposal is to take place pursuant to the powers granted to those persons under any relevant documentation; or

(v) any person consenting to, or the taking of any other action pursuant to or in connection with, any merger, consolidation, reorganization or any other similar or equivalent step or transaction initiated or undertaken by Holdings or any of its Subsidiaries (or any analogous procedure or step in any jurisdiction) that is not prohibited by the terms of the Debt Documents to which it is a party.

“Enforcement Date” means the first date (if any) on which any Enforcement Event occurs in accordance with the terms of this Agreement.

“Enforcement Event” means the occurrence of an Acceleration Event which is continuing.

“Event of Default” means any event or circumstance specified as such in any of the Debt Financing Agreements, as the context requires.

**“Existing Hedge Agreement”** has the meaning assigned to such term in Section 3.12(e).

**“Fairness Opinion”** means, in respect of a transfer, sale or other disposition of Shared Collateral, an opinion that the proceeds received or recovered in connection with such disposal are fair from a financial point of view taking into account all relevant circumstances.

**“Financial Advisor”** means any (a) independent internationally recognized investment bank, (b) independent internationally recognized accountancy firm or (c) other independent internationally recognized professional services firm which is regularly engaged in providing valuations of businesses or financial assets or, where applicable, advising on competitive sales processes involving the sale of businesses.

**“First Lien Collateral Agent”** has the meaning assigned to such term in the introductory paragraph of this Agreement and shall include any successor Administrative Agent under the First Lien Credit Agreement.

**“First Lien Credit Agreement”** means that certain credit agreement, dated as of April 15, 2016, among the Initial Borrowers, Holdings, the other guarantors from time to time party thereto, the lenders from time to time party thereto, ING Bank N.V., London Branch, as administrative agent and the First Lien Collateral Agent and the other parties thereto, as amended and restated as of September 13, 2016, and as may be further amended, restated, amended and restated, supplemented, replaced (whether or not upon termination, and whether with the original lenders or otherwise), restructured, repaid, refunded, refinanced or otherwise modified from time to time.

**“First Lien Credit Agreement Loan Documents”** means the First Lien Credit Agreement and the other **“Loan Documents”** as defined in the First Lien Credit Agreement.

**“First Lien Credit Agreement Obligations”** means the **“Obligations”** as defined in the First Lien Credit Agreement.

**“First Lien Credit Agreement Secured Obligations”** means the **“Secured Obligations”** as defined in the First Lien Credit Agreement.

**“First Lien Credit Agreement Secured Parties”** means the **“Secured Parties”** as defined in the First Lien Credit Agreement.

**“First Lien Hedge Agreements”** means the **“Hedge Agreements”** as defined in the First Lien Credit Agreement evidencing First Lien Hedge Obligations.

**“First Lien Hedge Counterparties”** means each counterparty under a First Lien Hedge Agreement.

**“First Lien Hedge Obligations”** means the **“Secured Hedging Obligations”** as defined in the First Lien Credit Agreement.

**“First Lien Intercreditor Agreement”** means a customary intercreditor agreement in form and substance reasonably acceptable to the First Lien Collateral Agent and the Lux Borrower, substantially consistent with this Agreement in all material respects (which shall include adjustments to take into account that the indebtedness subject thereto shall be secured on a pari passu basis with the Senior Obligations), among, inter alios, the First Lien Collateral Agent and one or more collateral agents or representatives for the holders of Senior Class Debt, in each case, that is intended to be secured on a pari passu basis with the Senior Obligations.

**“First Lien Loan Guaranty”** has the meaning assigned to such term in the First Lien Credit Agreement.

**“First Lien Loan Party”** means the “Loan Party” as defined in the First Lien Credit Agreement.

**“First Lien Obligations Amount”** means (i) the principal amount of funded Senior Obligations (other than Other Obligations), plus the aggregate face amount of Letters of Credit, if any, issued under the First Lien Credit Agreement and not reimbursed, plus the aggregate face amount of Bank Guarantees, if any, issued under the First Lien Credit Agreement and not reimbursed, plus the aggregate principal amount of unfunded commitments under the First Lien Credit Agreement and (ii) in respect of hedging transactions of First Lien Hedge Counterparties under First Lien Hedge Agreements that have, as of the date the calculation is made, been terminated or closed out in accordance with the terms of this Agreement, the aggregate amount, if any, payable to such First Lien Hedge Counterparties under such First Lien Hedge Agreements in respect of such termination or close-out as of the date of termination or close-out (and before taking into account any interest accrued on that amount since the date of termination or close-out) to the extent such amounts are unpaid (each such amount to be certified by each relevant First Lien Hedge Counterparty and as calculated in accordance with the relevant First Lien Hedge Agreement) or to the extent not terminated or closed out as of such date, the aggregate amount, if any, that would have been payable to such First Lien Hedge Counterparties under such First Lien Hedge Agreements assuming such termination or close-out had occurred as of such date (each such amount to be certified by each relevant First Lien Hedge Counterparty and as calculated in accordance with the relevant First Lien Hedge Agreement).

**“First Lien Security Agreement”** means each **“US Security Agreement”**, each **“Non-US Security Agreement”** and each **“Non-US Pledge Agreement”**, in each case, as defined in the First Lien Credit Agreement.

**“Grantors”** means the Borrowers, Holdings, the other Guarantors, and each of their respective Restricted Subsidiaries or direct or indirect parent company of the Borrowers which has granted a security interest pursuant to any Collateral Document to secure any Secured Obligations. The Borrowers and Grantors existing on the date hereof are listed on the signature pages hereto as Grantors.

**“Group”** means Holdings, the Lux Borrower and each Restricted Subsidiary of the Lux Borrower.

**“Guarantors”** means (i) the Loan Guarantors under and as defined in the First Lien Credit Agreement and (ii) Holdings or any other Subsidiary of Holdings which is a “guarantor” or provider of a guarantee, indemnity or assurance against loss in respect of any other Senior Obligations, Second Priority Debt or Additional Debt.

**“Guarantee Bank”** means (a) each “Guarantee Bank” under, and as defined in, the First Lien Credit Agreement and (b) each other person which becomes a guarantee bank (or performs another similar or equivalent role) under or pursuant to the terms of a Senior Debt Document and is specified by the Lux Borrower to be a Guarantee Bank for the purpose of this definition.

**“Guarantee Bank Obligations”** means any Senior Obligations owing to an Guarantee Bank in its capacity as such.

**“Hedging Purchase Amount”** means in respect of a hedging transaction under a First Lien Hedge Agreement the amount that would be payable to (expressed as a positive number) or by (expressed as a negative number) the relevant First Lien Hedge Counterparty on the relevant date if (i) the date was an Early Termination Date (as defined in the relevant ISDA Master Agreement); and (ii) the relevant Grantor was the Defaulting Party (under and as defined in the relevant ISDA Master Agreement), in each case as certified by the relevant First Lien Hedge Counterparty and as calculated in accordance with the relevant First Lien Hedge Agreement.

**“Indebtedness”** shall mean and includes all obligations that constitute **“Indebtedness”**, as defined in the First Lien Credit Agreement or any Second Priority Debt Document.

**“Insolvency Event of Default”** means an Event of Default which is continuing under Section 7.01(f) or (g) (*Events of Default*) of the First Lien Credit Agreement or any equivalent insolvency Event of Default provision under an Additional Senior Debt Facility or any Second Priority Debt Facility.

**“Insolvency or Liquidation Proceeding”** means (a) any case or proceeding commenced by or against any Borrower or any other Grantor under any Debtor Relief Law, any other proceeding for the reorganization, recapitalization or adjustment or marshalling of the assets or liabilities of any Borrower or any other Grantor, any receivership or assignment for the benefit of creditors relating to any Borrower or any other Grantor or any similar case or proceeding relative to any Borrower or any other Grantor or its creditors, as such, in each case whether or not voluntary; (b) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to any Borrower or any other Grantor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency; or (c) any other proceeding of any type or nature in which substantially all claims of creditors of any Borrower or any other Grantor are determined and any payment or distribution is or may be made on account of such claims, in each case to the extent constituting an Insolvency Event of Default.

**“Inter-Hedge Agreement Netting”** means the exercise of any right of set-off, account combination, close-out netting or payment netting (whether arising out of a cross

agreement netting agreement or otherwise) by a First Lien Hedge Counterparty against liabilities owed to a Grantor by that First Lien Hedge Counterparty under a First Lien Hedge Agreement in respect of First Lien Hedge Obligations owed to that First Lien Hedge Counterparty by that Grantor under another First Lien Hedge Agreement.

“Intra-Group Lenders” means each Grantor (other than Holdings) and each other member of the Restricted Group which has made a loan available to, granted credit to or made any other financial arrangement having similar effect with another member of the Restricted Group and which is named on the signing pages as an Intra-Group Lender or which becomes a party as an Intra-Group Lender in accordance with the terms of Section 16.10 or 16.11.

“Intra-Group Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Borrower or any other member of the Restricted Group owed by any Borrower or other member of the Restricted Group to any of the Intra-Group Lenders in its capacity as such (for the avoidance of doubt, excluding any Obligations which are Secured Obligations, Additional Debt Obligations, or Investor Obligations), whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees and other amounts, if any, that accrue after the commencement by or against any Borrower or any other Grantor of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and other amounts, if any, are allowed claims in such proceeding.

“Investor” means the Original Investors and any other entity which becomes a party to this Agreement in the capacity of “Investor” pursuant to Section 16.08, provided that entity has not ceased to be an Investor pursuant to Section 16.08.

“Investor Documents” means each document evidencing any loan made by an Investor to Holdings and/or the Lux Borrower (as applicable) or other Indebtedness and/or financial indebtedness incurred to an Investor.

“Investor Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, Holdings and/or the Lux Borrower (as applicable) owing to the Investors arising under the Investor Documents whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees and other amounts, if any, that accrue after the commencement by or against any Borrower or any other Grantor of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and other amounts, if any, are allowed claims in such proceeding.

“Issuing Bank” means (a) each “Issuing Bank” under, and as defined in, the First Lien Credit Agreement and (b) each other person which becomes an issuing bank (or performs another similar or equivalent role) under or pursuant to the terms of a Senior Debt Document and is specified by the Lux Borrower to be an Issuing Bank for the purpose of this definition.

“Issuing Bank Obligations” means any Senior Obligations owing to an Issuing Bank in its capacity as such.

**“Joinder Agreement”** means a supplement to this Agreement in substantially the form of Annex II or Annex III hereof.

**“Letter of Credit”** means (a) a **“Letter of Credit”** under, and as defined in, the First Lien Credit Agreement and (b) any letter of credit, guarantee, indemnity, or other similar or equivalent instrument issued under or pursuant to the terms of any Additional Senior Debt Document.

**“Lien”** means any mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capital Lease having substantially the same economic effect as any of the foregoing).

**“New York UCC”** means the Uniform Commercial Code as from time to time in effect in the State of New York.

**“Non-Cash Consideration”** means consideration in a form other than cash.

**“Non-Cash Recoveries”** means (a) any proceeds of any sale, transfer or other disposition of Shared Collateral or (b) any amount distributed to the Designated Senior Representative pursuant to Section 8.02, in each case which are, or is, in the form of Non-Cash Consideration.

**“Non-Consenting Counterparty”** has the meaning assigned to such term in Section 3.12(b)(iii).

**“Non-Credit Related Close-Out”** means a termination or close-out in whole or in part of any hedging transaction under a First Lien Hedge Agreement prior to its stated maturity in accordance with Sections 3.09(a)(ii), 3.09(a)(iv), 3.09(a)(vi) or 3.09(vii).

**“Non-US Collateral”** means any Collateral granted by a Non-US Grantor in respect of the Secured Obligations.

**“Non-US Grantor”** means a Grantor other than a US Grantor.

**“Non-US Obligations”** means the Obligations of the Non-US Grantors under or in respect of the Secured Obligations and/or the Additional Debt Obligations.

**“Non-US Security Interest”** means the security interests granted in favor of the Secured Parties, with respect to Non-US Collateral.

**“Obligations”** means (i) all Secured Obligations, (ii) all Additional Debt Obligations, (iii) all Intra-Group Obligations and (iv) all Investor Obligations. Without limiting the generality of the foregoing, the Obligations of any Borrower or any other Grantor under the Debt Documents (and of their Restricted Subsidiaries to the extent they have obligations under the Debt Documents) include (a) the obligation (including guarantee obligations) to pay

principal, interest, letter of credit fees, reimbursement obligations, charges, expenses, fees (including legal fees and expenses), indemnities and other amounts payable by any Borrower or other member of the Group under any Debt Document, (b) the obligation of any Borrower or other member of the Group to reimburse any amount in respect of any of the foregoing that any Creditor, in its sole discretion, may elect to pay or advance on behalf of such member of the Group, (c) any refinancing, novation, deferral or extension, (d) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition, (e) any claim for damages or restitution, (f) any claim as a result of any recovery by any member of the Group of a Payment on the grounds of preference or otherwise and (g) any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

“Obligations Acquisition” means, in respect of a person and to any Obligations, a transaction where that person (a) purchases by way of assignment or transfer, (b) enters into any sub-participation in respect of, or (c) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of, the rights and benefits in respect of those Obligations.

“Officer’s Certificate” has the meaning provided to such term in Section 16.12.

“Original Investors” has the meaning assigned to such term in the preamble hereto.

“Other Obligations” means the Banking Services Obligations and the First Lien Hedge Obligations.

“Payment” means, in respect of any Obligations (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Obligations (or other liabilities or obligations).

“Payment Netting” means (a) in respect of a First Lien Hedge Agreement based on an ISDA Master Agreement, netting under section 2(c) of the relevant ISDA Master Agreement and (b) in respect of a First Lien Hedge Agreement not based on an ISDA Master Agreement, netting pursuant to any provision of that Hedge Agreement which has a similar effect to the provision referenced in paragraph (a) above.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, governmental authority or other entity.

“Pledged or Controlled Collateral” has the meaning assigned to such term in Section 9.05(a).

“PPSA” means the *Personal Property Security Act (Ontario)* and any successor statutes, together with regulations thereunder, as in effect from time to time; provided that, if attachment, perfection or priority of Liens in any Collateral are governed by the personal property security laws of any jurisdiction in Canada other than Ontario (including the *Civil Code of Québec*), PPSA shall mean those personal property security laws in such other jurisdiction for

the purposes of the provisions hereof relating to such attachment, perfection or priority and for definitions related to such provision, and any successor statutes thereto, together with any regulations thereunder, in each case as in effect from time to time.

“Proceeds” means the proceeds of any sale, collection or other liquidation of Shared Collateral and any payment or distribution made in respect of Shared Collateral in a Bankruptcy Case and any amounts received by any Senior Representative or any Senior Secured Party from a Second Priority Debt Party in respect of Shared Collateral pursuant to this Agreement.

“Qualified Plan” has the meaning assigned to such term in Section 12.11(b).

“Recovery” has the meaning assigned to such term in Section 12.04.

“Receiving Entity” has the meaning assigned to such term in Section 9.01(a).

“Refinance” means, in respect of any indebtedness, to refinance, extend, renew, defease, amend, increase, modify, supplement, restructure, refund, replace or repay, or to issue other indebtedness or enter into alternative financing arrangements, in exchange or replacement for such indebtedness (in whole or in part), including by adding or replacing lenders, creditors, agents, borrowers and/or guarantors, and including, in each case, but not limited to, after the original instrument giving rise to such indebtedness has been terminated and including, in each case, through any credit agreement, indenture or other agreement. “Refinanced” and “Refinancing” have correlative meanings.

“Refinancing Request” has the meaning assigned to such term in Section 3.12(b)(ii).

“Relevant Designated Representative” means, prior to the Discharge of Senior Obligations, the Designated Senior Representative and, on or after the Discharge of Senior Obligations, to the extent any Second Priority Debt Obligations are then outstanding, the Designated Second Priority Representative.

“Representatives” means the Senior Representatives and the Second Priority Representatives.

“Required Second Priority Creditors” means, at any time, those Second Priority Debt Parties whose aggregate Second Priority Debt Obligations at such time represent more than 50% of the aggregate Second Priority Debt Obligations of all Second Priority Debt Parties at such time; *provided* that in the case of Affiliated Lenders, such Persons shall only be permitted to vote to the extent such vote would be permitted under the applicable Second Priority Debt Document and otherwise the Second Priority Debt Obligations of such Affiliated Lender shall be deemed to have been voted pro rata with the holders of the applicable Second Priority Debt Obligations that are not Affiliated Lenders.

“Required Senior Creditors” means, at any time, those Senior Secured Parties whose aggregate First Lien Obligations Amount at such time represent more than 50% of the aggregate First Lien Obligations Amount of all Senior Secured Parties at such time; *provided*

that in the case of Affiliated Lenders, such Persons shall only be permitted to vote to the extent such vote would be permitted under Section 9.05(g) of the First Lien Credit Agreement (or any similar or equivalent provision of the relevant Additional Senior Debt Document) and otherwise the Senior Debt Obligations of such Affiliated Lender shall be deemed to have been voted pro rata with the holders of the applicable Senior Debt Obligations that are not Affiliated Lenders.

“Restricted Group” means the Lux Borrower and each of its Restricted Subsidiaries.

“SEC” means the United States Securities and Exchange Commission or any Governmental Authority succeeding to any or all of its functions.

“Second Lien Obligations Amount” means the principal amount of funded Second Priority Debt Obligations, plus the aggregate principal amount of unfunded commitments under the Second Priority Debt Documents.

“Second Priority Class Debt” has the meaning assigned to such term in Section 16.13.

“Second Priority Class Debt Parties” has the meaning assigned to such term in Section 16.13.

“Second Priority Class Debt Representative” has the meaning assigned to such term in Section 16.13.

“Second Priority Collateral” means any “Collateral” as defined in any Second Priority Debt Document or any other assets of any Borrower or any other Grantor with respect to which a Lien is granted or purported to be granted pursuant to a Second Priority Collateral Document as security for any Second Priority Debt Obligation.

“Second Priority Collateral Documents” means the “Collateral Documents” as defined in the Second Priority Financing Agreements and each of the collateral agreements, security agreements and other instruments and documents executed and delivered by any Borrower or any other Grantor for purposes of providing collateral security for any Second Priority Debt Obligation.

“Second Priority Debt” means any Indebtedness that is issued, incurred or guaranteed by any Borrower and/or any Grantor, which Indebtedness and guarantees are secured on a junior lien basis to the Senior Obligations and secured by the Second Priority Collateral (or any portion thereof) on a pari passu basis (but without regard to control of remedies, other than as provided by the terms of the applicable Second Priority Debt Documents) with any then extant Second Priority Debt Obligations and which the applicable Second Priority Debt Documents provide that such Indebtedness and guarantees are to be secured by such Second Priority Collateral on a subordinate basis to the Senior Obligations (and which is not secured by Liens on any assets of any Borrower or any other Grantor other than the Second Priority Collateral or which are not included in the Senior Collateral); provided, however, that (i) such Indebtedness is permitted to be incurred, secured and guaranteed on such basis by each then extant Senior Debt Document and Second Priority Debt Document and (ii) the Representative for the holders of

such Indebtedness shall have become party to this Agreement pursuant to, and by satisfying the conditions set forth in, Section 16.13 hereof.

“Second Priority Debt Documents” means, with respect to any series, issue or class of Second Priority Debt, the promissory notes, credit agreements, indentures, the Second Priority Collateral Documents or other operative agreements evidencing or governing such Indebtedness and any document evidencing, granting or governing any Lien or Guarantee relating to such Indebtedness.

“Second Priority Debt Facilities” means each series, issue or class with respect to any Second Priority Debt.

“Second Priority Debt Obligations” means, with respect to any series, issue or class of Second Priority Debt, all amounts owing pursuant to the terms of the applicable Second Priority Debt Documents, including, without limitation, the obligation (including guarantee obligations) to pay principal, interest, letter of credit commissions, reimbursement obligations, charges, expenses, fees, attorneys costs, indemnities and other amounts payable by a Grantor under any Second Priority Debt Document (including interest, fees and other amounts, if any, that accrue after the commencement by or against any Borrower or any other Grantor of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and other amounts, if any, are allowed claims in such proceeding).

“Second Priority Debt Parties” means, with respect to any series, issue or class of Second Priority Debt, the holders of such Indebtedness, the Representative with respect thereto, any trustee or collateral agent or other agent therefor under any related Second Priority Debt Documents and the beneficiaries of each indemnification obligation undertaken by any Borrower or any other Grantor under any related Second Priority Debt Documents.

“Second Priority Enforcement Period” means, with respect to each Second Priority Representative, the period commencing with the date which is one hundred and eighty (180) days after the occurrence of both (i) an Event of Default (under and as defined in the Second Priority Debt Document for which such Second Priority Representative has been named as Representative) and (ii) the Designated Senior Representative’s and each other Representative’s receipt of written notice from such Second Priority Representative that (x) such Second Priority Representative is the Designated Second Priority Representative and that an Event of Default (under and as defined in the Second Priority Debt Document for which such Second Priority Representative has been named as Representative) has occurred and is continuing and (y) the Second Priority Debt Obligations of the series with respect to which such Second Priority Representative is the Second Priority Representative are currently due and payable in full (whether as a result of acceleration thereof or otherwise) in accordance with the terms of the applicable Second Priority Debt Document (or, in the case of Second Priority Debt Obligations issued by one or more Non-US Grantors, such Obligations are due and payable or would be due and payable but for the absence of an acceleration notice (in circumstances where the relevant Second Priority Debt Parties are then permitted to give such notice under the relevant Second Priority Debt Documents) to such Non-US Grantors and such Second Priority Representative intends to take Enforcement Action against a Non-US Grantor in respect of such

event of default); provided that at any time (1) the Designated Senior Representative has commenced and is diligently pursuing any enforcement action with respect to such Shared Collateral or (2) when any Grantor is then a debtor in any Insolvency or Liquidation Proceeding, then such one hundred and eighty (180) day period shall toll during (and shall be extended by) such time and, if the Second Priority Enforcement Period has commenced prior to such time, the Second Priority Enforcement Period shall be stayed during such time.

“Second Priority Financing Agreement” means, with respect to any series, issue or class of Second Priority Debt, the credit agreements, indentures or other operative agreements evidencing or governing such Indebtedness.

“Second Priority Majority Representatives” means Second Priority Representatives representing at least a majority of the then aggregate amount of Second Priority Debt Obligations.

“Second Priority Lien” means the Liens on the Second Priority Collateral in favor of Second Priority Debt Parties under Second Priority Collateral Documents.

“Second Priority Representative” means the trustee, administrative agent, collateral agent, security agent or similar agent under a Second Priority Debt Facility that is named as the Representative in respect of such Second Priority Debt Facility in the applicable Joinder Agreement.

“Secured Debt Documents” means the Senior Debt Documents and Second Priority Debt Documents.

“Secured Obligations” means the Senior Obligations and the Second Priority Debt Obligations.

“Secured Parties” means the Senior Secured Parties and the Second Priority Debt Parties.

“Senior Class Debt” has the meaning assigned to such term in Section 16.13.

“Senior Class Debt Parties” has the meaning assigned to such term in Section 16.13.

“Senior Class Debt Representative” has the meaning assigned to such term in Section 16.13.

“Senior Collateral” means any “Collateral” as defined in any First Lien Credit Agreement Loan Document or any other Senior Debt Document or any other assets of any Borrower or any other Grantor with respect to which a Lien is granted or purported to be granted pursuant to a Senior Collateral Document as security for any Senior Obligations.

“Senior Collateral Documents” means the First Lien Security Agreement and the other “Collateral Documents” as defined in the First Lien Credit Agreement, any First Lien Intercreditor Agreement (upon and after the initial execution and delivery thereof by the initial

parties thereto) and each of the collateral agreements, security agreements and other instruments and documents executed and delivered by any Borrower or any other Grantor for purposes of providing collateral security for any Senior Obligation.

“Senior Debt Documents” means the First Lien Credit Agreement Loan Documents, the Ancillary Documents, the First Lien Hedge Agreements, the Banking Services Agreements and any Additional Senior Debt Documents.

“Senior Enforcement Event” means the occurrence of a Senior Acceleration Event which is continuing or the enforcement of any Collateral.

“Senior Facilities” means the First Lien Credit Agreement and any Additional Senior Debt Facilities.

“Senior Financing Agreement” means the First Lien Credit Agreement and any credit agreements, indentures or other definitive agreements evidencing or governing any Additional Senior Debt Facility.

“Senior Lien” means the Liens on the Senior Collateral in favor of the Senior Secured Parties under the Senior Collateral Documents.

“Senior Obligations” means the First Lien Credit Agreement Obligations, the First Lien Hedge Obligations and any Additional Senior Debt Obligations; provided that the aggregate principal amount of debt for borrowed money constituting Senior Obligations shall not exceed the amount of such debt permitted to be incurred in accordance with the terms of the Second Priority Debt Documents.

“Senior Representative” means (i) in the case of any First Lien Credit Agreement Secured Obligations or the First Lien Credit Agreement Secured Parties, the First Lien Collateral Agent and (ii) in the case of any Additional Senior Debt Facility and the Additional Senior Debt Parties thereunder, the trustee, administrative agent, collateral agent, security agent or similar agent under such Additional Senior Debt Facility that is named as the Representative in respect of such Additional Senior Debt Facility hereunder or in the applicable Joinder Agreement.

“Senior Secured Parties” means the First Lien Credit Agreement Secured Parties and any Additional Senior Debt Parties.

“Shared Collateral” means, (i) until the existence of a Second Priority Debt Facility, Collateral in which the holders of Senior Obligations under at least one Senior Facility (or their Representatives) or First Lien Hedge Agreement hold a security interest at such time, and (ii) when one or more Second Priority Debt Facilities are extant, Collateral in which the holders of Senior Obligations under at least one Senior Facility (or their Representatives) or First Lien Hedge Agreement and the holders of Second Priority Debt Obligations under at least one Second Priority Debt Facility (or their Representatives) hold a security interest at such time (or, in the case of the Senior Facilities or First Lien Hedge Agreement, are deemed pursuant to Article II to hold a security interest). If, at any time, any portion of the Senior Collateral under one or more Senior Facilities or First Lien Hedge Agreement does not constitute Second Priority Collateral under one or more Second Priority Debt Facilities, then such portion of such Senior

Collateral shall constitute Shared Collateral only with respect to the Second Priority Debt Facilities for which it constitutes Second Priority Collateral and shall not constitute Shared Collateral for any Second Priority Debt Facility which does not have a security interest in such Collateral at such time.

**“Shared Collateral Document”** means any agreement, document or instrument pursuant to which one Lien is granted to the Designated Shared Collateral Agent, securing both the Senior Obligations and, once in existence, the Second Priority Debt Obligations, where applicable Requirements of Law does not permit (or it is standard market practice under the respective local jurisdiction not to permit) the granting of separate Liens securing the Senior Obligations and the Second Priority Debt Obligations pursuant to a Senior Collateral Document and Second Priority Collateral Document.

**“Subsidiary”** of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a **“Subsidiary”** or to **“Subsidiaries”** shall refer to a Subsidiary or Subsidiaries of Holdings.

**“Transferee”** has the meaning assigned to such term in Section 9.01(a).

**“Transferred Arrangements”** has the meaning assigned to such term in Section 3.12(b)(iii).

**“Uniform Commercial Code”** or **“UCC”** means, unless otherwise specified, the New York UCC.

**“US Grantor”** means each Grantor that is organized under the laws of a jurisdiction in the United States of America, any State thereof or the District of Columbia.

**Section 1.02. Applicable Law.** Notwithstanding anything to the contrary in this Agreement or any other Debt Document, each term, condition, obligation and other provision of this Agreement expressed to be binding on or otherwise applicable to, and each other matter in any manner relating to, Holdings or any of its Subsidiaries or direct or indirect shareholders is subject to any limitations imposed by, or the operation of, applicable Requirements of Law and the application of the Agreed Security Principles (as defined in the First Lien Credit Agreement) and the matters contemplated thereby.

**Section 1.03. Terms Generally.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument, other document, statute or regulation herein shall be construed as

referring to such agreement, instrument, other document, statute or regulation as from time to time amended, supplemented or otherwise modified, (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, but shall not be deemed to include the subsidiaries of such Person unless express reference is made to such subsidiaries, (iii) the words "herein," "hereof" and "hereunder" and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (iv) all references herein to Articles, Sections and Annexes shall be construed to refer to Articles, Sections and Annexes of this Agreement, (v) unless otherwise expressly qualified herein, the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (vi) the term "or" is not exclusive.

Section 1.04. Dutch Terms. Section 1.20 of the First Lien Credit Agreement applies to this Agreement as though it was set out in full in this Agreement, *mutatis mutandis*.

Section 1.05. French Terms. Section 1.21 of the First Lien Credit Agreement applies to this Agreement as though it was set out in full in this Agreement, *mutatis mutandis*.

Section 1.06. Italian Terms. Section 1.23 of the First Lien Credit Agreement applies to this Agreement as though it was set out in full in this Agreement, *mutatis mutandis*.

## ARTICLE II

### Priorities and Subordination

Section 2.01. Subordination. (a) Notwithstanding the date, time, manner or order of filing or recordation of any document or instrument or grant, attachment or perfection of any Liens granted to any Second Priority Representative or any Second Priority Debt Parties on the Shared Collateral or of any Liens granted to any Senior Representative or any other Senior Secured Party on the Shared Collateral (or any actual or alleged defect or deficiencies in, or failure to perfect or lapse in perfection of, or avoidance of such Liens as a fraudulent conveyance or otherwise) and notwithstanding any provision of the UCC, the PPSA, any applicable Requirements of Law, any Second Priority Debt Document or any Senior Debt Document or any other circumstance whatsoever, each Second Priority Representative, on behalf of itself and each Second Priority Debt Party under its Second Priority Debt Facility, hereby agrees that (a) any Lien on the Shared Collateral securing any Senior Obligations now or hereafter held by or on behalf of any Senior Representative or any other Senior Secured Party or other agent or trustee therefor, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall have priority over and be senior in all respects and prior to any Lien on the Shared Collateral securing any Second Priority Debt Obligations and (b) any Lien on the Shared Collateral securing any Second Priority Debt Obligations now or hereafter held by or on behalf of any Second Priority Representative, any Second Priority Debt Parties or any Second Priority Representative or other agent or trustee therefor, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall be junior and subordinate in all respects to all Liens on the Shared Collateral securing any Senior Obligations. All Liens on the Shared Collateral securing any Senior Obligations shall be and remain senior in all respects and prior to all Liens on the Shared Collateral securing any Second Priority Debt Obligations for all

purposes, whether or not such Liens securing any Senior Obligations are subordinated to any Lien securing any other obligation of any Borrower, any other Grantor or any other Person or otherwise subordinated, voided, avoided, invalidated or lapsed. To avoid any over indebtedness (*Überschuldung*) in the meaning of Sections 19 German Insolvency Code (*Insolvenzordnung*) the Investors and Intra-Group Lenders hereby subordinate theirs claims for repayment of Investor Obligations and the Intra-Group Obligations against any German member of the Group to all claims subordinated by law according to Section 39 subsec. 1 number 1 through 5 German Insolvency Code (*Insolvenzordnung*) by allocating all claims against any German member of the Group, in particular, but not limited to, the claims for repayment of the claims for repayment of Investor Obligations and the Intra-Group Obligations, to the first rank of Section 39 subsec. 2 German Insolvency Code (*Insolvenzordnung*) for as long as and insofar as an overindebtedness of any German member of the Group is given. All repayment claims of the Investors and Intra-Group Lenders against any German member of the Group must not be claimed for as long as a complete or partial redemption of such claims would give reason to initiate insolvency proceedings with the meaning of Section 17 through 19 German Insolvency Code (*Insolvenzordnung*).

(b) In addition, the Investor Obligations and the Intra-Group Obligations are postponed and subordinated to any Senior Obligations and Second Priority Debt Obligations; provided that, this Agreement does not purport to rank any of the Investor Obligations or the Intra-Group Obligations as between themselves.

Section 2.02. Nature of Senior Lender Claims. Each Second Priority Representative, on behalf of itself and each Second Priority Debt Party represented by it, acknowledges that (a) a portion of the Senior Obligations is revolving in nature and that the amount thereof that may be outstanding at any time or from time to time may be increased or reduced and subsequently reborrowed, (b) the terms of the Senior Debt Documents and the Senior Obligations may be amended, supplemented or otherwise modified, and the Senior Obligations, or a portion thereof, may be Refinanced from time to time and (c) the aggregate amount of the Senior Obligations may be increased, in each case, without notice to or consent by the Second Priority Representatives or the Second Priority Debt Parties and without affecting the provisions hereof. The Lien priorities provided for in Section 2.01 shall not be altered or otherwise affected by (i) any amendment, supplement or other modification, or any Refinancing, of either the Senior Obligations or the Second Priority Debt Obligations, or any portion thereof or (ii) any action or inaction which any of the Senior Secured Parties or the Second Priority Debt Parties may take or fail to take in respect of the collateral securing the relevant Indebtedness. As between the Borrowers and the other Grantors and the Second Priority Debt Parties, the foregoing provisions will not limit or otherwise affect the obligations of the Borrowers and the Grantors contained in any Second Priority Debt Document with respect to the incurrence of additional Senior Obligations.

Section 2.03. Prohibition on Contesting Liens. Each of the Second Priority Representatives, for itself and on behalf of each Second Priority Debt Party represented by it, agrees that it shall not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the validity, extent, perfection, priority or enforceability of any Lien securing any Senior Obligations held (or purported to be held) by or on behalf of any Senior Representative or any of the other Senior

Secured Parties or other agent or trustee therefor in any Senior Collateral, and each Senior Representative, for itself and on behalf of each Senior Secured Party represented by it, agrees that it shall not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the validity, extent, perfection, priority or enforceability of any Lien securing any Second Priority Debt Obligations held (or purported to be held) by or on behalf of any of any Second Priority Representative or any of the Second Priority Debt Parties in the Second Priority Collateral. Notwithstanding the foregoing, no provision in this Agreement shall be construed to prevent or impair the rights of any Senior Representative to enforce this Agreement (including the priority of the Liens securing the Senior Obligations as provided in Section 2.01) or any of the Senior Debt Documents.

**Section 2.04. No Other Liens.** The parties hereto agree that, so long as the Discharge of Senior Obligations has not occurred, none of the Grantors shall, or shall permit any of its subsidiaries to, grant any guaranty for or grant or permit any Lien on any asset to secure (a) any Second Priority Debt Obligation unless it has granted, or concurrently therewith grants, a guaranty or Lien on such asset (as applicable) to guarantee or secure (as applicable) the Senior Obligations; and (b) any Senior Obligations unless immediately after giving effect to such grant or concurrently therewith, it will (to the extent permitted by applicable Requirements of Law) grant a guarantee or Lien on such assets (as applicable) to guarantee or secure the Second Priority Debt Obligations and all other Senior Obligations, subject to Section 9.01(d) and except as provided in Section 2.06. To the extent that the provisions of the immediately preceding sentence are not complied with for any reason, without limiting any other right or remedy available to any Senior Representative or any other Senior Secured Party, each Second Priority Representative agrees, for itself and on behalf of the other Second Priority Debt Parties represented by it, that any amounts received by or distributed to any Second Priority Debt Party pursuant to or as a result of any Lien granted in contravention of this Section 2.04 shall be subject to Section 8.02.

**Section 2.05. Perfection of Liens.** Except for the limited agreements of the Senior Representatives pursuant to Section 5.05, none of the Senior Representatives or the Senior Secured Parties shall be responsible for perfecting and maintaining the perfection of Liens with respect to the Shared Collateral for the benefit of the Second Priority Representatives or the Second Priority Debt Parties. The provisions of this Agreement shall not impose on the Senior Representatives, the Senior Secured Parties, the Second Priority Representatives, the Second Priority Debt Parties or any agent or trustee therefor any obligations in respect of the disposition of Proceeds of any Shared Collateral which would conflict with prior perfected claims therein in favor of any other Person or any order or decree of any court or governmental authority or any applicable Requirements of Law.

**Section 2.06. Certain Cash Collateral.** Notwithstanding anything in this Agreement or any other Senior Debt Documents or Second Priority Debt Documents to the contrary, collateral consisting of cash and cash equivalents pledged to secure First Lien Credit Agreement Secured Obligations consisting of reimbursement obligations in respect of Letters of Credit, Bank Guarantees or otherwise held by the First Lien Collateral Agent pursuant to Section 2.05(a)(iii), 2.05(a)(x), 2.05(b)(iii), 2.05(b)(x), 2.17(b), 2.20, 2.23(b)(i) or Article 7 of

the First Lien Credit Agreement (or any equivalent successor provision) shall be applied as specified in the First Lien Credit Agreement and will not constitute Shared Collateral.

Section 2.07. Similar Liens and Agreements. The parties hereto acknowledge and agree that it is their intention that the Senior Collateral and the Second Priority Collateral be identical (to the extent permitted by applicable Requirements of Law). In furtherance of the foregoing, the parties hereto agree:

(a) to cooperate in good faith in order to determine, upon any reasonable request by the First Lien Collateral Agent or the Designated Second Priority Representative, the specific assets included in the Senior Collateral and the Second Priority Collateral, the steps taken to perfect the Senior Liens and the Second Priority Liens thereon and the identity of the respective parties obligated under the Senior Debt Documents and the Second Priority Debt Documents; and

(b) that the documents, agreements and instruments creating or evidencing the Second Priority Collateral and the Second Priority Liens shall be in all material respects in the same form, and (to the extent permitted by applicable Requirements of Law) covering the same Collateral, as the documents, agreements and instruments creating or evidencing the Senior Collateral and the Senior Liens, other than with respect to the first priority and second priority nature of the Liens created or evidenced thereunder, the identity of the Secured Parties that are parties thereto or secured thereby and other matters contemplated by this Agreement. For all purposes of this Agreement, until the Discharge of Senior Obligations has occurred, the holders of Senior Obligations shall be deemed to hold a security interest in all Second Priority Collateral, notwithstanding any failure of the Senior Collateral Documents to grant or perfect such liens, or any determination that any Senior Collateral Document is not enforceable.

### ARTICLE III

#### First Lien Hedge Counterparties And First Lien Hedge Obligations

Section 3.01. Identity of First Lien Hedge Counterparties. No person providing hedging arrangements (other than any hedging arrangements made available pursuant to an Ancillary Document or a Banking Services Agreement) to any Grantor shall be entitled to share in any of the Shared Collateral or in the benefit of any guarantee or indemnity under any of the Senior Debt Documents in respect of any of the obligations arising in respect of those hedging arrangements nor shall those obligations be treated as First Lien Hedge Obligations unless that person is or becomes a party to this Agreement as a First Lien Hedge Counterparty.

Section 3.02. Restriction on Payment: First Lien Hedge Obligations. Prior to the Discharge of the First Lien Credit Agreement Obligations, the Grantors shall not make any Payment of the First Lien Hedge Obligations at any time unless (a) that Payment is permitted under Section 3.03, or (b) the taking or receipt of that Payment is permitted under paragraph (c) of Section 3.09.

Section 3.03. Permitted Payments: First Lien Hedge Obligations.

(a) Subject to paragraph (b) below, any Grantor may at any time make any Payment of the First Lien Hedge Obligations:

(i) if the Payment is a scheduled Payment arising under a First Lien Hedge Agreement (or another ordinary course payment under a First Lien Hedge Agreement, including any payment in respect of fees, costs and expenses);

(ii) to the extent that the relevant Grantor's obligation to make the Payment arises as a result of the operation of (1) any of Sections 2(d) (*Deduction or Withholding for Tax*), 2(e) (*Default Interest; Other Amounts*), 8(a) (*Payment in the Contractual Currency*), 8(b) (*Judgments*) and 11 (*Expenses*) of the 1992 ISDA Master Agreement (if the First Lien Hedge Agreement is based on a 1992 ISDA Master Agreement); (2) any of Sections 2(d) (*Deduction or Withholding for Tax*), 8(a) (*Payment in the Contractual Currency*), 8(b) (*Judgments*), 9(h)(i) (*Prior to Early Termination*) and 11 (*Expenses*) of the 2002 ISDA Master Agreement of that Hedge Agreement (if the Hedge Agreement is based on a 2002 ISDA Master Agreement); or (3) any provision of a First Lien Hedge Agreement which is similar in meaning and effect to any provision listed in paragraph (A) or (B) above (if the First Lien Hedge Agreement is not based on a 1992 or 2002 ISDA Master Agreement);

(iii) to the extent that the relevant Grantor's obligation to make the Payment arises from a Non-Credit Related Close-Out;

(iv) to the extent that (1) the relevant Grantor's obligation to make the Payment arises from a Credit Related Close-Out in relation a First Lien Hedge Agreement; and (2) no Event of Default under the Senior Financing Agreements is continuing at the time of that Payment;

(v) subject to Section 3.13, if the Designated Senior Representative and the relevant Grantor give prior consent to the Payment being made;

(vi) if the Payment is a Payment pursuant to Section 8.01; or

(vii) if the Payment arises directly or indirectly as a result of any close-out, termination or other similar or equivalent action by a Grantor.

(b) Without prejudice to the terms and requirements of any First Lien Hedge Agreement, nothing in this Agreement obliges a First Lien Hedge Counterparty to make a payment to a Grantor under a First Lien Hedge Agreement to which they are both party if any scheduled Payment due from that Grantor to the First Lien Hedge Counterparty under that First Lien Hedge Agreement is due but unpaid. This provision shall not affect any Payment which is due from a First Lien Hedge Counterparty to a Grantor as a result of a First Lien Hedge Agreement to which they are both a party being terminated or closed out.

Section 3.04. Payment Obligations Continue. No Grantor shall be released from the liability to make any Payment (including of default interest, which shall continue to

accrue) under any Debt Document by the operation of Section 3.02 and Section 3.03 even if its obligation to make that Payment is restricted at any time by the terms of any of those Sections.

Section 3.05. No Acquisition of First Lien Hedge Obligations. Prior to the Discharge of the First Lien Credit Agreement Obligations, the Grantors shall not (a) enter into any Obligations Acquisition in respect of any of the First Lien Hedge Obligations with any person which is not a Grantor, or (b) beneficially own all or any part of the share capital of a company that is party to a Obligations Acquisition in respect of any of the First Lien Hedge Obligations (unless that Obligations Acquisition would not have been prohibited by this Section 3.05 if made by a Grantor), in each case pursuant to which payment is made by a Grantor to a person which is not a Grantor in respect of First Lien Hedge Obligations, unless:

(i) subject to Section 3.13 the prior consent of the Designated Senior Representative is obtained; or

(ii) the relevant Obligations Acquisition relates to First Lien Hedge Obligations (or rights, benefits and/or obligations in relation thereto) in respect of which a Payment could be made under Section 3.03 (including any First Lien Hedge Obligations in respect of which a Payment could be made under paragraph (a)(vii) of that Section following a close-out, termination or any other similar or equivalent action by a Grantor).

Section 3.06. Amendments and Waivers: First Lien Hedge Agreements.

(a) The First Lien Hedge Counterparties may not, at any time, amend or waive any term of the First Lien Hedge Agreements; provided, however, a First Lien Hedge Counterparty and any Grantor may at any time amend or waive any term of a First Lien Hedge Agreement in accordance with the terms of that First Lien Hedge Agreement from time to time (and subject only to any consent required under that First Lien Hedge Agreement) if that amendment or waiver does not breach another term of this Agreement.

(b) After the commencement of any Insolvency or Liquidation Proceedings in respect of any Grantor, to the extent permitted by the relevant First Lien Hedge Agreement, each First Lien Hedge Counterparty shall be entitled to exercise any right it may otherwise have in respect of that Grantor to (i) prematurely close-out or terminate any First Lien Hedge Obligations of that Grantor in accordance with the terms of the relevant First Lien Hedge Agreement; (ii) make a demand under any guarantee, indemnity or other assurance against loss given by that Grantor in respect of any relevant First Lien Hedge Obligations; (iii) exercise any right of set-off or take or receive any Payment in respect of any relevant First Lien Hedge Obligations of that Grantor; or (iv) claim and prove in the liquidation (or other relevant Insolvency or Liquidation Proceedings) of that Grantor for the First Lien Hedge Obligations owing to it.

Section 3.07. Collateral: First Lien Hedge Counterparties. The First Lien Hedge Counterparties may not take, accept or receive the benefit of any Collateral, guarantee, indemnity or other assurance against loss from any Grantor in respect of the First Lien Hedge Obligations other than (a) the Shared Collateral, (b) any guarantee, indemnity or other assurance against loss contained in (i) a Senior Debt Document, (ii) this Agreement or (iii) the relevant

First Lien Hedge Agreement (provided any such guarantee, indemnity or other assurance against loss is no greater in extent than any of those referred to in clauses (i) to (ii) above); (b) as otherwise contemplated by Section 2.04; and (c) the indemnities contained in the ISDA Master Agreements (in the case of a First Lien Hedge Agreement which is based on an ISDA Master Agreement) or any indemnities which are similar in meaning and effect to those indemnities (in the case of a First Lien Hedge Agreement which is not based on an ISDA Master Agreement).

**Section 3.08. Restriction on Enforcement: First Lien Hedge Counterparties.**

Subject to Section 3.09 and Section 3.10 and without prejudice to the First Lien Hedge Counterparties' rights as part of the Required Senior Creditors, the First Lien Hedge Counterparties shall not take any Enforcement Action in respect of any of the First Lien Hedge Obligations or any of the hedging transactions under any of the First Lien Hedge Agreements at any time.

**Section 3.09. Permitted Enforcement: First Lien Hedge Counterparties.**

(a) To the extent it is able to do so under the relevant First Lien Hedge Agreement, a First Lien Hedge Counterparty may terminate or close-out in whole or in part any hedging transaction under that First Lien Hedge Agreement prior to its stated maturity:

(i) if a Senior Enforcement Event has occurred and is continuing;

(ii) if (1) in respect of a First Lien Hedge Agreement which is based on the 1992 ISDA Master Agreement (A) an Illegality or Tax Event or Tax Event Upon Merger (each as defined in the 1992 ISDA Master Agreement), or (B) an event similar in meaning and effect to a "Force Majeure Event" (as defined in paragraph (ii) below), has occurred in respect of that First Lien Hedge Agreement; (2) in respect of a First Lien Hedge Agreement which is based on the 2002 ISDA Master Agreement, an Illegality or Tax Event, Tax Event Upon Merger or a Force Majeure Event (each as defined in the 2002 ISDA Master Agreement) has occurred in respect of that First Lien Hedge Agreement; or (3) in respect of a First Lien Hedge Agreement which is not based on a 1992 Or 2002 ISDA Master Agreement, any event similar in meaning and effect to an event described in clauses (A) or (B) above has occurred under and in respect of that First Lien Hedge Agreement;

(iii) if any Insolvency or Liquidation Proceeding has commenced (and is continuing) in respect of a Grantor which is party to that First Lien Hedge Agreement; or

(iv) for the purpose of ensuring that the aggregate notional amount of all hedging entered into by Holdings and its Subsidiaries with one or more hedging counterparty in respect of any specific indebtedness or other exposure does not exceed the maximum aggregate amount of that indebtedness or other exposure from time to time (in each case, pro rata between each of the First Lien Hedge Counterparties providing the relevant hedging, it being noted that Holdings and its Subsidiaries may wish to enter into basis rate swaps and/or other arrangements which may result in the notional amount of hedging being increased as part of a general hedging strategy); or

(v) if the Designated Senior Representative gives prior consent to that termination or close-out being made; or

(vi) if the relevant First Lien Hedge Obligations cease to have the benefit of substantially the same Collateral and Guarantees, and cease to rank pari passu with, the other Senior Obligations; or

(vii) if the relevant First Lien Hedge Obligations cease to have the priority entitlement to the proceeds of enforcement of the Collateral as provided for under Section 2.17(b) of the First Lien Credit Agreement (in the form as at the date hereof).

(b) If a Grantor has defaulted on any payment due under a First Lien Hedge Agreement (after allowing any applicable notice or grace periods) and the default has continued unwaived for more than five (5) days after notice of that default has been given to the Designated Senior Representative, the relevant First Lien Hedge Counterparty:

(i) may, to the extent it is able to do so under the relevant First Lien Hedge Agreement, terminate or close-out in whole or in part any hedging transaction under that First Lien Hedge Agreement; and

(ii) until the Designated Senior Representative has given notice to that First Lien Hedge Counterparty that the Shared Collateral is being enforced, or that any formal steps are being taken to enforce the Shared Collateral, in each case in accordance with the terms of this Agreement, shall be entitled to exercise any right it might otherwise have to sue for, commence or join legal or arbitration proceedings against any Grantor to recover any First Lien Hedge Obligations due under that First Lien Hedge Agreement.

(c) After the commencement of any Insolvency or Liquidation Proceeding in respect of any Grantor, to the extent permitted by the relevant First Lien Hedge Agreement, each First Lien Hedge Counterparty shall be entitled to exercise any right it may otherwise have in respect of that Grantor to:

(i) prematurely close-out or terminate any First Lien Hedge Obligations of that Grantor in accordance with the terms of the relevant First Lien Hedge Agreement;

(ii) make a demand under any guarantee, indemnity or other assurance against loss given by that Grantor in respect of any relevant First Lien Hedge Obligations;

(iii) exercise any right of set-off or take or receive any payment in respect of any relevant First Lien Hedge Obligations of that Grantor; or

(iv) claim and prove in the Insolvency or Liquidation Proceeding of that Grantor for the First Lien Hedge Obligations owing to it.

### Section 3.10. Required Enforcement: First Lien Hedge Counterparties.

(a) Subject to paragraph (b) below, a First Lien Hedge Counterparty shall promptly terminate or close-out in full any hedging transaction under all or any of the First Lien

Hedge Agreements to which it is party prior to their stated maturity, following (i) the occurrence of a Senior Enforcement Event which is continuing and delivery to it of a notice from the Designated Senior Representative that such Senior Enforcement Event has occurred and is continuing; and (ii) delivery to it of a subsequent notice from the Designated Senior Representative instructing it to do so.

(b) Paragraph (a) above shall not apply to the extent that such Senior Enforcement Event occurred as a result of an arrangement made between any Grantor and any Secured Party with the purpose of bringing about that Senior Enforcement Event.

(c) If a First Lien Hedge Counterparty is entitled to terminate or close-out any hedging transaction under Section 3.09(b) (or would have been able to if such First Lien Hedge Counterparty had given the notice referred to in that paragraph) but has not terminated or closed out each such hedging transaction, that First Lien Hedge Counterparty shall promptly terminate or close-out in full each such hedging transaction following a request to do so by the Designated Senior Representative.

Section 3.11. Treatment of Payments Due to Grantors on Termination of Hedging Transactions.

(a) If, on termination of any hedging transaction under any First Lien Hedge Agreement occurring after a Senior Enforcement Event, a settlement amount or other amount (following the application of any Close-Out Netting, Payment Netting or Inter-Hedge Agreement Netting in respect of that First Lien Hedge Agreement) falls due from a First Lien Hedge Counterparty to the relevant Grantor then that amount shall be paid by that First Lien Hedge Counterparty to the First Lien Collateral Agent, treated as the proceeds of enforcement of the Shared Collateral and applied in accordance with the terms of this Agreement.

(b) The payment of that amount by the First Lien Hedge Counterparty to the First Lien Collateral Agent in accordance with paragraph (a) above shall discharge the First Lien Hedge Counterparty's obligation to pay that amount to that Grantor.

Section 3.12. Terms of First Lien Hedge Agreements.

(a) The First Lien Hedge Counterparties (to the extent party to the First Lien Hedge Agreement in question) and the Grantors party to the First Lien Hedge Agreements shall ensure that, at all times:

(i) each First Lien Hedge Agreement is based either (1) on an ISDA Master Agreement; or (2) on another framework agreement which is similar in effect to an ISDA Master Agreement;

(ii) in the event of a termination of the hedging transaction entered into under a First Lien Hedge Agreement, whether as a result of (1) an Additional Termination Event or an Event of Default, each as defined in the relevant First Lien Hedge Agreement (in the case of a First Lien Hedge Agreement which is based on an ISDA Master Agreement); or (2) an event similar in meaning and effect to either of those described in paragraph (a) above (in the case of a First Lien Hedge Agreement which is not based on

an ISDA Master Agreement), that First Lien Hedge Agreement will: (A) if it is based on a 1992 ISDA Master Agreement, provide for payments under the “Second Method” and will make no material amendment to section 6(e) (Payments on Early Termination) of the ISDA Master Agreement; (B) if it is based on a 2002 ISDA Master Agreement, make no material amendment to the provisions of section 6(e) (Payments on Early Termination) of the ISDA Master Agreement; or (C) if it is not based on a 1992 or 2002 ISDA Master Agreement, provide for any other method the effect of which is that the party to which that event is referable will be entitled to receive payment under the relevant termination provisions if the net replacement value of all terminated transactions entered into under that First Lien Hedge Agreement is in its favor; and

(iii) each First Lien Hedge Agreement will provide that the relevant First Lien Hedge Counterparty will be entitled to designate an Early Termination Date or otherwise be able to terminate each transaction under such Hedge Agreement if so required pursuant to paragraphs (a) and (b) of Section 3.10.

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

(i) each First Lien Hedge Agreement shall be documented using the 1992 or 2002 ISDA Master Agreement;

(ii) in the event of any Refinancing of all or any part of the Senior Obligations or the Second Priority Debt Obligations, each First Lien Hedge Counterparty shall promptly provide its consent to any amendment to, request under and/or replacement of any First Lien Hedge Agreement or other Debt Document required by the Lux Borrower in order to facilitate that Refinancing (a “Refinancing Request”), in each case unless such Refinancing is materially prejudicial to the interests of that First Lien Hedge Counterparty (provided that such Refinancing shall not be considered materially prejudicial if any amended or replacement intercreditor arrangements place that First Lien Hedge Counterparty in substantially the same, or a better, position relative to the other Senior Secured Parties as it was in under the intercreditor arrangements existing immediately prior to such amendment or replacement); and

(iii) in the event that a First Lien Hedge Counterparty (1) does not consent to any Refinancing Request (without prejudice to its obligations under sub-paragraph (iv) above) or (2) does not consent to any other amendment or waiver requested by a Grantor pursuant to Section 16.03 (in each case within the time period specified by the relevant Grantor for consent to be provided, which shall not be shorter than five (5) Business Days from the date the relevant request is made by a Grantor), each Grantor shall be entitled to (1) terminate any hedging arrangements with that First Lien Hedge Counterparty (the “Non-Consenting Counterparty”) (and the amount payable to or by the Non-Consenting Counterparty on such early termination shall be calculated on the basis that an Additional Termination Event has occurred and the relevant Grantor is the sole Affected Party or on such other basis as may be agreed by the Non-Consenting Counterparty and the relevant Grantor); and/or (2) require that any of those arrangements (the “Transferred Arrangements”) be transferred (and the Non-Consenting Counterparty will so transfer) to another person (A) selected by the Lux Borrower and (B) acceptable to the Non-

Consenting Counterparty (the “Acquiring Counterparty”) willing to assume the same (with the transfer price payable by the Acquiring Counterparty or, as the case may be, the Non-Consenting Counterparty being equal to the amount that would have been payable to or by the Non-Consenting Counterparty upon the early termination of the Transferred Arrangements under the relevant First Lien Hedge Agreements by reason of an Additional Termination Event on the proposed transfer date, and on the basis that the relevant Grantor is the sole Affected Party or as otherwise agreed by the Non-Consenting Counterparty and the relevant Grantor),

where the terms “Additional Termination Event” and “Affected Party” as used above shall have the meaning given to them in the relevant First Lien Hedge Agreements (or if a First Lien Hedge Agreement is not based on an ISDA Master Agreement, such terms shall have the meaning given to the equivalent provisions used in that First Lien Hedge Agreement).

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

(c) Notwithstanding anything to the contrary in any Debt Document, no default (however described) under the terms of a First Lien Hedge Agreement (or the termination of a First Lien Hedge Agreement) shall constitute an Event of Default (other than any non-payment default in respect of Senior Obligations).

(d) Notwithstanding anything to the contrary in any First Lien Hedge Agreement, no First Lien Hedge Agreement shall prohibit or restrict any action by any Grantor not prohibited or restricted under the Senior Financing Agreements.

(e) Any Hedge Agreement executed by any Grantor prior to the date on which it became a Grantor which the Lux Borrower intends should become a First Lien Hedge Agreement (an “Existing Hedge Agreement”) shall be deemed amended by this Agreement to the extent necessary so as to ensure that the terms of such Existing Hedge Agreement comply with the terms of this Agreement in all respects (and the relevant Grantor and the First Lien Hedge Counterparty party to such Existing Hedge Agreement each consent and agree to all such amendments by their execution of, or accession to, this Agreement and acknowledge and confirm that the Existing Hedge Agreement will be construed accordingly).

(f) To the extent that the terms of a First Lien Hedge Agreement are inconsistent with the terms of this Agreement the terms of this Agreement shall prevail.

Section 3.13. On or After Discharge of Senior Obligations. At any time on or after the Discharge of Senior Obligations (excluding any First Lien Credit Agreement Secured Obligations in respect of First Lien Hedge Agreements and Banking Services Agreements), any action which is permitted under any of Section 3.03, Section 3.05 or Section 3.09 had the prior consent of the Designated Senior Representative been obtained will be permitted.

Section 3.14. Ancillary Hedging Arrangements. Notwithstanding any provision of this Article III, no hedging arrangements made available to a Grantor pursuant to an Ancillary Document or a Banking Services Agreement are subject to the provisions set out in this Article III.

## ARTICLE IV

### Investor Obligations

Section 4.01. Restriction on Payment: Investor Obligations. Prior to the Discharge of the Senior Obligations and (if any) the Second Priority Debt Obligations, the Grantors shall not make any Payment of the Investor Obligations at any time unless (a) that Payment is permitted under Section 4.02 or (b) the taking or receipt of that Payment is permitted under Section 4.07.

Section 4.02. Permitted Payments: Investor Obligations. Any Grantor may directly or indirectly make any Payments in respect of Investor Obligations (whether of principal, interest or otherwise) at any time if (a) the Payment is not prohibited by the Debt Financing Agreements or (b) in relation to each Debt Financing Agreement that prohibits the Payment, the Representative under that Debt Financing Agreement consents to that Payment being made.

Section 4.03. Payment Obligations Continue. Neither Holdings nor any other Grantor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Section 4.01 and Section 4.02 even if its obligation to make that Payment is restricted at any time by the terms of any of those Sections.

Section 4.04. No Acquisition of Investor Obligations. Prior to the Discharge of Senior Obligations and Second Priority Debt Obligations, the Grantors shall not (a) enter into any Obligations Acquisition in respect of any of the Investor Obligations with Holdings or any person which is not a Grantor or (b) beneficially own all or any part of the share capital of a company that is party to an Obligations Acquisition in respect of any of the Investor Obligations (unless that Obligations Acquisition would not have been prohibited by this Section 4.04 if made by a Grantor (other than Holdings)), in each case pursuant to which any payment is made by a Grantor to Holdings or a person which is not a Grantor in respect of Investor Obligations, unless (i) that action is not prohibited by the Debt Financing Agreements, (ii) the relevant Obligations Acquisition relates to Investor Obligations (or rights, benefits and/or obligations in relation thereto) in respect of which a Payment could be made under Section 4.02 or (iii) in relation to each Debt Financing Agreement that prohibits that action, the Representative under that Debt Financing Agreement consents to that action.

Section 4.05. Collateral: Investors. Prior to the Discharge of Senior Obligations and Second Priority Debt Obligations, the Investors may not take, accept or receive the benefit of any Collateral, guarantee, indemnity or other assurance against loss in respect of Investor Obligations unless (a) that Collateral, guarantee, indemnity or other assurance against loss is not prohibited by the Debt Financing Agreements or (b) in relation to each Debt Financing

Agreement that prohibits that Collateral, guarantee, indemnity or other assurance against loss, the Representative under that Debt Financing Agreement consents to that Collateral, guarantee, indemnity or other assurance against loss.

Section 4.06. Restrictions on Enforcement: Investors. Subject to Section 4.07 and unless otherwise agreed by the Relevant Designated Representative, the Investors shall not be entitled to take any Enforcement Action in respect of any of Investor Obligations at any time prior to the Discharge of Senior Obligations and Second Priority Debt Obligations.

Section 4.07. Permitted Enforcement: Investors. After the commencement of Insolvency or Liquidation Proceedings (which are continuing) in respect of the Lux Borrower and/or Holdings (as applicable), the Investors may (unless otherwise directed by the Relevant Designated Representative, or unless the Relevant Designated Representative, has taken, or has given notice that it intends to take, action on behalf of the Investors in accordance with Section 10.01(d)) exercise any right it may otherwise have against the Lux Borrower and/or Holdings (as applicable) to (a) accelerate any of the Investor Obligations or declare them prematurely due and payable or payable on demand, (b) make a demand under any guarantee, indemnity or other assurance against loss given in respect of any Investor Obligations, (c) exercise any right of set-off or take or receive any Payment in respect of any Investor Obligations, or (d) claim and prove in the liquidation (or other relevant Insolvency or Liquidation Proceeding) of the Lux Borrower and/or Holdings (as applicable) for any Investor Obligations owing to it.

Section 4.08. Investor Obligations: Exceptions. Notwithstanding anything to the contrary, nothing in this Agreement or any of any Senior Debt Documents or Second Priority Debt Documents shall prohibit or restrict:

(a) any Payment made to an Investor under and in accordance with the terms of any Secured Debt Document (provided that, for the avoidance of doubt, this paragraph (a) shall not apply to a Payment which is expressly prohibited by a Debt Financing Agreement);

(b) any Payment or other return made by way of a roll-up or capitalization of any amount, an issue of shares, an incurrence of indebtedness constituting Investor Obligations (including the issue of payment-in-kind instruments) or any other similar or equivalent step, action or arrangement;

(c) any forgiveness, write-off or capitalization of Investor Obligations (or any other similar or equivalent step or action);

(d) any payment made (whether cash or in kind) or other step or action taken to facilitate any Payment (or other matter) in respect of any Investor Obligations (in each case to the extent that such Payment or other matter is not prohibited by this Article IV);

(e) any Obligations Acquisition (including pursuant to of Section 9.05 (*Successors and Assigns*) of the First Lien Credit Agreement and any equivalent provisions of the other Senior Debt Documents and the Second Priority Debt Documents) and any payments or other actions arising in connection therewith (in each case unless that Obligations Acquisition is otherwise prohibited by the terms of the Debt Financing Agreements); or

(f) any Investor from granting any Collateral over or in respect of the Investor Obligations or any related rights in respect thereof.

Section 4.09. Investor Obligations: Amendments. Prior to the Discharge of the Senior Obligations and the Second Priority Debt Obligations, the Investors may not amend or waive any of the terms of the Investor Documents unless:

- (a) the prior consent of the Relevant Designated Representative is obtained; or
- (b) the amendment or waiver is of a minor and administrative or technical nature and is not prejudicial to the Secured Parties.

Section 4.10. Turnover Provision. In the event that, notwithstanding the provisions of Section 4.01, Section 4.02, Section 4.04, Section 4.05 and Section 4.06, any Payments shall be received in contravention of such Section 4.01, Section 4.02, Section 4.04, Section 4.05 and Section 4.06 by any Investor before the Discharge of Senior Obligations and Second Priority Debt Obligations has occurred, such Payments shall be segregated and held in trust or, to the extent the concept of trust is not recognized in the relevant jurisdiction, held on behalf of and for the benefit of the Secured Parties and, at the request of the Relevant Designated Representative, shall be forthwith paid over or delivered to Relevant Designated Representative, in the same form as received and with any necessary endorsements, for application to the payment of the Secured Obligations in accordance with the terms of this Agreement. The Relevant Designated Representative is authorized to make any such endorsements as agent for the Secured Parties. Such authorization is coupled with an interest and is irrevocable until the Discharge of both the Senior Obligations and the Second Priority Debt Obligations has occurred.

## ARTICLE V

### Intra-Group Lenders And Intra-Group Obligations

Section 5.01. Restriction on Payment: Intra-Group Obligations. Prior to the Discharge of Senior Obligations and Second Priority Debt Obligations, the Grantors shall not, make any Payments of the Intra-Group Obligations at any time unless (a) that Payment is permitted under Section 5.02 or (b) the taking or receipt of that Payment is permitted under clause (iii) of Section 5.07.

#### Section 5.02. Permitted Payments: Intra-Group Obligations.

(a) Subject to paragraph (b) below, the Grantors (other than Holdings) may directly or indirectly make any Payments in respect of the Intra-Group Obligations (whether of principal, interest or otherwise) at any time.

(b) Payments in respect of the Intra-Group Obligations may not be made pursuant to paragraph (a) above if, at the time of the Payment, an Acceleration Event has occurred and is continuing and the Relevant Designated Representative has delivered a written notice to the Lux Borrower stating that no Payments may be made in respect of the Intra-Group Obligations (provided that no such written notice shall be required to prohibit such payments if the delivery of effective notice is prevented by applicable Requirements of Law), in each case

unless (i) the Relevant Designated Representative consents to that Payment being made, (ii) that Payment is made to facilitate Payment of the Secured Obligations or (iii) that Payment is required to be made to avoid personal or criminal liability of any director or officer of any Grantor for reason of breach of mandatory provisions of applicable laws or regulations (including pursuant to sections 30, 43 of the German Limited Liability Companies Act (*GmbH-Gesetz*) or other applicable capital maintenance rules).

Section 5.03. Payment Obligations Continue. No Grantor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Section 5.01 and 5.02 even if its obligation to make that Payment is restricted at any time by the terms of any of those Sections.

Section 5.04. Acquisition of Intra-Group Obligations.

(a) Subject to paragraphs (b) and (c) below, each Grantor (other than Holdings) may (i) enter into any Obligations Acquisition or (ii) beneficially own all or any part of the share capital of a company that is party to an Obligations Acquisition, in respect of any Intra-Group Obligations at any time.

(b) Subject to paragraph (c) below, no action described in paragraph (a) above may take place in respect of any Intra-Group Obligations if, at the time of that action, an Acceleration Event has occurred and is continuing and the Relevant Designated Representative has delivered a written notice to the Lux Borrower stating that no action described in paragraph (a) above may take place in respect of any Intra-Group Obligations.

(c) The restrictions in paragraph (b) above shall not apply if (i) the Relevant Designated Representative consents to that action, (ii) that action is taken to facilitate Payment of the Secured Obligations or (iii) that action is required to avoid personal or criminal liability of any director or officer of any Grantor for reason of breach of mandatory provisions of applicable laws or regulations (including pursuant to sections 30, 43 of the German Limited Liability Companies Act (*GmbH-Gesetz*) or other capital maintenance rules).

Section 5.05. Collateral: Intra-Group Lenders. Prior to the Discharge of Senior Obligations and Second Priority Debt Obligations, the Intra-Group Lenders may not take, accept or receive the benefit of any Collateral or Guarantee in respect of the Intra-Group Obligations unless (a) that Collateral or Guarantee is not prohibited by the Debt Financing Agreements or (b) in relation to each Debt Financing Agreement that prohibits that Collateral or Guarantee, the Representative under that Debt Financing Agreement consents to that Collateral or Guarantee.

Section 5.06. Restriction on Enforcement: Intra-Group Lenders. Subject to Section 5.07, none of the Intra-Group Lenders shall be entitled to take any Enforcement Action in respect of any of the Intra-Group Obligations at any time prior to the Discharge of Senior Obligations and Second Priority Debt Obligations, except (a) for any Enforcement Action set out in paragraphs (a)(i), (a)(ii), (a)(iii) and (a)(vi) of the definition of Enforcement Action in respect of any Intra-Group Obligation for which Payments at the time of such Enforcement Action would be permitted by Section 5.02 and (b) such action is required to avoid personal or criminal liability of any director or officer of any Grantor for reason of breach of mandatory provisions of

applicable laws or regulations (including pursuant to sections 30, 43 of the German Limited Liability Companies Act (*GmbH-Gesetz*) or other capital maintenance rules).

Section 5.07. Permitted Enforcement: Intra-Group Lenders. After the commencement of an Insolvency or Liquidation Proceeding in respect of any Grantor (other than Holdings), each Intra-Group Lender may (unless otherwise directed by the Relevant Designated Representative or unless the Relevant Designated Representative has taken, or has given notice that it intends to take, action on behalf of that Intra-Group Lender in accordance with Section 10.01(d)) exercise any right it may otherwise have against that Grantor to (i) accelerate any of that Grantor's Intra-Group Obligations or declare them prematurely due and payable or payable on demand, (ii) make a demand under any guarantee, indemnity or other assurance against loss given by that Grantor in respect of any Intra-Group Obligations, (iii) exercise any right of set-off or take or receive any Payment in respect of any Intra-Group Obligations of that Grantor or (iv) claim and prove in the liquidation (or other relevant Insolvency or Liquidation Proceeding) of that Grantor for the Intra-Group Obligations owing to it.

Section 5.08. Intra-Group Obligations: Exceptions. Notwithstanding anything to the contrary in this Agreement or any other Senior Debt Document or Second Priority Debt Document and without imposing any additional obligation or restriction on any Grantor, nothing in this Agreement or any other Senior Debt Document or Second Priority Debt Document shall prohibit or restrict any capitalization, forgiveness, write-off, waiver, release, transfer or other discharge of any Intra-Group Obligations (or any amounts due, payable or owing in connection therewith) or any other amount due, payable or owing by the Lux Borrower or any of its Subsidiaries to another member of the Restricted Group, in the case of Intra-Group Obligations unless an Acceleration Event has occurred and is continuing and in connection therewith, the Relevant Designated Representative has delivered a written notice to the Lux Borrower (provided that no such written notice shall be required to prohibit such payments if the delivery of effective notice is prevented by applicable Requirements of Law) stating that no such action shall be permitted without the prior consent of the Relevant Designated Representative.

Section 5.09. Turnover Provision. In the event that, notwithstanding the provisions of Sections 5.01, 5.02, 5.04, 5.05, 5.06, any Payments shall be received in contravention of such Sections 5.01, 5.02, 5.04, 5.05, 5.06 by any Intra-Group Lender before the Discharge of Senior Obligations and Second Priority Debt Obligations has occurred, such Payments shall be segregated and held in trust or, to the extent the concept of trust is not recognized in the relevant jurisdiction, held on behalf of and for the benefit of the Secured Parties and, if requested by the Relevant Designated Representative, shall be forthwith paid over or delivered to the Relevant Designated Representative, in the same form as received and with any necessary endorsements, for application to the payment of the Secured Obligations in accordance with the terms of this Agreement. The Relevant Designated Representative is authorized to make any such endorsements as agent for the Secured Parties. Such authorization is coupled with an interest and is irrevocable until the Discharge of both the Senior Obligations and the Second Priority Debt Obligations has occurred.

Section 5.10. Limitations. Notwithstanding anything to the contrary in this Agreement, nothing shall prevent the Payment by way of set-off of Intra-Group Obligations (as provided for in clause (d) of Exhibit C of the First Lien Loan Guaranty or any equivalent

provision in any other Debt Document) when such Payment is the consequence of a payment having being made by an Intra-Group Lender incorporated in France under clause (d) of Exhibit C of the First Lien Loan Guaranty or any other equivalent provision in any other Debt Document.

## ARTICLE VI

### Ancillary Lenders, Issuing Banks, Guarantee Banks and Banking Services Providers

**Section 6.01. Limitations on Additional Collateral for Ancillary Facilities, Issuing Banks and Guarantee Banks.** No Ancillary Lender, Issuing Bank or Guarantee Bank will take, accept or receive from any member of the Group the benefit of any Liens, guarantee, indemnity or other assurance against loss in respect of any of the Obligations owed to it other than, (a) the Collateral; (b) each guarantee, indemnity or other assurance against loss contained in the First Lien Credit Agreement or any other Senior Financing Agreement; (c) indemnities and assurances against loss contained in the Ancillary Documents; (d) any Cash Collateral permitted under the First Lien Credit Agreement relating to any Ancillary Facility (as defined in the First Lien Credit Agreement) or for any letter of credit issued by the Issuing Bank or for any bank guarantee issued by the Guarantee Bank; (e) the indemnities and any netting or set-off arrangement contained in an ISDA Master Agreement; and (f) any Liens, guarantee, indemnity or other assurance against loss giving effect to, or arising as a result of the effect of, any netting or set-off arrangement relating to the Ancillary Facilities for the purpose of netting debit and credit balances arising under the Ancillary Facilities.

**Section 6.02. Restriction on Enforcement.** Subject to Section 6.03, so long as the Discharge of Senior Obligations has not occurred, none of the Ancillary Lenders, nor any Issuing Bank, nor any Guarantee Bank, nor the Banking Services Providers shall be entitled to take any Enforcement Action in respect of any of the Obligations owed to it.

### **Section 6.03. Permitted Enforcement.**

(a) Each Ancillary Lender and/or Issuing Bank and/or Guarantee Bank and/or Banking Services Provider, as applicable, may take Enforcement Action which would be available to it but for Section 6.02 if:

(i) at the same time as, or prior to, that action, Enforcement Action has been taken in respect of the Senior Obligations (excluding the Senior Obligations owing to Ancillary Lenders and/or Issuing Banks and/or Guarantee Banks and/or Banking Services Providers, as applicable), in which case the Ancillary Lenders and/or Issuing Banks and/or Guarantee Banks and/or the Banking Services Providers, as applicable, may take the same Enforcement Action as has been taken in respect of those Senior Obligations;

(ii) such Enforcement Action is taken in respect of cash cover or Cash Collateral which has been provided in accordance with the Senior Debt Documents;

(iii) at the same time as or prior to, that action, the consent of the Designated Senior Representative to that Enforcement Action is obtained;

(iv) an Insolvency or Liquidation Proceeding has occurred in relation to any Grantor, in which case after the occurrence of that Insolvency or Liquidation Proceeding, each Ancillary Lender and/or Issuing Bank and/or Guarantee Bank and/or Banking Services Provider, as applicable, shall be entitled (if it has not already done so) to exercise any right it may otherwise have in respect of that Grantor to (1) accelerate any of that Grantor's Senior Obligations in respect of such Ancillary Obligations, Issuing Bank Obligations, Guarantee Bank Obligations or Banking Services Obligations, as applicable, or declare them prematurely due and payable on demand, (2) make a demand under any guarantee, indemnity or other assurance against loss given by that Grantor in respect of any Senior Obligations in respect of such Ancillary Obligations, Issuing Bank Obligations, Guarantee Bank Obligations or Banking Services Obligations, as applicable, (3) exercise any right of set-off or take or receive any payment in respect of any Senior Obligations in respect of such Ancillary Obligations, Issuing Bank Obligations, Guarantee Bank Obligations or Banking Services Obligations, as applicable, of that Grantor or (4) claim and prove in the liquidation (or other relevant Insolvency or Liquidation Proceedings) of that Grantor for the Senior Obligations owing to it; or

(v) that Enforcement Action is contemplated by the Senior Debt Documents.

(b) Notwithstanding the foregoing, this Article VI shall not restrict the right of any Ancillary Lender, Issuing Bank, Guarantee Bank or Banking Services Provider (i) to demand repayment or prepayment of Obligations owed to it prior to the expiry date of the relevant Ancillary Facility and/or Banking Services Agreement, as applicable; or (ii) to net or set-off in relation to any multi-account netting arrangement, in each case to the extent not restricted by the Senior Debt Document and, in respect of Non-US Grantors only, to the extent the demand is required as part of the operations of the accounts in the ordinary course of business to reduce outstandings, or the net or set-off represents a reduction from the gross outstandings of that multi-account arrangement or towards an amount equal to its net outstandings.

Section 6.04. Accession. No entity which is or becomes a Creditor in respect of Obligations under an Ancillary Facility or a Banking Services Agreement, as applicable, shall, in its capacity as such, be entitled to share in any of the Collateral under the Collateral Documents in respect of any such Obligations unless it has acceded to this Agreement as an Ancillary Lender or Banking Services Provider, as applicable, by executing an Ancillary Lender/Issuing Bank/Guarantee Bank/Banking Services Provider Intercreditor Joinder Agreement.

## ARTICLE VII

### Enforcement

#### Section 7.01. Exercise of Remedies.

(a) So long as the Discharge of Senior Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against any Borrower or any other Grantor, (i) neither any Second Priority Representative nor any Second Priority Debt Party will (w) take (or join with any Person taking) any Enforcement Action in

respect of any Non-US Obligations or Non-US Collateral in respect of any Second Priority Debt Obligations, (x) exercise or seek to exercise any rights or remedies (including setoff) with respect to any Shared Collateral in respect of any Second Priority Debt Obligations, including, without limitation, under any lockbox agreement, control agreement, landlord waiver or bailee's letter or similar agreement or arrangement to which any Senior Representative or any Senior Secured Party either is a party or may have rights as a third party beneficiary, or institute any action or proceeding with respect to such rights or remedies (including any action of foreclosure), (y) contest, protest or object to any Enforcement Action in respect of the Collateral or any foreclosure proceeding or action brought with respect to the Collateral by any Senior Representative or any Senior Secured Party in respect of the Senior Obligations, the exercise of any right or remedy by any Senior Representative or any Senior Secured Party (or any agent or sub-agent on their behalf) in respect of the Senior Obligations, including, without limitation, under any lockbox agreement, control agreement, landlord waiver or bailee's letter or similar agreement or arrangement to which any Senior Representative or any Senior Secured Party either is a party or may have rights as a third party beneficiary, or any other exercise by any such party of any rights and remedies relating to the Collateral under the Senior Debt Documents or otherwise in respect of the Collateral or the Senior Obligations or (z) object to the forbearance by the Senior Secured Parties from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the Shared Collateral in respect of Senior Obligations and (ii) the Senior Representatives and the Senior Secured Parties shall have the exclusive right to enforce rights, exercise remedies (including setoff and the right to credit bid their debt) and make determinations regarding the release, disposition or restrictions with respect to the Shared Collateral without any consultation with or the consent of any Second Priority Representative or any Second Priority Debt Party (but subject always to the provisions of Section 9.01); provided, however, that (A) in any Insolvency or Liquidation Proceeding commenced by or against any Borrower or any other Grantor, any Second Priority Representative may file a claim or statement of interest with respect to the Second Priority Debt Obligations under its Second Priority Debt Facility, (B) any Second Priority Representative may take any action (not adverse to the prior Liens on the Shared Collateral securing the Senior Obligations or the value of the Non-US Collateral or the rights of the Senior Representatives or the Senior Secured Parties to exercise remedies in respect thereof, or otherwise inconsistent with the terms of this Agreement, including the automatic release of Second Priority Liens provided in Section 9.01(a)) in order to create, prove, perfect, preserve or protect (but not enforce) its rights in, and perfection and priority of its Lien on, the Shared Collateral, (C) any Second Priority Representative and the Second Priority Debt Parties may exercise their rights and remedies as unsecured creditors in respect of a US Grantor to the extent provided in Section 9.04, (D) the Second Priority Debt Parties may file any responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any person objecting to or otherwise seeking the disallowance of the claims of the Second Priority Debt Parties or the avoidance of any Second Priority Lien to the extent not inconsistent with the terms of this Agreement (including the automatic release of Second Priority Liens provided in Section 9.01(a)), (E) the Designated Senior Representative will (1) use its reasonable efforts to advise the Designated Second Priority Representative at reasonable intervals of the status of any lien enforcement actions conducted by the Designated Senior Representative (provided that the failure of the Designated Senior Representative to so advise the Designated Second Priority Representative shall not impair or affect the Designated Second Priority Representative's or any Second Priority Debt Party's

obligations to the Designated Senior Representative and the Senior Secured Parties, the Senior Secured Parties' rights hereunder, the enforceability of this Agreement or any liens created or granted hereby or under any Senior Collateral Document) and (2) prior to foreclosing upon, or otherwise taking Enforcement Action in respect of, all or a material portion of the Collateral, provide the Designated Second Priority Representative with at least five (5) days' notice of its intent to commence such foreclosure or other such Enforcement Action, (F) the Designated Second Priority Representative may vote on any plan of reorganization, file any proof of claim, make other filings and make any arguments and motions in respect of a US Grantor that are, in each case, in accordance with the terms of this Agreement, with respect to the Second Priority Debt Obligations and the Collateral, and (G) solely during the Second Priority Enforcement Period, the Designated Second Priority Representative may exercise or seek to exercise any rights or remedies (including setoff) with respect to any Collateral or Non-US Obligations in respect of any Second Priority Debt Obligations, or institute any action or proceeding with respect to such rights or remedies (including any action of foreclosure), provided, that, the Designated Second Priority Representative will (1) use its reasonable efforts to advise the Designated Senior Representative at reasonable intervals of the status of any lien or Collateral enforcement actions or Enforcement Action in respect of the Non-US Obligations conducted by the Designated Second Priority Representative (provided that the failure of the Designated Second Priority Representative to so advise the Designated Senior Representative shall not impair or affect the Second Priority Debt Parties' rights hereunder, the enforceability of this Agreement or any liens created or granted hereby or under any Second Priority Collateral Document) and (2) prior to foreclosing upon, or otherwise taking Enforcement Action in respect of, all or a material portion of the Collateral or taking Enforcement Action in respect of the Non-US Obligations, provide the Designated Senior Representative with at least five (5) days' notice of its intent to commence such foreclosure or Enforcement Action. In exercising rights and remedies with respect to the Senior Collateral, the Senior Representatives and the Senior Secured Parties may enforce the provisions of the Senior Debt Documents and exercise remedies thereunder, all in such order and in such manner as they may determine in the exercise of their sole discretion. Such exercise and enforcement shall include the rights of an agent appointed by them to sell or otherwise dispose of Shared Collateral upon foreclosure, to incur expenses in connection with such sale or disposition and to exercise all the rights and remedies of a secured lender under the Uniform Commercial Code of any applicable jurisdiction (or any other relevant law) and of a secured creditor under Debtor Relief Laws of any applicable jurisdiction.

(b) So long as the Discharge of Senior Obligations has not occurred, except as expressly provided in the proviso to clause (ii) of Section 7.01(a), each Second Priority Representative, on behalf of itself and each Second Priority Debt Party under its Second Priority Debt Facility, agrees that it will not, in the context of its role as secured creditor, take or receive any Shared Collateral or any Proceeds of Shared Collateral in connection with the exercise of any right or remedy (including setoff) with respect to any Shared Collateral in respect of Second Priority Debt Obligations. Without limiting the generality of the foregoing, unless and until the Discharge of Senior Obligations has occurred, except as expressly provided in the proviso to clause (ii) of Section 7.01(a), the sole right of the Second Priority Representatives and the Second Priority Debt Parties with respect to the Shared Collateral is to hold a Lien on the Shared Collateral in respect of Second Priority Debt Obligations pursuant to the Second Priority Debt Documents for the period and to the extent granted therein and to receive a share of the Proceeds thereof, if any, after the Discharge of Senior Obligations has occurred.

(c) Except as provided in the proviso to clause (ii) of Section 7.01(a), (i) each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party under its Second Priority Debt Facility, agrees that neither such Second Priority Representative nor any such Second Priority Debt Party will take any action that would hinder any exercise of remedies undertaken by any Senior Representative or any Senior Secured Party with respect to the Shared Collateral under the Senior Debt Documents, including any sale, lease, exchange, transfer or other disposition of the Shared Collateral, whether by foreclosure or otherwise, and (ii) each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party under its Second Priority Debt Facility, will not, and hereby waives, to the fullest extent permitted by law, any and all rights it or any such Second Priority Debt Party may have as a junior lien creditor or otherwise to, (x) object to the manner in which the Senior Representatives or the Senior Secured Parties seek to enforce or collect the Senior Obligations or the Liens granted on any of the Senior Collateral, regardless of whether any action or failure to act by or on behalf of any Senior Representative or any other Senior Secured Party is adverse to the interests of the Second Priority Debt Parties or (y) demand, request, plead or otherwise assert or claim the benefit of any marshalling, appraisal, valuation or other similar right that may be available under applicable Requirements of Law with respect to the Collateral or any similar rights a junior secured creditor may have under applicable Requirements of Law.

(d) Each Second Priority Representative hereby acknowledges and agrees that no covenant, agreement or restriction contained in any Second Priority Debt Document shall be deemed to restrict in any way the rights and remedies of the Senior Representatives or the Senior Secured Parties with respect to the Senior Collateral and the Non-US Collateral as set forth in this Agreement and the Senior Debt Documents.

(e) Subject to the proviso in clause (ii) of Section 7.01(a), the Designated Senior Representative shall have the exclusive right to exercise any right or remedy with respect to the Shared Collateral and shall have the exclusive right to determine and direct the time, method and place for exercising such right or remedy or conducting any proceeding with respect thereto. Following the Discharge of Senior Obligations, the Designated Second Priority Representative who may be instructed by the Second Priority Majority Representatives shall have the exclusive right to exercise any right or remedy with respect to the Collateral, and the Designated Second Priority Representative who may be instructed by the Second Priority Majority Representatives shall have the exclusive right to direct the time, method and place of exercising or conducting any proceeding for the exercise of any right or remedy available to the Second Priority Debt Parties with respect to the Collateral, or of exercising or directing the exercise of any trust or power conferred on the Second Priority Representatives, or for the taking of any other action authorized by the Second Priority Collateral Documents; provided, however, that nothing in this Section 7.01(e) shall impair the right of any Second Priority Representative or other agent or trustee acting on behalf of the Second Priority Debt Parties to take such actions with respect to the Collateral and the Non-US Obligations after the Discharge of Senior Obligations as may be otherwise required or authorized pursuant to any intercreditor agreement governing the Second Priority Debt Parties or the Second Priority Debt Obligations.

(f) None of the Senior Representatives nor any of the other Senior Secured Parties shall be required to marshal any present or future collateral security for any obligations of any Borrower or any Subsidiary to any Senior Representative or any Senior Secured Party under

the Senior Debt Documents or any assurance of payment in respect thereof, or to resort to such collateral security or other assurances of payment in any particular order, and all of their rights in respect of such collateral security or any assurance of payment in respect thereof shall be cumulative and in addition to all other rights, however existing or arising.

(g) Notwithstanding anything to the contrary herein, the Designated Second Priority Representative and each Second Priority Debt Parties shall be entitled to bid for or purchase Collateral for cash at any private or judicial foreclosure sale; provided that, the proceeds of such bid are sufficient for, and applied to, the Discharge of Senior Obligations in their entirety in accordance with the terms of the Senior Debt Documents.

Section 7.02. Cooperation. Subject to the proviso in clause (ii) of Section 7.01(a), each Second Priority Representative, on behalf of itself and each Second Priority Debt Party under its Second Priority Debt Facility, agrees that, unless and until the Discharge of Senior Obligations has occurred, it will not commence, or join with any Person (other than the Senior Secured Parties and the Senior Representatives upon the request of the Designated Senior Representative) in commencing, any enforcement, collection, execution, levy or foreclosure action or proceeding with respect to any Lien held by it in the Shared Collateral under any of the Second Priority Debt Documents or otherwise in respect of the Second Priority Debt Obligations.

Section 7.03. Actions upon Breach. Should any Second Priority Representative or any Second Priority Debt Party, contrary to this Agreement, in any way take, attempt to take or threaten to take any action with respect to the Shared Collateral, the Non-US Collateral or the Non-US Obligations (including any attempt to realize upon or enforce any remedy with respect to this Agreement) or fail to take any action required by this Agreement, any Senior Representative or other Senior Secured Party (in its or their own name or in the name of any Borrower or any other Grantor) or any Borrower may obtain relief against such Second Priority Representative or such Second Priority Debt Party by injunction, specific performance or other appropriate equitable relief. Each Second Priority Representative, on behalf of itself and each Second Priority Debt Party under its Second Priority Debt Facility, hereby (i) agrees that the Senior Secured Parties' damages from the actions of the Second Priority Representatives or any Second Priority Debt Party may at that time be difficult to ascertain and may be irreparable and waives any defense that any Borrower, any other Grantor or the Senior Secured Parties cannot demonstrate damage or be made whole by the awarding of damages and (ii) irrevocably waives any defense based on the adequacy of a remedy at law and any other defense that might be asserted to bar the remedy of specific performance in any action that may be brought by any Senior Representative or any other Senior Secured Party.

## ARTICLE VIII

### Payments

Section 8.01. Application of Proceeds. So long as the Discharge of Senior Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against any Grantor, any Shared Collateral, any Non-US Collateral, Proceeds of such Shared Collateral or Non-US Collateral received upon the exercise of any Enforcement Action (including in connection with the sale or other disposition of, or collection on, such

Shared Collateral or Non-US Collateral upon the exercise of any Enforcement Action) (whether such exercise is in accordance with, or in contravention of, this Agreement) or any Payments, assets or amounts paid or delivered (or are required to be paid or delivered (including upon request)) to the Designated Senior Representative or Relevant Designated Representative pursuant to Section 4.10, 5.09, 8.02, 10.01 or 10.03 shall be applied by the Designated Senior Representative to the Senior Obligations in such order as specified in the relevant Senior Debt Documents (including any First Lien Intercreditor Agreement) until the Discharge of Senior Obligations has occurred (which shall include, unless otherwise agreed by the relevant Secured Party, payment of an amount required to cash collateralize outstanding and undrawn Letters of Credit, and/or, if applicable, Ancillary Obligations which do not constitute loans). Upon the Discharge of Senior Obligations, each applicable Senior Representative shall deliver promptly to the Designated Second Priority Representative any Shared Collateral or Proceeds thereof held by it in the same form as received, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct, to be applied by the Designated Second Priority Representative to the Second Priority Debt Obligations in such order as specified in the relevant Second Priority Debt Documents

**Section 8.02. Payments Over.** Unless and until the Discharge of Senior Obligations has occurred, any Shared Collateral, Non-US Collateral or Proceeds of the foregoing received by any Second Priority Representative or any Second Priority Debt Party in connection with the exercise of any right or remedy (including setoff) or any Enforcement Action relating to the Shared Collateral (whether such exercise is in accordance with, or in contravention of, this Agreement), or any Payments or other amounts received in connection with the exercise of any Enforcement Action relating to any Non-US Grantor in contravention of this Agreement and (subject to Section 12.11) anything received (other than anything received pursuant to a Qualified Plan) in respect of any Second Priority Debt Party's secured claim in any Insolvency or Liquidation Proceeding, shall be segregated and held in trust or, to the extent the concept of trust is not recognized in the relevant jurisdiction, held on behalf of and for the benefit of and forthwith paid over to the Designated Senior Representative for the benefit of the Senior Secured Parties in the same form as received, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct. Each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party under its Second Priority Debt Facility, hereby irrevocably constitutes and appoints the Designated Senior Representative and any officer or agent of the Designated Senior Representative, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Second Priority Representative or such Second Priority Debt Party or in the Designated Senior Representative's own name, from time to time in the Designated Senior Representative's discretion, for the purpose of carrying out the terms of this Section 8.02, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of this Section 8.02, including any endorsements or other instruments of transfer or release. This authorization is coupled with an interest and is irrevocable. Except as expressly provided in this Section 8.02 or elsewhere in this Agreement, nothing in this Agreement shall be deemed to prohibit the receipt (and retention) by the Designated Second Priority Representative or any Second Priority Debt Party of any payments of interest, principal or fees required by the Second Priority Debt Documents.

## ARTICLE IX

### Other Agreements

#### Section 9.01. Releases.

(a) In connection with the (x) enforcement or exercise of any rights or remedies with respect to any Collateral (including, without limitation, the Shared Collateral) by the Relevant Designated Representative (including, without limitation, any sale, transfer or other disposition of any Collateral) or, (y) the disposal of an asset of a member of the Group which is (A) being effected at the request of the Relevant Designated Representative in circumstances where the Collateral has become enforceable as a result of an Enforcement Event or (B) being effected after the occurrence of an Enforcement Event, to a person or persons which is, or are not, a member, or members of the Group, the Relevant Designated Representative is irrevocably authorized (at the cost of the Grantors in accordance with the terms of the applicable Senior Debt Document or Second Priority Debt Document and without any consent, sanction, authority or further confirmation from the Secured Parties, any Additional Creditor, Intra-Group Lender, Investor or any Grantor): (i) to release any Liens on any part of the Collateral or any other claim over the asset which is the subject of such action, and, on release of any of the Liens constituting Senior Collateral, the Liens or any other claim over the asset which is the subject of such enforcement or exercise, if any, of any Second Priority Representative, for itself and on behalf of each Second Priority Debt Party under its Second Priority Debt Facility, and the Liens of any Senior Representative that is not the Designated Senior Representative, for itself and on behalf of each Senior Secured Party under its Senior Facility, shall be automatically, unconditionally and simultaneously released to the same extent as the Liens or other claims of the Designated Senior Representative, and the Relevant Designated Representative is irrevocably authorized to execute and deliver or enter into any release of such Liens or claims that may, in the discretion of the Relevant Designated Representative, be considered necessary or reasonably desirable in connection with such releases; it being understood and agreed that for purposes of this Section 9.01(a)(i), upon the commencement of the Second Priority Enforcement Period, the Relevant Designated Representative shall mean the Designated Second Priority Representative regardless of whether the Discharge of Senior Obligations has occurred; (ii) if the asset which is the subject of such action consists of shares in the capital of any Grantor, to release, on behalf of the Senior Secured Parties, Second Priority Debt Parties, Additional Creditors, the Grantors, the Intra-Group Lenders and the Investors (x) that Grantor and any subsidiary of that Grantor from all or any part of its Senior Obligations, its Second Priority Debt Obligations, its Additional Debt Obligations, its Intra-Group Obligations and/or its Investor Obligations, (y) any Liens granted by that Grantor and any subsidiary of that Grantor over any of its assets, and (z) any other claim of any Senior Secured Party, Second Priority Debt Party, Additional Creditor, Grantor, Intra-Group Lender or Investor over that Grantor's assets or over the assets of any subsidiary of that Grantor; (iii) if the asset which is the subject of such action consists of shares in the capital of a Grantor and the Relevant Designated Representative decides to dispose of the shares in the capital of such Grantor and all or any part of the Senior Obligations and/or Second Priority Debt Obligations owed by such Grantor (the "Disposal Obligations"), (x) (if the Relevant Designated Representative does not intend that any transferee of those Disposal Obligations (the "Transferee") will be treated as a Senior Secured Party and/or Second Priority Debt Party for the purposes of this Agreement), to execute and deliver or enter into any agreement to dispose of all

or part of those Disposal Obligations providing that notwithstanding any other provision of any Senior Debt Document, any Second Priority Debt Document or this Agreement, the Transferee shall not be treated as a Senior Secured Party and/or Second Priority Debt Party for the purposes of this Agreement, and (y) (if the Relevant Designated Representative does intend that any Transferee will be treated as a Senior Secured Party and/or Second Priority Debt Party), to execute and deliver or enter into any agreement to dispose of all (and not part only) of the Disposal Obligations owed to the Senior Secured Parties and/or Second Priority Debt Parties, as applicable; and (iv) if the asset which is disposed of consists of shares in the capital of a Grantor (the “Disposed Entity”) and the Relevant Designated Representative decides to transfer to another Grantor (the “Receiving Entity”) all or any part of the Disposed Entity’s obligations or any obligations of any subsidiary of that Disposed Entity in respect of Senior Obligations, Second Priority Debt Obligations, Additional Debt Obligations, Intra-Group Obligations and/or Investor Obligations, to dispose of such obligations in respect of such Senior Obligations, Second Priority Debt Obligations, Additional Debt Obligations, Intra-Group Obligations and/or Investor Obligations and to execute and deliver or enter into any agreement to (x) agree to the transfer of all or part of the obligations in respect of such Senior Obligations, Second Priority Debt Obligations, Additional Debt Obligations, Intra-Group Obligations and/or Investor Obligations on behalf of the Senior Secured Parties, Second Priority Debt Party, Additional Creditors, Intra-Group Lenders, Investors or Grantors, as the case may be, to which those obligations are owed and on behalf of the Grantors which owe those obligations and (y) to accept the transfer of all or part of the obligations in respect of such Senior Obligations, Second Priority Debt Obligations, Additional Debt Obligations, Intra-Group Obligations and/or Investor Obligations on behalf of the Receiving Entity or Receiving Entities to which the obligations in respect of such Second Priority Debt Obligations, Additional Debt Obligations, Intra-Group Obligations and/or Investor Obligations is to be transferred. Each of the Designated Second Priority Representatives, for itself or on behalf of any such Second Priority Debt Parties, Additional Creditor Representative (for itself and on behalf of each Additional Creditor) Intra-Group Lender and Investor promptly shall execute and deliver to the Relevant Designated Representative or such Grantor such termination statements, releases and other documents as the Relevant Designated Representative or such Grantor may request to effectively confirm the foregoing releases. In the case of any disposal made pursuant to this Section 9.01(a) at such time when any Second Priority Debt Obligations or Additional Debt Obligations exist (but not otherwise), the Relevant Designated Representative shall take reasonable care to obtain a fair market price in the prevailing market conditions (though the Relevant Designated Representative shall have no obligation to postpone any such disposal in order to achieve a higher price). The requirement in the immediately preceding sentence shall be satisfied (and as between the Creditors and the Grantors shall be conclusively presumed to be satisfied) and the Relevant Designated Representative will be taken to have discharged all its obligations in this respect under this Agreement, the other Debt Documents and generally at law if (i) that disposition is made (x) pursuant to any process or proceedings approved or supervised by or on behalf of any court of law, (y) by, at the direction of or under the control of, a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer (or any analogous officer in any relevant jurisdiction) appointed in respect of a member of the Group or the assets of a member of the Group or (z) pursuant to a Competitive Sales Process; or (ii) a Financial Advisor appointed by the Relevant Designated Representative pursuant to Section 9.10 and/or in the case of any enforcement against shares in the capital of any Grantor in accordance

with applicable Requirements of Law, has delivered a Fairness Opinion to the Relevant Designated Representative in respect of the applicable disposition or in respect of that enforcement of share capital (in accordance with the applicable Requirements of Law governing that enforcement of share capital) and the Relevant Designated Representative shall use commercially reasonable efforts to procure that a copy of such Fairness Opinion is disclosed to each Second Priority Representative (unless such Representative is at such time the Relevant Designated Representative) on a non-reliance basis.

(b) Each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party under its Second Priority Debt Facility, each Additional Creditor Representative (for itself and on behalf of each Additional Creditor), each Investor and each Intra-Group Lender hereby irrevocably constitutes and appoints the Designated Senior Representative and any officer or agent of the Designated Senior Representative, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Second Priority Representative or such Second Priority Debt Party or such Additional Creditor Representative or such Additional Creditor, or Investor or Intra-Group Lender or in the Designated Senior Representative's own name, from time to time in the Designated Senior Representative's discretion, for the purpose of carrying out the terms of Section 9.01(a), to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of Section 9.01(a) including any termination statements, endorsements or other instruments of transfer or release. This appointment is coupled with an interest and irrevocable.

(c) Unless and until the Discharge of Senior Obligations has occurred, each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party under its Second Priority Debt Facility, hereby consents to the application, whether prior to or after an event of default under any Senior Debt Document of proceeds of Shared Collateral to the repayment of Senior Obligations pursuant to the Senior Debt Documents, provided that nothing in this Section 9.01(c) shall be construed to prevent or impair the rights of the Second Priority Representatives or the Second Priority Debt Parties to receive proceeds in connection with the Second Priority Debt Obligations not otherwise in contravention of this Agreement.

(d) Notwithstanding anything to the contrary in any Second Priority Collateral Document, in the event the terms of a Senior Collateral Document and a Second Priority Collateral Document each require any Grantor (i) to make payment in respect of any item of Shared Collateral, (ii) to deliver or afford control over any item of Shared Collateral to, or deposit any item of Shared Collateral with, (iii) to register ownership of any item of Shared Collateral in the name of or make an assignment of ownership of any Shared Collateral or the rights thereunder to, (iv) to obtain any deposit account control agreement or securities account control agreement, or cause any deposit bank, securities intermediary, commodity intermediary or other Person acting in a similar capacity to agree to comply, in respect of any item of Shared Collateral, with instructions or orders from, or to treat, in respect of any item of Shared Collateral, as the entitlement holder, (v) to hold any item of Shared Collateral on behalf of and for the benefit or (as applicable) in trust for (to the extent such item of Shared Collateral cannot be held on behalf and for the benefit or (as applicable) in trust for multiple parties under applicable Requirements of Law), (vi) to obtain the agreement of a bailee or other third party to hold any item of Shared Collateral for the benefit of or subject to the control of or, in respect of

any item of Shared Collateral, to follow the instructions of or (vii) to obtain the agreement of a landlord with respect to access to leased premises where any item of Shared Collateral is located or waivers or subordination of rights with respect to any item of Shared Collateral in favor of, in any case, both the Designated Senior Representative and any Second Priority Representative or Second Priority Debt Party, such Grantor may, until the applicable Discharge of Senior Obligations has occurred, comply with such requirement under the Second Priority Collateral Document as it relates to such Shared Collateral by taking any of the actions set forth above only with respect to, or in favor of, the Designated Senior Representative, subject to Section 9.05.

**Section 9.02. Permitted Transactions.** Notwithstanding anything to the contrary in any Collateral Document, nothing in any Collateral Document shall operate or be construed so as to prevent any transaction, matter or other step not prohibited by the terms of this Agreement and the Debt Financing Agreements (a “Permitted Transaction”). The Relevant Designated Representative (on behalf of itself and the Secured Parties) hereby agrees (and is irrevocably authorized and instructed to do so without any consent, sanction, authority or further confirmation from any Person) that it shall (at the request and cost of the relevant Grantor or the Lux Borrower) promptly execute any release or other document and/or take such other action under or in relation to any Debt Document (or any asset subject or expressed to be subject to any Collateral Document) as is requested by the Lux Borrower in order to complete, implement or facilitate a Permitted Transaction.

**Section 9.03. Amendment to Debt Documents.**

(a) The Senior Debt Documents may be amended, restated, supplemented or otherwise modified in accordance with their terms, and the Indebtedness under the Senior Debt Documents may be Refinanced, in each case, without the consent of any Second Priority Debt Party; provided, however, that, at such time when any Second Priority Debt Obligations exist (but not otherwise) without the prior written consent of the Designated Second Priority Representative, no such amendment, restatement, supplement, modification or Refinancing (or successive amendments, restatements, supplements, modifications or Refinancings) shall contravene any provision of this Agreement; provided further, that, it is understood and agreed that nothing in this Agreement shall be deemed to prohibit any voluntary prepayment, mandatory prepayment, or other Payments or Refinancings of Senior Obligations expressly permitted under the terms of the Second Priority Debt Documents.

(b) Without the prior written consent of the Designated Senior Representative, no Second Priority Debt Document may be amended, restated, supplemented or otherwise modified, or entered into, and no Indebtedness under the Second Priority Debt Documents may be Refinanced, to the extent such amendment, restatement, supplement or modification or Refinancing, or the terms of such new Second Priority Debt Document, would (i) contravene the provisions of this Agreement or (ii) cause any Second Priority Debt Facility to mature or have scheduled amortization payments of principal or payments of principal and/or be subject to mandatory redemption, repurchase, prepayment or sinking fund obligations (except (x) provisions relating to the prepayment (or offer to prepay) in respect of asset sales, changes of control and other customary events that provide for the prior repayment in full of the Senior Obligations and (y) voluntary prepayment, mandatory prepayment, or other Payments or Refinancings that are permitted under the other Second Priority Debt Facilities (or if permitted

under the Senior Debt Documents, other voluntary prepayment, mandatory prepayment, or other Payments or Refinancings which could be available to Second Priority Debt Facilities permitted thereunder), in each case prior to the latest maturity date of any Senior Obligations (other than First Lien Hedge Obligations) at the time of such amendment, restatement, supplement or modification or Refinancing; provided that, it is understood and agreed that nothing in this Agreement shall be deemed to prohibit any voluntary prepayment, mandatory prepayment, or other Payments or Refinancings of Second Priority Debt Obligations expressly permitted under the terms of the Senior Debt Documents.

(c) Each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party under its Second Priority Debt Facility, agrees that, where relevant and if reasonably requested by the Designated Senior Representative (i) each Second Priority Collateral Document under its Second Priority Debt Facility shall include the following language (or language to similar effect reasonably approved by the Designated Senior Representative):

“Notwithstanding anything herein to the contrary, (i) the liens and security interests granted to the Second Priority Representative pursuant to this Agreement are expressly subject and subordinate to the liens and security interests granted in favor of the Senior Secured Parties (as defined in the Intercreditor Agreement referred to below), including liens and security interests granted to ING Bank N.V., London Branch, as collateral agent, pursuant to or in connection with the credit agreement, dated as of April 15, 2016, among, *inter alios*, Holdings, the Initial Borrowers, the lenders from time to time party thereto, ING Bank N.V., London Branch, as administrative agent and collateral agent and the other parties thereto, as amended and restated as of September 13, 2016, and as may be further amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time and (ii) the exercise of any right or remedy by the Second Priority Representative hereunder is subject to the limitations and provisions of the Intercreditor Agreement, dated as of [●], 20[●] (as amended, restated, supplemented or otherwise modified from time to time, the “Intercreditor Agreement”), among, *inter alios*, ING Bank N.V., London Branch, as First Lien Collateral Agent, ING Bank N.V., London Branch, as the Designated Shared Collateral Agent, Holdings, the Initial Borrowers and the other parties thereto. In the event of any conflict between the terms of the Intercreditor Agreement and the terms of this Agreement, the terms of the Intercreditor Agreement shall govern.”

and (ii) each Second Priority Collateral Document constituting a mortgage, deed of trust or other security interest in real property shall contain such other language as the Designated Senior Representative may reasonably request to reflect the subordination of such Second Priority Collateral Document to the Senior Collateral Document covering such Collateral pursuant to this Agreement.

(d) In the event that each applicable Senior Representative and/or the Senior Secured Parties enter into any amendment, waiver or consent in respect of any of the Senior Collateral Documents for the purpose of adding to or deleting from, or waiving or consenting to any departures from any provisions of, any Senior Collateral Document or changing in any manner the rights of the Senior Representatives, the Senior Secured Parties, any Borrower or any

other Grantor thereunder (including the release of any Liens in Senior Collateral) in a manner that is applicable to all Senior Facilities, then such amendment, waiver or consent shall apply automatically to any comparable provision of each comparable Second Priority Collateral Document (at such time when any Second Priority Debt Obligations exist) without the consent of any Second Priority Representative or any Second Priority Debt Party and without any action by any Second Priority Representative, any Borrower or any other Grantor; provided, however, that (i) no such amendment, waiver or consent shall (A) remove assets subject to the Second Priority Liens or release any such Liens, except to the extent that such release is permitted or required by Section 9.01(a) and provided that there is a concurrent release of the corresponding Senior Liens or (B) amend, modify or otherwise affect the rights or duties of any Second Priority Representative in its role as Second Priority Representative without its prior written consent and (ii) written notice of such amendment, waiver or consent shall have been given to each Second Priority Representative by the Designated Senior Representative within ten (10) Business Days after the effectiveness of such amendment, waiver or consent.

(e) The Lux Borrower agrees to deliver to each of the Designated Senior Representative, each First Lien Hedge Counterparty and the Designated Second Priority Representative copies of (i) any amendments, supplements or other modifications to the Senior Debt Documents or the Second Priority Debt Documents and (ii) any new Senior Debt Documents or Second Priority Debt Documents promptly after effectiveness thereof (in each case other any Ancillary Document, First Lien Hedge Agreement and Banking Services Agreement or any amendments, supplements or other modifications relating thereto).

**Section 9.04. Rights as Unsecured Creditors; Judgment Lien Creditors.** The Second Priority Representatives and the Second Priority Debt Parties may exercise rights and remedies as unsecured creditors against any Borrower and any other Grantor in accordance with the terms of the Second Priority Debt Documents and applicable Requirements of Law so long as such rights and remedies do not violate any express provision of this Agreement, including, in the case of any Enforcement Action in respect of the Obligations, the terms of Section 7.01. Nothing in this Agreement shall prohibit the receipt by any Second Priority Representative or any Second Priority Debt Party of the required payments of principal, premium, interest, fees and other amounts due under the Second Priority Debt Documents so long as such receipt is not the direct or indirect result of the exercise in contravention of this Agreement by a Second Priority Representative or any Second Priority Debt Party of rights or remedies as a secured creditor in respect of Shared Collateral. In the event any Second Priority Representative or any Second Priority Debt Party becomes a judgment lien creditor in respect of Shared Collateral as a result of its enforcement of its rights as an unsecured creditor in respect of Second Priority Debt Obligations, such judgment lien shall be subordinated to the Liens securing Senior Obligations on the same basis as the other Liens securing the Second Priority Debt Obligations are so subordinated to such Liens securing Senior Obligations under this Agreement. Nothing in this Agreement shall impair or otherwise adversely affect any rights or remedies the Senior Representatives or the Senior Secured Parties may have with respect to the Senior Collateral.

**Section 9.05. Gratuitous Bailee for Perfection.**

(a) Each Senior Representative acknowledges and agrees that if it shall at any time hold a Lien securing any Senior Obligations on any Shared Collateral that can be perfected

by the possession or control of such Shared Collateral or of any account in which such Shared Collateral is held, and for so long as such Shared Collateral or any such account is in fact in the possession or under the control of such Senior Representative, or of agents or bailees of such Person (such Shared Collateral being referred to herein as the “Pledged or Controlled Collateral”), or if it shall any time obtain any landlord waiver or bailee’s letter or any similar agreement or arrangement granting it rights or access to Shared Collateral (including, but not limited to, being listed as a secured party on any certificate of title or as an additional insured or a loss payee with respect to the Pledged or Controlled Collateral), the applicable Senior Representative shall also hold such Pledged or Controlled Collateral, or take such actions with respect to such landlord waiver, bailee’s letter or similar agreement or arrangement, as sub-agent or gratuitous bailee for the relevant Second Priority Representatives (such bailment and agency being intended, among other things to satisfy the requirements of Sections 8-106(d)(3), 8-301(a)(2) and 9-313(c) of the UCC), in each case solely for the purpose of perfecting the Liens granted under the relevant Second Priority Collateral Documents and subject to the terms and conditions of this Section 9.05.

(b) For so long as any Senior Representative (or its agents or bailees) has Lien filings against intellectual property that is part of the Shared Collateral that are necessary for the perfection of Liens in such Shared Collateral, such Senior Representative agrees to hold such Liens as sub-agent and gratuitous bailee for the relevant Second Priority Representatives and any assignee thereof, solely for the purpose of perfecting the security interest granted in such Liens pursuant to the relevant Second Priority Collateral Documents, subject to the terms and conditions of this Section 9.05.

(c) Except as otherwise specifically provided herein, until the Discharge of Senior Obligations has occurred, the Senior Representatives and the Senior Secured Parties shall be entitled to deal with the Pledged or Controlled Collateral in accordance with the terms of the Senior Debt Documents as if the Liens under the Second Priority Collateral Documents did not exist. Without limiting the foregoing, nothing herein obligates the Senior Representatives or Senior Secured Parties to maintain such possession, control or other perfection, and none of the Senior Representatives or Senior Secured Parties shall have any duty of care arising from this Article IX. The rights of the Second Priority Representatives and the Second Priority Debt Parties with respect to the Pledged or Controlled Collateral shall at all times be subject to the terms of this Agreement.

(d) The Senior Representatives and the Senior Secured Parties shall have no obligation whatsoever to the Second Priority Representatives or any Second Priority Debt Party to assure that any of the Pledged or Controlled Collateral is genuine or owned by the Grantors or to protect or preserve rights or benefits of any Person or any rights pertaining to the Shared Collateral, except as expressly set forth in this Section 9.05. The duties or responsibilities of the Senior Representatives under this Section 9.05 shall be limited solely to holding or controlling the Shared Collateral and the related Liens referred to in paragraphs (a) and (b) of this Section 9.05 as sub-agent and gratuitous bailee for the relevant Second Priority Representative for purposes of perfecting the Lien held by such Second Priority Representative, subject to the limitations on such duties set forth in this Section 9.05.

(e) The Senior Representatives shall not have by reason of the Second Priority Collateral Documents or this Agreement, or any other document, a fiduciary relationship in respect of any Second Priority Representative or any Second Priority Debt Party, and each, Second Priority Representative, for itself and on behalf of each Second Priority Debt Party under its Second Priority Debt Facility, hereby waives and releases the Senior Representatives from all claims and liabilities arising pursuant to the Senior Representatives' roles under this Section 9.05 s sub-agents and gratuitous bailees with respect to the Shared Collateral.

(f) Upon the Discharge of Senior Obligations, each applicable Senior Representative shall, at the Grantors' sole cost and expense, (i) (A) deliver to the Designated Second Priority Representative, to the extent that it is legally permitted to do so, all Shared Collateral, including all proceeds thereof, held or controlled by such Senior Representative or any of its agents or bailees, including the transfer of possession and control, as applicable, of the Pledged or Controlled Collateral, together with any necessary endorsements and notices to depositary banks, securities intermediaries and commodities intermediaries, and assign its rights under any landlord waiver or bailee's letter or any similar agreement or arrangement granting it rights or access to Shared Collateral, or (B) direct and deliver such Shared Collateral as a court of competent jurisdiction may otherwise direct, (ii) notify any applicable insurance carrier that it is no longer entitled to be a loss payee or additional insured under the insurance policies of any Grantor issued by such insurance carrier and (iii) notify any governmental authority involved in any condemnation or similar proceeding involving any Grantor that the Designated Second Priority Representative is entitled to approve any awards granted in such proceeding. The Borrowers and the other Grantors shall take such further action as is required to effectuate the transfer contemplated hereby and shall indemnify each Senior Representative for loss or damage suffered by such Senior Representative as a result of such transfer, except for loss or damage suffered by any such Person as a result of its own willful misconduct, gross negligence, bad faith or material breach of this Agreement, as determined in a final non-appealable judgment of a court of competent jurisdiction. Upon such Discharge of Senior Obligations, each applicable Senior Representative shall, take all other action as reasonably and customarily requested by the Designated Second Priority Representative in connection with the Second Priority Representatives obtaining a first priority interest in the Collateral or as a court of competent jurisdiction may otherwise direct, in each case at the Grantors' sole cost and expense (but subject, if an event of default existed under any Senior Debt Documents immediately prior to the Discharge of Senior Obligations, to assurances reasonably acceptable to such Senior Representatives that such costs will be paid or reimbursed). The Senior Representatives have no obligations to follow instructions from any Second Priority Representative or any other Second Priority Debt Party in contravention of this Agreement.

Section 9.06. When Discharge of Senior Obligations Deemed To Not Have Occurred. If, at any time substantially concurrently with or within sixty (60) days after the occurrence of the Discharge of Senior Obligations, any Borrower or any Subsidiary consummates any Refinancing of any Senior Obligations, then such Discharge of Senior Obligations shall automatically be deemed not to have occurred for all purposes of this Agreement (other than with respect to any actions taken prior to the date of such designation as a result of the occurrence of such first Discharge of Senior Obligations) and the applicable agreement governing such Senior Obligations shall automatically be treated as a Senior Debt Document for all purposes of this Agreement, including for purposes of the Lien priorities and

rights in respect of Shared Collateral set forth herein and the agent, representative or trustee for the holders of such Senior Obligations shall be the Senior Representative for all purposes of this Agreement. Upon receipt of notice of such incurrence (including the identity of the new Senior Representative), each Second Priority Representative (including the Designated Second Priority Representative) shall promptly (a) enter into such documents and agreements, including amendments or supplements to this Agreement, as the Lux Borrower or such new Senior Representative shall reasonably request in writing in order to provide the new Senior Representative the rights of a Senior Representative contemplated hereby, (b) deliver to such Senior Representative, to the extent that it is legally permitted to do so, all Shared Collateral, including all proceeds thereof, held or controlled by such Second Priority Representative or any of its agents or bailees, including the transfer of possession and control, as applicable, of the Pledged or Controlled Collateral, together with any necessary endorsements and notices to depositary banks, securities intermediaries and commodities intermediaries, and assign its rights under any landlord waiver or bailee's letter or any similar agreement or arrangement granting it rights or access to Shared Collateral, (c) notify any applicable insurance carrier that it is no longer entitled to be a loss payee or additional insured under the insurance policies of any Grantor issued by such insurance carrier and (d) notify any governmental authority involved in any condemnation or similar proceeding involving a Grantor that the new Senior Representative is entitled to approve any awards granted in such proceeding.

#### Section 9.07. Purchase Right.

(a) Without prejudice to the enforcement of the Senior Secured Parties remedies, the Senior Secured Parties agree that following (i) the acceleration of the Senior Obligations in accordance with the terms of the First Lien Credit Agreement or the applicable Additional Debt Documents or (ii) the commencement of an Insolvency or Liquidation Proceeding (each, a "Purchase Event"), and prior to the thirtieth (30th) day after the Designated Senior Representative providing notice to the Designated Second Priority Representative that a Purchase Event has occurred, one or more of the Second Priority Debt Parties may request, and the Senior Secured Parties hereby offer the Second Priority Debt Parties the option, to purchase all, but not less than all, of the aggregate amount of outstanding Senior Obligations outstanding at the time of purchase at par, plus any premium that would be applicable upon prepayment of the Senior Obligations and accrued and unpaid interest and fees, without warranty or representation or recourse (except, in the case of the First Lien Credit Agreement, for representations and warranties required to be made by assigning lenders pursuant to the Assignment and Assumption (as such term is defined in the First Lien Credit Agreement)).

(b) If such right is exercised, the parties shall endeavor to close promptly thereafter but in any event within ten (10) Business Days of the request. If one or more of the Second Priority Debt Parties exercise such purchase right, it shall be exercised pursuant to documentation mutually acceptable to each of the Designated Senior Representative and the Designated Second Priority Representative. If none of the Second Priority Debt Parties exercise such right, the Senior Secured Parties shall have no further obligations pursuant to this Section 9.07 for such Purchase Event and may take any further actions in their sole discretion in accordance with the Senior Debt Documents and this Agreement. In the event of any dispute among Second Priority Debt Parties in respect of such Purchase Event or the allocation of the Senior Obligations among the Second Priority Debt Parties upon consummation thereof, the

Senior Secured Parties shall not be obligated to act pursuant to this Section 9.07 unless provided an instruction by the Designated Second Priority Representative and the Designated Senior Representative, and each Senior Secured Party shall be deemed to have performed its obligations pursuant to this Section 9.07 if its acts in accordance with such instruction.

(c) Upon the date of such purchase and sale, the Second Priority Debt Parties that have exercised such option shall, pursuant to documentation in form and substance reasonably satisfactory to the Designated Senior Representative and the Designated Second Priority Representative, (i) pay to the Senior Secured Parties as the purchase price therefor the full amount in cash of all the Senior Obligations then outstanding and unpaid (including, without limitation, principal, reimbursement obligations in respect of, if any, letters of credit, obligations in respect of hedges, automatic clearing house services, overdraft lines and other bank products constituting Senior Obligations, interest, fees and expenses, including reasonable attorneys' fees and legal expenses) at par and in the case of the purchase of any First Lien Hedge Obligations, subject to (e) below, the aggregate amount outstanding and unpaid shall be calculated by reference to the Hedging Purchase Amount in respect of the hedging transactions under the relevant First Lien Hedge Agreement, (ii) Collateralize, if any, all letters of credit and bank guarantees outstanding under the Senior Debt Documents, (iii) provide to the Designated Senior Representative and the Senior Secured Parties arrangements reasonably satisfactory to the Designated Senior Representative ensuring reimbursement for any loss, cost, damage or expense (including reasonable attorneys' fees and legal expenses) in connection with any commissions, fees, costs or expenses related to any checks or other payments provisionally credited to the Senior Obligations, and/or as to which the Designated Senior Representative or any Senior Secured Party has not yet received final payment and (iv) agree to reimburse the Designated Senior Representative and the Senior Secured Parties in respect of indemnification obligations of the Grantors under the First Lien Credit Agreement Loan Documents. Such purchase price shall be remitted by wire transfer in federal funds to such bank account of the Designated Senior Representative for the ratable account of the Designated Senior Representative and the Senior Secured Parties in New York, New York, as the Designated Senior Representative may designate in writing to the Second Priority Representative for such purpose. Interest shall be calculated to but excluding the Business Day on which such purchase and sale shall occur if the amounts so paid by the Second Priority Debt Parties that have exercised such option to the bank account designated by Designated Senior Representative are received in such bank account prior to 1:00 p.m., New York City time and interest shall be calculated to and including such Business Day if the amounts so paid by such Second Priority Debt Party to the bank account designated by the Designated Senior Representative are received in such bank account later than 1:00 p.m., New York City time on such Business Day.

(d) Such purchase shall be expressly made without recourse, representation or warranty of any kind by the Designated Senior Representative or any Senior Secured Party as to the Senior Obligations owed to such person or otherwise, except that each such person shall represent and warrant: (i) the amount of the Senior Obligations being sold by it, (ii) that such person has not created any Lien on any Senior Obligation being sold by it that is not removed upon the sale and (iii) that such person has the right to assign Senior Obligations being assigned by it and its assignment is duly authorized.

(e) In relation to the purchase of the First Lien Hedge Obligations, the Second

Priority Debt Parties may exercise such purchase option if (i) that purchase is lawful and otherwise permitted by the terms of the First Lien Hedge Agreements in which case no Grantor or other member of the Group shall be entitled to withhold its consent to that transfer, (ii) any conditions (other than the consent of, or any consultation with, any Grantor or other member of the Group) relating to that transfer contained in the First Lien Hedge Agreements are complied with, (iii) as a result of that purchase, the First Lien Hedge Counterparties have no further actual or contingent liability to any Grantor under the First Lien Hedge Agreements; and (iv) an indemnity is provided from the Second Priority Debt Party which is effecting (or for which a nominee is effecting) that purchase (or from another third party acceptable to the relevant First Lien Hedge Counterparty) in a form satisfactory to the relevant First Lien Hedge Counterparty in respect of all losses which may be sustained or incurred by that First Lien Hedge Counterparty in consequence of any sum received or recovered by that First Lien Hedge Counterparty being required (or it being alleged that it is required) to be paid back by or clawed back from the First Lien Hedge Counterparty for any reason.

**Section 9.08. Insurance and Condemnation Awards.** Unless and until the Discharge of Senior Obligations has occurred, the Designated Senior Representative and the Senior Secured Parties shall have the sole and exclusive right, subject to the rights of the Grantors under the Senior Debt Documents, (a) to be named as additional insured and loss payee under any insurance policies maintained from time to time by any US Grantor, (b) to adjust settlement for any insurance policy covering the Shared Collateral of a US Grantor in the event of any loss thereunder and (c) to approve any award granted in any condemnation or similar proceeding affecting the Shared Collateral of a US Grantor. Unless and until the Discharge of Senior Obligations has occurred, all proceeds of any such policy and any such award, if in respect of the Shared Collateral of a US Grantor, shall be paid (i) first, prior to the occurrence of the Discharge of Senior Obligations, to the Designated Senior Representative for the benefit of Senior Secured Parties pursuant to the terms of the Senior Debt Documents including, without limitation, for the purposes of cash collateralization of commitments, Letters of Credit, Ancillary Obligations (to the extent not constituting loans) and obligations under First Lien Hedge Agreements, (ii) second, after the occurrence of the Discharge of Senior Obligations, to the Designated Second Priority Representative for the benefit of the Second Priority Debt Parties pursuant to the terms of the applicable Second Priority Debt Documents and (iii) third, if no Second Priority Debt Obligations are outstanding, to the owner of the subject property, such other Person as may be entitled thereto or as a court of competent jurisdiction may otherwise direct. If any Second Priority Representative or any Second Priority Debt Party shall, at any time, receive any proceeds of any such insurance policy or any such award in contravention of this Agreement, it shall pay such proceeds over to the Designated Senior Representative in accordance with the terms of Section 8.02.

**Section 9.09. Non-distressed Releases.** Without prejudice to the other rights of the Grantors under this Agreement and for the avoidance of doubt, if requested by the Lux Borrower in accordance with the terms of the Debt Financing Agreements, the First Lien Collateral Agent, the Designated Second Priority Representative, the Designated Shared Collateral Agent and the other Creditors shall (at the cost of the relevant Grantor and/or Holdings) promptly execute any guarantee, security or other release and/or any amendment, supplement or other documentation relating to the Collateral Documents as contemplated by the terms of the Debt Financing Agreements (and each of the First Lien Collateral Agent, the

Designated Second Priority Representative, the Designated Shared Collateral Agent and the Designated Senior Representative is authorized to execute, and will promptly execute if requested by the Lux Borrower, without the need for any further consent, sanction, authority or further confirmation from any Creditor, any such release or document on behalf of the Creditors). When making any request pursuant to this paragraph the Lux Borrower shall confirm in writing to the First Lien Collateral Agent, the Designated Second Priority Representative, the Designated Shared Collateral Agent or, as the case may be, the Designated Senior Representative that such request is in accordance with the terms of the Debt Financing Agreements and such person shall be entitled to rely on that confirmation for all purposes under the Secured Debt Documents.

**Section 9.10. Appointment of Financial Advisor.** (a) The Relevant Designated Representative may engage or approve the engagement of (in each case on such terms as it may consider appropriate (including, without limitation, and subject to clause (iv) of the last sentence of Section 9.01(a) above, restrictions on that Financial Advisor's liability and the extent to which any advice, valuation or opinion may be relied on or disclosed), pay for and rely on the services of, a Financial Advisor to provide advice, a valuation or a fairness opinion in connection with (i) a transfer, sale or other disposition of Shared Collateral or the application or distribution of any proceeds of any such sale or disposition or (ii) any amount of Non-Cash Consideration which is subject to Section 8.02.

(b) For the purposes of paragraph (a) above, the Relevant Designated Representative shall act on the instructions of (x) prior to the Discharge of Senior Obligations, the Required Senior Creditors or (y) after the Discharge of Senior Obligations, the Required Second Priority Creditors.

**Section 9.11. Shared Collateral Documents.** In furtherance of the provisions of Section 12.06 applicable to the Shared Collateral, each Grantor, each Senior Representative (on behalf of the Senior Secured Parties it represents), each Second Priority Representative (on behalf of the Second Priority Debt Parties it represents) and the Designated Shared Collateral Agent, acknowledge and agree that, to the extent possible under applicable Requirements of Law governing each such Shared Collateral Document:

(a) the security interest granted pursuant to such Shared Collateral Document to (i) the Designated Shared Collateral Agent, for the benefit of the Senior Secured Parties it represents in the Shared Collateral is intended to be a "first" priority senior security interest and (ii) the Designated Shared Collateral Agent, for the benefit of the Second Priority Debt Parties it represents in the Shared Collateral is intended to be a "second" priority security interest, fully junior, subordinated and subject to the security interest granted for the benefit of the Senior Secured Parties it represents in the Shared Collateral, on, and subject to, the terms and conditions set forth in this Agreement notwithstanding the fact that a single security interest has been granted pursuant to such Shared Collateral Document, and all other rights and benefits afforded under such Shared Collateral Document to the Designated Shared Collateral Agent for the benefit of the Senior Secured Parties it represents and for the benefit of the Second Priority Debt Parties with respect to the Shared Collateral are expressly subject to the terms and conditions of this Agreement;

(b) the Senior Secured Parties' security interests in the Shared Collateral under such Shared Collateral Document, are intended to constitute security interests separate and apart (and of a different class and claim) from the Second Priority Debt Parties' security interests in the Shared Collateral; and

(c) the grant of security interest under such Shared Collateral Document is intended to constitute two separate and distinct grants of security, one in favor of the Designated Shared Collateral Agent (on behalf of the Senior Secured Parties it represents) in the Collateral and the second in favor of the Designated Shared Collateral Agent (on behalf of the Second Priority Debt Parties it represents), in the Collateral notwithstanding the fact that a single security interest has been granted pursuant to such Shared Collateral Document.

(d) the Designated Shared Collateral Agent (i) (in its capacity as a representative of the Senior Secured Parties), shall be a party to each Shared Collateral Document and acknowledge the Lien granted in favor of any Senior Representative thereunder and (ii) (in its capacity as a representative of the Second Priority Debt Parties), shall be a party to each Shared Collateral Document and acknowledge the Lien granted in favor of any Second Priority Representative thereunder.

#### Section 9.12. Austrian Capital Maintenance.

(a) For purposes of this **Section 9.12, "Austrian Capital Maintenance Rules"** refers to Austrian capital maintenance rules (*Kapitalerhaltungsvorschriften*) pursuant to Austrian corporate laws, in particular sections 82 *et seq.* of the Austrian Act on Limited Liability Companies (*Gesetz über Gesellschaften mit beschränkter Haftung*) and and/or sections 52 and 65 *et seq.* of the Austrian Joint-Stock Corporation Act (*Aktiengesetz*).

(b) Notwithstanding any provision to the contrary in any Debt Document, the obligations (*Verpflichtungen*) and liabilities (*Haftungen*) of an Austrian Loan Party under any Debt Document shall at all times be limited so that at no time shall an Austrian Loan Party be required to assume any liability (*Haftung*) or obligation (*Verpflichtung*) under any Debt Document to the extent that such liability (*Haftung*) or obligation (*Verpflichtung*) would violate Austrian Capital Maintenance Rules. Should any obligation (*Verpflichtung*) or liability (*Haftung*) of the Austrian Loan Party under any Debt Document violate or contradict Austrian Capital Maintenance Rules and therefore be held invalid or unenforceable or should the assumption or enforcement of such obligation (*Verpflichtung*) or liability (*Haftung*) expose any managing director or member of the supervisory board of the Austrian Loan Party to personal liability or criminal responsibility, such obligation (*Verpflichtung*) or liability (*Haftung*) shall be deemed to be replaced by an obligation (*Verpflichtung*) or liability (*Haftung*) of a similar nature (i) which is in compliance with Austrian Capital Maintenance Rules; (ii) which does not expose the managing directors or members of the supervisory board of the Austrian Loan Party to any personal liability or criminal responsibility; and (iii) which provides the best possible security interest in favour of the Secured Parties. Such limitation may have the effect of reducing the amount of the obligations (*Verpflichtungen*) and liabilities (*Haftungen*) to zero.

#### Section 9.13. Parallel Debt (Hedging) (Covenant to pay the First Lien Collateral Agent).

(a) Notwithstanding any other provision of any First Lien Hedge Agreement, each First Lien Loan Party, by way of an independent payment obligation, hereby irrevocably and unconditionally undertakes to pay to the First Lien Collateral Agent, as creditor in its own right and not as representative of the other First Lien Credit Agreement Secured Parties, sums equal to and in the currency of each amount payable by such First Lien Loan Party to each of the First Lien Credit Agreement Secured Parties under each of the First Lien Hedge Agreements as and when that amount falls due for payment under the relevant First Lien Hedge Agreement or would have fallen due but for any discharge from failure of another First Lien Credit Agreement Secured Party to take appropriate steps, in insolvency proceedings affecting that First Lien Loan Party, to preserve its entitlement to be paid that amount.

(b) Each First Lien Loan Party and the First Lien Collateral Agent acknowledge that the obligations of each First Lien Loan Party under paragraph (a) are several and are separate and independent from, and shall not in any way limit or affect, the corresponding obligations of that First Lien Loan Party to any First Lien Credit Agreement Secured Party under any First Lien Hedge Agreement (its "**Corresponding Debt (Hedging)**") nor shall the amounts for which each First Lien Loan Party is liable under paragraph (a) (its "**Parallel Debt (Hedging)**") be limited or affected in any way by its Corresponding Debt (Hedging) provided that: (x) the First Lien Collateral Agent shall not demand payment with regard to the Parallel Debt (Hedging) of each First Lien Loan Party to the extent that such First Lien Loan Party's Corresponding Debt (Hedging) has been irrevocably paid or discharged and (y) neither the First Lien Collateral Agent nor any First Lien Credit Agreement Secured Party shall demand payment with regard to the Corresponding Debt (Hedging) of each First Lien Loan Party to the extent that such First Lien Loan Party's Parallel Debt (Hedging) has been irrevocably paid or discharged.

(c) The First Lien Collateral Agent acts in its own name and not as trustee and it shall have its own independent right to demand payment of the amounts payable by each First Lien Loan Party under this Section 9.13, irrespective of any discharge of such First Lien Loan Party's obligation to pay those amounts to the other First Lien Credit Agreement Secured Parties resulting from failure by them to take appropriate steps, in insolvency proceedings affecting that First Lien Loan Party, to preserve their entitlement to be paid those amounts.

(d) Any amount due and payable by a First Lien Loan Party to the First Lien Collateral Agent under this Section 9.13 shall be decreased to the extent that the other First Lien Credit Agreement Secured Parties have received (and are able to retain) payment of the corresponding amount under the other provisions of the First Lien Hedge Agreements and any amount due and payable by a First Lien Loan Party to the other First Lien Credit Agreement Secured Parties under those provisions shall be decreased to the extent that the First Lien Collateral Agent has received (and is able to retain) payment of the corresponding amount under this Section 9.13.

(e) The rights of the First Lien Credit Agreement Secured Parties (other than the First Lien Collateral Agent) to receive payment of amounts payable by each First Lien Loan Party under the First Lien Hedge Agreements are several and are separate and independent from, and without prejudice to, the rights of the First Lien Collateral Agent to receive payment under this Section 9.13.

(f) Without limiting or affecting the First Lien Collateral Agent's rights against the First Lien Loan Parties (whether under this Section 9.13 or under any other provision of the First Lien Hedge Agreements), each First Lien Loan Party acknowledges that: (x) nothing in this Section 9.13 shall impose any obligation on the First Lien Collateral Agent to advance any sum to any First Lien Loan Party or otherwise under any First Lien Hedge Agreement, except in its capacity as lender thereunder and (y) for the purpose of any vote taken under any First Lien Hedge Agreement, the First Lien Collateral Agent shall not be regarded as having any participation or commitment other than those which it has in its capacity as a counterparty under the First Lien Hedge Agreements.

(g) For the avoidance of doubt, to the extent not applicable, this Section 9.13 shall not apply to any Loan Party organized under the laws of Italy.

(h) For the avoidance of doubt, this Section 9.13 shall not operate and may not be construed as operating to disapply, suspend or circumvent any guarantee and/or indemnity limitations in relation to any claim of a First Lien Credit Agreement Secured Party set out in any First Lien Hedge Agreement.

Section 9.14. Austrian Agency Provisions. For the purposes of any Security governed by Austrian law which is pledged (*verpfändet*) or otherwise transferred to any First Lien Credit Agreement Secured Party under an accessory security right (*akzessorische Sicherheit*) (the "**Austrian Security**") the specific provisions set out in clauses (a) through (d) below of this paragraph shall be applicable. With respect to Austrian Security, in the case of any inconsistency, the provisions set forth in this paragraph shall prevail; further, in case of interpretation, the German text shall prevail.

(a) The First Lien Collateral Agent shall administer any Austrian Security as agent (*Auftragnehmer*) of the other First Lien Credit Agreement Secured Parties, and each First Lien Credit Agreement Secured Party (other than the First Lien Collateral Agent) unconditionally releases the First Lien Collateral Agent from any restriction of self-contracting (*In-Sich-Geschäft*) and/or double representation (*Doppelvertretung*) under Austrian law, both of which is herewith explicitly approved by the respective First Lien Credit Agreement Secured Party.

(b) The First Lien Collateral Agent shall hold (with regard to its own rights under Section 9.13), administer and, as the case may be, enforce or release such Austrian Security in the name of and for and on behalf of the First Lien Credit Agreement Secured Parties and in its own name on the basis of the abstract acknowledgement of indebtedness pursuant to Section 9.13(b).

(c) Each First Lien Credit Agreement Secured Party (other than the First Lien Collateral Agent) hereby authorizes the First Lien Collateral Agent (whether or not by or through employees or agents):

(i) to exercise such rights, remedies, powers and discretions as are specifically delegated to or conferred upon the First Lien Collateral Agent under the Collateral Documents together with such powers and discretions as are reasonably

incidental thereto;

(ii) to take such action on its behalf as may from time to time be authorized under or in accordance with the Collateral Documents; and

(iii) to accept and enter into as its representative (*Stellvertreter*) any pledge or other creation of any accessory security right granted in favor of such First Lien Credit Agreement Secured Party in connection with any Austrian Security, negotiate, sign and accept as authorized representative (*Stellvertreter*) of each First Lien Credit Agreement Secured Party (other than the First Lien Collateral Agent) any Austrian Security, and agree to and execute on its behalf as its representative (*Stellvertreter*) any amendments, confirmations and/or alterations to any Collateral Documents governed by Austrian law.

(d) The First Lien Collateral Agent accepts its appointment as agent and administrator of the Austrian Security on the terms and subject to the conditions set out in this Agreement and the First Lien Credit Agreement Secured Parties (other than the First Lien Collateral Agent), the First Lien Collateral Agent and all other parties to this Agreement agree that, in relation to the Austrian Security, no First Lien Credit Agreement Secured Party (other than the First Lien Collateral Agent) shall exercise any independent power to enforce any Austrian Security or take any other action in relation to the enforcement of the Austrian Security, or make or receive any declarations in relation thereto.

## ARTICLE X

### Claims Against Non-US Grantors upon an Enforcement Event

#### Section 10.01. Proceeds of Claims Following an Enforcement Event.

(a) In respect of any Non-US Grantor in respect of which an Insolvency or Liquidation Proceeding has commenced and an Enforcement Event has occurred and is continuing, the Creditors and any Non-US Grantor entitled to receive a distribution out of the assets of that Non-US Grantor in respect of Obligations owed to that Person shall, to the extent it is able to do so, direct the Person responsible for the distribution of the assets of that Non-US Grantor to pay that distribution to the Relevant Designated Representative. The Relevant Designated Representative shall apply distributions paid to it hereunder in accordance with Section 8.01.

(b) To the extent that any Non-US Grantor's Obligations are discharged by way of set off (mandatory or otherwise) after the commencement of an Insolvency or Liquidation Proceeding in respect of such Non-US Grantor (and provided an Enforcement Event has occurred and is continuing), any Non-US Grantor which benefited from that set off shall pay an amount equal to the amount of the Obligations owed to it which are discharged by that set off to the Relevant Designated Representative for application in accordance with Section 8.01.

(c) In respect of any Non-US Grantor in respect of which an Insolvency or Liquidation Proceeding has commenced and an Enforcement Event has occurred and is continuing, if the Relevant Designated Representative or any Creditor receives a distribution in a form other than in cash in respect of any of the Obligations, the Obligations will not be reduced

by that distribution until and except to the extent that the realization proceeds are actually applied towards the Obligations.

(d) After an Insolvency or Liquidation Proceeding has commenced and an Enforcement Event has occurred and is continuing in respect of a Non-US Grantor, each Creditor irrevocably authorizes the Relevant Designated Representative on its behalf, to: (i) take any Enforcement Action (in accordance with the terms of this Agreement) against that Non-US Grantor; (ii) demand, sue, prove and give receipt for any or all of that Non-US Grantor's Obligations; (iii) collect and receive all distributions on, or on account of, any or all of that Non-US Grantor's Obligations; and (iv) file claims, take proceedings and do all other things the Relevant Designated Representative considers reasonably necessary to recover that Non-US Grantor's Obligations.

(e) If an Insolvency or Liquidation Proceeding has commenced and an Enforcement Event has occurred and is continuing in respect of a Non-US Grantor, each Creditor will: (i) do all things that the Relevant Designated Representative requests in order to give effect to this Section; and (ii) if the Relevant Designated Representative is not entitled to take any of the actions contemplated by this Section or if the Relevant Designated Representative requests that any Non-US Grantor and/or Creditor take that action, undertake that action itself in accordance with the instructions of the Relevant Designated Representative or grant a power of attorney to the Relevant Designated Representative (on such terms as the relevant entity may reasonably require) to enable the Relevant Designated Representative to take such action.

(f) After the commencement of an Insolvency or Liquidation Proceeding, the Creditors shall retain rights to vote and otherwise act in respect of any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceeding relating to any Non-US Grantor.

Section 10.02. Additional Creditors – Enforcement Period. So long as the Discharge of the Secured Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced against a Borrower or any other Grantor, no Additional Creditor under any Additional Debt Document may take any Enforcement Action against a Non-US Grantor in respect of any Non-US Obligations until the expiry of a period of one hundred and eighty (180) days from the date that the relevant Additional Creditor Representative for such Additional Creditor provides notice in writing to the Relevant Designated Representative that (x) an event of default (or any similar, equivalent or analogous event under an Additional Debt Document) is continuing under such Additional Debt Document and (y) the Additional Debt Obligations in respect of such Additional Debt Documents are due and payable or would be due and payable but for the absence of an acceleration notice to the applicable Grantors (in circumstances where the relevant Additional Creditor is then permitted to give such notice under the relevant Additional Debt Document); provided that at any time the Designated Senior Representative or Designated Second Priority Representative has commenced and is diligently pursuing any enforcement action with respect to such Non-US Grantor in respect of Non-US Obligations, then such one hundred and eighty (180) day period shall toll during (and shall be extended by) such time and, if the one hundred and eighty (180) day period has commenced prior to such time, the one hundred and eighty (180) day period shall be stayed during such time; provided, further, that, any relevant Additional Creditor Representative will (1)

use its reasonable efforts to advise the Designated Senior Representative at reasonable intervals of the status of any Enforcement Action in respect of the Non-US Obligations conducted by that Additional Creditor Representative (provided that the failure of that Additional Creditor Representative to so advise the Designated Senior Representative shall not impair or affect the Additional Creditors' rights hereunder or the enforceability of this Agreement) and (2) prior to taking Enforcement Action in respect of the Non-US Obligation, provide the Designated Senior Representative with at least five (5) days' notice of its intent to commence such Enforcement Action.

Section 10.03. Additional Creditors – Turnover Provision. In the event that, notwithstanding the provisions of Section 10.02, any Payments or other amounts shall be received as a result of any Enforcement Action in contravention of such Section 10.02 against a Non-US Grantor in respect of any Non-US Obligations by any Additional Creditor before the Discharge of Senior Obligations and Second Priority Debt Obligations has occurred, such Payments shall be segregated and held in trust or, to the extent the concept of trust is not recognized in the relevant jurisdiction, held on behalf of and for the benefit of the Secured Parties and, at the request of the Relevant Designated Representative, shall be forthwith paid over or delivered to Relevant Designated Representative, in the same form as received and with any necessary endorsements, for application to the payment of the Secured Obligations in accordance with the terms of this Agreement. The Relevant Designated Representative is authorized to make any such endorsements as agent for the Secured Parties. Such authorization is coupled with an interest and is irrevocable until the Discharge of both the Senior Obligations and the Second Priority Debt Obligations has occurred.

## ARTICLE XI

### Senior Secured Parties Enforcement

Section 11.01. Agreement Among Senior Secured Parties to Coordinate Enforcement. Each Senior Secured Party and each Senior Representative, solely as among themselves in such capacity and solely for their mutual benefit, hereby agrees that the Designated Senior Representative shall have the sole right and power, as among the Senior Representatives and the Senior Secured Parties, to take and direct any right or remedy or release with respect to Collateral in accordance with the terms of this Agreement and each Senior Debt Document. Subject to the provisions of this Section 11.01, it is hereby agreed that the Designated Senior Representative shall only take, direct or exercise any right or remedy with respect to Collateral on the instructions of the Required Senior Creditors. Each Senior Representative (for itself and on behalf of the Senior Secured Parties it represents) and each other Senior Secured Party (which in each case is not the Designated Senior Representative) hereby irrevocably appoints the Designated Senior Representative and any officer or agent of the Designated Senior Representative, which appointment is coupled with full irrevocable power and authority in the place and stead of such Senior Representative or Senior Secured Party, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary to accomplish the purposes of this Agreement, including the exercise of any and all remedies under each Senior Debt Document and the execution of releases in connection therewith.

Section 11.02. Additional Agreements Among Senior Secured Parties. Each Senior Representative and each Senior Secured Party, solely as among themselves in such capacity, further agrees:

(a) The Designated Senior Representative will not have any fiduciary duties nor will it have responsibilities or obligations to the Senior Secured Parties other than those expressly assumed by it in this Agreement and the other Senior Debt Documents. The Designated Senior Representative will not be required to take any action that is contrary to applicable Requirements of Laws or any provision of this Agreement.

(b) The Designated Senior Representative may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, accountants, appraisers or other experts or advisors selected by it in good faith as it may reasonably require and will not be responsible for any misconduct or negligence on the part of any of them.

(c) The Designated Senior Representative may at any time solicit written instructions from the Required Senior Creditors as to any action that it may be requested or required to take, or that it may propose to take, in the performance of any of its rights or obligations under this Agreement or the other Senior Debt Documents. No written direction given to the Designated Senior Representative that in the sole judgment of the Designated Senior Representative imposes, is inconsistent with other written direction it has received or purports to impose or could reasonably be expected to impose upon the Designated Senior Representative any obligation or liability not set forth in or arising under this Agreement and the other Senior Debt Documents will be binding upon the Designated Senior Representative unless the Designated Senior Representative elects, at its sole option, to accept such direction. So long as the Discharge of Senior Obligations has not occurred, the Designated Senior Representative shall not be obligated to take instructions from any Persons other than the Required Senior Creditors. The Designated Senior Representative shall have no duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers that it is requested to exercise in writing by the Required Senior Creditors. The Designated Senior Representative shall not be required to take any action that in its opinion, or in the opinion of its counsel, may expose the Designated Senior Representative to any liability or that is contrary to any Senior Debt Document or any applicable Requirements of Laws.

(d) The Designated Senior Representative will not be responsible or liable to any Creditor for any action taken or omitted to be taken by it hereunder or under any other Senior Debt Document, except for its own gross negligence or willful misconduct as determined by a final and non-appealable judgment of a court of competent jurisdiction.

(e) The Designated Senior Representative may seek and rely upon, and shall be fully protected in relying upon, any judicial order or judgment, upon any advice, opinion or statement of legal counsel, independent consultants and other experts selected by it in good faith and upon any certification, instruction, notice or other writing delivered to it by any Grantor in compliance with the provisions of this Agreement or delivered to it by any Senior Secured Party for whom it acts, without being required to determine the authenticity thereof or the correctness of any fact stated therein or the propriety or validity of service thereof. The Designated Senior

Representative may act in reliance upon any instrument comporting with the provisions of this Agreement or any signature reasonably believed by it to be genuine and may assume that any Person purporting to give notice or receipt or advice or make any statement or execute any document in connection with the provisions hereof or the other Senior Debt Documents has been duly authorized to do so. To the extent an officers' certificate or opinion of counsel is required or permitted under this Agreement to be delivered to the Designated Senior Representative in respect of any matter, the Designated Senior Representative may rely conclusively on the officers' certificate or opinion of counsel as to such matter and such officers' certificate or opinion of counsel shall be full warranty and protection to the Designated Senior Representative for any action taken, suffered or omitted by it under the provisions of this Agreement and the other Senior Debt Documents.

(f) The Designated Senior Representative will not be required to inquire as to the occurrence or absence of any Event of Default (or like term) as defined in any Senior Debt Document or Second Priority Debt Document, and will not be affected by or required to act upon any notice or knowledge as to the occurrence of any such Event of Default unless and until it is directed to do so by the Required Senior Creditors.

(g) The Designated Senior Representative will not be required to advance or expend any funds or otherwise incur any financial liability in the performance of its duties or the exercise of its powers or rights hereunder unless it has been provided with security or indemnity reasonably satisfactory to it against any and all liability or expense which may be incurred by it by reason of taking or continuing to take such action.

(h) As among the Senior Secured Parties, in the event of any conflict between this Agreement and the First Lien Intercreditor Agreement (if entered into), the First Lien Intercreditor Agreement (if entered into) shall govern and control. In the event there is any bona fide, good faith disagreement between the other parties to this Agreement or any of the Collateral Documents resulting in adverse claims being made in connection with Collateral held by the Designated Senior Representative and the terms of this Agreement or any of the Collateral Documents do not unambiguously mandate the action the Designated Senior Representative is to take or not to take in connection therewith under the circumstances then existing, or the Designated Senior Representative is in doubt as to what action it is required to take or not to take hereunder or under the Collateral Documents, it will be entitled to refrain from taking any action (and will incur no liability for doing so) until directed otherwise in writing by a request signed jointly by the parties hereto entitled to give such direction or by order of a court of competent jurisdiction.

(i) Notwithstanding anything to the contrary contained herein: (i) each of the parties thereto will remain liable under each of the Senior Debt Documents (other than this Agreement) to the extent set forth therein to perform all of their respective duties and obligations thereunder to the same extent as if this Agreement had not been executed, (ii) the exercise by the Designated Senior Representative of any of its rights, remedies or powers hereunder will not release such parties from any of their respective duties or obligations under the other Senior Debt Documents; and (iii) the Designated Senior Representative will not be obligated to perform any of the obligations or duties of any of the parties thereunder other than those of (x) the Designated Senior Representative in its capacity as Senior Representative under the relevant Senior Debt

Document and (y) the Designated Senior Representative in the applicable First Lien Intercreditor Agreement.

## ARTICLE XII

### Insolvency or Liquidation Proceedings.

Section 12.01. Financing Issues. Until the Discharge of Senior Obligations has occurred, if any Borrower or any other Grantor shall be subject to any Insolvency or Liquidation Proceeding and any Senior Representative or any Senior Secured Party shall desire to consent (or not object) to the sale, use or lease of cash or other collateral or to consent (or not object) to any Borrower's or any other Grantor's obtaining financing under Section 363 or Section 364 of the Bankruptcy Code or any other similar provision of any other Debtor Relief Law ("DIP Financing"), then each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party represented by it, agrees that it will raise no objection to and will not otherwise contest (a) such sale, use or lease of such cash or other collateral, unless a Senior Representative or any other Senior Secured Party shall oppose or object to such use of cash collateral (in which case, no Second Priority Representative nor any other Second Priority Debt Party shall seek any relief in connection therewith that is inconsistent with the relief being sought by the Senior Secured Parties); (b) any DIP Financing that does not exceed the DIP Consent Limit, (except to the extent permitted below or in Section 6.04) or unless a Senior Representative or any other Senior Secured Party shall oppose or object to such DIP Financing (provided that the foregoing shall not prevent the Second Priority Debt Parties from proposing any other DIP Financing to any Grantors or to a court of competent jurisdiction), and, except to the extent permitted by the proviso in clause (ii) of Section 7.01 and Section 12.03, will not request adequate protection or any other relief in connection therewith and, to the extent the Liens securing any Senior Obligations are subordinated or pari passu with such DIP Financing, will subordinate (and will be deemed hereunder to have subordinated) its Liens in the Shared Collateral to (x) such DIP Financing (and all obligations relating thereto) on the same basis as the Liens securing the Second Priority Debt Obligations are so subordinated to Liens securing Senior Obligations under this Agreement, (y) any adequate protection Liens provided to the Senior Secured Parties, and (z) to any "carve-out" for professional fees, United States Trustee fees and monitor's fees agreed to by the Senior Representatives (c) any motion for relief from the automatic stay or from any injunction against foreclosure or enforcement in respect of Senior Obligations made by any Senior Representative or any other Senior Secured Party; (d) any exercise by any Senior Secured Party of the right to credit bid Senior Obligations at any sale in foreclosure of Senior Collateral under Section 363(k) of the Bankruptcy Code or any other similar provision of any other Debtor Relief Law; provided that the Second Priority Representative and the Second Priority Debt Parties shall not be deemed to have waived any right to bid in connection with such Dispositions, and shall not be deemed to have waived their rights to credit bid on the Collateral in any such Disposition in accordance with Section 363(k) of the Bankruptcy Code (or similar Debtor Relief Law), in each case so long as the proceeds of such bid are sufficient for, and applied to, the Discharge of Senior Obligations in their entirety in accordance with the terms of the Senior Debt Documents; (e) any other request for judicial relief made in any court by any Senior Secured Party relating to the lawful enforcement of any Lien on Senior Collateral; or (f) any order relating to a sale or other disposition of assets of any Grantor to which any Senior Representative has consented or not objected that provides, to the extent

such sale or other disposition is to be free and clear of Liens, that the Liens securing the Senior Obligations and the Second Priority Debt Obligations will attach to the proceeds of the sale on the same basis of priority as the Liens on the Shared Collateral securing the Senior Obligations rank to the Liens on the Shared Collateral securing the Second Priority Debt Obligations pursuant to this Agreement. Each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party represented by it, agrees that notice received two (2) Business Days prior to the entry of an order approving such usage of cash or other collateral or approving such financing shall be adequate notice.

Section 12.02. Relief from the Automatic Stay. Until the Discharge of Senior Obligations has occurred, each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party under its Second Priority Debt Facility, agrees that none of them shall seek relief from the automatic stay or any other stay in any Insolvency or Liquidation Proceeding or take any action in derogation thereof, in each case in respect of any Shared Collateral, without the prior written consent of the Designated Senior Representative; except, if the Designated Senior Representative, on behalf of itself and the Senior Secured Parties, seeks relief from the automatic stay to exercise its rights against the Collateral under and in accordance with this Agreement, then the Designated Second Priority Representative, on behalf of itself and the Second Priority Debt Parties, may seek limited relief from the automatic stay to preserve its right, subject to Article VII, to receive proceeds of Collateral payable to it and the Second Priority Debt Parties under and in accordance with this Agreement.

Section 12.03. Adequate Protection. Each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party under its Second Priority Debt Facility, agrees that none of them shall (A) object, contest or support any other Person objecting to or contesting (a) any request by any Senior Representative or any Senior Secured Parties for adequate protection, (b) any objection by any Senior Representative or any Senior Secured Parties to any motion, relief, action or proceeding based on any Senior Representative's or Senior Secured Party's claiming a lack of adequate protection or (c) the payment of interest, fees, expenses or other amounts of any Senior Representative or any other Senior Secured Party under Section 506(b) of the Bankruptcy Code or any other similar provision of any other Debtor Relief Law or (B) assert or support any claim for costs or expenses of preserving or disposing of any Collateral under Section 506(c) of the Bankruptcy Code or any other similar provision of any other Debtor Relief Law. Notwithstanding anything contained in this Section 12.03 or in Section 12.01, in any Insolvency or Liquidation Proceeding, (i) if the Senior Secured Parties (or any subset thereof) are granted adequate protection in the form of additional collateral or superpriority claims in connection with any DIP Financing or use of cash collateral under Section 363 or 364 of the Bankruptcy Code or any similar other provision of any other Debtor Relief Law, then each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party represented by it, may seek or request adequate protection in the form of a replacement Lien or superpriority claim on such additional collateral, which Lien or superpriority claim is subordinated to the Liens securing all Senior Obligations and such DIP Financing (and all obligations relating thereto) on the same basis as the other Liens securing the Second Priority Debt Obligations are so subordinated to the Liens securing Senior Obligations under this Agreement , (ii) in the event any Second Priority Representative, for itself and on behalf of the Second Priority Debt Parties represented by it, seek or request adequate protection and such adequate protection is granted (in each instance, to the extent such grant is otherwise

permissible under the terms and conditions of this Agreement) in the form of additional or replacement collateral, then such Second Priority Representative, for itself and on behalf of each Second Priority Debt Party represented by it, agree that each Senior Representative, for itself and on behalf of the applicable Senior Secured Parties, shall also be granted a senior Lien on such additional or replacement collateral as security for the Senior Obligations and any such DIP Financing and that any Lien on such additional or replacement collateral securing the Second Priority Debt Obligations shall be subordinated to the Liens on such collateral securing the Senior Obligations and any such DIP Financing (and all obligations relating thereto) and any other Liens granted to the Senior Secured Parties as adequate protection on the same basis as the other Liens securing the Second Priority Debt Obligations are so subordinated to such Liens securing Senior Obligations under this Agreement (and, to the extent the Senior Secured Parties are not granted such adequate protection in such form, any amounts recovered by or distributed to any Second Priority Debt Party pursuant to or as a result of any Lien on such additional or replacement collateral so granted to the Second Priority Debt Parties shall be subject to Section 8.02 in the same manner and extent as if such adequate protection had been granted to the Senior Secured Parties), and (iii) in the event any Second Priority Representative, for itself and on behalf of the Second Priority Debt Parties represented by it, seek or request adequate protection and such adequate protection is granted (in each instance, to the extent such grant is otherwise permissible under the terms and conditions of this Agreement) in the form of a superpriority claim, then such Second Priority Representative, for itself and on behalf of each Second Priority Debt Party represented by it, agree that each Senior Representative shall also be granted adequate protection in the form of a superpriority claim, and that the superpriority claim of the Second Priority Debt Parties shall be subordinated to the Liens on such collateral securing the Senior Obligations and any such DIP Financing (and all obligations relating thereto) and any other Liens granted to the Senior Secured Parties as adequate protection on the same basis as the other Liens securing the Second Priority Debt Obligations are so subordinated to such Liens securing Senior Obligations under this Agreement (and, to the extent the Senior Secured Parties are not granted such adequate protection in such form, any amounts recovered by or distributed to any Second Priority Debt Party pursuant to or as a result of any such superpriority claim so granted to the Second Priority Debt Parties shall be subject to Section 8.02 in the same manner and extent as if such adequate protection had been granted to the Senior Secured Parties). For purposes of any of the foregoing terms requiring subordination of superpriority claims of any Second Priority Representative or Second Priority Debt Party, any such superpriority right shall be treated as a Lien, and any payment in respect thereof shall be treated as proceeds of Collateral).

Section 12.04. Preference Issues. If any Senior Secured Party is required in any Insolvency or Liquidation Proceeding or otherwise to disgorge, turn over or otherwise pay any amount to the estate of any Borrower or any other Grantor (or any trustee, receiver or similar Person therefor), because the payment of such amount was declared to be fraudulent or preferential in any respect or for any other reason, any amount (a “Recovery”), whether received as proceeds of security, enforcement of any right of setoff or otherwise, then the Senior Obligations shall be reinstated to the extent of such Recovery and deemed to be outstanding as if such payment had not occurred and the Senior Secured Parties shall be entitled to the benefits of this Agreement until a Discharge of Senior Obligations with respect to all such recovered amounts. If this Agreement shall have been terminated prior to such Recovery, this Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release,

discharge, impair or otherwise affect the obligations of the parties hereto. Each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party represented by it, hereby agrees that none of them shall be entitled to benefit from any avoidance action affecting or otherwise relating to any distribution or allocation made in accordance with this Agreement, whether by preference or otherwise, it being understood and agreed that the benefit of such avoidance action otherwise allocable to them shall instead be allocated and turned over for application in accordance with the priorities set forth in this Agreement.

Section 12.05. Post-Petition Interest.

(a) Neither the Designated Second Priority Representative nor any Second Priority Debt Party shall oppose or seek to challenge any claim by the Designated Senior Representative or any Senior Secured Party for allowance in any Insolvency or Liquidation Proceeding of Senior Obligations consisting of post-petition interest, fees or expenses to the extent of the value of any Collateral securing the Senior Obligations without regard to the existence of the Lien securing the Second Priority Debt Obligations.

(b) Neither the Designated Senior Representative nor any Senior Secured Party shall oppose or seek to challenge any claim by the Designated Second Priority Representative or any Second Priority Debt Party for allowance in any Insolvency or Liquidation Proceeding of Second Priority Debt Obligations consisting of post-petition interest, fees or expenses to the extent of the value of any Collateral securing the Second Priority Debt Obligations after taking into account the amount of the Senior Obligations.

Section 12.06. Separate Grants of Security and Separate Classifications. Each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party represented by it, acknowledges and agrees that (a) the grants of Liens pursuant to the Senior Collateral Documents and the Second Priority Collateral Documents constitute separate and distinct grants of Liens and (b) because of, among other things, their differing rights in the Shared Collateral, the Second Priority Debt Obligations are fundamentally different from the Senior Obligations and must be separately classified in any plan of reorganization proposed or adopted in an Insolvency or Liquidation Proceeding. The Senior Representatives, on behalf of the Senior Secured Parties represented by it, and the Second Priority Representatives, on behalf of the Second Priority Debt Parties represented by it, agree that, without the written consent of all of them, none will seek to vote any claims of the Senior Secured Parties as a single class of claims with any claims of the Second Priority Debt Parties in respect of the Shared Collateral. To further effectuate the intent of the parties as provided in the immediately preceding sentence, if it is held that any claims of the Senior Secured Parties and the Second Priority Debt Parties in respect of the Shared Collateral constitute a single class of claims (rather than separate classes of senior and junior secured claims), then each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party represented by it, hereby acknowledges and agrees that all distributions shall be made as if there were separate classes of senior and junior secured claims against the Grantors in respect of the Shared Collateral, with the effect being that, to the extent that the aggregate value of the Shared Collateral is sufficient (for this purpose ignoring all claims held by the Second Priority Debt Parties), the Senior Secured Parties shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing in respect of post-petition interest (whether or not allowed

or allowable) before any distribution is made in respect of the Second Priority Debt Obligations, and each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party represented by it, hereby acknowledges and agrees to turn over to the Designated Senior Representative amounts otherwise received or receivable by them to the extent necessary to effectuate the intent of this sentence, even if such turnover has the effect of reducing the claim or recovery of the Second Priority Debt Parties. For the avoidance of doubt, nothing in the foregoing shall prevent or prohibit (i) claims of the Second Priority Debt Parties from voting as a single class or (ii) claims of the Senior Secured Parties voting as a single class.

Section 12.07. No Waivers of Rights of Senior Secured Parties. Nothing contained herein shall, except as expressly provided herein, prohibit or in any way limit any Senior Representative or any other Senior Secured Party from objecting in any Insolvency or Liquidation Proceeding or otherwise to any action taken by any Second Priority Debt Party, including the seeking by any Second Priority Debt Party of adequate protection or the assertion by any Second Priority Debt Party of any of its rights and remedies under the Second Priority Debt Documents or otherwise.

Section 12.08. Application. This Agreement, which the parties hereto expressly acknowledge is a “subordination agreement” under Section 510(a) of the Bankruptcy Code or any other similar provision of any other Debtor Relief Law or the PPSA, shall be effective before, during and after the commencement of any Insolvency or Liquidation Proceeding. The relative rights as to the Shared Collateral and proceeds thereof shall continue after the commencement of any Insolvency or Liquidation Proceeding on the same basis as prior to the date of the petition therefor, subject to any court order approving the financing of, or use of cash collateral by, any Grantor. All references herein to any Grantor shall include such Grantor as a debtor-in-possession and any receiver or trustee for such Grantor.

Section 12.09. Other Matters. To the extent that any Second Priority Representative or any Second Priority Debt Party has or acquires rights under Section 363 or Section 364 of the Bankruptcy Code or any other similar provision of any other Debtor Relief Law with respect to any of the Shared Collateral, such Second Priority Representative, on behalf of itself and each Second Priority Debt Party under its Second Priority Debt Facility, or such Second Priority Debt Party agrees not to assert any such rights without the prior written consent of each Senior Representative, provided that if requested by any Senior Representative, such Second Priority Representative shall timely exercise such rights in the manner requested by the Senior Representatives (acting unanimously), including any rights to payments in respect of such rights.

Section 12.10. 506(c) Claims. Until the Discharge of Senior Obligations has occurred, each Second Priority Representative, on behalf of itself and each Second Priority Debt Party represented by it, agrees that it will not assert or enforce any claim under Section 506(c) of the Bankruptcy Code or any other similar provision of any other Debtor Relief Law senior to or on a parity with the Liens securing the Senior Obligations for costs or expenses of preserving or disposing of any Shared Collateral.

**Section 12.11. Reorganization Securities; Plan of Reorganization.**

(a) If, in any Insolvency or Liquidation Proceeding, debt obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor are distributed, pursuant to a plan of reorganization or other dispositive restructuring plan, on account of both the Senior Obligations and the Second Priority Debt Obligations, then, to the extent the debt obligations distributed on account of the Senior Obligations and on account of the Second Priority Debt Obligations are secured by Liens upon the same assets or property, the provisions of this Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations.

(b) No Second Priority Debt Party (whether in the capacity of a secured creditor or an unsecured creditor) shall propose, vote in favor of, or otherwise directly or indirectly support any plan of reorganization that is inconsistent with the priorities or other provisions of this Agreement, other than with the prior written consent of the Designated Senior Representative or to the extent any such plan is proposed or supported by the number of Senior Secured Parties required under Section 1126(d) of the Bankruptcy Code (any such plan, a “Qualified Plan”).

**Section 12.12. Section 1111(b) of the Bankruptcy Code.** Each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party represented by it, shall not object to, oppose, support any objection to, or take any other action to impede, the right of any Senior Secured Party to make an election under Section 1111(b)(2) of the Bankruptcy Code. Each Second Priority Representative, for itself and on behalf of each Second Priority Debt Party represented by it, waives any claim it may hereafter have against any senior claimholder arising out of the election by any Senior Secured Party of the application of Section 1111(b)(2) of the Bankruptcy Code.

**ARTICLE XIII**

**Reliance; Etc.**

**Section 13.01. Reliance.** All loans and other extensions of credit made or deemed made on and after the date hereof by the Senior Secured Parties to any Borrower or any Subsidiary shall be deemed to have been given and made in reliance upon this Agreement. Each Second Priority Representative, on behalf of itself and each Second Priority Debt Party represented by it, acknowledges that it and such Second Priority Debt Parties have, independently and without reliance on any Senior Representative or other Senior Secured Party, and based on documents and information deemed by them appropriate, made their own credit analysis and decision to enter into the Second Priority Debt Documents to which they are party or by which they are bound, this Agreement and the transactions contemplated hereby and thereby, and they will continue to make their own credit decisions in taking or not taking any action under the Second Priority Debt Documents or this Agreement.

**Section 13.02. No Warranties or Liability.** Each Second Priority Representative, on behalf of itself and each Second Priority Debt Party represented by it, acknowledges and agrees that neither any Senior Representative nor any other Senior Secured

Party has made any express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectability or enforceability of any of the Senior Debt Documents, the ownership of any Shared Collateral or the perfection or priority of any Liens thereon. The Senior Secured Parties will be entitled to manage and supervise their respective loans and extensions of credit under the Senior Debt Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate, and the Senior Secured Parties may manage their loans and extensions of credit without regard to any rights or interests that the Second Priority Representatives and the Second Priority Debt Parties have in the Shared Collateral or otherwise, except as otherwise provided in this Agreement. Neither any Senior Representative nor any other Senior Secured Party shall have any duty to any Second Priority Representative or Second Priority Debt Party to act or refrain from acting in a manner that allows, or results in, the occurrence or continuance of an event of default or default under any agreement with any Borrower or any Subsidiary (including the Second Priority Debt Documents), regardless of any knowledge thereof that they may have or be charged with. Except as expressly set forth in this Agreement, the Senior Representatives, the Senior Secured Parties, the Second Priority Representatives and the Second Priority Debt Parties have not otherwise made to each other, nor do they hereby make to each other, any warranties, express or implied, nor do they assume any liability to each other with respect to (a) the enforceability, validity, value or collectability of any of the Senior Obligations, the Second Priority Debt Obligations or any guarantee or security which may have been granted to any of them in connection therewith, (b) any Grantor's title to or right to transfer any of the Shared Collateral or (c) any other matter except as expressly set forth in this Agreement.

Section 13.03. Obligations Unconditional. All rights, interests, agreements and obligations of the Senior Representatives, the Senior Secured Parties, the Second Priority Representatives and the Second Priority Debt Parties hereunder shall remain in full force and effect irrespective of:

- (a) any lack of validity or enforceability of any Senior Debt Document or any Second Priority Debt Document;
- (b) any change in the time, manner or place of payment of, or in any other terms of, all or any of the Senior Obligations or Second Priority Debt Obligations, or any amendment or waiver or other modification, including any increase in the amount thereof, whether by course of conduct or otherwise, of the terms of the First Lien Credit Agreement or any other Senior Debt Document or of the terms of the Second Priority Financing Agreement or any other Second Priority Debt Document;
- (c) any exchange of any security interest in any Shared Collateral or any other collateral or any amendment, waiver or other modification, whether in writing or by course of conduct or otherwise, of all or any of the Senior Obligations or Second Priority Debt Obligations or any guarantee thereof;
- (d) the commencement of any Insolvency or Liquidation Proceeding in respect of any Borrower or any other Grantor; or

(e) any other circumstances that otherwise might constitute a defense available to (i) any Borrower or any other Grantor in respect of the Senior Obligations (other than the Discharge of Senior Obligations subject to Section 9.06 and Section 12.04) or (ii) any Second Priority Representative or Second Priority Debt Party in respect of this Agreement.

## ARTICLE XIV

### Non-Cash Recoveries

Section 14.01. Non-Cash Recoveries. To the extent the Relevant Designated Representative receives or recovers any Non-Cash Recoveries, it may (acting on the instructions of (x) so long as the Discharge of Senior Obligations has not occurred, the Required Senior Creditors or (y) after the Discharge of Senior Obligations, the Required Second Priority Creditors) but without prejudice to its ability to exercise discretion under Section 8.02:

- (a) distribute those Non-Cash Recoveries pursuant to Section 8.01 as if they were Cash proceeds;
- (b) hold, manage, exploit, collect, realize and dispose of those Non-Cash Recoveries; and
- (c) hold, manage, exploit, collect, realize and distribute any resulting Cash proceeds.

### Section 14.02. Cash Value of Non-Cash Recoveries.

(a) The cash value of any Non-Cash Recoveries shall be determined by reference to a valuation obtained by the Relevant Designated Representative from a Financial Advisor appointed by the Relevant Designated Representative pursuant to Section 9.10 taking into account any notional conversion made pursuant to Section 8.06.

(b) If any Non-Cash Recoveries are distributed pursuant to Section 8.01, the extent to which such distribution is treated as discharging the Secured Obligations shall be determined by reference to the cash value of those Non-Cash Recoveries determined pursuant to paragraph (a) above.

### Section 14.03. Relevant Designated Representative and Non-Cash Recoveries.

(a) Subject to paragraph (b) below and to Section 14.04, if, pursuant to Section 8.01, the Relevant Designated Representative receives Non-Cash Recoveries for application towards the discharge of any Senior Obligations, the Relevant Designated Representative shall apply those Non-Cash Recoveries in accordance with the Senior Debt Documents as if they were Cash proceeds.

(b) The Relevant Designated Representative may (i) use any reasonably suitable method of distribution, as it may determine in its discretion, to distribute those Non-Cash Recoveries in the order of priority that would apply under the Senior Debt Documents if those Non-Cash Recoveries were Cash proceeds, (ii) hold any Non-Cash Recoveries through

another person and (iii) hold any amount of Non-Cash Recoveries for so long as the Relevant Designated Representative shall think fit for later application pursuant to paragraph (a) above.

Section 14.04. Alternative to Non-Cash Consideration.

(a) If any Non-Cash Recoveries are to be distributed pursuant to Section 8.01, the Relevant Designated Representative shall (prior to that distribution and taking into account the Senior Obligations then outstanding and the cash value of those Non-Cash Recoveries) notify the Representatives of the Secured Parties entitled to receive those Non-Cash Recoveries pursuant to that distribution (the “Entitled Creditors”).

(b) If (i) it would be unlawful for an Entitled Creditor to receive such Non-Cash Recoveries (or it would otherwise conflict with that Entitled Creditor’s constitutional documents for it to do so) and (ii) that Entitled Creditor promptly so notifies the Relevant Designated Representative and supplies such supporting evidence as the Relevant Designated Representative may reasonably require, that Secured Party shall be a “Cash Only Creditor” and the Non-Cash Recoveries to which it is entitled shall be “Retained Non-Cash”.

(c) To the extent that, in relation to any distribution of Non-Cash Recoveries, there is a Cash Only Creditor, the Relevant Designated Representative shall not distribute any Retained Non-Cash to such Cash Only Creditor (or to the relevant Representative on behalf of such Cash Only Creditor) but shall otherwise treat the Non-Cash Recoveries in accordance with this Agreement;

(d) Subject to Section 14.05, the Relevant Designated Representative shall hold any Retained Non-Cash and shall, acting on the instructions of the Cash Only Creditor entitled to it, manage, exploit, collect, realize and dispose of that Retained Non-Cash for cash consideration and shall distribute any Cash proceeds of that Retained Non-Cash to that Cash Only Creditor in accordance with Section 8.01.

(e) On any such distribution of Cash proceeds which are attributable to a disposal of any Retained Non-Cash, the extent to which such distribution is treated as discharging the Secured Obligations due to the relevant Cash Only Creditor shall be determined by reference to (i) the valuation which determined the extent to which the distribution of the Non-Cash Recoveries to the other Entitled Creditors discharged the Secured Obligations due to those Entitled Creditors and (ii) the Retained Non-Cash to which those Cash proceeds are attributable.

(f) Each Secured Party shall, following a request by the Relevant Designated Representative, notify the Relevant Designated Representative of the extent to which paragraph (b)(i) above would apply to it in relation to any distribution or proposed distribution of Non-Cash Recoveries.

Section 14.05. Relevant Designated Representative Protection.

(a) No transfer, sale or other disposal of Shared Collateral pursuant to Section 9.01(a) may be made in whole or part for Non-Cash Consideration if the Relevant Designated Representative has reasonable grounds for believing that the Relevant Designated Representative

receiving, distributing, holding, managing, exploiting, collecting, realizing or disposing of that Non-Cash Consideration would have an adverse effect on it.

(b) If Non-Cash Consideration is distributed to the Relevant Designated Representative pursuant to Section 8.02 the Relevant Designated Representative may, at any time after notifying the Creditors entitled to that Non-Cash Consideration and notwithstanding any instruction from a Creditor or group of Creditors pursuant to the terms of any Debt Document, immediately realize and dispose of that Non-Cash Consideration for cash consideration (and distribute any Cash proceeds of that Non-Cash Consideration to the relevant Creditors in accordance with Section 8.01) if the Relevant Designated Representative has reasonable grounds for believing that holding, managing, exploiting or collecting that Non-Cash Consideration would have an adverse effect on it.

(c) If the Relevant Designated Representative holds Retained Non-Cash for a Cash Only Creditor (each as defined in Section 14.04) the Relevant Designated Representative may at any time, after notifying that Cash Only Creditor and notwithstanding any instruction from a Creditor or group of Creditors pursuant to the terms of any Debt Document, immediately realize and dispose of that Retained Non-Cash for cash consideration (and distribute any Cash proceeds of that Retained Non-Cash to that Cash Only Creditor in accordance with Section 8.01) if the Relevant Designated Representative has reasonable grounds for believing that holding, managing, exploiting or collecting that Retained Non-Cash would have an adverse effect on it.

## ARTICLE XV

### Equalization

Section 15.01. Equalization Definitions. For the purposes Section 15.01 of this Article XV:

(a) “Enforcement Date” means the first date (if any) on which a Senior Secured Party takes enforcement action of the type described in clauses (a)(i), (a)(iii) and (a)(iv) or of the definition of "Enforcement Action" in accordance with the terms of this Agreement.

(b) “Exposure” means in relation to (i) a Senior Secured Party (other than a First Lien Hedge Counterparty), the aggregate amount of its First Lien Obligations Amount outstanding under the Senior Debt Documents at the Enforcement Date (assuming all contingent liabilities which have become actual liabilities since the Enforcement Date to have been actual liabilities at the Enforcement Date (but not including, for these purposes only, any interest that would have accrued from the Enforcement Date to the date of actual maturity in respect of those liabilities)) together with the aggregate amount of all accrued interest, fees and commission owed to it under the First Lien Credit Agreement or any Additional Senior Debt Document, (ii) a First Lien Hedge Counterparty (A) if that First Lien Hedge Counterparty has terminated or closed out any hedging transaction under any First Lien Hedge Agreement in accordance with the terms of this Agreement on or prior to the Enforcement Date, the amount, if any, payable to it under that First Lien Hedge Agreement in respect of that termination or close-out as of the date of termination or close-out (taking into account any interest accrued on that amount) to the extent that amount is unpaid at the Enforcement Date (that amount to be certified by the counterparty to

the relevant First Lien Hedge Agreement and as calculated in accordance with the relevant First Lien Hedge Agreement) and (B) if that First Lien Hedge Counterparty has not terminated or closed out any hedging transaction under any First Lien Hedge Agreement on or prior to the Enforcement Date (x) if the relevant First Lien Hedge Agreement is based on an ISDA Master Agreement the amount, if any, which would be payable to it under that First Lien Hedge Agreement in respect of that hedging transaction if the Enforcement Date was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which the relevant Grantor is the Defaulting Party (as defined in the relevant ISDA Master Agreement) or (y) is not based on an ISDA Master Agreement, the amount, if any, which would be payable to it under that First Lien Hedge Agreement in respect of that hedging transaction if the Enforcement Date was deemed to be the date on which an event similar in meaning and effect (under that First Lien Hedge Agreement) to an Early Termination Date (as defined in any ISDA Master Agreement) occurred under that First Lien Hedge Agreement for which the relevant Grantor is in a position similar in meaning and effect (under that First Lien Hedge Agreement) to that of a Defaulting Party (under and as defined in the same ISDA Master Agreement), that amount, in each case, to be certified by the relevant First Lien Hedge Counterparty and as calculated in accordance with the relevant First Lien Hedge Agreements and (iii) to a Banking Services Provider (A) if that Banking Services Provider has terminated any cash management services under any Banking Services Agreement in accordance with the terms of this Agreement on or prior to the Enforcement Date, the amount, if any, payable to it under that Banking Services Agreement in respect of that termination as of the date of termination (taking into account any interest accrued on that amount) to the extent that amount is unpaid at the Enforcement Date (that amount to be certified by the relevant Banking Services Provider and as calculated in accordance with the relevant Banking Services Agreement) and (B) if that Banking Services Provider has not terminated any cash management services under any Banking Services Agreement on or prior to the Enforcement Date, the amount, if any, which would be payable to it under that Banking Services Agreement in respect of those cash management services if the Enforcement Date was deemed to be the date on which such Banking Services Agreement was terminated as a result of a breach of that Banking Services Agreement by the relevant Grantor (that amount to be certified by the relevant Banking Services Provider and as calculated in accordance with the relevant Banking Services Agreement).

#### Section 15.02. Implementation of Equalization.

(a) The provisions of this Article XV shall be applied at such time or times after the Enforcement Date as the Relevant Designated Representative shall consider appropriate.

(b) Without prejudice to the generality of paragraph (a) above, if the provisions of this Article XV have been applied before all the Secured Obligations have matured and/or been finally quantified, the Relevant Designated Representative may elect to re-apply those provisions on the basis of revised Exposures and the Senior Secured Parties shall make appropriate adjustment payments amongst themselves.

Section 15.03. Equalization. If, for any reason, any Senior Obligations remain unpaid after the Enforcement Date and the resulting losses are not borne by the Senior Secured Parties, the Banking Services Providers and the First Lien Hedge Counterparties in the proportions which their respective Exposures at the Enforcement Date bore to the aggregate

Exposures of all the Senior Secured Parties, Banking Services Providers and the First Lien Hedge Counterparties at the Enforcement Date, the Senior Secured Parties, the Banking Services Providers and the First Lien Hedge Counterparties will make such payments amongst themselves as the First Lien Collateral Agent shall require to put the Senior Secured Parties, the Banking Services Providers and the First Lien Hedge Counterparties in such a position that (after taking into account such payments) those losses are borne in those proportions.

Section 15.04. Notification of Exposure. Before each occasion on which it intends to implement the provisions of this Article XV, the Relevant Designated Representative shall send notice to each Banking Services Provider, each First Lien Hedge Counterparty and the Senior Secured Parties requesting that it notify the Relevant Designated Representative of, respectively, its Exposure and that of each Senior Secured Party (if any).

## ARTICLE XVI

### Miscellaneous

Section 16.01. Conflicts. Subject to Section 16.26, in the event of any conflict between the provisions of this Agreement and the provisions of any Senior Debt Document or any Second Priority Debt Document, the provisions of this Agreement shall govern. Notwithstanding the foregoing, the relative rights and obligations of the Designated Shared Collateral Agent, the Senior Representatives and the Senior Secured Parties (as amongst themselves) with respect to any Senior Collateral shall be governed by the terms of any First Lien Intercreditor Agreement and in the event of any conflict between any First Lien Intercreditor Agreement and this Agreement as to such relative rights and obligations, the provisions of any First Lien Intercreditor Agreement shall control.

Section 16.02. Continuing Nature of this Agreement; Severability. Subject to Section 12.04, this Agreement shall continue to be effective until the Discharge of Senior Obligations shall have occurred. This is a continuing agreement of Lien subordination and the other matters addressed herein, and the Senior Secured Parties may continue, at any time and without notice to the Second Priority Representatives or any Second Priority Debt Party, any Additional Creditor Representative or holder of Additional Debt Obligations, to extend credit and other financial accommodations and lend monies to or for the benefit of the Borrowers or any Subsidiary constituting Senior Obligations in reliance hereon. The terms of this Agreement shall survive and continue in full force and effect in any Insolvency or Liquidation Proceeding. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

### Section 16.03. Amendments; Waivers.

(a) No failure or delay on the part of any party hereto in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of

any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the parties hereto are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on any party hereto in any case shall entitle such party to any other or further notice or demand in similar or other circumstances.

(b) Subject to Section 16.03(d) of this Agreement, this Agreement may be amended in writing signed by each Representative (in each case, acting in accordance with the documents governing the applicable Debt Facility); provided that any such amendment, supplement or waiver which by the terms of this Agreement requires any Borrower's consent or which increases the obligations or reduces the rights of, or otherwise adversely affects, any Borrower or any other member of the Group, shall require the consent of the Lux Borrower. Any such amendment, supplement or waiver shall be in writing and shall be binding upon the Senior Secured Parties and the Second Priority Debt Parties and any Additional Creditors and their respective successors and assigns. Notwithstanding the provisions of any other Senior Debt Document or Second Priority Debt Document, each Representative may, (and with respect to any amendment or modification which by the terms of this Agreement requires the Lux Borrower or any Borrower's consent or which increases the obligations or reduces the rights of any Borrower or any other member of the Group, with the consent of the Lux Borrower and/or, as the case may be, the Borrowers), make any amendments, restatements, amendment and restatements, supplements or other modifications to this Agreement to correct any ambiguity, defect or inconsistency contained herein without the consent of any other Person.

(c) Notwithstanding the foregoing, without the consent of any Secured Party (and with respect to any amendment or modification which by the terms of this Agreement requires the Lux Borrower or any Borrower's consent or which increases the obligations or reduces the rights of any Borrower or any other member of the Group, with the consent of the Lux Borrower and/or, as the case may be, the Borrowers), any Representative may become a party hereto by execution and delivery of a Joinder Agreement in accordance with Section 16.13 of this Agreement and upon such execution and delivery, such Representative and the Secured Parties and Senior Obligations or Second Priority Debt Obligations of the Debt Facility for which such Representative is acting shall be subject to the terms hereof.

(d) Without the prior written consent of each First Lien Hedge Counterparty, no Senior Debt Document may be amended, restated, supplemented or otherwise modified or waived or entered into, and no Indebtedness under any Senior Debt Documents may be Refinanced, to the extent such amendment, restatement, supplement, modification, waiver or Refinancing, or the terms of such new Senior Debt Document, would (i) contravene the provisions of this Agreement, or (ii) have the effect of changing: (a) Sections 2.01 (Subordination), 2.04 (No other Liens), 8.01 (Application of Proceeds), 11.01 (Agreement Among Senior Secured Parties to Coordinate), 15.01 (Equalization) or this Section 16.03(d) of this Agreement, (b) Section 2.17(b) of the First Lien Credit Agreement (or any equivalent provision of any Senior Debt Document), (c) the secured status, priority or subordination of the

First Lien Hedge Counterparties, (d) amend the provisions relating to the release of any Collateral or the manner in which the proceeds of enforcement of the Collateral are distributed, (e) the definition of "Required Senior Creditors" or (f) remove from the Senior Debt Documents the rights (if any) of the First Lien Hedge Counterparties to vote or instruct the First Lien Collateral Agent (or Designated Senior Representative).

**Section 16.04. Information Concerning Financial Condition of the Borrowers and the Subsidiaries.** The Senior Representatives, the Senior Secured Parties, the Second Priority Representatives, the Second Priority Debt Parties, the Additional Creditor Representatives and the holders of Additional Debt Obligations shall each be responsible for keeping themselves informed of (a) the financial condition of the Borrowers and the Subsidiaries and all endorsers or guarantors of the Senior Obligations or the Second Priority Debt Obligations and (b) all other circumstances bearing upon the risk of nonpayment of the Senior Obligations or the Second Priority Debt Obligations. The Senior Representatives, the Senior Secured Parties, the Second Priority Representatives, the Second Priority Debt Parties, the Additional Creditor Representatives and the holders of Additional Debt Obligations shall have no duty to advise any other party hereunder of information known to it or them regarding such condition or any such circumstances or otherwise. In the event that any Senior Representative, any Senior Secured Party, any Second Priority Representative, any Second Priority Debt Party, any Additional Creditor Representative or holder of Additional Debt Obligations in its sole discretion, undertakes at any time or from time to time to provide any such information to any other party, it shall be under no obligation to (i) make, and the Senior Representatives, the Senior Secured Parties, the Second Priority Representatives, the Second Priority Debt Parties, Additional Creditor Representatives and holders of Additional Debt Obligations shall not make or be deemed to have made, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided, (ii) provide any additional information or to provide any such information on any subsequent occasion, (iii) undertake any investigation or (iv) disclose any information that, pursuant to accepted or reasonable commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential.

**Section 16.05. Subrogation.** Each Second Priority Representative, on behalf of itself and each Second Priority Debt Party represented by it, and each Additional Creditor Representative, on behalf of itself and each holder of Additional Debt Obligations represented by it, hereby waives any rights of subrogation it may acquire as a result of any payment hereunder until the Discharge of Senior Obligations has occurred.

**Section 16.06. Application of Payments.** Except as otherwise provided herein and subject always to Section 8.01, all payments received by the Senior Secured Parties may be applied, reversed and reapplied, in whole or in part, to such part of the Senior Obligations as the Senior Secured Parties, in their sole discretion, deem appropriate, consistent with the terms of the Senior Debt Documents. Except as otherwise provided herein, each Second Priority Representative, on behalf of itself and each Second Priority Debt Party represented by it, and each Additional Creditor Representative, on behalf of itself and each holder of Additional Debt Obligations represented by it, assents to any such extension or postponement of the time of payment of the Senior Obligations (and, with respect to each holder of Additional Debt Obligations, of the Second Priority Debt Obligations) or any part thereof and to any other

indulgence with respect thereto, to any substitution, exchange or release of any security that may at any time secure any part of the Senior Obligations (and, with respect to each holder of Additional Debt Obligations, of the Second Priority Debt Obligations) and to the addition or release of any other Person primarily or secondarily liable therefor.

Section 16.07. Additional Grantors. The Lux Borrower agrees that, if any Subsidiary shall become and remains a Grantor after the date hereof, unless otherwise agreed by the Relevant Designated Representative (acting reasonably), it will promptly cause such Subsidiary to become party hereto by executing and delivering an instrument in the form of Annex I (with such amendments as may be required to ensure that becoming party hereto would not cause such Grantor to breach any applicable Requirements of Law or present a material risk of personal or criminal liability for Holdings or any of its Subsidiaries and/or its officers or directors, or conflict with their fiduciary or statutory duties) (an “Additional Grantor Joinder Agreement”). Upon such execution and delivery, such Subsidiary will become a Grantor hereunder with the same force and effect as if originally named as a Grantor herein. The execution and delivery of such instrument shall not require the consent of any other party hereunder, and will be acknowledged by the Designated Second Priority Representative and the Designated Senior Representative and Designated Shared Collateral Agent. The rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Agreement.

Section 16.08. Change of or New Investor. Subject to Section 4.04, an Investor may (a) assign any of its rights or (b) transfer any of its rights and obligations, in respect of the Investor Obligations owed to it to any assignee or transferee that has (if not already party to this Agreement as an Investor) acceded to this Agreement as an Investor by executing and delivering an instrument in the form of Annex V. Upon such execution and delivery, such entity will become an Investor hereunder with the same force and effect as if originally named as an Investor herein. The execution and delivery of such instrument shall not require the consent of any other party hereunder, and will be acknowledged by the Relevant Designated Representative. To the extent permitted by the provisions of the then extant Senior Debt Documents and Second Priority Debt Documents, any direct or indirect parent of Holdings and/or the Lux Borrower which provides Subordinated Shareholder Debt to Holdings and/or the Lux Borrower shall become a party to this Agreement (if not already party to this Agreement as an Investor) as a new Investor by executing and delivering an instrument in the form of Annex V. Upon such execution and delivery, such entity will become an Investor hereunder with the same force and effect as if originally named as an Investor herein. The execution and delivery of such instrument shall not require the consent of any other party hereunder, and will be acknowledged by the Relevant Designated Representative. In the event that a person party to this Agreement as an Investor is no longer a creditor in respect of any Investor Obligations, that person may resign (and will resign if required by the Lux Borrower) as an Investor by giving notice to the Relevant Designated Representative and the Lux Borrower. From the date of receipt by the Relevant Designated Representative and the Lux Borrower of any such notice of resignation, that person shall cease to be a party to this Agreement as an Investor and shall have no further rights or obligations under this Agreement as an Investor.

Section 16.09. Change of or New First Lien Hedge Counterparty. A counterparty to a First Lien Hedge Agreement may become a First Lien Hedge Counterparty or

an existing First Lien Hedge Counterparty may (in accordance with the terms of the relevant First Lien Hedge Agreement and subject to any consent required under that First Lien Hedge Agreement) transfer any of its rights or obligations in respect of the First Lien Hedge Agreements to which it is a party if any such counterparty or transferee has (if not already a party as a First Lien Hedge Counterparty and a party to the First Lien Credit Agreement as a First Lien Hedge Counterparty) acceded to this Agreement by executing and delivering an instrument in the form of Annex V. Upon such execution and delivery, such entity will become a First Lien Hedge Counterparty hereunder with the same force and effect as if originally named as a First Lien Hedge Counterparty herein. The execution and delivery of such instrument shall not require the consent of any other party hereunder, and will be acknowledged by the Relevant Designated Representative. In the event that a person party to this Agreement as a First Lien Hedge Counterparty is no longer providing any hedging to any of the Grantors under a First Lien Hedge Agreement, that person may resign (and will resign if required by the Lux Borrower) as a First Lien Hedge Counterparty by giving notice to the Relevant Designated Representative and the Lux Borrower. From the date of receipt by the Relevant Designated Representative and the Lux Borrower of any such notice of resignation, that person shall cease to be a party to this Agreement as a First Lien Hedge Counterparty and shall have no further rights or obligations under this Agreement as a First Lien Hedge Counterparty.

Section 16.10. Change of Intra-Group Lender. To the extent permitted by the provisions of the then extant Senior Debt Documents and Second Priority Debt Documents, subject and without prejudice to Section 5.04 and Section 5.08, any Intra-Group Lender may (a) assign any of its rights or (b) transfer any of its rights and obligations, in respect of the Intra-Group Obligations to another member of the Group and that member of the Group shall be deemed to be an Intra-Group Lender for the purposes of this Agreement and shall be bound as an Intra-Group Lender hereunder with the same force and effect as if originally named as an Intra-Group Lender herein provided that it shall not be required to be party to this Agreement if it would not otherwise be required to do so under Section 16.11 below if it had originally been named as an Intra-Group Lender.

Section 16.11. New Intra-Group Lender. (a) On and from the date falling 90 days after the Closing Date, if (i) any Grantor or (ii) another member of the Group makes any loan to or grants any credit to or makes any other financial arrangement having similar effect with any Grantor which, when aggregated with all loans, grants of credit or other financial arrangements having similar effect made by that member of the Group to Grantors, exceeds \$2,000,000 or more, the Lux Borrower shall, within 60 days of exceeding such threshold, cause that member of the Group (if not already a party as an Intra-Group Lender), to become party hereto by executing and delivering an instrument substantially in the form of Annex VI (unless becoming party hereto would (w) result in a breach of any Guarantee Limitations, (x) cause such member of the Group to breach any applicable Requirements of Law or present a material risk of personal or criminal liability for Holdings or any of its Subsidiaries and/or their respective officers or directors, or conflict with their respective fiduciary or statutory duties, (y) require a governmental (including regulatory) consent, approval, license or authorization and/or (z) result in material adverse tax consequences as reasonably determined by the Lux Borrower and notified to the Designated Senior Representative, and if applicable, the Designated Second Priority Representative; it being agreed that the Grantors shall use commercially reasonable efforts to avoid or address such breaches, conflicts, risks or consequences, including by amendments to

such instrument). Upon such execution and delivery, such member of the Group will become an Intra-Group Lender hereunder with the same force and effect as if originally named as an Intra-Group Lender herein. The execution and delivery of such instrument (or any amendments thereto as contemplated above) shall not require the consent of any other party hereunder, and will be acknowledged by the Designated Senior Representative, and if applicable, the Designated Second Priority Representative and the Designated Shared Collateral Agent. The rights and obligations of each Intra-Group Lender hereunder shall remain in full force and effect notwithstanding the addition of any new Intra-Group Lender as a party to this Agreement.

(b) Without prejudice to Section 16.11(a), it is acknowledged that, notwithstanding anything to the contrary contained in this Agreement or in any other Debt Document, each member of the Group incorporated in France that becomes a Party makes any undertakings only in relation to itself and its direct or indirect Subsidiaries.

Section 16.12. Dealings with Grantors. Upon any application or demand by any Borrower or any Grantor to any Representative to take or permit any action under any of the provisions of this Agreement or under any Collateral Document (if such action is subject to the provisions hereof), at the request of such Representative, such Borrower or such Grantor, as appropriate, shall furnish to such Representative a certificate of a Responsible Officer (an "Officer's Certificate") stating that all conditions precedent, if any, provided for in this Agreement or such Collateral Document, as the case may be, relating to the proposed action have been complied with, except that in the case of any such application or demand as to which the furnishing of such documents is specifically required by any provision of this Agreement or any Collateral Document relating to such particular application or demand, no additional certificate or opinion need be furnished.

Section 16.13. Additional Debt Facilities. To the extent, but only to the extent, permitted by the provisions of the then extant Senior Debt Documents and Second Priority Debt Documents (if applicable), any Borrower may incur or issue and sell one or more series or classes of Second Priority Debt and one or more series or classes of Additional Senior Debt. Any such class or series of Second Priority Debt (the "Second Priority Class Debt") may be secured by a second priority, subordinated Lien on Shared Collateral, in each case under and pursuant to the relevant Second Priority Collateral Documents for such Second Priority Class Debt, if and subject to the condition that the Representative of any such Second Priority Class Debt (each, a "Second Priority Class Debt Representative"), acting on behalf of the holders of such Second Priority Class Debt (such Representative and holders in respect of any Second Priority Class Debt being referred to as the "Second Priority Class Debt Parties"), becomes a party to this Agreement by satisfying conditions (i) through (iii), as applicable, of the immediately succeeding paragraph. Any such additional class or series of Senior Facilities (the "Senior Class Debt"; and the Senior Class Debt and Second Priority Class Debt, collectively, the "Class Debt") may be secured by a senior Lien on Shared Collateral, in each case under and pursuant to the relevant Senior Collateral Documents, if and subject to the condition that the Representative of any such Senior Class Debt (each, a "Senior Class Debt Representative"; and the Senior Class Debt Representatives and Second Priority Class Debt Representatives, collectively, the "Class Debt Representatives"), acting on behalf of the holders of such Senior Class Debt (such Representative and holders in respect of any such Senior Class Debt being referred to as the "Senior Class Debt Parties"; and the Senior Class Debt Parties and Second

Priority Class Debt Parties, collectively, the “Class Debt Parties”), becomes a party to this Agreement by satisfying the conditions set forth in clauses (i) through (iii), as applicable, of the immediately succeeding paragraph. In order for a Class Debt Representative to become a party to this Agreement:

- (i) such Class Debt Representative shall have executed and delivered a Joinder Agreement substantially in the form of Annex II (if such Representative is a Second Priority Class Debt Representative) or Annex III (if such Representative is a Senior Class Debt Representative) (with such changes as may be reasonably approved by the Designated Senior Representative and such Class Debt Representative) pursuant to which it becomes a Representative hereunder, and the Class Debt in respect of which such Class Debt Representative is the Representative constitutes Additional Senior Debt Obligations or Second Priority Debt Obligations, as applicable, and the related Class Debt Parties become subject hereto and bound hereby as Additional Senior Debt Parties or Second Priority Debt Parties, as applicable;
- (ii) any Borrower (a) shall have delivered to the Designated Senior Representative an Officer’s Certificate identifying the obligations to be designated as Additional Senior Debt Obligations or Second Priority Debt Obligations, as applicable, and the initial aggregate principal amount or face amount thereof and certifying that such obligations are permitted to be incurred and secured (I) in the case of Additional Senior Debt Obligations, on a senior basis under each of the Senior Debt Documents and (II) in the case of Second Priority Debt Obligations, on a junior basis under each of the Second Priority Debt Documents and (b) if requested, shall have delivered true and complete copies of each of the Second Priority Debt Documents or Senior Debt Documents, as applicable, relating to such Class Debt, certified as being true and correct by an authorized officer of such Borrower; and
- (iii) the Second Priority Debt Documents or Senior Debt Documents, as applicable, relating to such Class Debt shall provide that each Class Debt Party with respect to such Class Debt will be subject to and bound by the provisions of this Agreement in its capacity as a holder of such Class Debt.

Section 16.14. Refinancings. The Senior Obligations, Second Priority Debt Obligations and Additional Debt Obligations may be refinanced or replaced, in whole or in part, in each case, without notice to, or the consent (except to the extent a consent is otherwise required to permit the refinancing transaction under any Senior Debt Document or any Second Priority Debt Document) of any Senior Representative or any Secured Party, all without affecting the Lien priorities provided for herein or the other provisions hereof. Second Priority Representative hereby agrees that at the request of the Lux Borrower in connection with refinancing or replacement of Senior Obligations (“Replacement Senior Obligations”) it will enter into an agreement in form and substance reasonably acceptable to the Second Priority Representative with the agent for the Replacement Senior Obligations containing terms and conditions substantially similar to the terms and conditions of this Agreement.

Section 16.15. Additional Debt. To the extent, but only to the extent, permitted by the provisions of the then extant Senior Debt Documents and Second Priority Debt

Documents, any Grantor may incur or issue and sell one or more series or classes of Additional Debt. To the extent such Additional Debt is required to become party to an Acceptable Intercreditor Agreement by the provisions of the then extant Debt Financing Agreements, the Additional Creditor Representative, acting on behalf of the holders of such Additional Debt may become a party to this Agreement and in such event, shall do so by satisfying the conditions (a) and (b) of the immediately succeeding paragraph.

In order for an Additional Creditor Representative to become a party to this Agreement:

(a) such Additional Creditor Representative shall have executed and delivered a Joinder Agreement substantially in the form of Annex IV (with such changes as may be reasonably approved by the Relevant Designated Representative); and

(b) any Borrower of the relevant Additional Debt shall have delivered to the Relevant Designated Representative an Officer's Certificate identifying the obligations to be designated as Additional Debt Obligations and the initial aggregate principal amount or face amount thereof and certifying that such obligations are permitted to be incurred under each of the then extant Debt Financing Agreements.

Section 16.16. Consent to Jurisdiction; Waivers. Each Representative, on behalf of itself and the Secured Parties of the Debt Facility for which it is acting, each Additional Creditor Representative, on behalf of itself and the Additional Creditors for which it is acting, First Lien Hedge Counterparty, Investor, Intra-Group Lender and Grantor irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the Collateral Documents, or for recognition and enforcement of any judgment in respect thereof, to the exclusive jurisdiction of the courts of the State of New York or the United States of America located in the Borough of Manhattan, City of New York, and appellate courts from any thereof;

(b) consents and agrees that any such action or proceeding shall be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Person (or its Representative) at the address referred to in Section 16.17;

(d) agrees that nothing herein shall affect the right of any other party hereto (or any Secured Party) to effect service of process in any other manner permitted by law; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 16.16 any special, exemplary, punitive or consequential damages.

Section 16.17. Notices. All notices, requests, demands and other communications provided for or permitted hereunder shall be in writing and shall be sent:

(a) if to Holdings, the Borrowers, or the Original Investors, Intra-Group Lenders or any Grantor, to the Lux Borrower, at its address at:

ALLNEX S.À R.L.  
Square Marie Curie 11  
1070 Brussels, Belgium  
Attn: Duncan Taylor  
Tel.: 32-2560-4571  
Fax: 32-2560-4521  
Email: duncan.taylor@allnex.com

with copy to (which shall not constitute notice to any First Lien Loan Party):

ALLNEX S.À R.L.  
Square Marie Curie 11  
1070 Brussels, Belgium  
Attn: Marie VanIn  
Tel: 32-2560-4661  
Fax: 32-2560-4523  
Email: marie.vanin@allnex.com

ALLNEX S.À R.L.  
Square Marie Curie 11  
1070 Brussels, Belgium  
Attn: Frederic Gadenne  
Tel.: 32-2560-4658  
Fax: 32-2560-4521  
Email: frederic.gadenne@allnex.com

and

Weil, Gotshal & Manges, LLP  
767 5th Avenue  
New York, NY 10153  
Attn: Allison R. Liff  
Tel.: (212) 310-8118  
Fax: (214) 310-8007  
Email: allison.liff@weil.com

(b) if to the First Lien Collateral Agent, to it at:

ING Bank N.V., London Branch  
8-10 Moorgate, London  
EC2R 6DA

Tel: + 44 20 7767 5617  
Fax: + 44 20 7767 7324  
Email: craig.baker@uk.ing.com

(c) if to any other Representative or any Additional Creditor Representative, to it at the address specified by it in the Joinder Agreement delivered by it pursuant to Section 16.13 or, as the case may be, Section 16.15;

Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given shall be in writing and, may be personally served, telecopied, electronically mailed or sent by courier service mail and shall be deemed to have been given when delivered in person or by courier service, upon receipt of a telecopy or electronic mail or upon receipt via mail (registered or certified, with postage prepaid and properly addressed). For the purposes hereof, the addresses of the parties hereto shall be as set forth above or, as to each party, at such other address as may be designated by such party in a written notice to all of the other parties. For the purposes of this Section 16.17, the Designated Senior Representative shall be deemed to be agent for the Hedging Obligations and Ancillary Obligations.

**Section 16.18. Further Assurances.** Each Senior Representative, on behalf of itself and each Senior Secured Party under the Additional Senior Debt Facility for which it is acting, each Second Priority Representative, on behalf of itself, and each Second Priority Debt Party under its Second Priority Debt Facility, each Additional Creditor Representative, on behalf of itself and each Additional Creditor for which it is acting, each Investor, Intra-Group Lender and Grantor agrees that it will take such further action and shall execute and deliver such additional documents and instruments (in recordable form, if requested) as the other parties hereto may reasonably request to effectuate the terms of, and the Lien priorities contemplated by, this Agreement.

**Section 16.19. Governing Law; Waiver of Jury Trial.**

(a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT, WHETHER IN TORT, CONTRACT (AT LAW OR IN EQUITY) OR OTHERWISE, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

(b) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AND FOR ANY COUNTERCLAIM THEREIN.

**Section 16.20. Binding on Successors and Assigns.** This Agreement shall be binding upon the Senior Representatives, the Senior Secured Parties, the Second Priority Representatives, the Second Priority Debt Parties, the Additional Creditors, the Investors, the

Intra-Group Lenders, the Borrowers, the other Grantors party hereto and their respective successors and permitted assigns.

Section 16.21. Section Titles. The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of this Agreement.

Section 16.22. Counterparts. This Agreement may be executed in one or more counterparts, including by means of facsimile or other electronic method, each of which shall be an original and all of which shall together constitute one and the same document. Delivery of an executed signature page to this Agreement by facsimile or other electronic transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

Section 16.23. Authorization. By its signature, each Person executing this Agreement on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Agreement. The First Lien Collateral Agent represents and warrants that this Agreement is binding upon the First Lien Credit Agreement Secured Parties. The Designated Second Priority Representative and the Designated Shared Collateral Agent represent and warrant that this Agreement is binding upon the Second Priority Debt Parties.

Section 16.24. No Third Party Beneficiaries; Successors and Assigns. The lien priorities set forth in this Agreement and the rights and benefits hereunder in respect of such lien priorities shall inure solely to the benefit of the Senior Representatives, the Senior Secured Parties, the Second Priority Representatives and the Second Priority Debt Parties, and their respective permitted successors and assigns, and no other Person (including the Grantors, the Investors, the Intra-Group Lenders or any trustee, receiver, debtor in possession or bankruptcy estate in a bankruptcy or like proceeding) shall have or be entitled to assert such rights, other than with respect to any member of the Group, any provision hereof expressly preserving any right of, or directly affecting, any such Person under this Agreement, any Secured Debt Document or any Additional Debt Document. Nothing in this Agreement is intended to or shall impair the obligations of any Borrower or any other Grantor, which are absolute and unconditional, to pay the Senior Obligations and the Second Priority Debt Obligations and Additional Debt Obligations as and when the same shall become due and payable in accordance with their terms. Notwithstanding anything to the contrary contained herein, the rights, obligations, agreements and benefits hereunder of any Second Priority Representative and/or any Second Priority Debt Party shall only become effective at such time when any Second Priority Debt Obligations exist and subject to the condition that the Representative of any such Second Priority Class Debt become party to this Agreement in accordance with the terms Section 16.13.

Section 16.25. Effectiveness. This Agreement shall become effective when executed and delivered by the parties hereto.

Section 16.26. Collateral Agent and Representative. It is understood and agreed that the First Lien Collateral Agent is entering into this Agreement in its capacity as administrative agent and collateral agent for the First Lien Credit Agreement Secured Parties under the First Lien Credit Agreement and the provisions of Article 8 of the First Lien Credit Agreement applicable to the Agents (as defined therein) thereunder shall also apply to the First

Lien Collateral Agent hereunder. Notwithstanding anything to the contrary contained herein, in no event shall the Relevant Designated Representative, the First Lien Collateral Agent or the Designated Second Priority Representative be required to take any action hereunder to the extent that Relevant Designated Representative, the First Lien Collateral Agent or the Designated Second Priority Representative, as applicable, deems itself insufficiently indemnified by the parties hereto, unless the Relevant Designated Representative, the First Lien Collateral Agent or the Designated Second Priority Representative, as applicable, shall have received such reasonably requested additional written indemnification from the Secured Parties as each such Person may reasonably request.

Section 16.27. Designated Shared Collateral Agent. To the extent required by the Requirements of Laws of, or consistent with customary practice in, the jurisdiction of organization or operation of any Non-US Grantor, as determined by the Lux Borrower and each Representative, and without limiting and in acknowledgement of the separate appointment of the First Lien Collateral Agent for and on behalf of the First Lien Credit Agreement Secured Parties:

(a) Each Senior Debt Party and each Second Priority Debt Party confirms the appointment by the Designated Senior Representative and the Designated Second Priority Representative, at any time determined reasonably necessary by the Designated Senior Representative, the Designated Second Priority Representative and the Lux Borrower, consistent with the principles set forth in this Section 16.27, of ING Bank N.V., London Branch, in its capacity as the Designated Shared Collateral Agent, as agent and administrator for the purpose of accepting, holding on trust and administering Non-US Security Interests for and on behalf of the Senior Secured Parties and Second Priority Debt Parties pursuant to the provisions of this Agreement and the applicable Non-US Security Interests, including for purposes of acquiring, holding and enforcing any and all Liens on Shared Collateral granted by any of the Grantors to secure any of the Obligations, together with such powers and discretion on its behalf as are reasonably incidental thereto. Without limiting the generality of the foregoing, each of (x) the Senior Secured Parties and (y) the Second Priority Debt Parties, each hereby expressly authorize the Designated Shared Collateral Agent to execute any and all documents (including releases) with respect to the Non-US Security Interests and the rights of the Senior Secured Parties and the Second Priority Debt Parties with respect thereto, as contemplated by, subject to, and in accordance with or otherwise in connection with the provisions of this Agreement and such applicable Collateral Documents and acknowledge and agree that any such action by the Designated Shared Collateral Agent shall bind the Senior Secured Parties and the Second Priority Debt Parties.

(b) The Designated Shared Collateral Agent confirms that it shall accept such appointment and that following any appointment of the Designated Shared Collateral Agent pursuant to this Section 16.27, it shall hold the Collateral in which it has liens on trust for each of the Senior Secured Parties and the Second Priority Debt Parties on the terms contained in this Agreement.

(c) Each of the Secured Parties agrees that following any appointment of the Designated Shared Collateral Agent pursuant to this Section 16.27, the Designated Shared Collateral Agent shall have only those duties, obligations and responsibilities expressly specified in this Agreement or, to the extent agreed by such Designated Shared Collateral Agent (in its

capacity as such), in the other Senior Debt Documents or Second Priority Debt Documents, as applicable (and no others shall be implied) and its duties, obligations and liabilities shall be limited in a manner consistent with (and it shall have the benefit of) the limitations applicable to “Agents” and “Agent Related Persons” pursuant to Article 8 of the First Lien Credit Agreement and any comparable provision of any other Senior Debt Document and any comparable provisions of any Second Priority Debt Document.

(d) Following any appointment of the Designated Shared Collateral Agent pursuant to this Section 16.27, the Designated Shared Collateral Agent shall (x) in case of non-accessory security rights, hold, administer and, as the case may be, enforce the applicable Non-US Security Interests in its own name, but for the account of both the Senior Secured Parties and the Second Priority Debt Parties; and (y) in case of accessory security rights created by way of pledge or other accessory instruments, administer and, as the case may be, enforce the applicable Non-US Security Interests in the name of, or in its own name, but in each case, for and on behalf of, the Senior Secured Parties (or any of them) or Second Priority Debt Parties (or any of them), in each case of clauses (x) and (y), subject to, and in accordance with, the terms and restrictions otherwise applicable to the First Lien Collateral Agent and Designated Second Priority Representative in this Agreement.

(e) For the purposes of performing its rights and obligations as the Designated Shared Collateral Agent hereunder, each of (x) the Senior Secured Parties hereby authorizes the Designated Shared Collateral Agent to act as its agent following any appointment of the Designated Shared Collateral Agent pursuant to this Section 16.27 and (y) the Second Priority Debt Parties hereby authorizes the Designated Shared Collateral Agent to act as its agent following any appointment of the Designated Shared Collateral Agent pursuant to this Section 16.27. At the request of the Designated Shared Collateral Agent following any appointment pursuant to this Section 16.27, each Secured Party shall provide the Designated Shared Collateral Agent with a separate written power of attorney for the purposes of executing any relevant agreements and documents on their behalf.

(f) The terms and conditions of (x) Section 9.03 of the First Lien Credit Agreement and, to the extent applicable, any comparable provision of any other Senior Debt Document is hereby incorporated by reference herein as if fully set forth herein, solely to the extent such terms and provisions apply to the First Lien Collateral Agent and (y) to the extent applicable, any comparable provision of any other Second Priority Debt Document is hereby incorporated by reference herein as if fully set forth herein, solely to the extent such terms and provisions apply to the Designated Second Priority Representative, and each Grantor agrees that the terms of Section 9.03 of the First Lien Credit Agreement and to the extent applicable, any comparable provision of any other Second Priority Debt Document shall apply to such Grantor and to the costs and expenses incurred by the Designated Shared Collateral Agent hereunder, *mutatis mutandis*, in each case, solely to the extent such terms and provisions would apply to the First Lien Collateral Agent or Designated Second Priority Representative, as applicable.

Section 16.28. Relative Rights. Notwithstanding anything in this Agreement to the contrary (except to the extent contemplated by Section 9.01(a), Section 9.01(d) or Section 9.03(d)), nothing in this Agreement is intended to or will (a) amend, waive or otherwise modify the provisions of the First Lien Credit Agreement, any other Senior Debt Document or any

Second Priority Debt Documents, (b) change the relative priorities of the Senior Obligations or the Liens granted under the Senior Collateral Documents on the Shared Collateral (or any other assets) as among the Senior Secured Parties, (c) otherwise change the relative rights of the Senior Secured Parties in respect of the Shared Collateral as among such Senior Secured Parties or (d) obligate any Borrower or any Grantor to take any action, or fail to take any action, that would otherwise constitute a breach of, or default under, the First Lien Credit Agreement, any other Senior Debt Document or any Second Priority Debt Document or any Additional Debt Document.

Section 16.29. Survival of Agreement. All covenants, agreements, representations and warranties made by any party in this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement.

Section 16.30. Directors' Duties. No provision of this Agreement or any other document referred to in this Agreement can be interpreted as in any respect limiting the obligation of any director (or any equivalent officer) of any party to this Agreement or such other document to make any insolvency filings which such director (or any equivalent officer) deems consistent with his statutory duties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

ING BANK N.V., LONDON BRANCH,  
as First Lien Collateral Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

ING BANK N.V., LONDON BRANCH,  
as Designated Shared Collateral Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

ALLNEX (LUXEMBOURG) & CY S.C.A. (F/K/A  
AI CHEM & CY S.C.A.), as Holdings

By: \_\_\_\_\_  
Name:  
Title:

ALLNEX S.À R.L., as Lux Borrower

By: \_\_\_\_\_  
Name:  
Title:

ALLNEX USA INC., as US Borrower

By: \_\_\_\_\_  
Name:  
Title:

ALLNEX HOLDINGS S.À R.L., as Grantor

By: \_\_\_\_\_

Name:

Title:

ALLNEX BELGIUM SA/NV, as Grantor

By: \_\_\_\_\_

Name:

Title:

ALLNEX USA HOLDING INC., as Grantor

By: \_\_\_\_\_

Name:

Title:

ALLNEX NEW ZEALAND LIMITED, as Grantor

By: \_\_\_\_\_

Name:

Title:

ALLNEX (LUXEMBOURG) & CY S.C.A. (F/K/A  
AI CHEM & CY S.C.A.), as Original Investor

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

AI CHEM (LUXEMBOURG) INTERMEDIATE  
S.À R.L., as Original Investor

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

[●], as Intra-Group Lender

By: \_\_\_\_\_  
Name:  
Title:

[●], as Intra-Group Lender

By: \_\_\_\_\_  
Name:  
Title:

[●], as Intra-Group Lender

By: \_\_\_\_\_  
Name:  
Title:

## ANNEX I

THIS DOCUMENT WAS EXECUTED OUTSIDE OF AUSTRIA. TAKING THIS DOCUMENT OR ANY CERTIFIED COPY HEREOF OR ANY OTHER SIGNED DOCUMENT CONTAINING A WRITTEN CONFIRMATION OF OR REFERENCE TO THE TRANSACTIONS CONTEMPLATED HEREIN INTO AUSTRIA, OR SENDING ANY EMAIL COMMUNICATION CARRYING AN ELECTRONIC SIGNATURE TO WHICH A PDF-SCAN OF THIS DOCUMENT IS ATTACHED OR WHICH OTHERWISE REFERS TO THE TRANSACTIONS HEREIN TO OR FROM AUSTRIA MAY TRIGGER THE IMPOSITION OF AUSTRIAN STAMP DUTY. ACCORDINGLY, KEEP THIS DOCUMENT AS WELL AS ALL CERTIFIED COPIES HEREOF AND ANY OTHER SIGNED DOCUMENT CONTAINING A REFERENCE TO THE TRANSACTIONS CONTEMPLATED HEREIN OUTSIDE OF AUSTRIA AND AVOID SENDING ANY EMAIL COMMUNICATION CARRYING AN ELECTRONIC SIGNATURE TO WHICH A PDF-SCAN OF THIS DOCUMENT IS ATTACHED OR WHICH OTHERWISE REFERS TO THE TRANSACTIONS HEREIN TO OR FROM AUSTRIA.

SUPPLEMENT NO [ ], dated as of [ ], 20[ ] to the INTERCREDITOR AGREEMENT, dated as of [●], 20[●] (as amended, supplemented or otherwise modified from time to time, the “Intercreditor Agreement”), among ING Bank N.V., London Branch, as Representative for the First Lien Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the “First Lien Collateral Agent”), each Second Priority Representative and Senior Representative from time to time party thereto, the First Lien Hedge Counterparties from time to time party thereto, and acknowledged and agreed to by Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.) (“Holdings”), Allnex S.à r.l. (the “Lux Borrower”), Allnex USA Inc. (the “US Borrower” and together with Lux Borrower, the “Initial Borrowers”), the other Grantors from time to time party thereto, the Investors from time to time party thereto and the Intra-Group Lenders from time to time party thereto.

A. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

B. The Grantors have entered into the Intercreditor Agreement. Pursuant to the First Lien Credit Agreement, certain Additional Senior Debt Documents, and certain Second Priority Debt Documents, certain newly acquired or organized Subsidiaries of Holdings are required to enter into the Intercreditor Agreement. Section 16.07 of the Intercreditor Agreement provides that such Subsidiaries may become party to the Intercreditor Agreement by execution and delivery of an instrument in the form of this Supplement. The undersigned Subsidiary (the “New Grantor”) is executing this Supplement in accordance with the requirements of the First Lien Credit Agreement, the Second Priority Debt Documents and Additional Senior Debt Documents.

Accordingly, the Designated Senior Representative and the New Subsidiary Grantor agree as follows:

SECTION 1. In accordance with Section 16.07 of the Intercreditor Agreement, the New Grantor by its signature below becomes a Grantor under the Intercreditor Agreement with the same force and effect as if originally named therein as a Grantor, and the New Grantor hereby agrees to all the terms and provisions of the Intercreditor Agreement applicable to it as a Grantor thereunder. Each reference to a “Grantor” in the Intercreditor Agreement shall be deemed to include the New Grantor. The Intercreditor Agreement is hereby incorporated herein by reference.

SECTION 2. The New Grantor represents and warrants to the Designated Senior Representative and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity.

SECTION 3. This Supplement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective when the Designated Senior Representative shall have received a counterpart of this Supplement that bears the signature of the New Grantor. Delivery of an executed signature page to this Supplement by facsimile transmission or other electronic method shall be as effective as delivery of a manually signed counterpart of this Supplement.

SECTION 4. Except as expressly supplemented hereby, the Intercreditor Agreement shall remain in full force and effect.

SECTION 5. THIS SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

SECTION 6. In case any one or more of the provisions contained in this Supplement should be held invalid, illegal or unenforceable in any respect, no party hereto shall be required to comply with such provision for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein and in the Intercreditor Agreement shall not in any way be affected or impaired. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.||

SECTION 7. All communications and notices hereunder shall be in writing and given as provided in Section 16.17 of the Intercreditor Agreement. All communications and notices hereunder to the New Grantor shall be given to it in care of Holdings as specified in the Intercreditor Agreement.

SECTION 8. Holdings agrees to reimburse the Designated Senior Representative for its reasonable out-of-pocket expenses in connection with this Supplement, including the

reasonable fees, other charges and disbursements of counsel for the Designated Senior Representative to the extent required by the applicable Senior Debt Documents.

[SECTION 9. The place of performance for all rights and obligations under or in connection with any Debt Document shall be a place outside of Austria.]<sup>1</sup>

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<sup>1</sup> Section 9 to be included when executed by a Person organized in Austria.

IN WITNESS WHEREOF, the New Grantor, and the Designated Senior Representative have duly executed this Supplement to the Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW SUBSIDIARY GRANTOR]

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged by:

[ING BANK N.V., LONDON BRANCH], as Designated Senior Representative

By: \_\_\_\_\_  
Name:  
Title:

[●], as Designated Second Priority Representative

By: \_\_\_\_\_  
Name:  
Title:

## ANNEX II

[FORM OF] REPRESENTATIVE SUPPLEMENT NO. [ ], dated as of [ ], 20[ ] to the INTERCREDITOR AGREEMENT, dated as of [●], 20[●] (as amended, supplemented or otherwise modified from time to time, the “Intercreditor Agreement” among ING Bank N.V., London Branch, as Representative for the First Lien Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the “First Lien Collateral Agent”), each Second Priority Representative and Senior Representative from time to time party thereto, the First Lien Hedge Counterparties from time to time party thereto, and acknowledged and agreed to by Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.) (“Holdings”), Allnex S.à r.l. (the “Lux Borrower”), Allnex USA Inc. (the “US Borrower” and together with the Lux Borrower, the “Initial Borrowers”), the other Grantors from time to time party thereto, the Investors from time to time party thereto and the Intra-Group Lenders from time to time party thereto.

A. Capitalized terms used herein but not otherwise defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

B. As a condition to the ability of any Borrower to incur Second Priority Class Debt after the date of the Intercreditor Agreement and to secure such Second Priority Class Debt with the Second Priority Lien and to have such Second Priority Class Debt guaranteed by the Grantors, in each case under and pursuant to the Second Priority Collateral Documents relating thereto, the Second Priority Class Debt Representative in respect of such Second Priority Class Debt is required to become a Representative under, and such Second Priority Class Debt and the Second Priority Class Debt Parties in respect thereof are required to become subject to and bound by, the Intercreditor Agreement. Section 16.13 of the Intercreditor Agreement provides that such Second Priority Class Debt Representative may become a Representative under, and such Second Priority Class Debt and such Second Priority Class Debt Parties may become subject to and bound by, the Intercreditor Agreement as Second Priority Debt Obligations and Second Priority Debt Parties, respectively, pursuant to the execution and delivery by the Second Priority Class Debt Representative of an instrument in the form of this Representative Supplement and the satisfaction of the other conditions set forth in Section 16.13 of the Intercreditor Agreement. The undersigned Second Priority Class Debt Representative (the “New Representative”) is executing this Supplement in accordance with the requirements of the Senior Debt Documents and the Second Priority Debt Documents.

Accordingly, the Designated Senior Representative and the New Representative agree as follows:

SECTION 1. In accordance with Section 16.13 of the Intercreditor Agreement, the New Representative by its signature below becomes a Representative under, and the related Second Priority Class Debt and Second Priority Class Debt Parties become subject to and bound by, the Intercreditor Agreement as Second Priority Debt Obligations and Second Priority Debt Parties, respectively, with the same force and effect as if the New Representative had originally been named therein as a Representative, and the New Representative, on behalf of itself and such

Second Priority Class Debt Parties, hereby agrees to all the terms and provisions of the Intercreditor Agreement applicable to it as a Second Priority Representative and to the Second Priority Class Debt Parties that it represents as Second Priority Debt Parties. Each reference to a “Representative” or “Second Priority Representative” in the Intercreditor Agreement shall be deemed to include the New Representative. The Intercreditor Agreement is hereby incorporated herein by reference.

SECTION 2. The New Representative represents and warrants to the Designated Senior Representative and the other Secured Parties that (i) it has full power and authority to enter into this Representative Supplement, in its capacity as [agent] [trustee], (ii) this Representative Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms of such Agreement and (iii) the Second Priority Debt Documents relating to such Second Priority Class Debt provide that, upon the New Representative’s entry into this Agreement, the Second Priority Class Debt Parties in respect of such Second Priority Class Debt will be subject to and bound by the provisions of the Intercreditor Agreement as Second Priority Debt Parties.

SECTION 3. This Representative Supplement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Representative Supplement shall become effective when the Designated Senior Representative shall have received a counterpart of this Representative Supplement that bears the signature of the New Representative. Delivery of an executed signature page to this Representative Supplement by facsimile transmission or other electronic method shall be effective as delivery of a manually signed counterpart of this Representative Supplement.

SECTION 4. Except as expressly supplemented hereby, the Intercreditor Agreement shall remain in full force and effect.

SECTION 5. THIS REPRESENTATIVE SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

SECTION 6. In case any one or more of the provisions contained in this Representative Supplement should be held invalid, illegal or unenforceable in any respect, no party hereto shall be required to comply with such provision for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein and in the Intercreditor Agreement shall not in any way be affected or impaired. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 7. All communications and notices hereunder shall be in writing and given as provided in Section 16.17 of the Intercreditor Agreement. All communications and notices hereunder to the New Representative shall be given to it at the address set forth below its signature hereto.

SECTION 8. Holdings agrees to reimburse the Designated Senior Representative for its reasonable out-of-pocket expenses in connection with this Representative Supplement, including the reasonable fees, other charges and disbursements of counsel for the Designated Senior Representative to the extent required by the applicable Senior Debt Documents.

IN WITNESS WHEREOF, the New Representative and the Designated Senior Representative have duly executed this Representative Supplement to the Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW REPRESENTATIVE],  
as [ ] for the holders of  
[ ]

By: \_\_\_\_\_  
Name:  
Title:

Address for notices:

Attention of: \_\_\_\_\_  
Telecopy: \_\_\_\_\_

[ING BANK N.V., LONDON BRANCH],  
as Designated Senior Representative

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged by:

[PARENT]

By: \_\_\_\_\_

Name:

Title:

Schedule I to the  
Representative Supplement to the  
Intercreditor Agreement

Grantors

*Entity*

*Jurisdiction*

Annex II-6

## ANNEX III

[FORM OF] REPRESENTATIVE SUPPLEMENT NO. [ ], dated as of [ ], 201[ ] to the INTERCREDITOR AGREEMENT, dated as of [●], 20[●] (as amended, supplemented or otherwise modified from time to time, the “Intercreditor Agreement”), among ING Bank N.V., London Branch, as Representative for the First Lien Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the “First Lien Collateral Agent”), each Second Priority Representative and Senior Representative from time to time party thereto, the First Lien Hedge Counterparties from time to time party thereto, and acknowledged and agreed to by Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.) (“Holdings”), Allnex S.à r.l. (the “Lux Borrower”), Allnex USA Inc. (the “US Borrower” and together with the Lux Borrower, the “Initial Borrowers”), the other Grantors from time to time party thereto, the Investors from time to time party thereto and the Intra-Group Lenders from time to time party thereto.

A. Capitalized terms used herein but not otherwise defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

B. As a condition to the ability of any Borrower to incur Senior Class Debt after the date of the Intercreditor Agreement and to secure such Senior Class Debt with the Senior Lien and to have such Senior Class Debt guaranteed by the Grantors on a senior basis, in each case under and pursuant to the Senior Collateral Documents relating thereto, the Senior Class Debt Representative in respect of such Senior Class Debt is required to become a Representative under, and such Senior Class Debt and the Senior Class Debt Parties in respect thereof are required to become subject to and bound by, the Intercreditor Agreement. Section 16.13 of the Intercreditor Agreement provides that such Senior Class Debt Representative may become a Representative under, and such Senior Class Debt and such Senior Class Debt Parties may become subject to and bound by, the Intercreditor Agreement as Additional Senior Debt Obligations and Additional Senior Debt Parties, respectively, pursuant to the execution and delivery by the Senior Class Debt Representative of an instrument in the form of this Representative Supplement and the satisfaction of the other conditions set forth in Section 16.13 of the Intercreditor Agreement. The undersigned Senior Class Debt Representative (the “New Representative”) is executing this Supplement in accordance with the requirements of the Senior Debt Documents and the Second Priority Debt Documents.

Accordingly, the Designated Senior Representative and the New Representative agree as follows:

SECTION 1. In accordance with Section 16.13 of the Intercreditor Agreement, the New Representative by its signature below becomes a Representative under, and the related Senior Class Debt and Senior Class Debt Parties become subject to and bound by, the Intercreditor Agreement as Additional Senior Debt Obligations and Additional Senior Debt Parties, respectively, with the same force and effect as if the New Representative had originally been named therein as a Representative, and the New Representative, on behalf of itself and such Senior Class Debt Parties, hereby agrees to all the terms and provisions of the Intercreditor Agreement applicable to it as a Senior Representative and to the Senior Class Debt Parties that it

represents as Senior Secured Parties. Each reference to a “Representative” or “Senior Representative” in the Intercreditor Agreement shall be deemed to include the New Representative. The Intercreditor Agreement is hereby incorporated herein by reference.

SECTION 2. The New Representative represents and warrants to the Designated Senior Representative and the other Secured Parties that (i) it has full power and authority to enter into this Representative Supplement, in its capacity as [agent] [trustee], (ii) this Representative Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms of such Agreement and (iii) the Senior Debt Documents relating to such Senior Class Debt provide that, upon the New Representative’s entry into this Agreement, the Senior Class Debt Parties in respect of such Senior Class Debt will be subject to and bound by the provisions of the Intercreditor Agreement as Senior Secured Parties.

SECTION 3. This Representative Supplement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Representative Supplement shall become effective when the Designated Senior Representative shall have received a counterpart of this Representative Supplement that bears the signature of the New Representative. Delivery of an executed signature page to this Representative Supplement by facsimile transmission or other electronic method shall be effective as delivery of a manually signed counterpart of this Representative Supplement.

SECTION 4. Except as expressly supplemented hereby, the Intercreditor Agreement shall remain in full force and effect.

SECTION 5. THIS REPRESENTATIVE SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

SECTION 6. In case any one or more of the provisions contained in this Representative Supplement should be held invalid, illegal or unenforceable in any respect, no party hereto shall be required to comply with such provision for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein and in the Intercreditor Agreement shall not in any way be affected or impaired. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 7. All communications and notices hereunder shall be in writing and given as provided in Section 16.17 of the Intercreditor Agreement. All communications and notices hereunder to the New Representative shall be given to it at the address set forth below its signature hereto.

SECTION 8. Holdings agrees to reimburse the Designated Senior Representative for its reasonable out-of-pocket expenses in connection with this Representative Supplement,

including the reasonable fees, other charges and disbursements of counsel for the Designated Senior Representative to the extent required by the applicable Senior Debt Documents.

IN WITNESS WHEREOF, the New Representative and the Designated Senior Representative have duly executed this Representative Supplement to the Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW REPRESENTATIVE],  
as [ ] for the holders of  
[ ]

By: \_\_\_\_\_  
Name:  
Title:

Address for notices:

Attention of: \_\_\_\_\_  
Telecopy: \_\_\_\_\_

[ING BANK N.V., LONDON BRANCH],  
as Designated Senior Representative

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged by:

Acknowledged by:

[PARENT]

By: \_\_\_\_\_

Name:

Title:

## ANNEX IV

SUPPLEMENT NO. [ ], dated as of [ ], 20[ ] to the INTERCREDITOR AGREEMENT, dated as of [●], 20[●] (as amended, supplemented or otherwise modified from time to time, the “Intercreditor Agreement”), ING Bank N.V., London Branch, as Representative for the First Lien Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the “First Lien Collateral Agent”), each Second Priority Representative and Senior Representative from time to time party thereto, the First Lien Hedge Counterparties from time to time party thereto, and acknowledged and agreed to by Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.) (“Holdings”), Allnex S.à r.l. (the “Lux Borrower”), Allnex USA Inc. (the “US Borrower” and together with the Lux Borrower, the “Initial Borrowers”), the other Grantors from time to time party thereto, the Investors from time to time party thereto and the Intra-Group Lenders from time to time party thereto.

A. Capitalized terms used herein but not otherwise defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

B. As a condition to the ability of any Borrower to incur [Ancillary Obligations][Issuing Bank Obligations][Guarantee Bank Obligations][Banking Services Obligations] after the date of the Intercreditor Agreement and to secure such [Ancillary Obligations][Issuing Bank Obligations][Guarantee Bank Obligations][Banking Services Obligations] with the Senior Lien and to have such [Ancillary Obligations][Issuing Bank Obligations][Guarantee Bank Obligations][Banking Services Obligations] guaranteed by the Grantors on a senior basis, in each case under and pursuant to the Senior Collateral Documents relating thereto, the [Ancillary Lender][Issuing Bank][Guarantee Bank][Banking Services Provider] in respect of such [Ancillary Obligations][Issuing Bank Obligations][Guarantee Bank Obligations][Banking Services Obligations] is required to become subject to and bound by the Intercreditor Agreement. Section 6.04 of the Intercreditor Agreement provides that such [Ancillary Lender][Issuing Bank][Guarantee Bank][Banking Services Provider] may become subject to and bound by, the Intercreditor Agreement as Senior Obligations and Senior Secured Parties, respectively, pursuant to the execution and delivery by the [Ancillary Lender][Issuing Bank][Guarantee Bank][Banking Services Provider] of an instrument in the form of this Joinder. The undersigned [Ancillary Lender (the “New Ancillary Lender”)] [Banking Services Provider (the “New Banking Services Provider”)] is executing this Joinder in accordance with the requirements of the Senior Debt Documents and the Second Priority Debt Documents.

Accordingly, the Designated Senior Representative and the [New Ancillary Lender][New Issuing Bank][New Guarantee Bank][New Banking Services Provider] agree as follows:

SECTION 1. In accordance with Section 6.04 of the Intercreditor Agreement, [New Ancillary Lender][New Issuing Bank][New Guarantee Bank][New Banking Services Provider] by its signature below becomes an [Ancillary Lender][Issuing Bank][Guarantee Bank][Banking Services Provider] under, and the related [Ancillary Obligations][Issuing Bank

Obligations][Guarantee Bank Obligations][Banking Services Obligations] become subject to and bound by, the Intercreditor Agreement as [Ancillary Obligations][Issuing Bank Obligations][Guarantee Bank Obligations][Banking Services Obligations]. Each reference to an “[Ancillary Lender]” “[Banking Services Provider]” in the Intercreditor Agreement shall be deemed to include the [New Ancillary Lender][New Issuing Bank][New Guarantee Bank][New Banking Services Provider]. The Intercreditor Agreement is hereby incorporated herein by reference.

SECTION 2. The [New Ancillary Lender][New Issuing Bank][New Guarantee Bank][New Banking Services Provider] represents and warrants to the Designated Senior Representative and the other Secured Parties that (i) it has full power and authority to enter into this Joinder, in its capacity as [Ancillary Lender][Issuing Bank][Guarantee Bank][Banking Services Provider], (ii) this Joinder has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms of such Agreement and (iii) the [Ancillary Documents][Banking Services Agreement] relating to such [Ancillary Obligations][Issuing Bank Obligations][Guarantee Bank Obligations][Banking Services Obligations] provide that, upon the [New Ancillary Lender][New Issuing Bank][New Guarantee Bank][New Banking Services Provider]’s entry into this Agreement, the [Ancillary Lender][Issuing Bank][Guarantee Bank][Banking Services Provider] in respect of such [Ancillary Obligations][Issuing Bank Obligations][Guarantee Bank Obligations][Banking Services Obligations] will be subject to and bound by the provisions of the Intercreditor Agreement as Senior Secured Parties.

SECTION 3. This Joinder may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Joinder shall become effective when the Designated Senior Representative shall have received a counterpart of this Joinder that bears the signature of the [New Ancillary Lender][New Issuing Bank][New Guarantee Bank][New Banking Services Provider]. Delivery of an executed signature page to this Joinder by facsimile transmission or other electronic method shall be effective as delivery of a manually signed counterpart of this Joinder.

SECTION 4. Except as expressly supplemented hereby, the Intercreditor Agreement shall remain in full force and effect.

SECTION 5. THIS SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

SECTION 6. In case any one or more of the provisions contained in this Joinder should be held invalid, illegal or unenforceable in any respect, no party hereto shall be required to comply with such provision for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein and in the Intercreditor Agreement shall not in any way be affected or impaired. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or

unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 7. All communications and notices hereunder shall be in writing and given as provided in Section 16.17 of the Intercreditor Agreement. All communications and notices hereunder to the [New Ancillary Lender][New Issuing Bank][New Guarantee Bank][New Banking Services Provider] shall be given to it at the address set forth below its signature hereto.

SECTION 8. Holdings agrees to reimburse the Designated Senior Representative for its reasonable out-of-pocket expenses in connection with this Joinder, including the reasonable fees, other charges and disbursements of counsel for the Designated Senior Representative to the extent required by the applicable Senior Debt Documents.

IN WITNESS WHEREOF, the [New Ancillary Lender][New Issuing Bank][New Guarantee Bank][New Banking Services Provider] and the Designated Senior Representative have duly executed this Joinder to the Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW ANCILLARY  
LENDER][NAME OF NEW BANKING  
SERVICES PROVIDER],  
as [ ] for the holders of  
[ ]

By: \_\_\_\_\_  
Name:  
Title:

Address for notices:

Attention of: \_\_\_\_\_  
Telecopy: \_\_\_\_\_

[ING BANK N.V., LONDON BRANCH],  
as Designated Senior Representative

By: \_\_\_\_\_  
Name:  
Title:

ANNEX V

SUPPLEMENT NO [ ], dated as of [ ], 20[ ] to the INTERCREDITOR AGREEMENT, dated as of [●], 20[●] (as amended, supplemented or otherwise modified from time to time, the “Intercreditor Agreement”), among ING Bank N.V., London Branch, as Representative for the First Lien Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the “First Lien Collateral Agent”), each Second Priority Representative and Senior Representative from time to time party thereto, the First Lien Hedge Counterparties from time to time party thereto, and acknowledged and agreed to by Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.) (“Holdings”), Allnex S.à r.l. (the “Lux Borrower”), Allnex USA Inc. (the “US Borrower” and together with the Lux Borrower, the “Initial Borrowers”), the other Grantors from time to time party thereto, the Investors from time to time party thereto and the Intra-Group Lenders from time to time party thereto.

A. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

B. The [First Lien Hedge Counterparties/Investors] have entered into the Intercreditor Agreement. Pursuant to the First Lien Credit Agreement, certain Additional Senior Debt Documents, and certain Second Priority Debt Documents, certain new [First Lien Hedge Counterparties/Investors] are required to enter into the Intercreditor Agreement. [Section 16.08/Section 16.09] of the Intercreditor Agreement provides that [First Lien Hedge Counterparties/ Investors] may become party to the Intercreditor Agreement by execution and delivery of an instrument in the form of this Supplement. The undersigned [First Lien Hedge Counterparties/Investors] (the “New [First Lien Hedge Counterparties/Investors]”) is executing this Supplement in accordance with the requirements of the First Lien Credit Agreement, the Second Priority Debt Documents and Additional Senior Debt Documents.

Accordingly, the Relevant Designated Representative and the New [First Lien Hedge Counterparties/Investors] agree as follows:

SECTION 1. In accordance with [Section 16.08/Section 16.09] of the Intercreditor Agreement, the New [First Lien Hedge Counterparties/Investors] by its signature below becomes a [First Lien Hedge Counterparties/Investors] under the Intercreditor Agreement with the same force and effect as if originally named therein as a [First Lien Hedge Counterparties/Investors], and the New [First Lien Hedge Counterparties/Investors/] hereby agrees to all the terms and provisions of the Intercreditor Agreement applicable to it as a [First Lien Hedge Counterparties/Investors] thereunder. Each reference to a “[First Lien Hedge Counterparties/Investors]” in the Intercreditor Agreement shall be deemed to include the New [First Lien Hedge Counterparties/Investors]. The Intercreditor Agreement is hereby incorporated herein by reference.

**SECTION 2.** The New [First Lien Hedge Counterparties/Investors] represents and warrants to the Relevant Designated Representative and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity.

**SECTION 3.** This Supplement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective when the Relevant Designated Representative shall have received a counterpart of this Supplement that bears the signature of the New [First Lien Hedge Counterparties/Investors]. Delivery of an executed signature page to this Supplement by facsimile transmission or other electronic method shall be as effective as delivery of a manually signed counterpart of this Supplement.

**SECTION 4.** Except as expressly supplemented hereby, the Intercreditor Agreement shall remain in full force and effect.

**SECTION 5. THIS SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

**SECTION 6.** In case any one or more of the provisions contained in this Supplement should be held invalid, illegal or unenforceable in any respect, no party hereto shall be required to comply with such provision for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein and in the Intercreditor Agreement shall not in any way be affected or impaired. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

**SECTION 7.** All communications and notices hereunder shall be in writing and given as provided in Section 16.17 of the Intercreditor Agreement. All communications and notices hereunder to the New [First Lien Hedge Counterparties/Investors] shall be given to it in care of Holdings as specified in the Intercreditor Agreement.

**SECTION 8.** Holdings agrees to reimburse the Relevant Designated Representative for its reasonable out-of-pocket expenses in connection with this Supplement, including the reasonable fees, other charges and disbursements of counsel for the Relevant Designated Representative to the extent required by the applicable Senior Debt Documents.

**SECTION 9.** On the date this Supplement has become effective pursuant to SECTION 3 above, the New First Lien Hedge Counterparties (i) declares its accession as a party to the Austrian law Senior Collateral Documents providing for pledges of assets thereunder (the "**Austrian Law Pledge Agreements**") if it is not already a party to the Austrian Law Pledge Agreements; (ii) expressly confirms that it has received a copy of all Austrian Law Pledge Agreements and is aware of its contents; and (iii) hereby expressly consents to any existent declarations of the First Lien Collateral Agent on its behalf under the Austrian Law Pledge Agreements.

IN WITNESS WHEREOF, the New [First Lien Hedge Counterparties/Investors], and the Relevant Designated Representative have duly executed this Supplement to the Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW [FIRST LIEN HEDGE COUNTERPARTIES/INVESTORS]]

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged by:

[ING BANK N.V., LONDON BRANCH], as  
Designated Senior Representative

By: \_\_\_\_\_

Name:

Title:

[•], as Designated Second Priority Representative

By: \_\_\_\_\_

Name:

Title:

## ANNEX VI

SUPPLEMENT NO [ ], dated as of [ ], 20[ ] to the INTERCREDITOR AGREEMENT, dated as of [●], 20[●] (as amended, supplemented or otherwise modified from time to time, the “Intercreditor Agreement”), among ING Bank N.V., London Branch, as Representative for the First Lien Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the “First Lien Collateral Agent”), each Second Priority Representative and Senior Representative from time to time party thereto, the First Lien Hedge Counterparties from time to time party thereto, and acknowledged and agreed to by Allnex (Luxembourg) & Cy S.C.A. (f/k/a AI Chem & Cy S.C.A.) (“Holdings”), Allnex S.à r.l. (the “Lux Borrower”), Allnex USA Inc. (the “US Borrower” and together with Lux Borrower, the “Initial Borrowers”), the other Grantors from time to time party thereto, the Investors from time to time party thereto and the Intra-Group Lenders from time to time party thereto.

A. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

B. The undersigned Subsidiary of the Lux Borrower (the “New Intra-Group Lender”) is executing this Supplement in accordance with, and to the extent required by, Section 16.0711 of the Intercreditor Agreement.

Accordingly, the Designated Senior Representative and the New Intra-Group Lender agree as follows:

SECTION 1. In accordance with Section 16.11 of the Intercreditor Agreement, the New Intra-Group Lender by its signature below becomes an Intra-Group Lender under the Intercreditor Agreement with the same force and effect as if originally named therein as an Intra-Group Lender, and the New Intra-Group Lender hereby agrees to all the terms and provisions of the Intercreditor Agreement applicable to it as an Intra-Group Lender thereunder. Each reference to an “Intra-Group Lender” in the Intercreditor Agreement shall be deemed to include the New Intra-Group Lender. The Intercreditor Agreement is hereby incorporated herein by reference.

SECTION 2. The New Intra-Group Lender represents and warrants to the Designated Senior Representative and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity.

SECTION 3. This Supplement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective when the Designated Senior Representative shall have received a counterpart of this Supplement that bears the signature of the New Intra-Group Lender. Delivery of an executed signature page to this Supplement by facsimile transmission or other electronic method shall be as effective as delivery of a manually signed counterpart of this Supplement.

**SECTION 4.** Except as expressly supplemented hereby, the Intercreditor Agreement shall remain in full force and effect.

**SECTION 5.** THIS SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

**SECTION 6.** In case any one or more of the provisions contained in this Supplement should be held invalid, illegal or unenforceable in any respect, no party hereto shall be required to comply with such provision for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein and in the Intercreditor Agreement shall not in any way be affected or impaired. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.||

**SECTION 7.** All communications and notices hereunder shall be in writing and given as provided in Section 16.17 of the Intercreditor Agreement. All communications and notices hereunder to the New Intra-Group Lender shall be given to it in care of Holdings as specified in the Intercreditor Agreement.

**SECTION 8.** Holdings agrees to reimburse the Designated Senior Representative for its reasonable out-of-pocket expenses in connection with this Supplement, including the reasonable fees, other charges and disbursements of counsel for the Designated Senior Representative to the extent required by the applicable Senior Debt Documents.

IN WITNESS WHEREOF, the New Intra-Group Lender, and the Designated Senior Representative have duly executed this Supplement to the Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW INTRA-GROUP LENDER]

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged by:

[ING BANK N.V., LONDON BRANCH], as Designated Senior Representative

By: \_\_\_\_\_  
Name:  
Title:

[[•]], as Designated Second Priority Representative

By: \_\_\_\_\_  
Name:  
Title: ]

AGREED EBITDA

[Attached.]

**Allnex — Quarterly Financials LTM Q2 2016****Adjusted EBITDA €**

	<b>Q3 15</b>	<b>Q4 15</b>	<b>Q1 16</b>	<b>Q2 16</b>	<b>LTM June 16</b>
Allnex <sup>1</sup>	49.4	45.1	58.9	63.1	216.6
Nuplex <sup>2</sup>	20.3	22.5	27.8	29.4	100.0
<b>Adj. EBITDA</b>	<b>69.7</b>	<b>67.6</b>	<b>86.7</b>	<b>92.5</b>	<b>316.5</b>
Synergies <sup>3</sup>					38.8
<b>Adj. PF EBITDA</b>					<b>355.3</b>

**Assumptions:**

- 1: Allnex: Based on monthly adjusted US\$ EBITDA converted at monthly average exchange rate
- 2: Nuplex Q315 - Q1 16: Based on quarterly adjusted NZD EBITDA (as per E&Y DD Diligence report)  
Nuplex Q2 16: Implied EBITDA based on Annual NZD reported EBITDA of NZD 159.9m
- 3: Synergies as per Olympus Due Diligence

**Source:** Management Reporting