

**AMENDMENT AND RESTATEMENT AGREEMENT**

**Dated** 26 July **2023**

**between**

**GLOBAL AUTO HOLDINGS LIMITED**

**as Borrower**

**and**

**IMPERO JERSEY CORP LTD**

**as Guarantor**

**arranged by**

**BMO CAPITAL MARKETS**

**DESJARDINS CAPITAL MARKETS**

**NATIONAL BANK FINANCIAL MARKETS**

**as Arrangers**

**with**

**BMO CAPITAL MARKETS**

**acting as Interim Facility Agent**

**and**

**BMO CAPITAL MARKETS**

**acting as Interim Security Agent**

**relating to an interim facility agreement originally dated 20 June 2023 between, among others  
Global Auto Holdings Limited as Borrower and BMO Capital Markets as Interim Facility  
Agent and Interim Security Agent, as acceded to by Impero Jersey Corp Ltd pursuant to a deed  
of accession dated 28 June 2023**

**Skadden, Arps, Slate, Meagher & Flom (UK) LLP  
22 Bishopsgate  
London EC2N 4BQ**

## Table of Contents

1.	DEFINITIONS AND INTERPRETATION .....	1
2.	AMENDMENT OF THE INTERIM FACILITY AGREEMENT .....	1
3.	EFFECTIVE DATE.....	2
4.	REPRESENTATIONS AND WARRANTIES.....	2
5.	INCORPORATION .....	2
6.	CONFIRMATION OF SECURITY AND GUARANTEES .....	2
7.	COUNTERPARTS .....	3
8.	GOVERNING LAW.....	3
9.	JURISDICTION .....	3
	SCHEDULE 1 CONDITIONS PRECEDENT .....	6
	SCHEDULE 2 AMENDED INTERIM FACILITY AGREEMENT .....	7

**THIS AGREEMENT** is dated 26 July 2023 and made between:

- (1) **BMO CAPITAL MARKETS, DESJARDINS CAPITAL MARKETS** and **NATIONAL BANK FINANCIAL MARKETS** as mandated lead arrangers (the **Arrangers**);
- (2) **BANK OF MONTREAL, LONDON BRANCH, FÉDÉRATION DES CAISSES DESJARDINS DU QUÉBEC** and **NATIONAL BANK OF CANADA** as lenders (the **Original Interim Lenders**);
- (3) **BMO CAPITAL MARKETS** as facility agent for the other Interim Finance Parties (the **Interim Facility Agent**);
- (4) **BMO CAPITAL MARKETS** as security agent for the other Interim Finance Parties (the **Interim Security Agent**);
- (5) **GLOBAL AUTO HOLDINGS LIMITED**, a company incorporated under the laws of England and Wales with registered number 14556684 (the **Company**); and
- (6) **IMPERO JERSEY CORP LTD**, Impero Jersey Corp Ltd, a company incorporated under the laws of Jersey with registered number 146882 (**Holdco**).

## **BACKGROUND**

This Agreement is supplemental to and amends the interim facility agreement originally dated 20 June 2023 (as amended) between, amongst others, the Company, the Interim Facility Agent and the Interim Security Agent (the **Interim Facility Agreement**).

**IT IS AGREED** as follows:

### **1. DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

**Amended Interim Facility Agreement** means the Interim Facility Agreement as amended by Clause 2 of this Agreement so that it reads as if it were restated in the form set out in Schedule 2 (*Amended Interim Facility Agreement*).

**Effective Date** means the date upon which the Interim Facility Agent notifies the Company that it has received all of the documents and evidence set out in Schedule 1 (*Conditions Precedent*) in form and substance satisfactory to it (on the instructions of the Interim Lenders, acting reasonably) or the receipt of such documents and evidence has been waived by the Interim Lenders.

#### **1.2 Incorporation of terms**

In this Agreement capitalised terms defined in the Amended Interim Facility Agreement have, unless expressly defined in this Agreement, the same meaning in this Agreement.

#### **1.3 Construction**

The provisions of Clauses 22 (*Notices*), Clauses 31 (*Third Party Rights*), sub-clause 1.2 (*Other References*) of Clause 1 (*Interpretation*) and sub-clause 15.9 (*Guarantee Limitations*) of Clause 15 (*Guarantee and Indemnity*) of the Amended Interim Facility Agreement apply to this Agreement as though they were set out in full in this Agreement except that references to the Amended Interim Facility Agreement are to be construed as references to this Agreement.

### **2. AMENDMENT OF THE INTERIM FACILITY AGREEMENT**

With effect from the Effective Date, the Interim Facility Agreement will be amended so that it reads as if it were restated in the form set out in Schedule 2 (*Amended Interim Facility Agreement*).

### **3. EFFECTIVE DATE**

The Agent will notify the Company once it has received all of the documents and evidence set out in Schedule 1 (*Conditions Precedent*) in form and substance satisfactory to it (acting on the instruction of the Interim Lenders, acting reasonably) or the receipt of such documents and evidence has been waived by the Interim Lenders.

### **4. REPRESENTATIONS AND WARRANTIES**

The Major Representations under and as defined in the Interim Facility Agreement are deemed to be made by each Obligor on the date of this Agreement (by reference to the facts and circumstances then existing) and references to “this Agreement” in such representations should be construed as references to this Agreement and the Amended Interim Facility Agreement.

### **5. INCORPORATION**

- (a) The Company and the Interim Facility Agent designate this Agreement an Interim Document for the purposes of the Interim Facility Agreement and the Amended Interim Facility Agreement.
- (b) The Interim Facility Agreement and this Agreement will, from the Effective Date, be read and construed as one document.
- (c) Except as otherwise provided in this Agreement, the Interim Documents remain in full force and effect.

### **6. CONFIRMATION OF SECURITY AND GUARANTEES**

#### **6.1 Confirmation of guarantees**

Subject to the limitations under the Amended Interim Facility Agreement and under the Security Agreement, each Obligor acknowledges the terms of this Agreement and confirms for the benefit of the Finance Parties that:

- (a) the guarantees and indemnities set out in Clause 15 (*Guarantee and Indemnity*) of the Amended Interim Facility Agreement shall:
  - (i) continue in full force and effect;
  - (ii) apply in respect of all of the obligations and liabilities of that Obligor under the Interim Documents; and
  - (iii) extend to all new obligations of such Obligor under the Interim Documents, including those arising under or in connection with the Amended Interim Facility Agreement and this Agreement and from the increase to the Interim Facility contemplated by the Amended Interim Facility Agreement and this Agreement; and
- (b) the liabilities and obligations arising under the Amended Interim Facility Agreement, this Agreement and the other Interim Documents shall form part of (but do not limit) the “Secured Obligations” as defined in the Interim Security Agreement.

#### **6.2 Confirmation of Security**

- (a) Subject to the limitations under the Amended Interim Facility Agreement and under the Interim Security Agreement, each Obligor confirms for the benefit of the Interim Security Agent and the Interim Finance Parties that the Interim Security granted by such Obligor and all Interim Security created by or purported to be created by such Obligor, pursuant to the Interim Security Agreement shall (in accordance with the terms) be intended to:
  - (i) continue in full force and effect;

- (ii) apply in respect of all of the obligations and liabilities under the Interim Documents;
- (iii) extend to include all liabilities and obligations under and in respect of the increase to the Interim Facility contemplated by the Amended Interim Facility Agreement; and
- (iv) secure all of the “Secured Obligations” as defined in the Interim Security Agreement.

### **6.3 Continuing obligations**

The provisions of the Interim Facility Agreement (as amended by this Agreement) and the other Interim Documents (including, without limitation, the guarantee and indemnity of each Obligor and each of the Interim Security Documents) shall continue in full force and effect.

### **6.4 No waiver**

No waiver is given by entering into this Agreement or the transactions contemplated by this Agreement, and the Interim Finance Parties expressly reserve all of their rights and remedies in respect of any breach of, or Major Event of Default under, the Interim Documents.

## **7. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement. Delivery of a counterpart of this Agreement by email attachment or telecopy shall be an effective mode of delivery.

## **8. GOVERNING LAW**

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

## **9. JURISDICTION**

### **9.1 Submission to Jurisdiction**

- (a) For the benefit of each Interim Finance Party, each Obligor agrees that the courts of England have jurisdiction to hear, decide and settle any dispute or proceedings arising out of or relating to any Interim Document (including as to existence, validity or termination) (each a *Dispute*) and for the purpose of enforcement or any judgment against assets and each Obligor irrevocably submits to the jurisdiction of the English courts.
- (b) Nothing in paragraph (a) above limits or prevents any Interim Finance Party from taking proceedings against an Obligor in any other court nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by applicable law.

### **9.2 Forum Convenience**

Each Obligor:

- (a) agrees that the courts of England are the most appropriate and convenient courts to settle any Dispute and waives any objection to the courts of England on grounds of inconvenient forum or otherwise; and
- (b) agrees that a judgment or order of an English court in connection with a Dispute is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

### **9.3 Service of Process**

Without prejudice to any other mode of service permitted by law, the Guarantor:

- (a) irrevocably appoints the Company as its agent for service of process in connection with any Dispute before the English courts;
- (b) agrees that service of any claim, form, notice or other document for the purpose of any proceedings shall be duly served upon it if delivered or sent by registered post to 27 Old Gloucester Street, London, United Kingdom, WC1N 3AX or such other address in England or Wales as Holdco may notify from time to time to the Interim Facility Agent by not less than five Business Days' notice; and
- (c) agrees that failure by such agent to notify Holdco of such proceedings or claim, form, notice or other document will not invalidate the proceedings or service of such claim, form, notice or other document.

Holdco may irrevocably appoint another person incorporated in England or Wales as its agent for service of process provided that the details of such company are notified to the Interim Facility Agent following such appointment (at which time Holdco shall be permitted to terminate the appointment of the existing agent).

### **9.4 Specific Performance**

Each Interim Finance Party acknowledges and agrees that:

- (a) each Obligor may be irreparably harmed by a breach of any term of the Interim Documents and damages may not be an adequate remedy; and
- (b) each Obligor may be granted an injunction or specific performance for any threatened or actual breach of any term of the Interim Documents.

**THIS AGREEMENT** has been signed under hand by the parties, and shall be delivered and take effect on the date stated above.

**SCHEDULE 1**  
**CONDITIONS PRECEDENT**

1. Legal opinions:
  - (a) A legal opinion of Paul Hastings LLP, counsel to the Interim Finance Parties as to English law, in relation to the enforceability of the Interim Documents and the due authorisation and capacity of the Company to enter into this Agreement, to be in substantially the form distributed to the Arrangers prior to the date of this Agreement; and
  - (b) A legal opinion of Carey Olsen Jersey LLP, counsel to the Interim Finance Parties as to Jersey law, in relation to the due authorisations and capacity of Holdco to enter into this Agreement, to be in substantially the form distributed to the Arrangers prior to the date of this Agreement;
2. Certificates:
  - (a) A certificate of an authorised signatory of the Company (to be in substantially in the same form as the certificate dated 20 June 2023 provided to the agent in connection with the Interim Facility Agreement) certifying on behalf of the Company that utilisation of, securing and guaranteeing by the Company of the Interim Facility would not breach any borrowing, guarantee or similar limit binding on it (as applicable).
  - (b) A certificate of an authorised signatory of Holdco (to be in substantially in the same form as the certificate dated 28 June 2023 provided to the agent in connection with the accession letter dated 28 June 2023, pursuant to which, the Holdco acceded to the Interim Facility Agreement) certifying on behalf of Holdco that the securing and guaranteeing by Holdco of the Interim Facility would not breach any borrowing, guarantee or similar limit binding on it (as applicable).



**SCHEDULE 2**  
**AMENDED INTERIM FACILITY AGREEMENT**

**INTERIM FACILITY AGREEMENT**

**Dated 20 June 2023 as amended and restated on 26 July 2023**

**for**

**GLOBAL AUTO HOLDINGS LIMITED**

**arranged by**

**BMO CAPITAL MARKETS**

**DESJARDINS CAPITAL MARKETS**

**NATIONAL BANK FINANCIAL MARKETS**

**as Arrangers**

**with**

**BMO CAPITAL MARKETS**

**acting as Interim Facility Agent**

**and**

**BMO CAPITAL MARKETS**

**acting as Interim Security Agent**

**USD 666,165,192 Interim Term Facility**

**Skadden, Arps, Slate, Meagher & Flom (UK) LLP  
22 Bishopsgate  
London EC2N 4BQ**

**THIS AGREEMENT** is dated 20 June 2023 and amended and restated on 26 July 2023 and made between:

- (1) **BMO CAPITAL MARKETS, DESJARDINS CAPITAL MARKETS and NATIONAL BANK FINANCIAL MARKETS** as mandated lead arrangers (the **Arrangers**);
- (2) **BANK OF MONTREAL, LONDON BRANCH, FÉDÉRATION DES CAISSES DESJARDINS DU QUÉBEC and NATIONAL BANK OF CANADA** as lenders (the **Original Interim Lenders**);
- (3) **BMO CAPITAL MARKETS** as facility agent for the other Interim Finance Parties (the **Interim Facility Agent**);
- (4) **BMO CAPITAL MARKETS** as security agent for the other Interim Finance Parties (the **Interim Security Agent**);
- (5) **GLOBAL AUTO HOLDINGS LIMITED**, a company incorporated under the laws of England and Wales with registered number 14556684 (the **Company**); and
- (6) **IMPERO JERSEY CORP LTD**, Impero Jersey Corp Ltd, a company incorporated under the laws of Jersey with registered number 146882 (**Holdco**).

IT IS AGREED as follows:

## **1. INTERPRETATION**

### **1.1 Definitions**

In this **Agreement**:

**Accession Letter** means a document substantially in the form set out in Schedule 7 (*Form of Accession Letter*), including the accession letter dated 28 June 2023, pursuant to which Holdco acceded to this Agreement.

**Acquisition** means the acquisition of the entire issued and to be issued share capital of the Target by the Company pursuant to a Scheme and/or Offer, if applicable, which includes a Squeeze-out or any other acquisition of Target Shares by the Company related to or in lieu of such acquisition.

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

**Agent** means the Interim Facility Agent and/or the Interim Security Agent, in each case as the context requires.

**Announcement** means the announcement made by or on behalf of the Company (either alone or jointly with the Target) announcing a firm intention to make an Offer or, as the case may be, implement a Scheme, in each case in accordance with Rule 2.7 of the City Code.

**Announcement Date** means the date on which the Announcement is made.

**Article 55 BRRD** means Article 55 of Directive 2014/59/EU establishing a framework for recovery and resolution of credit institutions and investment firms.

**Availability Period** means the period from and including the date of this Agreement to and including the last day of the Certain Funds Period.

**Bail-In Action** means the exercise of any Write-Down and Conversion Powers.

**Bail-In Legislation** means

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time; and
- (b) in relation to any state other than such an EEA Member Country or (to the extent that the United Kingdom is not such an EEA Member Country) the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-Down and Conversion Powers contained in that law or regulation.

**Bank Lender** means an Interim Lender that is beneficially entitled to interest payable to that Interim Lender in respect of an Interim Utilisation:

- (a) which is a bank (as defined for the purpose of section 879 of Income Tax Act 2007) making an advance under an Interim Document and is within the charge to UK corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payments apart from section 18A of Corporation Tax Act 2009; or
- (b) in respect of an advance made under an Interim Document by a person that was a bank (as defined for the purpose of section 879 of Income Tax Act 2007) at the time that that advance was made and within the charge to UK corporation tax as respects any payments of interest made in respect of that advance.

**Bank Levy** means any amount payable by any Interim Lender or any of its Affiliates on the basis of or in relation to its balance sheet or capital base or any part of it or its liabilities or minimum regulatory capital or any combination thereof pursuant to any law or regulation in the form existing at the date of this Agreement or (if applicable) as at the date that the relevant Interim Lender accedes as Interim Lender to this Agreement (including the UK bank levy as set out in the Finance Act 2011 and any tax in any jurisdiction levied on a similar basis or for a similar purpose or any financial activities taxes (or other taxes) of a kind contemplated in the European Commission consultation paper on financial sector taxation dated 22 February 2011).

**Blocking Law** means:

- (a) any provision of Council Regulation (EC) No 2271/1996 of 22 November 1996 (or any law or regulation implementing such Regulation in any member state of the European Union or the United Kingdom); or
- (b) any similar blocking or anti-boycott laws or regulations.

**Borrower** means the Company.

**Break Costs** means the amount (if any) by which:

- (a) the interest (excluding any Margin) which an Interim Lender should have received for the period from the date of receipt of all or any part of its participation in the relevant Interim Term Loan or Unpaid Sum to the last day or the current Interest Period in respect of that Interim Term Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest period,

exceeds,

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

**Business Day** means a day (other than a Saturday or Sunday) on which banks are open for general business in London, New York, Montreal, Quebec and Ontario.

**Capitalised Lease Obligations** means, with respect to any person, any rental obligation under any agreement (including any hire purchase payment agreement) which, under the applicable accounting principles in force prior to 1 January 2019, would be required to be treated as a finance lease or otherwise capitalised in the audited financial statements of that person, but only to the extent of that treatment.

**Central Bank Rate** means, (a) the short-term interest rate target set by the US Federal Open Market Committee as published by the Federal Reserve Bank of New York from time to time; or (b) if that target is not a single figure, the arithmetic mean of (i) the upper bound of the short-term interest rate target range set by the US Federal Open Market Committee and published by the Federal Reserve Bank of New York and (ii) the lower bound of that target range.

**Central Bank Rate Adjustment** means, in relation to the Central Bank Rate prevailing at close of business on any RFR Banking Day, the 20 per cent. trimmed arithmetic mean (calculated by the Interim Facility Agent) of the Central Bank Rate Spreads for the five most immediately preceding RFR Banking Days for which SOFR is available.

**Central Bank Rate Spread** means in relation to any RFR Banking Day, the difference (expressed as a percentage rate per annum, calculated by the Interim Facility Agent) of:

- (a) SOFR for that RFR Banking Day; and
- (b) the Central Bank Rate prevailing at close of business on that RFR Banking Day.

**Certain Funds Period** means the period from (and including) the date of this Agreement to (and including) 11:59 p.m., London time, on the earliest of:

- (a) if the Acquisition is being effected pursuant to a Scheme, the date on which the Scheme lapses (including, subject to exhausting any rights of appeal, if a relevant court refuses to sanction the Scheme), terminates or is withdrawn in accordance with its terms and the City Code (other than (i) where such lapse or withdrawal is as a result of the exercise of the Company's right to effect a switch from a Scheme to an Offer or (ii) within twenty (20) Business Days of such event, the Company notifies the Interim Facility Agent that a revised, amended or replacement Scheme or Offer is to be made);
- (b) if the Acquisition is being effected pursuant to an Offer, the date on which the Offer lapses, terminates or is withdrawn in accordance with its terms and the City Code (other than (i) where such lapse or withdrawal is as a result of the exercise of the Company's right to effect a switch from an Offer to a Scheme or (ii) within twenty (20) Business Days of such event, the Company notifies the Interim Facility Agent that a revised, amended or replacement Offer or Scheme is to be made;
- (c) if the first Announcement has not been released by such time, twenty (20) Business Days following the date of this Agreement;
- (d) the date on which the Interim Facility has been utilised in full or the Interim Commitments have been cancelled in full;
- (e) the date on which Target has become a wholly owned subsidiary of the Company and all of the consideration payable under the Acquisition in respect of the Target Shares or proposals made or to be made under the City Code in connection with the Acquisition, have in each case been paid in full including in respect of the acquisition of any Target Shares to be acquired after the First Utilisation Date (including pursuant to a Squeeze-out);
- (f) if the Acquisition is intended to be completed pursuant to a Scheme, the day falling 42 days following from (but excluding) 31 December 2023; and

- (g) if the Acquisition is intended to be completed pursuant to an Offer, the day falling 56 days following from (but excluding) 31 December 2023,

or, in each case, such later time as agreed by all Interim Lenders (each acting reasonably and in good faith) and provided that a switch from a Scheme to an Offer or from an Offer to a Scheme (or any amendments to the terms or conditions of a Scheme or Offer) shall not constitute a lapse, termination or withdrawal for the purposes of this definition.

**Change of Control Event** means any case where:

- (a) Equity Investors cease to directly or indirectly beneficially own more than 50 per cent. of the issued voting share capital of Holdco; or
- (b) Equity Investors cease to directly or indirectly have the right to determine the composition of a majority of the board of directors (or equivalent management body) of Holdco;
- (c) Holdco ceases to directly or indirectly own 100 per cent. of the issued share capital of the Company; or
- (d) following completion of the Acquisition (in accordance with paragraph (e) of the definition of Certain Funds Period), a sale by one or more members of the Group of all or substantially all of the business and assets of the Target Group (taken as a whole) to persons who are not members of the Group.

**City Code** means the UK City Code on Takeovers and Mergers as issued and administered by the Panel, as may be amended from time to time.

**Commitment Letter** means the commitment letter(s) dated on or about the date of this Agreement and delivered by, among others, the Arrangers to the Company (as amended from time to time).

**Compounding Methodology Supplement** means a document which:

- (a) is designated in writing by the Company and the Interim Facility Agent (acting on the Instructions of all Majority Interim Lenders, acting reasonably and promptly) as a Compounding Methodology Supplement;
- (b) specifies a calculation methodology for the Daily Non-Cumulative Compounded RFR Rate; and
- (c) has been made available to the Interim Facility Agent and each existing Lender.

**Contractual Offer Documents** means (i) each Announcement, (ii) the Offer Document, (iii) the form of acceptance; and (iv) any other documents published and sent by or on behalf of the Company to (among others) shareholders of the Target in connection with the Offer.

**Court** means the High Court of Justice of England and Wales.

**Court Meeting** means the meeting of the shareholders of the Target (and any adjournment thereof) to be convened by the Court in connection with the Scheme for the purpose of considering, and, if thought fit, approving the Scheme.

**Court Order** means the order of the High Court of Justice of England and Wales sanctioning the Scheme.

**Daily Non-Cumulative Compounded RFR Rate** means, in relation to any RFR Banking Day during an Interest Period for an Interim Term Loan, the percentage rate per annum determined by the Interim Facility Agent (or by any other Interim Finance Party which agrees to determine that rate in place of the Interim Facility Agent from time to time) in accordance with the methodology set out in Schedule 8 (Daily Non-Cumulative Compounded RFR Rate) or in any relevant Compounding Methodology Supplement.

**Daily Rate** means, for any RFR Banking Day

- (a) SOFR for that RFR Banking Day; or
- (b) if SOFR is not available for that RFR Banking Day, the percentage rate per annum which is the aggregate of:
  - (i) the Central Bank Rate for that RFR Banking Day;
  - (ii) the applicable Central Bank Rate Adjustment; or
- (c) if paragraph (b) above applies but the Central Bank Rate for that RFR Banking Day is not available, the percentage rate per annum which is the aggregate of:
  - (i) the most recent Central Bank Rate for a day which is no more than five RFR Banking Days before that RFR Banking Day; and
  - (ii) the applicable Central Bank Rate Adjustment,rounded, in either case, to four decimal places and if, in either case, that rate is less than zero, the Daily Rate shall be deemed to be zero.

**Debt Facilities** means the secured credit facilities, loans, bonds, notes and/or other financial instruments which the Arrangers (and/or certain of their Affiliates) have agreed to make available to the Company and others pursuant to the Commitment Letter (other than the Interim Facility).

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

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Interim Facility (or otherwise in order for the transactions contemplated by the Interim Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
  - (i) from performing its payment obligations under the Interim Documents; or
  - (ii) from communicating with other Parties in accordance with the terms of the Interim Documents,

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

**Domestic Lender** means an Interim Lender that is beneficially entitled to receive interest payable under this Agreement and is:

- (a) a company resident in the UK for UK tax purposes;
- (b) a partnership each member of which is:
  - (i) a company so resident in the UK; or
  - (ii) a company not so resident in the UK which carries on a trade in the UK through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of Corporation Tax Act 2009) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of Corporation Tax Act 2009; or

- (c) a company not so resident in the UK which carries on a trade in the UK through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of Corporation Tax Act 2009) of that company.

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

**Equity Investment** means:

- (a) any subscription for shares issued by, or other capital contributions made to, Holdco; and/or
- (b) any loans, notes, bonds or like instruments made to or issued by Holdco with no right to prepayment, repayment or acceleration or cash return payable whilst any amount remains outstanding under the Interim Facility.

**Equity Investors** means:

- (a) the Investors and Investor Affiliates; and
- (b) any other person approved by the Majority Interim Lenders (acting reasonably).

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

**Existing Interim Lender** has the meaning given to it in Clause 25.2 (*Transfers by Interim Lenders*).

**Facility Office** means the office or offices through which an Interim Lender will perform its obligations under this Agreement as notified to the Interim Facility Agent in writing on or before the date it becomes an Interim Lender (or, following that date, by not less than five Business Days' written notice).

**FATCA** means any Tax imposed under or required by:

- (a) Sections 1471 through 1474 of the US Internal Revenue Code of 1986 or any associated regulations or other official guidance;
- (b) any treaty, law, regulation or other official guidance enacted in any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of paragraph (a) above; or
- (c) any agreement pursuant to the implementation of paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

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

**Fee Letter** means the letter dated on or about the date of this Agreement from the Original Interim Lenders to the Company and countersigned by the Company specifying certain fees to be paid in connection with the Interim Facility.

**Financial Indebtedness** means, at any time without double counting, the outstanding principal or capital amount of any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or by a bill discounting or factoring credit facility or dematerialised equivalents thereof (other than to the extent the same is discounted or factored on a non-recourse basis);



- (c) any amount raised pursuant to any note purchase facility or the issue of bonds (other than any performance or advance payment bond), notes, debentures, loan stock or any similar instrument;
- (d) the amount of any Capitalised Lease Obligation;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) a deferred payment in respect of the acquisition cost of any asset where the deferred payment is arranged primarily as a method of raising finance and is treated as a borrowing in accordance with the applicable accounting principles and in circumstances where the deferred payment remains due more than 180 days after the expiry of the period customarily allowed by the relevant supplier for payment save where the payment deferral results from the delayed or non-satisfaction of contract terms by the supplier or from the contract terms establishing payment schedules tied to total or partial contract completion and/or to the results of operational testing procedures;
- (g) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument (each an “**instrument**”), in each case only to the extent issued by a bank or financial institution and provided that the underlying obligation in respect of which the instrument was issued would, under one or more of the other paragraphs of this definition, be treated as being Financial Indebtedness;
- (h) any shares which are expressed to be redeemable at the option of the owner (legal or beneficial) of such shares prior to the date six months after the Termination Date;
- (i) any amount raised under any other transaction (including any forward sale or purchase agreement) not of a type contemplated by the other paragraphs of this definition having the commercial effect of a borrowing and which is treated as such under the applicable accounting principles; and
- (j) the amount of any liability in respect of any guarantee or indemnity or similar assurance against financial loss for any of the items referred to in the preceding paragraphs of this definition,

but excluding for the avoidance of doubt all pension-related liabilities and so that, where the amount of Financial Indebtedness falls to be calculated or where the existence (or otherwise) of any Financial Indebtedness is to be established:

- (i) Financial Indebtedness owed by one member of the Group to another member of the Group shall not be taken into account; and
- (ii) no amount due or outstanding in respect of any Equity Investment shall be taken into account.

**First Utilisation Date** means the date of the first Interim Utilisation made under this Agreement.

**Fund** means a fund which is regularly engaged in, or established for the purpose of, making, purchasing or investing in loans, securities or other financial assets.

**General Meeting** means the general meeting of the shareholders of the Target (and any adjournment thereof) to be convened in connection with the Scheme for the purpose of considering, and, if thought fit, approving the shareholder resolutions necessary to implement the Acquisition.

**Group** means, (x) prior to completion of the Acquisition, the Borrower and Holdco, and (y) after the completion of the Acquisition, Holdco and its Subsidiaries from time to time.

**Group Company** means a member of the Group.

**Guarantor** means the company which becomes a Guarantor in accordance with Clause 25.2 (*Accession of Guarantors*).

**Holdco** means Impero Jersey Corp Ltd, a company incorporated under the laws of Jersey with registered number 146882.

**Holding Company** means, in relation to any person, any other body corporate or other entity of which it is a Subsidiary.

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

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;
- (e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (d) above and:
  - (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
  - (ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
- (f) has exercised in respect of it one or more of the stabilisation powers pursuant to Part 1 of the Banking Act 2009 and/or has instituted against it a bank insolvency proceeding pursuant to Part 2 of the Banking Act 2009 or a bank administration proceeding pursuant to Part 3 of the Banking Act 2009;
- (g) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (h) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (i) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;

- (j) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (i) above; or
- (k) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

**Interest Period** means, in relation to an Interim Term Loan, each period determined in accordance with Clause 8.2 (*Payment of Interest*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (*Interest on Overdue Amounts*).

**Interim Commitment** means, in relation to an Interim Lender, its Interim Term Commitment.

**Interim Documents** means each of this Agreement, the Fee Letter, the Security Documents, any Accession Letter, each Drawdown Request, any Compounding Methodology Supplement and any other document designated as such in writing by the Interim Facility Agent and the Guarantor or the Company.

**Interim Facility** means the Interim Term Facility.

**Interim Finance Parties** means the Interim Lenders, the Arrangers, the Interim Facility Agent, and the Interim Security Agent.

**Interim Lender** means:

- (a) any Original Interim Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with Clause 25 (*Change to Parties*),

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

**Interim Term Commitment** means:

- (c) in relation to an Original Interim Lender, the amount in USD set opposite its name under the heading “Commitment” in Schedule 1 (*The Original Interim Lenders*) and the amount of any other Commitment transferred or assigned to it or assumed by it under this Agreement; and
- (d) in relation to any other Interim Lender, the amount of any Interim Term Commitment transferred to it under this Agreement,

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

**Interim Term Facility** means the term credit facility made available under this Agreement as described Clause 2 (*The Interim Facility*).

**Interim Term Loan** means the principal amount of a borrowing under the Interim Term Facility or the principal amount outstanding of that borrowing at any time.

**Interim Utilisation** means an Interim Term Loan.

**Investors** means Kuldeep Billan.

**Investor Affiliates** means any entities owned or controlled (directly or indirectly) by the Investors or any of its Affiliates.

**Lookback Period** means five RFR Banking Days.

**Major Default** means an event or circumstance set out in Part III of Schedule 6 and further provided that, during the Certain Funds Period, a Major Default shall only occur in relation to

paragraph 1 of Part III of Schedule 6 (*Payment default*) in so far as it relates to payment of principal and/or interest owing under this Agreement and/or fees specified in the Fee Letter).

**Majority Interim Lenders** means:

- (a) prior to Successful Syndication (as defined in the Fee Letter), all the Interim Lenders; and
- (b) on and following Successful Syndication (as defined in the Fee Letter), Interim Lenders:
  - (i) whose participation or share in the outstanding Interim Utilisations and undrawn Interim Commitments aggregate more than 50 per cent. of the aggregate of the outstanding Interim Utilisations and undrawn Interim Commitments of all Interim Lenders; or
  - (ii) if the Total Interim Commitments have then been reduced to zero, whose Interim Commitments aggregated more than 50 per cent. of the Total Interim Commitments immediately before that reduction.

**Major Representation** means a representation set out in Part I of Schedule 6 (other than, during the Certain Funds Period, paragraph 3(iii) (*No conflict*)).

**Major Undertaking** means an undertaking set out in Part II of Schedule 6 (other than, during the Certain Funds Period, paragraph 7(vii) to (x) (*Conduct of Scheme and/or Offer*)).

**Margin** means in relation to any Interim Term Loan, 6.50% per annum.

**Material Adverse Effect** means any event or circumstance which, taking into account all relevant circumstances, has a material adverse effect on:

- (a) the business, assets or financial condition of the Group taken as a whole;
- (b) the ability of the Group taken as a whole to perform its payment obligations under the Interim Documents (taking into account the financial resources available from other Group Companies); or
- (c) subject to the Reservations and Perfection Requirements, the validity or enforceability of the Security Documents taken as a whole which is materially adverse to the interests of the Interim Lenders taken as a whole and, if capable of remedy, is not remedied within 20 Business Days of the Company becoming aware of the issue or being given written notice of the issue by the Interim Facility Agent.

**Minimum Acceptance Threshold** has the meaning given to it in the definition of Offer.

**New Interim Lender** has the meaning given to it in Clause 25.2 (*Transfers by Interim Lenders*).

**Obligors** means the Guarantor and the Company.

**Offer** means a takeover offer within the meaning of Section 974 of the Companies Act 2006 made or to be made by the Company to effect the Acquisition with a minimum acceptance condition (as such term is understood in the Code) of not less than 75 per cent in nominal value of the Target Shares and of the voting rights attached to those shares (the **Minimum Acceptance Threshold**) made or to be made by the Company pursuant to the terms of the Offer Document as such takeover offer may from time to time be amended, or revised to the extent permitted in accordance with this Agreement.

**Offer Document** means an offer document dispatched to shareholders of the Target setting out the terms and conditions of an Offer.

**Panel** means The Panel on Takeovers and Mergers.

**Party** means a party to this Agreement.

**Perfection Requirements** means the making or the procuring of registrations, filings, endorsements, notarisations, stampings and/or notifications of the Interim Documents (and/or the Security Interests created thereunder) necessary for the validity or enforceability thereof.

**Qualifying Interim Lender** means, an Interim Lender that is :

- (a) a Bank Lender;
- (b) a Domestic Lender; or
- (c) a Treaty Lender.

**Relevant Market** means the market for overnight cash borrowing collateralised by US Government securities, as applicable.

**Relevant Jurisdiction** means:

- (a) the jurisdiction of incorporation of the Borrower;
- (b) the jurisdiction of tax residency of the Borrower;
- (c) each jurisdiction in which the Borrower holds its assets (or, in the case of any intangible asset, the jurisdiction of the lex situs of that asset); and/or
- (d) the governing law of each Interim Document.

**Reservations** means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of the court, the principle of fairness and reasonableness, the limitation on enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting the rights of creditors and similar principles, rights, defences and limitations under the laws of any applicable jurisdiction;
- (b) the time barring of claims under any applicable limitation laws, the possibility that a court may strike out provisions of a contract as being invalid for reasons of oppression, undue influence or similar reasons, the possibility that an undertaking to assume liability for or to indemnify a person against non-payment of stamp duty may be void, defenses of acquiescence, set-off or counterclaim and similar principles, rights, defences and limitations under the laws of any applicable jurisdiction;
- (c) the principle that in certain circumstances Security Interests granted by way of fixed charge may be recharacterised as a floating charge or that Security Interests purported to be constituted as an assignment may be recharacterised as a charge;
- (d) 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;
- (e) the principle that a court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant;
- (f) the principle that the creation or purported creation of Security Interests over any contract or agreement which is subject to a prohibition on transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach of the contract or agreement over which Security Interests has purportedly been created;
- (g) the principle that a court may not give effect to any parallel debt provisions, covenants to pay the Interim Security Agent or other similar provisions;
- (h) similar principles, rights and defences under the laws of any Relevant Jurisdiction;

- (i) the principles of private and procedural laws of the Relevant Jurisdiction which affect the enforcement of a foreign court judgment; and
- (j) any other general principles, reservations or qualifications, in each case as to matters of law, as set out in any legal opinion delivered to or accepted by the Interim Facility Agent under any provision of or otherwise in connection with any Interim Document.

**Restricted Party** means a person: (a) that is listed on, or owned 50 per cent. or more or controlled by a person listed on, any Sanctions List, or a person acting on behalf or at the direction of such a person; or (b) located in or organised under the laws of a Sanctioned Country, or is owned 50 per cent. or more or controlled by, or acting on behalf or at the direction of a person located in or organised under the laws of a Sanctioned Country; or (c) otherwise the subject of Sanctions.

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

**RFR** means, in respect of an Interim Term Loan denominated in USD, the secured overnight financing rate (**SOFR**) administered by the Federal Reserve Bank of New York (or any other person which takes over the administration of that rate) published by the Federal Reserve Bank of New York (or any other person which takes over the publication of that rate).

**RFR Banking Day** means any day other than:

- (a) a Saturday or Sunday; and
- (b) a day on which the Securities Industry and Financial Markets Association (or any successor organisation) recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in US Government securities.

**RFR Rate** means, in relation to any RFR Banking Day during an Interest Period of a Interim Term Loan, the percentage rate per annum which is the Daily Non-Cumulative Compounded RFR Rate for that RFR Banking Day, subject to a minimum floor of zero per cent.

**Sanctioned Country** means a country or territory which is, or whose government is, at any time the subject or target of country-wide or territory-wide Sanctions (including, as at the date of this Agreement, Crimea/Sebastopol, Cuba, Iran, North Korea, Syria, the so-called Donetsk People's Republic, the so-called Luhansk People's Republic, and the non-controlled regions of the oblasts of Zaporidja and Kherson).

**Sanctions** means any economic, trade or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced from time to time by any of: (i) the United States of America; (ii) the Security Council of the United Nations; (iii) the European Union and any state of the European Union; or (iv) the United Kingdom; and with regard to (i) – (iv) above, the respective governments and official institutions or agencies of any of the foregoing which are duly appointed, empowered or authorised to enact, administer, implement and/or enforce Sanctions, including, without limitation, the Office of Foreign Assets Control of the US Department of Treasury (**OFAC**), the United States Department of State or the United States Department of Commerce, and His Majesty's Treasury (**HMT**) (together, the **Sanctions Authorities**).

**Sanctions List** means the "Specially Designated Nationals and Blocked Persons" list, the "Sectoral Sanctions Identifications List" and the "List of Foreign Sanctions Evaders" maintained by OFAC, the "Consolidated List of Financial Sanctions Targets" maintained by HMT, the consolidated list of persons, groups or entities subject to European Union sanctions administered by the European External Action Service, each as amended, supplemented or substituted from time to time, or any similar list maintained by, or public announcement of Sanctions designation made by, any of the Sanctions Authorities.

**Scheme** means a scheme of arrangement under Part 26 of the Companies Act 2006 between the Target and the holders of the Target Shares pursuant to which the Company will become the holder of such transferred Target Shares, subject to any modification, addition or condition approved or imposed by the Court.

**Scheme Circular** means a circular published and sent by the Target to holders of the Target Shares setting out the terms and conditions of a Scheme and convening the Court Meeting and the General Meeting.

**Scheme Documents** means (i) each Announcement, (ii) the Scheme Circular, (iii) the Court Order and (iv) any other documents published and sent by or on behalf of Target or the Company to (among others) shareholders of the Target in connection with the Scheme.

**Scheme Effective Date** means the date on which a copy of the Court Order is delivered to the Registrar of Companies in England and Wales.

**Security Accession Deed** means the deed of accession dated 28 June 2023 pursuant to which Holdco acceded to the Security Agreement as an Additional Chargor (as defined in the Security Agreement).

**Security Agreement** means the English law governed security agreement dated 20 June 2023 executed by the Company, granted in favour of the Interim Finance Parties (represented by the Interim Security Agent acting for and on their behalf) and in respect of the obligations of the Company under the Interim Documents, as acceded to by Holdco pursuant to the Security Accession Deed.

**Security Documents** means the Security Agreement and the Security Accession Deed.

**Security Interest** means any mortgage, charge (fixed or floating), pledge, lien, hypothecation, right of set-off, security trust, assignment, reservation of title or other security interest and any other agreement entered into for the purpose and having the commercial effect of conferring security.

**Squeeze-out** means an acquisition of the outstanding shares in the Target that the Company has not acquired pursuant to the procedures contained in sections 979 to 982 of the Companies Act 2006.

**Subsidiary** means in relation to a company or corporation a company or corporation:

- (a) which is controlled, directly or indirectly, by the first-mentioned company or corporation;
  - (b) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the first-mentioned company or corporation; or
  - (c) which is a Subsidiary of another Subsidiary of the first-mentioned company or corporation,
- and, for these purposes, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to determine the composition of a majority of its board of directors or equivalent body.

**Target** means Lookers PLC, including its successor after re-registration as a private company.

**Target Group** means the Target and its Subsidiaries for the time being.

**Target Shares** means the entire issued and to be issued share capital of the Target.

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

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

**Tax Deduction** means a deduction or withholding for or on account of Tax imposed by the UK from any payment under an Interim Document, other than a FATCA Deduction.

**Tax Structure Memorandum** means the financial and taxation due diligence report and tax letter prepared by MacIntyre Hudson LLP and supplied to the Arrangers on or before the date of this Agreement.

**Termination Date** has the meaning given to it in Clause 7 (*Repayment and Cancellation*).

**Total Interim Commitments** means at any time the aggregate of all the Interim Term Commitments, being USD 666,165,192 at the date of this Agreement.

**Transaction Documents** means the Interim Documents, the Scheme Documents and/or the Contractual Offer Documents (as applicable).

**Transfer Certificate** means a certificate substantially in the form set out in Schedule 3 to this Agreement (Form of Transfer Certificate) or in such other form as the Interim Facility Agent and Holdco may agree.

**Treaty** means a double taxation agreement.

**Treaty Lender** means an Interim Lender in respect of an Interim Utilisation which:

- (a) is treated as resident in a Treaty State for the purposes of the applicable Treaty;
- (b) does not carry on business in the UK through a permanent establishment with which that Interim Lender's participation in that Interim Utilisation is effectively connected; and
- (c) meets all other conditions in the applicable Treaty for full exemption from Tax imposed by the UK on interest, except that for this purpose it shall be assumed that any necessary procedural formalities are satisfied.

**Treaty State** means a jurisdiction having a Treaty with the UK which makes provision for full exemption from Tax imposed by the UK on interest.

**UK Bail-In Legislation** means (to the extent that the United Kingdom is not an EEA Member Country which has implemented, or implements, Article 55 BRRD) Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

**UK DTTP Filing** means an HMRC Form DTTP2 duly completed and filed by the relevant Obligor, which: (a) where it relates to a Treaty Lender that is an Interim Lender on the date of this Agreement, contains the scheme reference number and jurisdiction of tax residence opposite that Lender's name in Schedule 1, and is filed with HMRC within 20 Business Days after the date of this Agreement; or (b) where it relates to a Treaty Lender that becomes an Interim Lender after the date of this Agreement, contains the scheme reference number and jurisdiction of tax residence in the relevant Transfer Certificate, and is filed with HMRC within 20 Business Days after the date on which that Interim Lender becomes an Interim Lender under this Agreement.

**UK DTTP Scheme** has the meaning assigned to that term in Clause 10.1(d)(ii).

**UK Tax Confirmation** means a confirmation by an Interim Lender that the person beneficially entitled to interest payable to that Interim Lender in respect of an advance under an Interim Document is either: (a) a company resident in the UK for UK tax purposes; (b) a partnership each member of which is (A) a company resident in the UK or (B) a company not so resident in the UK which carries on a trade in the UK through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the Corporation Tax Act 2009) the whole of any share of interest payable in respect of that advance that falls to it



by reason of Part 17 of the Corporation Tax Act 2009; or (c) a company not so resident in the UK which carries on a trade in the UK through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (for the purposes of section 19 of the Corporation Tax Act 2009) of that company.

**Unpaid Sum** has the meaning given to it in Clause 8.3 (*Interest on Overdue Amounts*).

**USD, \$, and dollars** mean the lawful currency of the United States of America.

**Utilisation Date** means the date of or proposed date for the making of an Interim Term Loan.

**Utilisation Request** means a signed notice requesting an Interim Term Loan substantially in the form set out in Part I of Schedule 2 to this Agreement (*Form of Requests*).

**VAT** means:

- (a) value added tax imposed pursuant to the UK's Value Added Tax Act 1994;
- (b) any tax imposed in any member state of the European Union pursuant to EC Council Directive 2006/112 on the common system of value added tax and national legislation implementing that Directive or any predecessor to it or supplemental to that Directive; and
- (c) any other tax of a similar nature, whether imposed in a member of the European Union in substitution for, or levied in addition to, such tax referred to in paragraphs (a) or (b) above, or imposed elsewhere.

**Write-Down and Conversion Powers** means:

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

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

## 1.2 Other References

- (a) In this Agreement, unless a contrary intention appears, a reference to:
  - (i) an **agreement** includes any legally binding arrangement, contract, deed or instrument (in each case whether oral or written);
  - (ii) an **amendment** includes any amendment, supplement, variation, novation, modification, replacement or restatement (however fundamental) and **amend** and **amended** shall be construed accordingly;
  - (iii) **assets** includes properties, assets, businesses, undertakings, revenues and rights of every description and whether present or future, actual or contingent;
  - (iv) a **consent** includes an authorisation, permit, approval, consent, exemption, licence, order, filing, registration, recording, notarisation, permission or waiver;
  - (v) a **disposal** includes any sale, transfer, grant, lease, licence or other disposal, whether voluntary or involuntary and dispose will be construed accordingly;
  - (vi) a **guarantee** includes:
    - (A) an indemnity, counter-indemnity, guarantee or similar assurance against loss in respect of any indebtedness of any person; and
    - (B) any other obligation of any person, whether actual or contingent, to pay, purchase, provide funds (whether by the advance of money to, the purchase of or subscription for shares or other investments in any person, the purchase of assets or services, the making of payments under an agreement or otherwise) for the payment of, to indemnify against the consequences of default in the payment of, or otherwise be responsible for, any indebtedness of any other person,and **guaranteed** and **guarantor** shall be construed accordingly;
  - (vii) **including** means including without limitation and includes and included shall be construed accordingly;
  - (viii) **indebtedness** includes any obligation (whether incurred as principal, guarantor or surety and whether present or future, actual or contingent) for the payment or repayment of money;
  - (ix) a **month** means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (A) other than where sub-paragraph (B) applies:
  - (aa) (subject to sub-paragraph (cc) below) if any such period would otherwise end on a day which is not a Business Day, it shall end on the next Business Day in the same calendar month or, if there is none, on the preceding Business Day;
  - (bb) if there is no numerically corresponding day in the month in which that period is to end, that period shall end on the last Business Day in that later month; and
  - (cc) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end; and
- (B) in relation to an Interest Period for any Interim Term Loan (or any other period for the accrual of commission or fees), the provisions set out in paragraph (c) of Clause 12.5 (*Business Days*) shall apply.

and references to **months** shall be construed accordingly (provided that the above rules will only apply to the last month of any period);

- (x) to a Major Default being **continuing** means that such Major Default has occurred or arisen and has not been remedied or waived;
  - (xi) an Interim Lender's **participation** or **share** in an Interim Term Loan means the amount of such Interim Term Loan which such Interim Lender has made or is to make available and thereafter that part of the Interim Term Loan which is owed to such Interim Lender;
  - (xii) a **person** includes any individual, trust, firm, fund, company, corporation, partnership, joint venture, government, state or agency of a state or any undertaking or other association (whether or not having separate legal personality) or any two or more of the foregoing; and
  - (xiii) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law compliance with which is customary) of any governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.
- (b) In this Agreement, unless a contrary intention appears:
- (i) a reference to a Party includes a reference to that Party's successors and permitted assignees or permitted transferees but does not include that Party if it has ceased to be a party under this Agreement;
  - (ii) references to paragraphs, clauses, subclauses, schedules and appendices are references to, respectively, paragraphs, clauses and subclauses of and schedules and appendices to this Agreement and references to this Agreement include its schedules;
  - (iii) a reference to (or to any specified provision of) any agreement (including any of the Interim Documents) is to that agreement (or that provision) as amended or novated (however fundamentally) and includes any increase in, extension of or change to any facility made available under any such agreement;

- (iv) a reference to a statute, statutory instrument or provision of law is to that statute, statutory instrument or provision of law, as it may be applied, amended or re-enacted from time to time;
  - (v) a reference to a time of day is to London (England) time;
  - (vi) the headings in this Agreement are for convenience only and are to be ignored in construing this Agreement; and
  - (vii) words imparting the singular include the plural and vice versa.
- (c) Notwithstanding any other term of the Interim Documents, in this Agreement:
- (i) a reference to the assets of an Obligor shall exclude the assets of the Target Group and any other Group Company;
  - (ii) no matter or circumstance in respect of, or breach by, any member of the Target Group or any member of the Group which is not an Obligor shall relate to an Obligor or otherwise be deemed to constitute, or result in, a breach of any representation, warranty, undertaking or other term in the Interim Documents, a Material Adverse Effect or a Major Default;
  - (iii) a reference to a page or screen of an information service displaying a rate shall include:
    - (A) any replacement page of that information service which displays that rate; and
    - (B) the appropriate page of such other information service which displays that rate from time to time in place of that information service,
    - (C) and, if such page or service ceases to be available, shall include any other page or service displaying that rate specified by the Interim Facility Agent after consultation with the Company.
  - (iv) a reference in this Agreement to a Central Bank Rate shall include any successor rate to, or replacement rate for, that rate.
  - (v) A Compounding Methodology Supplement relating to a currency and the Daily Non-Cumulative Compounded RFR Rate overrides anything relating to that currency and rate in:
    - (A) Schedule 8 (*Daily Non-Cumulative Compounded RFR Rate*); or
    - (B) any earlier Compounding Methodology Supplement.

## 2. THE INTERIM FACILITY

Subject to the terms of this Agreement, the Interim Lenders make available to the Company an interim dollar term loan facility in an aggregate amount equal to the Total Interim Commitments.

## 3. CONDITIONS PRECEDENT TO THE INTERIM FACILITY

- (a) The obligation of each Interim Lender to participate in an Interim Utilisation is subject to the condition that on the date on which such Interim Utilisation is to be made:
  - (i) the Interim Facility Agent has received (or waived the requirement to receive) all of the documents and evidence set out in Schedule 5 (*Conditions Precedent*), in each case (unless specified otherwise in Schedule 5 (*Conditions Precedent*)) in form and substance satisfactory to the Interim Facility Agent (acting reasonably);

- (ii) the Utilisation Request for the first Interim Utilisation includes a confirmation from the Company that:
  - (A) in the case of an Offer, the Offer has become or has been declared unconditional in accordance with the requirements of the Code; or
  - (B) in the case of a Scheme, the Scheme Effective Date has occurred.
- (iii) the Major Representations to be made by Holdco and/or the Company are accurate in all material respects and will remain accurate in all material respects immediately after the making of that Interim Utilisation, in each case, excluding any provision that requires Holdco or the Company to procure compliance by another person (including any other member of the Group or any member of the Target Group); and
- (iv) no Major Default in respect of Holdco or the Company is continuing or would result from the making of that Interim Utilisation, in each case, excluding any provision that requires the Company to procure compliance by another person (including any other member of the Group or any member of the Target Group);
- (v) no Change of Control Event under paragraphs (a) to (c) inclusive of that definition has occurred.

The Interim Facility Agent shall promptly confirm in writing to the Company and the Interim Lenders the satisfaction of the relevant documents and other evidence referred to in this paragraph (a) as and when they are satisfied.

- (b) Notwithstanding any other term of this Agreement or any other Interim Document, during the period from the date of this Agreement to the Termination Date, no Interim Lender may
  - (i) refuse (or seek to refuse) to participate in or make available such Interim Utilisation provided that on the date when that Interim Utilisation is proposed to be made the conditions precedent referred to in paragraph (a) above are complied with;
  - (ii) cancel (or seek to cancel) an Interim Term Commitment (whether in whole or part);
  - (iii) exercise (or seek to exercise) any right of cancellation, rescission, set-off, counterclaim or similar or analogous claim, action, right or remedy which it may have in relation to this Agreement, the Interim Term Facility or any Interim Term Loan (or the proceeds thereof);
  - (iv) accelerate (or seek to accelerate) any Interim Term Loan or otherwise demand or require repayment or prepayment of any sum from Holdco or the Company or enforce (or instruct the Interim Security Agent to enforce) any Security Interest under any Interim Document to which Holdco or the Company are a party;
  - (v) take (or seek to take) any other action or step, or enforce or invoke (or seek to enforce or invoke) any other claim, right, security, benefit or remedy (including any which might be available as a matter of general law) if (in each case) to do so might (directly or indirectly) prevent, frustrate, restrict, condition and/or delay the making, or reduce the principal amount, of any Interim Utilisation; or

unless it has become unlawful in any applicable jurisdiction for such Interim Lender to fund or make the relevant Interim Utilisation or, as the case may be, continue to make available the relevant Interim Term Commitment, in each case as contemplated by this Agreement (however, for the avoidance of doubt, such unlawfulness shall not affect the obligation of any other Interim Lender to fund or make available any Interim Utilisation)

and provided that any funding shortfall created as a result of the illegality or unlawfulness referred to in this paragraph (b) is not met by the funding provided by one or more new or existing Interim Lenders as a result of all or part of the Interim Commitments corresponding to that Interim Utilisation being transferred or assigned to such new or existing Interim Lenders.

#### **4. PURPOSE**

- (a) The Company shall apply the proceeds of the Interim Term Loans in or towards (directly or indirectly):
  - (i) financing or refinancing any amount payable under or in connection with the Acquisition;
  - (ii) refinancing (including by way of one or more intercompany loans) or otherwise discharging any indebtedness of the Target Group (together with payment of any breakage costs, redemption premium and other costs, fees and expenses incurred or payable in connection with such refinancing or discharge); and
  - (iii) financing the payment of costs, fees and expenses incurred in connection with the Acquisition and the Transaction Documents.
- (b) The Company shall be entitled to advance any amount drawn by it under the Interim Facility to a member of the Group in order that such amounts may be applied in or towards (directly or indirectly) any of the purposes specified in paragraph (a) above.

#### **5. NATURE OF AN INTERIM FINANCE PARTY'S RIGHTS AND OBLIGATIONS**

- (a) Each Interim Lender will participate in an Interim Term Loan in the proportion which its Interim Term Commitment bears to the Total Interim Commitments immediately before the making of that Interim Term Loan.
- (b) No Interim Lender nor the Interim Facility Agent is bound to monitor or verify any utilisation of the Interim Facility nor be responsible for the consequences of such utilisation.
- (c) Unless all the Interim Finance Parties and the Company agree otherwise:
  - (i) the obligations of each Interim Finance Party under the Interim Documents are several;
  - (ii) failure by an Interim Finance Party to perform its obligations does not affect the obligations of any other Interim Finance Party under the Interim Documents;
  - (iii) no Interim Finance Party is responsible for the obligations of any other Interim Finance Party under the Interim Documents;
  - (iv) the rights of each Interim Finance Party under the Interim Documents are separate and independent rights;
  - (v) an Interim Finance Party may, except as otherwise stated in the Interim Documents, separately enforce its rights under the Interim Documents; and
  - (vi) any debt arising under the Interim Documents to an Interim Finance Party from an Obligor shall be a separate and independent debt.
- (d) Each Interim Lender will promptly notify the Company if it becomes aware of any matter or circumstance which would entitle it not to advance or participate in any Interim Utilisation.

## 6. UTILISATION

### 6.1 Giving of Utilisation Requests

- (a) The Company may borrow an Interim Term Loan by delivery to the Interim Facility Agent of a duly completed Utilisation Request.
- (b) Each Utilisation Request is, once given, irrevocable.
- (c) Unless otherwise agreed by the Interim Facility Agent, the latest time for receipt by the Interim Facility Agent of a duly completed Utilisation Request is 11.00 a.m. three Business Days before the proposed Utilisation Date.
- (d) The Company may not deliver a Utilisation Request if as a result of the proposed Interim Utilisation more than 5 Interim Term Loans would be outstanding.

### 6.2 Completion of Utilisation Requests

A Utilisation Request for an Interim Term Loan will not be regarded as having been duly completed unless:

- (a) the proposed Utilisation Date is a Business Day falling within the relevant Availability Period applicable to that Interim Facility;
- (b) the amount of the Interim Term Loan requested does not exceed the Total Interim Commitments (when aggregated with the amount of each other Interim Term Loan made or due to be made on or before the proposed Utilisation Date);
- (c) the currency of the Interim Term Loan requested is in USD.

### 6.3 Advance of an Interim Term Loan

- (a) The Interim Facility Agent must promptly notify each Interim Lender of the details of a requested Interim Term Loan and the amount of its share in that Interim Term Loan.
- (b) The amount of each Interim Lender's share of an Interim Term Loan will be equal to its pro rata share of the Interim Term Loan on the proposed Utilisation Date calculated in accordance with paragraph (a) of Clause 5 (*Nature of an Interim Finance Party's Rights and Obligations*).
- (c) No Interim Lender is obliged to participate in an Interim Term Loan if as a result its share in the aggregate amount of Interim Term Loans would exceed its Interim Term Commitment.
- (d) If the applicable conditions set out in this Agreement have been met, each Interim Lender shall make its participation in each Interim Term Loan available to the Interim Facility Agent for the account of the relevant Borrower by the Utilisation Date through its Facility Office.

## 7. REPAYMENT AND CANCELLATION

- (a) The Company shall repay all outstanding Interim Term Loans and other amounts owing by it under the Interim Documents and the Interim Facility shall be cancelled in full and the Interim Commitments reduced to zero, in each case on the date (the **Termination Date**) which is the earlier of:
  - (i) the date falling 90 days after the First Utilisation Date;
  - (ii) the date of receipt by the Company of a written demand from the Interim Facility Agent (acting on the instructions of the Interim Lenders) following the occurrence of a Major Default in respect of Holdco or the Company which is continuing

(excluding any provision that requires Holdco or the Company to procure compliance by another person (including any other member of the Group or any member of the Target Group)) requiring prepayment and cancellation in full of the Interim Term Facility; and

- (iii) the date of receipt by the Company of the proceeds of the first utilisation made under the Debt Facilities (if applicable, free of any escrow or similar arrangements).
- (b) The Company may, if it gives the Interim Facility Agent not less than 5 Business Days' prior notice, cancel or prepay the whole or any part of the Interim Term Loan.
- (c) All Interim Utilisations shall be repaid together with accrued but unpaid interest.
- (d) No part of an Interim Facility which is repaid may be re-borrowed.
- (e) The Interim Commitments of each Interim Lender under each Interim Facility will be automatically cancelled at the close of business in London on the last day of the Availability Period for that Interim Facility to the extent undrawn at that date.
- (f) To the extent undrawn at that date, the Interim Facility shall be cancelled in full and the Interim Commitments reduced to zero at 11:59 p.m. London time on the last day of the Certain Funds Period.

## **8. INTEREST**

### **8.1 Calculation of Interest**

The rate of interest on each Interim Term Loan for its Interest Period is the percentage rate per annum equal to the aggregate of:

- (a) the Margin; and
- (b) the RFR Rate for that day.

If any day during an Interest Period of a Loan is not a RFR Banking Day, the rate of interest on that Loan for that day will be the rate of interest on that Loan for the immediately preceding RFR Banking Day.

### **8.2 Payment of Interest**

- (a) The Company shall pay accrued interest on each Interim Term Loan made to it on the last day of its Interest Period.
- (b) Each Interest Period for an Interim Term Loan shall be of one month duration (or any other duration as may be agreed by the Interim Facility Agent) as selected by the Company in the Utilisation Request for that Interim Term Loan or (if that Interim Term Loan has already been borrowed) by notice to the Interim Facility Agent no later than 11.00 a.m. three Business Days before the last day of the then current Interest Period.

### **8.3 Interest on Overdue Amounts**

If the Borrower fails to pay when due any amount payable by it under the Interim Documents (an **Unpaid Sum**), it must immediately on demand by the Interim Facility Agent pay interest on the Unpaid Sum from its due date up to the date of actual payment, both before and after judgment. Interest on an Unpaid Sum is payable at a rate determined by the Interim Facility Agent to be one per cent. per annum above the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted part of an Interim Term Loan in the currency of the Unpaid Sum. Interest (if unpaid) on an Unpaid Sum will be compounded with that Unpaid Sum on the last day of its Interest Period (each to be of a duration selected by the Interim Facility Agent acting



reasonably and having regard to the likely duration of the default) but will remain immediately due and payable.

#### **8.4 Interest Calculation**

- (a) Interest shall be paid in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued and shall accrue from day to day and be calculated on the basis of the actual number of days elapsed and a 360 day year.
- (b) If any day during an Interest Period of a Interim Term Loan is not a RFR Banking Day, the rate of interest on that Interim Term Loan for that day will be the rate of interest on that Loan for the immediately preceding RFR Banking Day.
- (c) The Interim Facility Agent shall promptly upon such total amount of interest being determinable, notify the relevant Interim Lenders and Borrower of the determination of the total amount of accrued interest that is, or is scheduled to become, payable under any Interim Document.
- (d) Paragraph (c) above shall not require the Interim Facility Agent to make any notification to any Party on a day which is not a Business Day.
- (e) Except as otherwise set out in the definition of "Daily Rate" and in Schedule 8, the aggregate amount of any accrued interest, commission or fee which is, or becomes, payable by an Obligor under an Interim Document shall be rounded to 2 decimal places.

#### **9. BREAK COSTS**

**9.1** The Company shall pay (or shall procure that a member of the Group pays) to each Interim Lender within ten Business Days of demand by such Interim Lender an amount equal to the amount of any Break Costs incurred by such Interim Lender and attributable to an Interim Term Loan or Unpaid Sum being paid by the Company other than on the last day of an Interest Period for that Interim Term Loan or Unpaid Sum.

**9.2** Each Interim Lender shall, as soon as reasonably practical, provide to the Company a certificate confirming the amount of any Break Costs together with reasonable detail of the calculation.

#### **10. TAXES**

##### **10.1 Gross-Up**

- (a) Each Obligor must make all payments to be made by it under the Interim Documents without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) If an Obligor or an Interim Lender becomes aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) it shall promptly notify the Interim Facility Agent. If the Interim Facility Agent receives such notification from an Interim Lender it shall promptly notify the relevant Obligor.
- (c) If an Obligor is required by law to make any Tax Deduction:
  - (i) except as provided in Clause 10.2 (*Exceptions from Gross-Up*) below, the amount of the payment due from that Obligor will be increased to an amount which (after taking into account any Tax Deduction) leaves an amount equal to the amount which would have been due if no Tax Deduction had been required; and
  - (ii) that Obligor will:
    - (A) make that Tax Deduction in the minimum amount required by law;

- (B) pay to the relevant Taxation authorities by the due date for such payment , that Tax Deduction and any payment required in connection with that Tax Deduction; and
- (C) within thirty days of making any Tax Deduction or any payment to the Tax authorities required in connection with that Tax Deduction, deliver to the Interim Facility Agent (for the Interim Finance Party entitled to the payment) a statement under section 975 of the Income Tax Act 2007, if applicable, or other evidence reasonably satisfactory to that Interim Finance Party (acting reasonably) that such Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant Tax authority.

(d)

- (i) Each Interim Lender (also on behalf of each sub-participant with which it has entered into a sub-participation or other risk sharing agreement) and each Obligor shall promptly co-operate by submitting such information, forms and documents and completing such other procedural formalities as may be necessary for that Obligor to obtain authorisation to make any payment without a Tax Deduction; and
- (ii) A Treaty Lender that holds a passport under the HMRC Double Taxation Treaty Passport Scheme (**UK DTTP Scheme**) and which wishes the UK DTTP Scheme to apply to this Agreement, shall confirm its scheme reference number and jurisdiction of tax residence in: (A) where the Treaty Lender is an Interim Lender on the date of this Agreement, Schedule 1 to this Agreement; or (B) where the Treaty Lender becomes an Interim Lender after the date of this Agreement, the relevant Transfer Certificate, and, having done so, that Treaty Lender shall be under no obligation pursuant to Clause 10.1(d)(iii)(B) (i) to cooperate with the Obligors save that, for the avoidance of doubt, that Treaty Lender may have an obligation to cooperate further with the either Obligor in the circumstances described in Clause 10.1(d)(iii)(B).
- (iii) If a Treaty Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with Clause 10.1(d)(ii)Schedule 1PART I10.1(d)(ii) and:
  - (A) the Obligor making a payment to that Treaty Lender has not made a UK DTTP Filing in respect of that Treaty Lender; or
  - (B) the Obligor making a payment to that Treaty Lender has made a UK DTTP Filing in respect of that Interim Lender but either (a) that UK DTTP Filing has been rejected by HMRC or (b) HMRC has not given the relevant Obligor authority to make payments to that Treaty Lender without a Tax Deduction within 30 Business Days of the date of the UK DTTP Filing, and

in each case, the relevant Obligor has notified that Treaty Lender in writing, that Treaty Lender and the relevant Obligor shall cooperate in completing any additional procedural formalities necessary for the relevant Obligor to obtain authorization to make that payment without a Tax Deduction.

- (iv) If an Interim Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with Clause Schedule 1PART

I10.1(d)(ii), neither Obligor shall make a UK DTTP Filing or file any other form relating to the UK DTTP Scheme in respect of that Interim Lender's participation under the Interim Documents unless the Interim Lender otherwise agrees.

- (v) Each Obligor shall, promptly after making a UK DTTP Filing, deliver a copy of the UK DTTP Filing to the Interim Facility Agent for delivery to the relevant Interim Lender.
- (vi) An Interim Lender that is an Interim Lender on the date of this Agreement that is a Qualifying Interim Lender solely by virtue of being a Domestic Lender gives a UK Tax Confirmation to the Obligors by entering into the Agreement. An Interim Lender that is a Domestic Lender shall promptly notify the Holdco and the Interim Facility Agent if there is any change in the position from that set out in the UK Tax Confirmation.
- (vii) Each Interim Lender shall indicate, for the benefit of the Interim Facility Agent and the Borrower, whether it is:
  - (A) not a Qualifying Interim Lender;
  - (B) a Qualifying Interim Lender (that is not a Treaty Lender); or
  - (C) a Treaty Lender,

in (x) where the Interim Lender is an Interim Lender on the date of this Agreement, Schedule 1 to this Agreement; or (y) where the Interim Lender becomes an Interim Lender after the date of this Agreement, the relevant Transfer Certificate. If an Interim Lender fails to indicate its status in accordance with this Clause Schedule 1PART I10.1(d)(vii) then such Interim Lender shall be treated for the purposes of this Agreement (including by the Obligors) as if it is not a Qualifying Interim Lender until such time as it notifies the Borrower and the Interim Facility Agent. For the avoidance of doubt, a Transfer Certificate shall not be invalidated by any failure of an Interim Lender to comply with this Clause Schedule 1PART I10.1(d)(vii). Any Interim Lender that ceases to be a Qualifying Interim Lender shall promptly notify the Interim Facility Agent and the Borrower.

- (viii) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (ix) Without limiting the generality of the foregoing, if a payment made to an Interim Finance Party under any Interim Document is subject to the reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the US Internal Revenue Code, as applicable) and any obligations or laws implemented in accordance with the OECD's "common reporting standard" (CRS), such Interim Finance Party shall deliver to the Obligors and the Interim Facility Agent at the time or times prescribed by law and at such time or times reasonably requested by the relevant Obligor or the Interim Facility Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the US Internal Revenue Code) and such additional documentation reasonably requested by that Obligor or the Interim Facility Agent as may be necessary for such Obligor and the Interim Facility Agent to comply with their obligations under FATCA or CRS and to determine that such Interim Finance Party has complied with its

obligations under FATCA or CRS or to determine the amount to deduct and withhold from such payment. If an Interim Finance Party becomes aware that it is not entitled to receive any payment made under the Interim Documents free from any deduction or withholding imposed under FATCA it shall promptly notify the Interim Facility Agent and the Company (together with the amount of any applicable deduction or withholding). Without prejudice to the foregoing, each Interim Finance Party shall promptly provide to the Interim Facility Agent and the Company (if requested by the Interim Facility Agent or the Company) (A) a written confirmation that so far as it is aware it is or, as the case may be, is not entitled to receive payments made under the Interim Documents free from any deduction or withholding imposed under FATCA and (B) such documents and other evidence as the Interim Facility Agent and/or the Company may reasonably require to (1) support any confirmation given pursuant to (A) and/or (2) as applicable, calculate the amount of any deduction or withholding to be made on account of FATCA on any payment made under the Interim Documents to that Interim Finance Party. This paragraph (ix) shall not oblige any Interim Finance Party to do anything which would or might in its reasonable opinion constitute a breach of any law or regulation, any fiduciary duty or any duty of confidentiality. If an Interim Finance Party fails to comply with its obligations under this paragraph (ii), until such time as that Interim Finance Party has complied with its obligations the Interim Facility Agent and each Obligor shall be entitled to treat such Interim Finance Party as not being entitled to receive all or any part of any payment made under the Interim Documents free from any deduction or withholding imposed under FATCA.

## **10.2 Exceptions from Gross-Up**

- (a) No Obligor is required to make any increased payment to an Interim Lender under Clause 10.1 (*Gross-Up*) if, on the date the payment falls due, that Interim Lender:
  - (i) is not or has ceased to be a Qualifying Interim Lender (unless that Interim Lender has ceased to be a Qualifying Interim Lender as a result of a change in any law or Treaty or any published practice or published concession of any relevant Tax authority, in each case after the date on which it became an Interim Lender under this Agreement); or
  - (ii) the relevant Obligor is able to demonstrate that the relevant payment could have been made to the Interim Lender without a Tax Deduction had that Lender complied with its obligations under sub-paragraphs (i), (ii) and/or (iii) of Clause 10.1(d) (*Gross-Up*);
  - (iii) the relevant Interim Lender is a Qualifying Interim Lender solely by virtue of being a Domestic Lender and an officer of HM Revenue & Customs has given (and not revoked) a direction under section 931 of Income Tax Act 2007 which relates to the payment (and the relevant Interim Lender has received a certified copy of such direction from any Obligor) and the payment could have been made to the Interim Lender without any Tax Deduction if such direction had not been made; or
  - (iv) the relevant Interim Lender is a Qualifying Interim Lender solely by virtue of being a Domestic Lender and the relevant Interim Lender has not given a UK Tax Confirmation to the Obligors and the payment could have been made to the Interim Lender without any Tax Deduction if the Interim Lender had given a UK Tax Confirmation to the Obligors, on the basis that the UK Tax Confirmation would have enabled the relevant Obligor to have formed a reasonable belief that the

payment was an "excepted payment" for the purpose of section 930 Income Tax Act 2007.

### **10.3 Tax Indemnity**

- (a) The Company shall (or shall procure that another member of the Group will), within five Business Days of demand by the Interim Facility Agent, pay to an Interim Finance Party an amount equal to the loss or liability which that Interim Finance Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Interim Finance Party in relation to a payment received or receivable from an Obligor under an Interim Document.
- (b) Paragraph (a) above shall not apply:
  - (i) to any Tax assessed on an Interim Finance Party under the law of the jurisdiction in which:
    - (A) that Interim Finance Party is incorporated or, if different, in which that Interim Finance Party is treated as resident for tax purposes; or
    - (B) that Interim Finance Party's Facility Office is located in respect of amounts received or receivable under the Interim Documents in that jurisdiction,if that Tax is imposed on or calculated by reference to the net income or gross receipts received or receivable (but not any sum deemed to be received or receivable such as a Tax Deduction) by that Interim Finance Party; or
  - (ii) to the extent a loss, liability or cost:
    - (A) is compensated for by an increased payment under Clause 10.1 (*Gross-Up*) or would have been so compensated but was not so compensated solely because one of the exclusions in Clause 10.2 (*Exceptions from Gross-Up*) applied; or
    - (B) is suffered or incurred in respect of any Bank Levy (or any payment attributable to, or liability arising as a consequence of, a Bank Levy); or
    - (C) is suffered or incurred in respect of FATCA (or any payment attributable to, or liability arising as a consequence of, FATCA).
- (c) An Interim Finance Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Company and the Interim Facility Agent of the event which has given, or will give, rise to the claim.
- (d) An Interim Finance Party shall, on receiving payment from a member of the Group under paragraph (a) above, notify the Interim Facility Agent.

### **10.4 Tax Credit**

If an Obligor pays an additional amount under Clause 10.1 (*Gross-Up*) or Clause 10.3 (*Tax Indemnity*) and the relevant Interim Finance Party determines (acting reasonably and in good faith) that it has obtained, utilised and retained a Tax Credit or other similar Tax benefit which is attributable to that payment or the Tax giving rise to that payment, that Interim Finance Party shall pay to that Obligor an amount which that Interim Finance Party determines (acting reasonably and in good faith) will leave such Interim Finance Party (after that payment by it) in the same after-Tax position as it would have been in if the payment of that additional amount by that Obligor had not been made.

## **10.5 Stamp Taxes**

The Company shall pay (or shall procure that another member of the Group pays) and, within five Business Days of demand, indemnify each Interim Finance Party against any cost, loss or liability which that Interim Finance Party incurs in relation to all stamp duty, registration or other similar Taxes payable in respect of any Interim Document other than any such Tax payable: (a) in respect of any Transfer Certificate or other document relating to the assignment or transfer by any Interim Lender of any of its rights and/or obligations under any Interim Document (save where such assignment or transfer is at the request of the Borrower or pursuant to Clause 11.2 (*Mitigation*)) or (b) upon a voluntary registration made by any Interim Finance Party if such registration is (i) not required by law or regulation or (ii) not necessary to evidence, prove, maintain, enforce, compel or otherwise assert the rights of such Interim Finance Party under an Interim Document.

## **10.6 Value Added Taxes**

- (a) All amounts expressed to be payable under an Interim Document by any Party to an Interim Finance Party shall (unless otherwise agreed) be deemed to be exclusive of any VAT. Subject to paragraph (b) below, if VAT is chargeable on any supply made by any Interim Finance Party to any Party in connection with an Interim Document that Party shall pay to the Interim Finance Party (in addition to and at the same time as paying the consideration for that supply) an amount equal to the amount of the VAT (in each case unless the paying Party is obliged by law to account directly to the tax authorities for such VAT under the reverse charge procedure provided for by Article 196 of the EC Council Directive 2006/112 and/or any relevant tax provisions of the jurisdiction in which the Party receives such supply, in which case the paying Party will pay the relevant amount of VAT to the relevant tax authorities). Any obligation of a Party to pay any amount in respect of VAT pursuant to this Clause 10.6 is subject to the relevant Interim Finance Party promptly providing an appropriate invoice to such Party.
- (b) Where an Interim Document requires any Party to reimburse an Interim Finance Party for any cost or expense, that Party shall reimburse such Interim Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that the Interim Finance Party reasonably determines that it or any other member of any group of which it is a member for VAT or other Tax purposes is entitled to credit for or repayment of the VAT.
- (c) Any reference in this Clause 10.6 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the group at such time.

## **10.7 Tax Affairs**

- (a) No provision of this Agreement will:
  - (i) interfere with the right of any Interim Finance Party to arrange its affairs (Tax or otherwise) in whatever manner it thinks fit;
  - (ii) oblige any Interim Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
  - (iii) oblige any Interim Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

## **11. CHANGE IN CIRCUMSTANCES**

### **11.1 Increased Costs**

- (a) Subject to paragraph (c) below, the Company shall (or shall procure that another member of the Group will), within five Business Days of demand by the Interim Facility Agent, pay for the account of an Interim Finance Party (a **Claiming Party**) the amount of any Increased Costs incurred by it or any of its Affiliates as a result of:
- (i) the introduction of, or a change in, or a change in the interpretation, administration or application of, any law or regulation; or
  - (ii) compliance with any law or regulation,
- in each case made after the date it became an Interim Finance Party under this Agreement.
- (b) A Claiming Party intending to make a claim pursuant to paragraph (a) above will notify the Company and the Interim Facility Agent of the circumstances giving rise to that Increased Cost as soon as reasonably practicable after becoming aware of it and will as soon as reasonably practicable provide a certificate confirming the amount and calculation of that Increased Cost.
- (c) No member of the Group will be obliged to compensate any Claiming Party under paragraph (a) above in relation to any Increased Cost:
- (i) compensated for under Clause 10 (*Taxes*) or which would have been so compensated but was not so compensated solely because the exclusions in Clause 10.2 (*Exceptions from Gross-Up*) or Clause 10.3 (*Tax Indemnity*) applied; or
  - (ii) attributable to the breach by the Claiming Party (or any Affiliate of it) of:
    - (A) any law or regulation; or
    - (B) the terms of any Interim Document; or
  - (iii) attributable to any penalty having been imposed by the relevant central bank or monetary or fiscal authority upon the Claiming Party (or any Affiliate of it) by virtue of its having exceeded any country or sector borrowing limits or breached any directives imposed upon it; or
  - (iv) attributable to the implementation or application of or compliance with the “International Convergence of Capital Measurement and Capital Standards, a Revised Framework” published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement (**Basel II**) or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Interim Finance Party or any of its Affiliates) but excluding any Increased Cost attributable to the implementation or application of or compliance with “Basel III: A global regulatory framework for more resilient banks and banking systems” and “Basel III: International framework for liquidity risk measurement, standards and monitoring” published by the Basel Committee on Banking Supervision in December 2010 in the form existing on the date of this Agreement (**Basel III**) or any other law or regulation which implements Basel III (in each case unless an Interim Finance Party was or reasonably should have been aware of that Increased Cost on the date on which it became an Interim Finance Party under this Agreement); or
  - (v) not notified to the Company in accordance with paragraph (b) above.
- (d) In this Agreement **Increased Cost** means:
- (i) an additional or increased cost;

- (ii) a reduction in any amount due, paid or payable under any Interim Document; or
- (iii) a reduction in the rate of return from an Interim Facility or on the Claiming Party's (or its Affiliate's) overall capital,

which is suffered or incurred by a Claiming Party or any of its Affiliates as a result of having entered into or performing its obligations under any Interim Document or making or maintaining its participation in any Interim Term Loan.

## **11.2 Mitigation**

- (a) If circumstances arise which would entitle an Interim Finance Party:
  - (i) to receive payment of an additional amount under Clause 10 (*Taxes*); or
  - (ii) to demand payment of any amount under Clause 11.1 (*Increased Costs*); or
  - (iii) to require cancellation or prepayment to it of any amount under Clause 11.3 (*Illegality*),

then that Interim Finance Party will, in consultation with the Company, take all reasonable steps to mitigate the effect of those circumstances (including but not limited to by transferring its rights and obligations under the Interim Documents to an Affiliate, changing its Facility Office or transferring its rights and obligations under the Interim Documents for cash at par plus all interests thereon accrued and unpaid to another bank, financial institution or other person nominated for such purpose by the Company).

- (b) No Interim Finance Party will be obliged to take any such steps under this Clause 11.2 if to do so is likely in its opinion (acting reasonably) to be unlawful or prejudicial to it in any material respect or breach its banking policies or require it to disclose any confidential information.
- (c) The Company shall (or shall procure that another member of the Group will), within five Business Days of demand by the relevant Interim Finance Party, indemnify such Interim Finance Party for any costs or expenses reasonably incurred by it as a result of taking any steps under this Clause 11.2.
- (d) This Clause does not in any way limit, reduce or qualify the obligations of any Obligor under the Interim Documents.

## **11.3 Illegality**

If at any time after an Interim Lender becomes a party to this Agreement it becomes unlawful in any applicable jurisdiction for it to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Interim Utilisation, then:

- (a) that Interim Lender shall promptly so notify the Interim Facility Agent and the Company; and
- (b) upon that Interim Lender so notifying the Interim Facility Agent and the Company, on such date as that Interim Lender shall have specified (being no earlier than the last Business Day allowed by the relevant law (taking into account any applicable grace period) unless otherwise agreed or required by the Company):
  - (i) the Interim Commitments of that Interim Lender will be immediately cancelled; and
  - (ii) the Company shall (or shall procure that another member of the Group will) repay that Interim Lender's participation in the Interim Utilisations (together with accrued interest thereon and all other amounts due to that Interim Lender),



provided that on or prior to such date the Company shall have the right to require that Interim Lender to transfer its Interim Commitments and participation in each Interim Utilisation to another bank, financial institution or other person nominated for such purpose by the Company which has agreed to purchase such rights and obligations at par plus accrued interest.

## **12. PAYMENTS**

### **12.1 Place**

- (a) Unless otherwise specified in an Interim Document, on each date on which payment is to be made by any Party (other than the Interim Facility Agent) under an Interim Document, such Party shall pay to the account specified by the Interim Facility Agent, in the relevant currency, the amount required to the Interim Facility Agent, for value on the due date at such time and in such funds as the Interim Facility Agent may specify to the Party concerned as being customary at that time for settlement of transactions in the relevant currency in the place of payment. All such payments shall be made to the account specified by the Interim Facility Agent for that purpose in the principal financial centre of the country of the relevant currency by not less than five Business Days' prior notice to the Party concerned.
- (b) Each payment received by the Interim Facility Agent under the Interim Documents for another Party shall, subject to paragraphs (c) and (d) below and to Clause 12.3 (*Assumed Receipt*), be made available by the Interim Facility Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of an Interim Lender, for the account of its Facility Office), to such account as that Party may notify to the Interim Facility Agent by not less than three Business Days' notice with a bank in the principal financial centre of the country of that currency.
- (c) The Interim Facility Agent may with the consent of the Company (or in accordance with Clause 21 (*Set-Off*)) apply any amount received by it for an Obligor in or towards payment (as soon as practicable after receipt) of any amount then due and payable by that Obligor under the Interim Documents or in or towards purchase of any amount of any currency to be so applied.
- (d) Each Agent may deduct from any amount received by it for another Party any amount due to such Agent from that other Party but unpaid and apply the amount deducted in payment of the unpaid debt owed to it.

### **12.2 Currency of Payment**

- (a) Subject to paragraphs (b) to (f) (inclusive) below, any amount payable by an Obligor under the Interim Documents shall be paid in USD.
- (b) A repayment or prepayment of an Interim Utilisation shall be made in the currency in which that Interim Utilisation is denominated on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when the interest accrued.
- (d) Each payment in respect of fees, costs and expenses shall be made in the currency in which they were incurred.
- (e) Each payment under Clause 10.1 (*Gross-Up*), Clause 10.3 (*Tax Indemnity*) and 11.1 (*Increased Costs*) shall be made in the currency specified by the Interim Finance Party making the claim (being the currency in which the Tax or losses were incurred).

- (f) Any amount expressed to be payable in a currency other than USD shall be paid in that other currency.

### **12.3 Assumed Receipt**

- (a) Where an amount is or is required to be paid to the Interim Facility Agent under any Interim Document for the account of another person (the **Payee**), the Interim Facility Agent is not obliged to pay that amount to the Payee until the Interim Facility Agent is satisfied that it has actually received that amount.
- (b) If the Interim Facility Agent nonetheless pays that amount to the Payee (which it may do at its discretion) and the Interim Facility Agent had not in fact received that amount, then:
  - (i) the Payee will on demand refund that amount to the Interim Facility Agent; and
  - (ii) the person whom should have made available that amount will on demand pay to the Interim Facility Agent interest on that amount at the rate determined by the Interim Facility Agent to be equal to the cost to the Interim Facility Agent of funding that amount for the period from payment by the Interim Facility Agent until refund to the Interim Facility Agent of that amount,

provided that no Obligor will have any obligation to refund any such amount received from the Interim Facility Agent and paid by it (or on its behalf) to any third party for a purpose set out in Clause 4 (*Purpose*).

### **12.4 No Set-off or Counterclaim**

All payments made or to be made by an Obligor under the Interim Documents shall be paid in full without set-off or counterclaim.

### **12.5 Business Days**

- (a) Any payment which is due to be made, or an Interest Period which would otherwise end, on a day which is not a Business Day shall be made or will end, as the case may be, on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any such extension of the due date for payment of any principal or Unpaid Sum, or any extension of an Interest Period, interest shall accrue and be payable at the rate payable on the original due date.
- (c) If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

### **12.6 Change in currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country:
  - (i) any reference in any Interim Document to, and any obligations arising under any Interim Document in, the currency of that country shall be translated into, and paid in, the currency or currency unit designated by the Interim Facility Agent; and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank of that country for the conversion of that currency or currency unit into the other, rounded up or down by the Interim Facility Agent.

- (b) If a change in any currency of a country occurs, the Interim Documents will, to the extent the Interim Facility Agent specifies is necessary, be amended to comply with any generally accepted conventions and market practice in any relevant interbank market and otherwise to reflect the change in currency. The Interim Facility Agent will notify the other Parties to the relevant Interim Documents of any such amendment, which shall be binding on all the Parties.

## **12.7 Application of Moneys**

- (a) If the Interim Facility Agent receives a payment that is insufficient to discharge all amounts then due and payable by an Obligor under any Interim Document, the Interim Facility Agent shall apply that payment towards the obligations of that Obligor under the Interim Documents in the following order:
  - (i) first, in payment *pro rata* of any fees, costs and expenses of the Agents and the Arrangers due but unpaid;
  - (ii) second, in payment *pro rata* of any fees, costs and expenses of the Interim Lenders and any accrued interest thereon due but unpaid;
  - (iii) third, in payment *pro rata* of any accrued interest or commission due but unpaid under the Interim Documents;
  - (iv) fourth, in payment *pro rata* of any principal due but unpaid under the Interim Documents; and
  - (v) fifth, in payment *pro rata* of any other amounts due but unpaid under the Interim Documents.
- (b) The Interim Facility Agent shall, if directed by all Interim Lenders, vary the order set out in sub-paragraphs (a)(ii) to (a)(v) inclusive above.
- (c) Any such application by the Interim Facility Agent will override any appropriation made by any Obligor.

## **13. INDEMNITIES**

### **13.1 General Indemnity**

The Company shall (or shall procure that another member of the Group will), within ten Business Days of demand (which demand must be accompanied by reasonable details and calculations of the amount demanded), indemnify each Interim Finance Party against any cost, loss or liability (excluding any loss of Margin) which that Interim Finance Party incurs as a result of:

- (a) the occurrence of any Major Default;
- (b) any failure by any Obligor to pay any amount due under an Interim Document on its due date, including any cost, loss or liability arising as a result of the operation of Clause 20 (*Pro Rata Payments*);
- (c) funding, or making arrangements to fund, its participation in an Interim Term Loan requested by an Obligor in a Utilisation Request but not made by reason of the operation of any one or more provisions of this Agreement (other than by reason of default or negligence of that Interim Finance Party);
- (d) [Reserved]; or
- (e) an Interim Term Loan (or part of an Interim Term Loan) not being prepaid in accordance with a notice of prepayment given by an Obligor under the Interim Documents.

### 13.2 Interim Facility Agent's Indemnity

The Company shall (or shall procure that another member of the Group will), within ten Business Days of demand (which demand must be accompanied by reasonable details and calculations of the amount demanded), indemnify the Interim Facility Agent against any reasonable third party cost, loss or liability incurred by the Interim Facility Agent (acting reasonably) as a result of:

- (a) investigating any event which it reasonably believes is a Major Default (provided that if after doing so it is established that such event is not a Major Default, the cost, loss or liability of investigation shall be for the account of the Interim Lenders); or
- (b) acting or relying on any notice, request or instruction from an Obligor which it reasonably believes to be genuine, correct and appropriately authorised.

### 13.3 Interim Security Agent's Indemnity

The Company shall (or shall procure that another member of the Group will), within ten Business Days of demand (which demand must be accompanied by reasonable details and calculations of the amount demanded), indemnify the Interim Security Agent against any reasonable third party cost, loss or liability incurred by the Interim Security Agent (acting reasonably) as a result of:

- (a) the taking, holding, protection or enforcement of the Security Interests created under the Security Documents;
- (b) the exercise of any of the rights, powers, discretions and remedies vested in the Interim Security Agent by the Interim Documents or by law; or
- (c) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Interim Documents.

The Interim Security Agent may, in priority to any payment to the other Interim Finance Parties, indemnify itself out of the assets the subject of the Security Documents in respect of, any pay and retain, all sums necessary to give effect to the indemnity in this Clause 13.3 and shall have a lien on the proceeds of the enforcement of any Security Interest created under the Security Documents for all monies payable to it.

### 13.4 Currency Indemnity

- (a) If:
  - (i) any amount payable by an Obligor under or in connection with any Interim Document is received by any Interim Finance Party (or by an Agent on behalf of any Interim Finance Party) in a currency (the **Payment Currency**) other than that agreed in the relevant Interim Document (the **Agreed Currency**), and the amount produced by such Interim Finance Party converting the Payment Currency so received into the Agreed Currency is less than or greater than the required amount of the Agreed Currency; or
  - (ii) any amount payable by an Obligor under or in connection with any Interim Document has to be converted from the Agreed Currency into another currency for the purpose of making, filing, obtaining or enforcing any claim, proof, order or judgment,

then that Obligor will, as an independent obligation, within ten Business Days of demand indemnify the relevant Interim Finance Party for any loss or liability incurred by it as a result of the conversion provided that if the amount produced or payable as a result of the conversion is greater than the relevant amount due that Interim Finance Party will promptly refund such excess amount to the relevant Obligor.

- (b) Any conversion required will be made by the relevant Interim Finance Party at the prevailing rate of exchange on the date and in the market determined by that Interim Finance Party, acting reasonably, as being most appropriate for the conversion. The relevant Obligor will also pay the reasonable costs of the conversion (within ten Business Days of demand).
- (c) Each Obligor waives any right it may have in any jurisdiction to pay any amount under any Interim Document in a currency other than that in which it is expressed to be payable in that Interim Document.

## **14. COSTS, EXPENSES AND FEES**

### **14.1 Transaction Expenses**

The Company shall (or shall procure that another member of the Group will), within ten Business Days of demand, reimburse the Interim Facility Agent, the Interim Security Agent and the Arrangers for all reasonable third party costs and expenses (including legal fees) properly incurred by any of them in connection with the negotiation, preparation, printing, execution, perfection and registration (in each case, to the extent applicable) of this Agreement and any other Interim Document, subject always to limits as agreed between the Company and the Arrangers from time to time (in the Fee Letter or otherwise).

### **14.2 Amendment Costs**

The Company shall (or shall procure that another member of the Group will), within ten Business Days of demand, reimburse the Interim Facility Agent and the Interim Security Agent for all reasonable third party costs and expenses (including legal fees) properly incurred by either of them in responding to, evaluating, negotiating or complying with any amendment, waiver or consent requested by any Obligor, subject always to limits as agreed between the Company and the Arrangers from time to time.

### **14.3 Enforcement Costs**

The Company shall (or shall procure that another member of the Group will), within ten Business Days of demand, reimburse each Interim Finance Party for all third party costs and expenses (including legal fees) properly incurred by such Interim Finance Party in connection with the preservation or enforcement of any such Interim Finance Party's rights under any Interim Document.

### **14.4 Costs and Expenses**

Notwithstanding anything to the contrary in any Interim Document:

- (a) no fees, costs or expenses shall be payable to any Interim Finance Party under any Interim Document if the First Utilisation Date does not occur (save, in the case of legal fees, as otherwise agreed prior to the date of this Agreement);
- (b) any demand for reimbursement of costs and expenses incurred by an Interim Finance Party must be accompanied by reasonable details of the amount demanded (including, at the request of the Company, hours worked, rates charged and individuals involved); and
- (c) if an Interim Lender assigns or transfers any of its rights, benefits or obligations under the Interim Documents no member of the Group shall be required to pay any fees, costs, expenses or other amounts relating to or arising in connection with that assignment or transfer (including, without limitation, any Taxes and any amounts relating to the perfection or amendment of the Security Documents).

## **15. GUARANTEE AND INDEMNITY**

The Guarantor irrevocably and unconditionally:

- (a) guarantees to each Interim Finance Party punctual performance by the Company of all its payment obligations under the Interim Documents;
- (b) undertakes with each Interim Finance Party that whenever the Company does not pay any amount when due under or in connection with any Interim Document, the Guarantor shall immediately on demand pay that amount as if it were the principal obligor; and
- (c) indemnifies each Interim Finance Party immediately on demand against any cost, loss or liability suffered by that Interim Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that Interim Finance Party would otherwise have been entitled to recover.

#### 15.2 **Continuing Guarantee**

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

#### 15.3 **Reinstatement**

If any payment by the Company or any discharge given by an Interim Finance Party (whether in respect of the obligations of the Company or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

- (a) the liability of the Company shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (b) each Interim Finance Party shall be entitled to recover the value or amount of that security or payment from the Company, as if the payment, discharge, avoidance or reduction had not occurred.

#### 15.4 **Waiver of Defences**

The obligations of the Guarantor under this Clause 15 will not be affected by any act, omission, matter or thing which, but for this Clause 15, would reduce, release or prejudice any of its obligations under this Clause 15 (without limitation and whether or not known to it or any Interim Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, the Company or any other person;
- (b) the release of the Company or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Company or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Company or any other person;
- (e) any amendment (however fundamental), novation, supplement, extension or replacement of an Interim Document or security provided by the Group pursuant thereto;

- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Interim Document or any other document or security; or
- (g) any insolvency or similar proceedings.

#### 15.5 **Immediate recourse**

The Guarantor waives any right it may have of first requiring any Interim Finance Party (or any Interim Security Agent or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Clause 15. This waiver applies irrespective of any law or any provision of an Interim Document to the contrary.

#### 15.6 **Appropriations**

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

- (a) refrain from enforcing any security or rights held or received by that Interim Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or enforce the same in such manner and order as it sees fit and the Guarantor shall not be entitled to the benefit of the same;
- (b) apply any monies received by it in respect of those amounts in such manner and order as it sees fit; and
- (c) in respect of any amounts received or recovered by any Interim Finance Party after a claim pursuant to this guarantee in respect of any sum due and payable by the Company under this Agreement place such amounts in a suspense account (bearing interest at a market rate usual for accounts of that type) unless and until such moneys are sufficient in aggregate to discharge in full all amounts then due and payable under the Interim Documents.

#### 15.7 **Deferral of Guarantor's rights**

Until all amounts which may be or become payable by the Company under or in connection with the Interim Documents have been irrevocably paid in full and unless the Interim Facility Agent otherwise directs, the Guarantor will not exercise any rights which it may have by reason of performance by it of its obligations under the Interim Documents:

- (a) to be indemnified by the Company; and/or
- (b) to claim any contribution from any other guarantor of the Company obligation under the Interim Documents; and/or
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Interim Finance Parties under the Interim Documents or of any other guarantee or security taken pursuant to, or in connection with, the Interim Documents by any Interim Finance Party.

#### 15.8 **Guarantor Intent**

Without prejudice to the generality of Clause 15.4 (*Waiver of Defences*) but subject to the limitations set forth in Clause 15.9 (*Guarantee limitation*), the Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Interim Documents and/or any facility or amount made available under any of the Interim Documents (including, without limitation, for the purposes of or in connection with any acquisition of any nature, increasing working capital, enabling investor distributions to be made, carrying out restructurings, refinancing existing facilities, refinancing any

other indebtedness, making facilities available to new borrowers, any other variation or extension of the purposes for which any such facility or amount might be made available from time to time and any fees, costs and/or expenses associated with any of the foregoing).

#### **15.9 Guarantee limitation**

*Financial Assistance:* This guarantee does not apply to any liability to the extent that it would result in this guarantee constituting unlawful financial assistance within the meaning of Section 677 of the Companies Act 2006 or any equivalent provision of any applicable law or otherwise being unlawful or in breach of the fiduciary or statutory duties of any director or officer of any member of the Group.

#### **15.10 Additional security**

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

#### **15.11 Waiver of Jersey Customary Law Rights**

The Guarantor hereby irrevocably and unconditionally waives and abandons any existing or future right which it may have under the laws of Jersey:

- (a) whether by virtue of the droit de division or otherwise to require that any liability under any Interim Document be divided or apportioned with any other person or reduced in any manner whatsoever; and
- (b) whether by virtue of the droit de discussion or otherwise to require that recourse be had to the assets of any other person before any claim is enforced against it in respect of the obligations or liabilities hereby assumed by it under any Interim Document.

### **16. REPRESENTATIONS, UNDERTAKINGS AND INFORMATION**

#### **16.1 Representations and Undertakings**

Each of Holdco and the Company:

- (a) makes the Major Representations expressed to be applicable to it with respect to itself to the Interim Finance Parties on the date of this Agreement (or in respect of Holdco, on the date of the Accession Letter), on each Utilisation Date of the Interim Term Facility and on the first day of each Interest Period under an Interim Term Loan by reference to the facts and circumstances existing at such time; and
- (b) agrees to comply with the Major Undertakings expressed to be applicable to it for so long as any amount payable by them is outstanding under the Interim Documents or any Interim Term Commitment is in force.

#### **16.2 Notification of Default**

- (a) The Company shall notify the Interim Facility Agent of any Major Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by the other Obligor).
- (b) Promptly upon a request by the Interim Facility Agent, if the Interim Facility Agent has reasonable grounds for believing there is an outstanding Major Default, the Company shall supply to the Interim Facility Agent a certificate signed by an authorised signatory on behalf of the Company certifying that no Major Default is continuing (or if a Major Default is continuing, specifying the Major Default and the steps, if any, being taken to remedy it).



Each of the parties to this Agreement agrees that the Interim Security Agent shall have only those duties, obligations and responsibilities expressly specified in this Agreement or in the Security Documents (and no others shall be implied).

## **17. SANCTIONS**

**17.1** The Obligors shall ensure that no part of the proceeds of any Loan or other transaction(s) contemplated by this Agreement used or otherwise made available:

- (a) to fund or facilitate any trade, business or other activity involving or for the benefit of any Restricted Party, if doing so would put any Interim Finance Party in breach of Sanctions; or
- (b) in any manner that is prohibited by Sanctions or would result in an Obligor or Interim Finance Party becoming a Restricted Party.

**17.2** In relation to each Interim Finance Party that notifies the Interim Facility Agent to this effect, the undertakings under paragraph 17.1 shall apply for the benefit of that Interim Finance Party only if and to the extent that they do not result in a violation of any applicable Blocking Law in respect of that Interim Finance Party.

**17.3** The sanctions related provisions in this Clause are not intended to be a breach of, nor intended to expose any party to liability under any Blocking Law.

## **18. SECURITY**

### **18.1 Interim Security Agent as holder of security**

- (a) Unless expressly provided to the contrary, the Interim Security Agent holds and declares that it shall hold, to the fullest extent permitted by law, any security created by the Security Documents on trust (or as agent) for and on behalf of the Interim Finance Parties named therein and will apply all payments and other benefits received by it under the Security Documents in accordance with the Interim Documents.
- (b) Each Interim Finance Party (other than the Interim Security Agent) hereby appoints the Interim Security Agent as trustee (or agent) for and on behalf of the relevant Interim Finance Parties (other than the Interim Security Agent) expressed to benefit from the Security Documents pursuant to its terms and the Interim Security Agent hereby accepts such appointment on the terms and to the conditions set out in this Clause 18. The Interim Security Agent shall, in case of any accessory security rights created by way of pledge or other accessory instruments under the Security Documents, administer and, as the case may be, enforce any and all lien or collateral created under such Security Documents in the name and for and on behalf of the relevant Interim Finance Parties, but in each case for the benefit of those Interim Finance Parties. Each relevant Interim Finance Party (other than the Interim Security Agent) hereby authorises the Interim Security Agent (whether or not by or through employers or agents) (i) to exercise such rights, remedies, powers and discretions as are specifically delegated to or conferred upon the Interim Security Agent under the Security Documents together with such powers and discretions as are reasonably incidental thereto and (ii) to take such action on its behalf as may from time to time be authorised under or in connection with the Security Documents.

### **18.2 Responsibility**

The Interim Security Agent is not liable or responsible to any other Interim Finance Party for:

- (a) any failure in registering, perfecting or protecting the security created by the Security Documents; or
- (b) any other action taken or not taken by it in connection with the Security Documents.

### **18.3 Title**

- (a) The Interim Security Agent may accept, without enquiry, the title (if any) that any person granting the relevant security may have to any asset over which security is intended to be created by the Security Documents.
- (b) The Interim Security Agent has no obligation to insure any such asset or the interests of the Interim Finance Parties in any such asset.

### **18.4 Possession of documents**

The Interim Security Agent is not obliged to hold in its own possession the Security Documents, title deed or other document in connection with any asset over which security is intended to be created by the Security Documents. Without prejudice to the above, the Interim Security Agent may allow any bank providing safe custody services or any professional adviser to the Interim Security Agent to retain any of those documents in its possession.

### **18.5 Investments**

Except as otherwise provided in the Security Documents, all moneys received by the Interim Security Agent under the Interim Documents may be:

- (a) invested in the name of, or under the control of, the Interim Security Agent in any investment for the time being authorised by English law for the investment by trustees of trust money or in any other investments which may be selected by the Interim Security Agent with the consent of the Majority Interim Lenders; or
- (b) placed on deposit in the name of, or under the control of, the Interim Security Agent at such bank or institution (including any other Interim Finance Party) and upon such terms as the Interim Security Agent may think fit (acting reasonably). Any and all such monies and all interest thereon shall be paid to the Interim Facility Agent forthwith upon demand by the Interim Facility Agent.

### **18.6 Approval**

Each relevant Interim Finance Party confirms its approval of the Security Documents and authorises and directs the Interim Security Agent (by itself or by such person(s) as it may nominate) to execute and enforce the same as trustee (or agent) or as otherwise provided (and whether or not expressly in the names of those Interim Finance Parties) on its behalf.

### **18.7 Enforcement**

- (a) The Interim Security Agent shall act in accordance with any instruction given to it by the Majority Interim Lenders or, if so instructed by the Majority Interim Lenders, refrain from exercising any right, power, authority or discretion vested in it as Interim Security Agent, and the Interim Security Agent shall be entitled to assume that (i) any instructions received by it from the Majority Interim Lenders (or the Interim Facility Agent on their behalf) are duly given in accordance with the terms of this Interim Documents and (ii) unless it has received actual notice of revocation, that those instructions or directions are in full force and effect and have not been revoked.
- (b) The Interim Security Agent shall be entitled to request instructions and clarifications of any direction from the Majority Interim Lenders as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions

and the Interim Security Agent may refrain from acting unless and until those instructions or clarifications are received by it.

- (c) Any instruction given to the Interim Security Agent by the Majority Interim Lenders (or the Interim Facility Agent on their behalf) shall override any conflicting instructions given by any other Parties.
- (d) In exercising any discretion to exercise a right, power or authority under this Agreement where it has not received any instructions from the Majority Interim Lenders (or the Interim Facility Agent on their behalf) as to the exercise of that discretion, the Interim Security Agent shall do so having regard to the interests of the relevant Interim Finance Parties expressed to benefit from the Security Documents pursuant to its terms.
- (e) The Interim Security Agent may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action in the exercise of any of its powers and duties under the Interim Documents as it considers (in its discretion) to be appropriate.
- (f) Each relevant Interim Finance Party (other than the Interim Security Agent) agrees not to enforce independently or exercise any rights or powers arising under the Security Documents except through the Interim Security Agent and in accordance with the Interim Documents.

## **18.8 Release of Security**

- (a) Upon repayment of all amounts outstanding under the Interim Documents (if any) and cancellation in full of the Interim Commitments, the Interim Security Agent is irrevocably authorised on behalf of each relevant Interim Finance Party to execute any document and/or take any other action whatsoever in order to release any guarantee and Security Interests granted pursuant to the Interim Documents.
- (b) Each relevant Interim Finance Party will, on the request and at the cost of the Company, as soon as reasonably practicable execute any document and/or take such other action as is reasonably required to effect any release contemplated by this Clause 18.8.

## **18.9 Conflict with Security Documents**

If there is any conflict between the provisions of this Agreement and any Security Document with regard to instructions to or other matters affecting the Interim Security Agent, this Agreement will prevail.

## **19. AGENTS AND ARRANGERS**

### **19.1 Appointment of Agents**

- (a) Each Interim Finance Party (other than the relevant Agent) irrevocably authorises and appoints each Agent:
  - (i) to act as its agent under and in connection with the Interim Documents (and, to the extent applicable, in the case of the Interim Security Agent to act as its trustee (or agent) for the purposes of the Security Documents);
  - (ii) to execute and deliver on its behalf such of the Interim Documents as are expressed to be executed by such Agent on its behalf; and
  - (iii) to perform the duties and to exercise the rights, powers and discretions which are specifically delegated to such Agent by the terms of the Interim Documents, together with all other incidental rights, powers and discretions.

- (b) Each Interim Finance Party:
  - (i) irrevocably authorises and appoints, severally, each of the Interim Facility Agent and the Arrangers to accept on its behalf the terms of any reliance letter or engagement letter relating to any report, certificate or letter provided by accountants, auditors or other professional advisers in connection with any of the Interim Documents or any related transactions and to bind such Interim Finance Party in respect of the addressing or reliance or limitation of liability of any person under any report, certificate or letter; and
  - (ii) accepts the terms and any limitation of liability or qualification in the reports or any reliance or engagement letter entered into by the Interim Facility Agent and/or any Arranger (whether before or after such Interim Finance Party became party to this Agreement) in connection with the Interim Documents.
- (c) The relationship between each Agent and the other Interim Finance Parties is that of principal and agent only.
- (d) Except as specifically provided in the Interim Documents, no Agent shall:
  - (i) have, or be deemed to have, any obligations to, or trust or fiduciary relationship with, any other Party or other person, other than those for which specific provision is made by the Interim Documents; or
  - (ii) be bound to account to any other Interim Finance Party for any sum or the profit element of any sum received by it for its own account.
- (e) Neither Agent is authorised to act on behalf of an Interim Finance Party in any legal or arbitration proceedings relating to any Interim Document without first obtaining that Interim Finance Party's consent except in any proceedings for the protection, preservation or enforcement of the Security Documents otherwise permitted by this Agreement.
- (f) Each Interim Finance Party (other than the relevant Agent) hereby releases each Agent (to the extent legally possible) from any restrictions on representing several persons and self-dealing under any applicable law to make use of any authorisation granted under this Agreement and to perform its duties and obligations as Agent hereunder and under or in connection with the Interim Documents (in each case to the extent that Interim Finance Party is able to do so, and provided that any of the Interim Finance Parties which cannot release the relevant Agent from any such restriction shall inform that Agent as soon as practicable).

## **19.2 Agents' Duties**

- (a) Each Agent will only have those duties which are expressly specified in the Interim Documents. The duties of the Agents are solely of a mechanical and administrative nature.
- (b) Each Agent shall promptly forward to a Party the original or a copy of each notice or document delivered to that Agent for that Party under any Interim Document.
- (c) Each Agent shall, subject to any terms of this Agreement which require the consent of all the Interim Lenders or of any particular Interim Finance Party:
  - (i) act or refrain from acting in accordance with any instructions from the Majority Interim Lenders and any such instructions shall be binding on all the Interim Finance Parties;
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with the instructions of the Majority Interim Lenders.

- (d) In the absence of any such instructions from the Majority Interim Lenders (or, if required, all Interim Lenders), save where acting or refraining from acting is specifically stated to require the instructions of the Majority Interim Lenders (or, as the case may be, all Interim Lenders), each Agent may act or refrain from acting as it considers to be in the best interests of the relevant Interim Lenders and any such action (or omission) shall be binding on all Interim Finance Parties.

### **19.3 Agents' Rights**

Each Agent may:

- (a) act under the Interim Documents by or through its personnel or agents (and any indemnity given to, or received by, an Agent under this Agreement extends also its personnel, delegates or agents who may rely on this provision);
- (b) except as expressly provided to the contrary in any Interim Document, refrain from exercising any right, power or discretion vested in it under the Interim Documents until it has received instructions from the Majority Interim Lenders or, where relevant, all the Interim Lenders;
- (c) unless it has received notice to the contrary in accordance with this Agreement, treat the Interim Lender which makes available any portion of an Interim Term Loan as the person entitled to repayment of that portion (and any interest, fees or other amounts in relation thereto);
- (d) notwithstanding any other term of an Interim Document, refrain from doing anything (including disclosing any information) which would, in its opinion, constitute a breach of any law or regulation or be otherwise actionable at the suit of any person, and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation;
- (e) assume that no Major Default has occurred, unless it has received notice from another Party stating that a Major Default has occurred and giving details of such Major Default;
- (f) refrain from acting in accordance with the instructions of the Majority Interim Lenders or all the Interim Lenders (as applicable) until it has been indemnified and/or secured to its satisfaction against all losses or liabilities (including legal fees) which it may sustain or incur as a result of so acting;
- (g) rely on any notice or document believed by it to be genuine and correct and assume that any notice or document has been correctly and appropriately authorised and given;
- (h) rely on any statement made by any person regarding any matter which might reasonably be expected to be within such person's knowledge or power to verify;
- (i) engage, obtain, rely on and pay for any legal, accounting or other expert advice or services which may seem necessary or desirable to it;
- (j) at any time, and it shall if instructed by the Majority Interim Lenders, convene a meeting of the relevant Interim Lenders;
- (k) accept without enquiry (and has no obligation to check) any title which an Obligor may have to any asset intended to be the subject of any Security Interest to be created by the Security Documents; and deposit any title deeds, transfer documents, Security Documents or any other documents in connection with any of the assets charged by the Security Documents with any bank or financial institution or any company whose business includes undertaking the safe custody of deeds or documents or with any lawyer or firm of lawyers or other professional advisers (each a custodian) and it shall not be responsible or liable for

or be required to insure against any loss incurred in connection with any such deposit or the misconduct or default of any such custodian and it may pay all amounts required to be paid on account or in relation to any such deposit.

#### **19.4 Exoneration of the Arrangers and the Agents**

None of the Arrangers or the Agents are:

- (a) except where an Interim Document specifically provides otherwise, responsible for, or for checking, the adequacy, accuracy or completeness of:
  - (i) any representation, warranty, statement or information (written or oral) made in or given in connection with any report, any Interim Document or any notice or document delivered in connection with any Interim Document; or
  - (ii) any notice, accounts or other document delivered under any Interim Document (irrespective of whether the relevant Agent forwards that notice, those accounts or other documents to another Party);
- (b) responsible for the validity, legality, adequacy, accuracy, completeness, enforceability, admissibility in evidence or performance of any Interim Document or any agreement or document entered into in connection therewith;
- (c) under any obligation or duty either initially or on a continuing basis to provide any Interim Finance Party with any credit, financial or other information relating to an Obligor or any Group Company or the Target Group or any risks arising in connection with any Interim Document, except as expressly specified in this Agreement;
- (d) obliged to monitor or enquire as to the occurrence or continuation of a Major Default;
- (e) deemed to have knowledge of the occurrence of a Major Default unless it has received notice from another Party stating that a Major Default has occurred and giving details of such Major Default;
- (f) responsible for any failure of any Obligor or any party to an Interim Document duly and punctually to observe and perform its obligations under any Interim Document;
- (g) responsible for the consequences of relying on the advice of any professional advisers reasonably selected by it in connection with any Interim Document;
- (h) responsible for any shortfall which arises on the enforcement of realisation of the Interim Security;
- (i) liable for acting (or refraining from acting) in what it believes to be in the best interests of the relevant Interim Finance Parties in circumstances where it has not been given instructions by all the Interim Lenders or the Majority Interim Lenders (as the case may be);
- (j) liable to any Interim Finance Party for anything done or not done by it under or in connection with any Interim Document, save to the extent directly caused its own negligence or wilful misconduct;
- (k) responsible for any determination as to whether any information provided (or to be provided) to any Interim Finance Party is or may be non-public or price-sensitive information the use of which may be regulated or prohibited by applicable legislation relating to insider dealing or otherwise (provided that if the Agent or an Arranger has received notice from another Party stating that any such information is non-public or price-sensitive it shall treat that information accordingly); or

- (l) under any obligation to enquire into or check the title of any Obligor to, or to insure, any assets or property or any interest therein which is or is purported to be subject to any Security Interest constituted, created or evidenced by the Security Documents.

### **19.5 The Arrangers and the Agents Individually**

- (a) If it is an Interim Lender, each of the Arrangers and the Agents has the same rights and powers under the Interim Documents as any other Interim Lender and may exercise those rights and powers as if it were not also acting as an Arranger or an Agent.
- (b) Each of the Arrangers and the Agents may:
  - (i) retain for its own benefit and without liability to account to any other person any fee, profit or other amount received by it for its own account under or in connection with the Interim Documents or any of the activities referred to in sub-paragraph (ii) below; and
  - (ii) accept deposits from, lend money to, provide any advisory, trust or other services to or engage in any kind of banking or other business with any Obligor or any Group Company (or Affiliate of any Obligor or any Group Company) or other Party (and, in each case, may do so without liability to account to any other person).
- (c) Except as otherwise expressly provided in this Agreement, each Arranger in its capacity as such does not have, and shall not be deemed to have, any obligation or duty of any kind to, or trust or fiduciary relationship with or fiduciary obligations to, any other Party under or in connection with any Interim Document.

### **19.6 Communications and Information**

- (a) All communications by an Interim Finance Party to an Obligor (or any Affiliate of an Obligor) under or in connection with the Interim Documents are, unless otherwise specified in the relevant Interim Document, to be made by or through the Interim Facility Agent. Each Interim Finance Party will notify the Interim Facility Agent of, and provide the Interim Facility Agent with a copy of, any communication between that Interim Finance Party and an Obligor (or Affiliate of an Obligor) on any matter concerning the Interim Facility or the Interim Documents.
- (b) None of the Arrangers or the Agents will be obliged to transmit to or notify any other Interim Finance Party of any information relating to any Party which that Arranger or Agent has or may acquire otherwise than in connection with the Interim Facility or the Interim Documents.
- (c) In acting as agent for the Interim Lenders, each Agent's agency division will be treated as a separate entity from any of its other divisions or department (the **Other Divisions**). Any information relating to any Group Company acquired by any of the Other Divisions of an Agent or which in the opinion of that Agent (acting reasonably) is acquired by it otherwise than in its capacity as Agent under the Interim Documents may be treated by it as confidential and will not be treated as information available to the other Interim Finance Parties.

### **19.7 Non-reliance**

- (a) Each other Interim Finance Party confirms that it has made (and will continue to make) its own independent investigation and appraisal of the assets, business, financial condition and creditworthiness of the Group and of any risks arising under or in connection with any Interim Document, and has not relied, and will not at any time rely, on any Arranger or any Agent:

- (i) to assess the adequacy, accuracy or completeness of any information provided by or on behalf of any Obligor or any Group Company or the Target Group under or in connection with any Interim Document (whether or not that information has been or is at any time circulated to it by an Arranger or an Agent), including any contained in any document delivered pursuant to Clause 3 (*Conditions Precedent to the Interim Facility*);
  - (ii) to assess whether that Interim Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Interim Document;
  - (iii) to assess the assets, business, financial condition or creditworthiness of any Obligor, the Target Group or any other person; or
  - (iv) to assess the validity, legality, adequacy, accuracy, completeness, enforceability or admissibility in evidence of any Transaction Document.
- (b) No Party may take any proceedings against any officer, delegate, employee or agent of an Agent or Arranger in respect of any claim it may have against that Agent or Arranger or in respect of any act or omission by that officer, delegate, employee or agent in connection with any Interim Document. Any officer, delegate, employee or agent of an Agent or Arranger may rely on this Clause 19.7 in accordance with the Contracts (Rights of Third Parties) Act 1999.
  - (c) This Clause 19.7 is without prejudice to the responsibility of any Obligor for the information supplied by it, or on its behalf or in connection with the Interim Documents and each Obligor remains responsible for such information to the extent set out under this Agreement.
  - (d) No Agent will be liable for any delay (or any related consequences) in crediting an account with an amount required under the Interim Documents to be paid by that Agent if that Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by that Agent for that purpose.

## **19.8 Agents' Indemnity**

- (a) Each Interim Lender shall on demand indemnify each Agent and Arranger for its share of any loss or liability incurred by the relevant Agent or Arranger in acting, or in connection with its role, as Agent or Arranger under the Interim Documents, except to the extent that the loss or liability is incurred as a result of the relevant Agent's or Arranger's negligence or wilful misconduct.
- (b) An Interim Lender's share of any such loss or liability shall be the proportion which:
  - (i) that Interim Lender's participation in the outstanding Interim Term Loans bears to the outstanding Interim Term Loans at the time of demand; or
  - (ii) if there is no outstanding Interim Term Loan at that time, that Interim Lender's Interim Commitments bears to the Total Interim Commitments at that time; or
  - (iii) if the Total Interim Commitments have been cancelled, that Interim Lender's Interim Commitments bore to the Total Interim Commitments immediately before being cancelled.
- (c) The provisions of this Clause 19.8 are without prejudice to any obligations of each Obligor to indemnify the Agents and the Arrangers under the Interim Documents.



## **20. PRO RATA PAYMENTS**

### **20.1 Recoveries**

Subject to Clause 20.3 (*Exceptions to Sharing*), if any amount owing by an Obligor under any Interim Document to an Interim Lender (the **Recovering Interim Lender**) is discharged by payment, set-off or any other manner other than through the Interim Facility Agent in accordance with Clause 12 (*Payments*) (the amount so discharged being a **Recovery**) then:

- (a) within three Business Days of receipt of the Recovery, the Recovering Interim Lender shall notify details of such Recovery to the Interim Facility Agent;
- (b) the Interim Facility Agent shall determine whether the amount of the Recovery is in excess of the amount which such Recovering Interim Lender should have received had such amount been paid to the Interim Facility Agent under Clause 12 (*Payments*) (any such excess amount being the **Excess Recovery**);
- (c) within three Business Days of demand the Recovering Interim Lender shall pay to the Interim Facility Agent an amount equal to the Excess Recovery;
- (d) the Interim Facility Agent shall treat that payment of an amount equal to the Excess Recovery as if it was a payment made by that Obligor to the Interim Lenders under Clause 12 (*Payments*) and distribute it to the Interim Lenders (other than the Recovering Interim Lender) accordingly; and
- (e) the Recovering Interim Lender shall be subrogated to the rights of the Interim Lenders which have shared in the payment under paragraph (d) above and if for any reason the Recovering Interim Lender is unable to rely on such rights of subrogation, the amount of the Excess Recovery shall be treated as not having been paid and (without double counting) that Obligor will owe the Recovering Interim Lender a debt (immediately due and payable) in an amount equal to the Excess Recovery.

### **20.2 Notification of Recovery**

If any Recovery has to be wholly or partly refunded by the Recovering Interim Lender after it has paid any amount to the Interim Facility Agent under paragraph (c) of Clause 20.1 (*Recoveries*), each Interim Lender to which any part of the Excess Recovery (or amount in respect of it) was distributed will, on request from the Recovering Interim Lender, pay to the Recovering Interim Lender that Interim Lender's pro rata share of the amount (including any related interest) which has to be refunded by the Recovering Interim Lender.

### **20.3 Exceptions to Sharing**

Notwithstanding Clause 20.1 (*Recoveries*), no Recovering Interim Lender will be obliged to pay any amount to the Interim Facility Agent or any other Interim Lender in respect of any Recovery:

- (a) if it would not after that payment have a valid and enforceable claim against the relevant Obligor in an amount equal to the Excess Recovery; or
- (b) which it receives as a result of legal or arbitration proceedings taken by it to recover any amounts owing to it under the Interim Documents, which proceedings have been notified to the other Interim Finance Parties and where the Interim Lender concerned had a right and opportunity to, but does not, either as soon as reasonably practicable join in those proceedings or promptly after receiving notice commence and diligently pursue separate proceedings to enforce its rights in the same or another court.

## **20.4 No Security**

The provisions of this Clause 20 shall not constitute a charge by any Interim Lender over all or any part of any amount received or recovered by it under any of the circumstances mentioned in this Clause 20.

## **21. SET-OFF**

An Interim Finance Party may, at any time while a Major Default is continuing, set off any matured obligation due and payable by an Obligor under an Interim Document (to the extent beneficially owned by that Interim Finance Party) against any matured obligation due and payable by it to that Obligor, regardless of currency, place of payment or booking branch of either obligation. The relevant Interim Finance Party may convert either obligation at a market rate of exchange in its ordinary course of business in order to effect such set-off.

## **22. NOTICES**

### **22.1 Mode of Service**

- (a) Any notice, demand, consent or other communication (a **Notice**) made under or in connection with any Interim Document must be in writing and made by letter or by e-mail or any other electronic communication approved by the Interim Facility Agent.
- (b) An electronic communication will be treated as being in writing for the purposes of this Agreement.
- (c) The address and e-mail address of each Party (and person for whose attention the Notice is to be sent) for the purposes of Notices given under or in connection with the Interim Documents is:
  - (i) in the case of the Company is identified under its name below;
  - (ii) in the case of a Guarantor, that identified in the relevant Accession Letter;
  - (iii) in the case of the Interim Facility Agent and the Interim Security Agent are identified under their respective names below;
  - (iv) in the case of any other Interim Finance Party, the address and e-mail address notified in writing by that Interim Finance Party for this purpose to the Interim Facility Agent on or before the date it becomes a party to this Agreement; or
  - (v) any other address and e-mail address notified in writing by that Party for this purpose to the Interim Facility Agent (or in the case of the Interim Facility Agent, notified by the Interim Facility Agent to the other Parties) by not less than five Business Days' notice.
- (d) Any Notice given to an Agent will be effective only:
  - (i) if it is marked for the attention of the department or officer specified by that Agent for receipt of Notices; and
  - (ii) when actually received by that Agent.

### **22.2 Deemed Service**

- (a) Subject to paragraph (b) below, a Notice will be deemed to be received as follows:
  - (i) if by letter or delivered personally, when delivered;
  - (ii) if by e-mail or any other electronic communication, when received in legible form; and

- (iii) if by posting to an electronic website, at the time of notification to the relevant recipient of such posting or (if later) the time when the recipient was given access to such website.
- (b) A Notice given in accordance with paragraph (a) above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.

### **22.3 Electronic Communication**

- (a) Any communication to be made between the Interim Facility Agent and an Interim Lender under or in connection with the Interim Documents may be made by electronic mail or other electronic means, if the Interim Facility Agent and the relevant Interim Lender:
  - (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
  - (ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
  - (iii) notify each other of any change to their address or any other such information supplied by them.
- (b) Any electronic communication made between the Interim Facility Agent and an Interim Lender will be effective only when actually received in readable form and in the case of any electronic communication made by an Interim Lender to the Interim Facility Agent only if it is addressed in such a manner as the Interim Facility Agent shall specify for this purpose.
- (c) Electronic communication may only be used for the exchange of correspondence and the transmission of information and documents. Electronic communication may not be used for any declarations of intent, including Utilisation Requests.

### **22.4 Language**

- (a) Any Notice must be in English.
- (b) All other documents provided under or in connection with any Interim Document must be:
  - (i) in English; or
  - (ii) if not in English, if so required by the Interim Facility Agent (acting reasonably) accompanied by a certified English translation, in which case the English translation will prevail unless the document is a constitutional, statutory or other official document.

### **22.5 Personal Liability**

No personal liability shall attach to any director, officer, employee or other individual signing a certificate or other document on behalf of a member of the Group which proves to incorrect in any way, unless that individual acted fraudulently in giving that certificate or other document in which case any liability will be determined in accordance with applicable law.

## **23. CONFIDENTIALITY**

- (a) Each Interim Finance Party will keep the Interim Documents and any information supplied to it by or on behalf of any member of the Group under the Interim Documents confidential, provided that it may disclose any such document or information:

- (i) which is publicly available (other than by breach of this Clause 23);
  - (ii) if and to the extent required by applicable law or regulation or at the request of any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body;
  - (iii) on a need to know and confidential basis to its professional advisers and auditors;
  - (iv) to any person referred to in and on the terms of Clause 25.8 (*Disclosure of Information*);
  - (v) to any direct or indirect Holding Company of the Company (or any investor in any such Holding Company) or any member of the Group;
  - (vi) on a need to know and confidential basis to any Affiliate in connection with the Acquisition and its financing;
  - (vii) to rating agencies on a confidential and need to know basis for the purpose of preparing a private or shadow rating;
  - (viii) in the case of an Interim Lender which is a Fund, to investors in (or other lenders to) that Fund on a confidential and strict need to know basis as a direct consequence of such Funds participation in the Interim Facility (provided that each Interim Lender which is a Fund will, at the request of the Company, promptly provide the Company with details of all documents and other information disclosed pursuant to this paragraph (viii)); or
  - (ix) otherwise with the prior written consent of the Company.
- (b) This Clause 23 replaces any previous confidentiality undertaking given by any Interim Finance Party in connection with this Agreement prior to it becoming a Party.

## **24. KNOW YOUR CUSTOMER REQUIREMENTS**

The Borrower must promptly on the request of any Interim Finance Party supply to that Interim Finance Party any documentation or other evidence which is available to it and reasonably requested by that Interim Finance Party (whether for itself, on behalf of any Interim Finance Party or any prospective New Interim Lender) to enable an Interim Finance Party or prospective new Interim Lender to carry out and be satisfied with the results of all applicable know your customer requirements under applicable laws and regulations.

## **25. CHANGE TO PARTIES**

### **25.1 No Transfers by the Obligors**

No Obligor may assign, novate or transfer all or any part of its rights and obligations under any Interim Document.

### **25.2 Accession of Guarantors**

- (a) Subject to compliance with Clause 24 (*Know Your Customer Requirements*), the Company may at any time request that Holdco becomes a Guarantor (the "**Acceding Entity**"). That entity shall become a Guarantor if:
  - (i) the Company and the Acceding Entity deliver to the Interim Facility Agent a duly completed and executed Accession Letter;
  - (ii) the Company confirms that no Major Event of Default is continuing or would occur as a result of the Acceding Entity becoming a Guarantor; and

- (iii) the Interim Facility Agent has received (or waived the requirement to receive) all of the documents and evidence referred to in paragraph 15 of Schedule 5 (*Conditions Precedent*) in form and substance satisfactory to it (acting on the instructions of the Interim Lenders (acting reasonably));
- (b) The Interim Facility Agent shall notify the Company and the Interim Lenders promptly upon being satisfied that it has received (or waived the requirement to receive) all the documents and referred to in paragraph 15 of Schedule 5 (*Conditions Precedent*) in form and substance satisfactory to it.
- (c) Other than to the extent that the Interim Lenders notify the Interim Facility Agent in writing to the contrary before the Interim Facility Agent gives the notification described in paragraph (b) above, the Interim Lenders authorise (but do not require) the Interim Facility Agent to give that notification. The Interim Facility Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.
- (d) The Guarantor by its execution of an Accession Letter irrevocably appoints the Company (acting through one or more authorised signatories) to act on its behalf as its agent in relation to the Interim Documents and irrevocably authorises:
  - (i) the Company on its behalf to supply all information concerning itself contemplated by this Agreement to the Interim Finance Parties and to give all notices and instructions, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by the Company notwithstanding that they may affect the Guarantor, without further reference to or the consent of that Guarantor; and
  - (ii) each Interim Finance Party to give any notice, demand or other communication to that Guarantor pursuant to the Interim Documents to the Company,

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

**25.3** Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Company or given to the Company under any Interim Document on behalf of the Guarantor or in connection with any Interim Document (whether or not known to the Guarantor and whether occurring before or after the Guarantor became a Guarantor under any Interim Document) shall be binding for all purposes on the Guarantor as if the Guarantor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Company and the Guarantor, those of the Company shall prevail.

**25.4 Transfers by Interim Lenders**

- (a) Subject to the other provisions of this clause 25.4, an Interim Lender (an **Existing Interim Lender**) may:
  - (i) assign any of its rights and benefits; or
  - (ii) transfer by novation any of its rights, benefits and obligations,

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

- (b) Subject to paragraph (f) below, any assignment, transfer, participation or other syndication of any rights, benefits and/or obligations under the Interim Documents by an Interim Lender shall require the prior written consent of the Company if prior to the expiry of the Certain Funds Period.
- (c) After the expiry of the Certain Funds Period and subject to paragraph (d) below, any assignment, transfer, participation or other syndication of any rights, benefits and/or obligations under the Interim Documents by an Interim Lender shall require the prior written consent of the Company unless such assignment, transfer, participation or other syndication of any rights, benefits and/or obligations is to an Existing Interim Lender or an Affiliate of an Existing Interim Lender or any event or circumstance specified in paragraph 1 (*Payment Default*), paragraph 5 (*Insolvency*), paragraph 6 (*Insolvency Proceedings*) or paragraph 7 (*Analogous Proceedings*) in Part III (*Major Defaults*) of Schedule 6 (*Major Representations, Major Undertakings and Major Defaults*) has occurred and is continuing.
- (d) Notwithstanding anything to the contrary in this Agreement, any assignment, transfer, participation or other syndication of any rights, benefits and/or obligations under the Interim Documents involving a person which is (or would be on becoming an Interim Lender) an Industrial Competitor shall require the prior written consent of the Company.
- (e) For the purposes of paragraph (d), **Industrial Competitor** means any competitor, supplier or sub-contractor of the Group in any of the material activities of the Group (or any person that it is an Affiliate of or is acting (in relation to this Agreement) on behalf of such person), but excluding, for the avoidance of doubt:
  - (i) any Affiliate of any Original Interim Lender; and
  - (ii) any person or entity which is a bank, financial institution, trust, fund or other entity:
    - (A) whose primary business is purchasing or investing in debt; and
    - (B) whose ownership of, interest in, or affiliation with any person falling within paragraph (A) above is administered by an Affiliate of such bank, financial institution, trust, fund or other entity which is:
      - (1) managed and controlled independently from that bank, financial institution, trust, fund or other entity; and
      - (2) operating behind appropriate information barriers implemented or maintained as required by law, regulation, or other policy,to ensure that such administration is independent from the interests under the Financing Documents of such bank, financial institution, trust, fund or other entity and that any information provided to such bank, financial institution, trust, fund or other entity under or in connection with the Financing Documents is not disclosed or otherwise made available to any such Affiliate.
- (f) An Interim Lender may sub-participate or enter into other back-to-back arrangements provided that:
  - (i) no such sub-participation or other arrangement shall reduce the Interim Commitments or other obligations of any Interim Finance Party with respect to

any of the Interim Facility and each Interim Finance Party shall remain liable to fund the full amount of its commitments under the Interim Facility;

- (ii) any such sub-participation or other arrangement may only be entered into with a person to whom the Interim Finance Party will be permitted to transfer commitments under the Debt Facilities after completion of the Acquisition in accordance with the terms of the Facilities Agreement (as defined in the Commitment Letter); and
- (iii) each Interim Finance Party retains exclusive control over all rights and obligations in relation to its Interim Commitments and the Interim Facility, including all rights in relation to waivers, consents and amendments and confirmations as to satisfaction of conditions precedent (for the avoidance of doubt, free of any agreement or understanding pursuant to which it is required to or will consult with any other person in relation to the exercise of any such rights and/or obligations).

The Company may require the Interim Finance Parties to provide information in reasonable detail regarding the identities and participations of each of the Interim Lenders and any sub-participants as soon as reasonably practicable after receipt of such request or, in the case of information required in Clause 10.1(d) within the timeframe set out therein, provided that an Interim Lender shall not be required to disclose the identity of a sub-participant if that Lender retains exclusive control over all rights and obligations in relation to the commitments that are the subject of the relevant sub-participation, including all voting rights (for the avoidance of doubt, free of any agreement or understanding pursuant to which it is required to or will consult with any other person in relation to the exercise of any such rights and/or obligations).

- (g) Any reference in this Agreement to an Interim Lender includes a New Interim Lender but excludes an Interim Lender if no amount is or may become owed to it under this Agreement.
- (h) Without prejudice to any other provision of this Agreement relating to assignment or transfer by any Interim Lender of its rights and obligations under this Agreement, any Interim Lender which is a Fund may, without the consent of the Obligors or the Interim Facility Agent, pledge any of its Interim Term Loans to a trustee for the benefit of investors in or lenders to that Fund and in support of its obligations to those investors, lenders or that trustee. No such pledge will release the relevant Interim Lender from its obligations under the Interim Documents.
- (i) Without prejudice to any other provision of this Agreement relating to assignment or transfer by any Interim Lender of its rights and obligations under this Agreement, each Interim Lender may without consulting with or obtaining consent from the Company, at any time charge, assign or otherwise create a Security Interest in or over (whether by way of collateral or otherwise) all or any of its rights under any Interim Document to secure obligations of that Interim Lender including, without limitation:
  - (i) any charge, assignment or other security to secure obligations to a federal reserve or central bank; and
  - (ii) in the case of any Interim Lender which is a fund, any charge, assignment or other Security Interest granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Interim Lender as security for those obligations or securities,
  - (iii) except that no such charge, assignment or Security Interest shall:

- (A) release an Interim Lender from any of its obligations under the Interim Documents or substitute the beneficiary of the relevant charge, assignment or other Security for the Interim Lender as a party to any of the Interim Documents; or
  - (B) require any payments to be made by the Company or grant to any person any more extensive rights than those required to be made or granted to the relevant Interim Lender under the Interim Documents.
- (j) Notwithstanding any other provision of this Agreement, if an Existing Interim Lender transfers any or all of its Commitments to a New Interim Lender (including an Affiliate) on or prior to the end of the Certain Funds Period (the “**Pre-Closing Transferred Commitments**”), the Existing Interim Lender shall (i) fund the Pre-Closing Transferred Commitments in respect of that Interim Term Loan by 9:30 am (London time) on the applicable Utilisation Date if that New Interim Lender has failed to so fund (or has confirmed that it will not be able to fund) on the applicable Utilisation Date (as applicable) in respect of the Interim Term Facility and (ii) retain exclusive control over all rights and obligations with respect to the Pre-Closing Transferred Commitments, including all rights with respect to waivers, consents, modifications, amendments and confirmations as to satisfaction of conditions precedent until after the expiry of the Certain Funds Period.

## 25.5 Method of Transfers

- (a) An Existing Interim Lender may, subject to Clause 25.2 (*Transfers by Interim Lenders*), transfer by novation all or any of its rights and obligations under the Interim Documents to a New Interim Lender by the Interim Facility Agent executing a Transfer Certificate which has been duly completed, executed and delivered by both the Existing Interim Lender and the New Interim Lender.
- (b) The Interim Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it once it has complied with all necessary and applicable “know-your-customer” requirements in relation to the proposed transfer.
- (c) On the date (the **Transfer Date**) which is the later of (A) the date specified in the Transfer Certificate as being the proposed Transfer Date and (B) the date on which the Interim Facility Agent executes the Transfer Certificate:
  - (i) the Existing Interim Lender shall be released from those obligations and cease to have those rights under the Interim Documents which are expressed to be transferred by novation to the New Interim Lender under the Transfer Certificate (such rights and obligations being referred to in this Clause 25.5 as **Discharged Rights and Obligations**);
  - (ii) the New Interim Lender and each of the other Parties shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as the New Interim Lender has assumed and/or acquired the same in place of the Existing Interim Lender; and
  - (iii) the New Interim Lender will become a party to this Agreement as an Interim Lender with the rights and obligations referred to in sub-paragraph (ii) above.
- (d) An Existing Interim Lender may, subject to Clause 25.2 (*Transfers by Interim Lenders*), otherwise assign all or part of its rights under the Interim Documents to a New Interim Lender if the Existing Interim Lender, the New Interim Lender and the Interim Facility Agent enter into such agreements (in form and substance satisfactory to the Interim Facility Agent) as the Interim Facility Agent may reasonably require confirming such assignment



and that the New Interim Lender agrees to be bound by the Interim Documents as an Interim Lender.

- (e) An assignment will only be effective on performance by the Interim Facility Agent of all necessary and applicable “know-your-customer” requirements in relation to the proposed assignment.
- (f) Each of the Parties (other than the relevant Existing Interim Lender and New Interim Lender) irrevocably authorises the Interim Facility Agent to execute on its behalf any Transfer Certificate or other agreement referred to in paragraph (d) above delivered to the Interim Facility Agent which has been duly completed and executed by each of the Existing Interim Lender and the New Interim Lender.

#### **25.6 Limitation of Responsibility of Existing Interim Lender**

- (a) An Existing Interim Lender makes no representation or warranty and assumes no responsibility to a New Interim Lender for:
  - (i) the legality, validity, effectiveness, adequacy or enforceability of any of the Interim Documents or any other document;
  - (ii) the financial condition of any Obligor or of the Group or of the Target Group;
  - (iii) the performance and observance by any Group Company of its obligations under any of the Interim Documents or any other document; or
  - (iv) the accuracy or completeness of any statements (whether written or oral) made in or given in connection with any Interim Document or any other document, and any representations or warranties implied by law are excluded.
- (b) Each New Interim Lender confirms to the Existing Interim Lender and the other Interim Finance Parties that:
  - (i) it has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its Affiliates and the Target Group in connection with its participation in the Interim Facility and has not relied exclusively on any information provided to it by the Existing Interim Lender (or any other Interim Finance Party) in connection with any Interim Document; and
  - (ii) if all or any part of the Interim Term Loans or other rights or obligations under the Interim Documents transferred are rescheduled or renegotiated, the New Interim Lender and not the Existing Interim Lender will be subject to the rescheduled or renegotiated terms.
- (c) Nothing in any Interim Document obliges an Existing Interim Lender to:
  - (i) accept a re-transfer from a New Interim Lender of any of the rights and obligations transferred under this Clause 25; or
  - (ii) support any losses directly or indirectly incurred by the New Interim Lender by reason of the non-performance by any Group Company of its obligations under any of the Interim Documents or otherwise.

#### **25.7 Transfer and Change of Facility Office**

If at any time:

- (a) an Interim Lender novates, assigns or transfers any of its rights, benefits or obligations under the Interim Documents or changes its Facility Office (otherwise than pursuant to Clause 11.2); and
- (b) as a result of circumstances existing at the date of the novation, assignment, transfer or change occurs, any Obligor would be obliged to make a payment to the New Interim Lender, or Interim Lender acting through its new Facility Office, under Clause 10 (*Taxes*) or Clause 11.1 (*Increased Costs*),

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

#### **25.8 Disclosure of Information**

An Interim Lender may disclose to any person:

- (a) to whom that Interim Lender will or proposes to assign, transfer or sub-participate all or any of its rights and obligations under the Interim Documents; and
- (b) for whose benefit that Interim Lender pledges any of its Interim Term Loans pursuant to paragraph (f) of Clause 25.2 (*Transfers by Interim Lenders*),

any Interim Document or other document or information in the possession of that Interim Lender relating to the Group which it (acting reasonably) shall consider appropriate, provided that such person has first entered into a confidentiality undertaking (in form and substance satisfactory to the Company) on which the Company is able to rely agreeing to keep such Interim Document or other document or information confidential.

#### **25.9 Affiliates**

- (a) Each Interim Lender may nominate an Affiliate to fulfil its obligations in respect of any Interim Term Loan if the relevant Affiliate is specified in this Agreement as an Interim Lender or becomes an Interim Lender by means of a Transfer Certificate in accordance with this Agreement. In this case, the Interim Lender and its Affiliate will be treated as having a single Interim Commitment and a single vote, but, for all other purposes, will be treated as separate Interim Lenders.
- (b) Each Interim Lender shall remain liable and responsible for the performance of all obligations by its Affiliate on its behalf and non-performance of an Interim Lender's obligation by its Affiliate shall not relieve such Interim Lender from its obligations under the Interim Documents.
- (c) If an Interim Lender fulfils its obligations in respect of any Interim Term Loan through an Affiliate, no member of the Group shall be liable to pay any amount to such Affiliate under Clause 10 (*Taxes*) or Clause 11.1 (*Increased Costs*) (arising as a result of laws or regulations in force or known to be in force on the date the relevant Affiliate was nominated) in excess of the amount it would have been obliged to pay that Interim Lender had it not nominated such Affiliate to participate in the Interim Term Loan. Each Interim Lender shall promptly notify the Company and the Interim Facility Agent of the Tax jurisdiction from which its Affiliate will participate in the relevant Interim Term Loan and such other information regarding that Affiliate as the Company may reasonably request.

#### **25.10 Assignment and Transfer Fee**

A New Interim Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Interim Facility Agent (for its own account) a fee of USD 3,000.

## **25.11 Successors and Assigns**

This Agreement shall be binding upon and endure to the benefit of each party hereto and its or any subsequent successors, permitted assignees and permitted transferees.

## **25.12 Resignation of the Interim Facility Agent and the Interim Security Agent**

- (a) The Interim Facility Agent and/or the Interim Security Agent (in each case, the “**Resigning Agent**”) may, after consultation with Holdco, resign and appoint one of its Affiliates acting through an office in the United Kingdom being a reputable bank or other institution experienced in multi jurisdictional transactions of this type as successor Interim Facility Agent and/or Interim Security Agent (as applicable) (in each case, the “**Successor Agent**”) by giving notice to the Interim Lenders and Holdco.
- (b) Alternatively, the Resigning Agent may, after consultation with Holdco, resign by giving notice to the Interim Lenders and Holdco, in which case the Majority Interim Lenders (with consent of Holdco) may appoint a Successor Agent acting through an office in the United Kingdom, being a reputable bank or other institution experienced in multi jurisdictional transactions of this type.
- (c) If the Majority Interim Lenders have not appointed a Successor Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the Resigning Agent (after consultation with Holdco) may appoint a Successor Agent acting through an office in the United Kingdom, being a reputable bank or other institution experienced in multi jurisdictional transactions of this type.
- (d) A Resigning Agent shall, at the request and cost of Holdco or the Successor Agent, make available to any Successor Agent such documents and records and provide such assistance as that Successor Agent may reasonably request for the purposes of performing its functions as Successor Agent under the Interim Documents.
- (e) A Resigning Agent’s resignation notice shall only take effect upon the appointment of a successor in accordance with this Agreement.
- (f) Upon the appointment of a successor, the Resigning Agent shall be discharged from any further obligation in respect of the Interim Documents but shall remain entitled to the benefit of this Clause 25.12. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) After consultation with Holdco, the Majority Interim Lenders may, by notice to the Resigning Agent, require it to resign in accordance with paragraph (b) above. In this event, the Resigning Agent shall resign in accordance with paragraph (b) above.

## **26. CALCULATIONS AND CERTIFICATES**

### **26.1 Accounts**

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

### **26.2 Certificates**

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

## **27. PARTIAL INVALIDITY**

If any provision of the Interim Documents is or becomes illegal, invalid or unenforceable in any jurisdiction that shall not affect the validity or enforceability in that jurisdiction of any other term of the Interim Documents or the validity or enforceability in other jurisdictions of that or any other term of the Interim Documents.

## **28. COUNTERPARTS**

This Agreement may be executed in any number of counterparts and all of those counterparts taken together shall be deemed to constitute one and the same instrument.

## **29. AMENDMENTS AND WAIVERS**

### **29.1 Required Consents**

Any term of the Interim Documents may only be amended or waived with the consent of each Interim Lender and the Company and any such amendment or waiver will be binding on all Parties.

### **29.2 Interim Facility Agent**

- (a) The Interim Facility Agent may effect, on behalf of any Interim Lender, any amendment or waiver to which that Interim Lender has provided its prior written consent to the Interim Facility Agent.
- (b) Any amendment or waiver which relates to the rights or obligations of the Interim Facility Agent or the Interim Security Agent (in each case acting in that capacity) may not be effected without the consent of the Interim Facility Agent or the Interim Security Agent, as the case may be, at such time.

### **29.3 Replacement of RFR**

- (a) If:
  - (i) a RFR Replacement Event has occurred; or
  - (ii) the Company otherwise requests any amendment or waiver to provide for an additional or alternative benchmark rate, base rate or reference rate to apply in respect of any Interim Facility (or any related, similar or equivalent matter), including, without limitation, any amendment or waiver in relation to (A) the definition of RFR, (B) an alternative or additional page, service or method for the determination of RFR, (C) aligning any term of an Interim Document to the use of an alternative or additional benchmark rate, base rate or reference rate, (D) adjustments in connection with the basis, duration, time and periodicity for determination of an alternative or additional benchmark rate, base rate or reference rate for any period and (E) any other consequential, related and/or incidental changes,
    - any amendment or waiver which relates to:
      - (A) providing for the use of a Replacement Benchmark;
      - (B) aligning any provision of any Interim Document to the use of a Replacement Benchmark;
      - (C) enabling a Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable a Replacement Benchmark to be used for the purposes of this Agreement);
      - (D) implementing market conventions applicable to a Replacement Benchmark;

- (E) providing for appropriate fallback (and market disruption) provisions for a Replacement Benchmark;
- (F) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of a Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall (if the Company so elects in its sole discretion) be determined on the basis of that designation, nomination or recommendation);
- (G) aligning the means of calculation of interest under this Agreement to any recommendation of a Relevant Nominating Body which:
  - (1) relates to the use of RFR on a compounded basis in the international or any relevant domestic syndicated loan markets; and
  - (2) is issued on or after the date of this Agreement; or
- (H) any other matter requested by the Company pursuant to paragraph (ii) above (including, for the avoidance of doubt, any changes that the Company proposes as necessary or desirable in connection with and/or to facilitate the implementation and use of any Replacement Benchmark),

may be made with the consent of the Interim Facility Agent (acting on the instructions of the Majority Interim Lenders or, where applicable, in accordance with paragraph (b) below) and the Company.

- (b) In the case of any amendment or waiver requested by the Company pursuant to paragraph (a) above, the Interim Facility Agent shall provide its consent to that amendment or waiver if:
  - (i) the Interim Facility Agent determines (acting reasonably) that the relevant Replacement Benchmark the subject of that amendment or waiver is generally accepted as a then-prevailing market convention for determining a rate of interest for syndicated loans of the type provided for under this Agreement in the European Union, London or any other domestic market; provided that, for the avoidance of doubt, the relevant Replacement Benchmark shall automatically be considered a then-prevailing market convention if it is consistent in all material respects with the benchmark rate, base rate or reference rate used in any other substantially equivalent financing syndicated in the European, London or any other relevant domestic loan market or any Loan Market Association form of facilities agreement; or
  - (ii) the Majority Interim Lenders (acting reasonably) have consented to that amendment or waiver.
- (c) In this Clause 29.3:

**Relevant Nominating Body** means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.

**Replacement Benchmark** means a benchmark rate, base rate or reference rate which is:

- (i) formally designated, nominated or recommended as the replacement for RFR by:

- (A) the administrator of RFR (provided that the market or economic reality that such benchmark rate measures is the same as that measured by RFR); or
  - (B) any Relevant Nominating Body,
- and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the Replacement Benchmark will be the replacement under paragraph (B) above;
- (ii) in the opinion of the Interim Facility Agent and the Company, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to a RFR;
  - (iii) in the opinion of the Interim Facility Agent and the Company, an appropriate successor to RFR; or
  - (iv) proposed by the Company and either:
    - (A) used in any other substantially equivalent financing syndicated in the European Union, London or any other relevant domestic loan market, any Loan Market Association form of facilities agreement or any facilities agreement under which the Interim Facility Agent is a facility or administrative agent (howsoever described); or
    - (B) otherwise practicable for the Interim Facility Agent to administer (as reasonably determined by the Interim Facility Agent); and

**RFR Replacement Event** means, in relation to a RFR:

- (i) the methodology, formula or other means of determining that RFR has, in the opinion of the Interim Facility Agent and the Company, materially changed;
- (ii)
  - (A) the administrator of RFR or its supervisor publicly announces that such administrator is insolvent or information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of RFR is insolvent, provided that, in each case, at that time, there is no successor administrator to continue to provide RFR;
  - (B) the administrator of RFR publicly announces that it has ceased or will cease to provide that RFR permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that RFR;
  - (C) the supervisor of the administrator of that RFR publicly announces that such RFR has been or will be permanently or indefinitely discontinued; or
  - (D) the administrator of RFR or its supervisor announces that RFR may no longer be used; or

in the opinion of the Interim Facility Agent and the Company, that RFR is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

- (d) The Interim Finance Parties shall be required to enter into any amendment to or replacement of the Interim Documents required by the Company in order to facilitate or

reflect any of the matters contemplated by this Clause 29.3. The Interim Facility Agent is irrevocably authorised and instructed by each Interim Finance Party to execute any such amended or replacement Interim Documents (and shall do so on the request of the Company). The Company shall, or shall procure that another member of the Group will, within 20 Business Days of demand, reimburse the Interim Facility Agent for all reasonable fees and disbursements of legal counsel (as appointed with the prior approval of the Company) properly incurred by the Interim Facility Agent in connection with any amendment or waiver requested by the Company pursuant to this Clause 29.3 (in each case subject always to limits as agreed from time to time). No member of the Group shall be required to pay any other fees, costs, expenses or other amounts relating to or arising in connection with any of the matters contemplated by this Clause 29.3.

#### **29.4 Replacement of a Defaulting Lender**

- (a) The Company may, at any time an Interim Lender has become and continues to be a Defaulting Lender, by prior written notice to the Interim Facility Agent and such Interim Lender:
- (i) replace such Interim Lender by requiring such Interim Lender to (and, to the extent permitted by law, such Interim Lender shall) transfer pursuant to Clause 25 (*Change to Parties*) all (and not part only) of its rights and obligations under this Agreement;
  - (ii) require such Interim Lender to (and, to the extent permitted by law, such Interim Lender shall) transfer pursuant to Clause 25 (*Change to Parties*) all (and not part only) of the undrawn Interim Commitment of the Lender; or
  - (iii) require such Interim Lender to (and, to the extent permitted by law, such Interim Lender shall) transfer pursuant to Clause 25 (*Change to Parties*) all (and not part only) of its rights and obligations in respect of the Interim Term Facility,
- to a New Interim Lender (a **Replacement Lender**) selected by the Company, and which is acceptable to the Interim Facility Agent (acting reasonably), which confirms its willingness to assume and does assume all the obligations, or all the relevant obligations, of the transferring Interim Lender in accordance with Clause 25 (*Change to Parties*).
- (b) Any transfer of rights and obligations of a Defaulting Lender pursuant to this Clause 29.4 shall be subject to the following conditions:
- (i) the Company shall have no right to replace the Interim Facility Agent or Security Agent;
  - (ii) neither the Interim Facility Agent nor the Defaulting Lender shall have any obligation to the Company to find a Replacement Lender;
  - (iii) the transfer must take place no later than 180 days after the notice referred to in paragraph (a) above;
  - (iv) in no event shall the Defaulting Lender be required to pay or surrender to the Replacement Lender any of the fees received by the Defaulting Lender pursuant to the Interim Documents; and
  - (v) the Defaulting Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer to the Replacement Lender.

- (c) The Defaulting Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Interim Facility Agent and the Company when it is satisfied that it has complied with those checks.
- (d) For the purposes of this Clause 29.4, “**Defaulting Lender**” means any Interim Lender:
  - (i) which has failed to make its participation in an Interim Term Loan available or has notified the Facility Agent that it will not make its participation in an Interim Term Loan available by the Utilisation Date of that Interim Term Loan in accordance with Clause 6.3 (*Advance of an Interim Term Loan*);
  - (ii) which has otherwise rescinded or repudiated an Interim Document; or
  - (iii) with respect to which an Insolvency Event has occurred and is continuing, unless, in the case of paragraph (i) above:
    - (iv) its failure to pay is caused by:
      - (A) administrative or technical error; or
      - (B) a Disruption Event; and
      - (C) payment is made within three Business Days of its due date; or
    - (v) the Interim Lender is disputing in good faith whether it is contractually obliged to make the payment in question.

### **30. GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are, and any dispute or proceedings arising out of or relating to this Agreement shall be, governed by English law.

### **31. THIRD PARTY RIGHTS**

Unless expressly provided for to the contrary in an Interim Document a person who is not a party to an Interim Document may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

### **32. JURISDICTION**

#### **32.1 Submission to Jurisdiction**

- (a) For the benefit of each Interim Finance Party, each Obligor agrees that the courts of England have jurisdiction to hear, decide and settle any dispute or proceedings arising out of or relating to any Interim Document (including as to existence, validity or termination) (each a **Dispute**) and for the purpose of enforcement or any judgment against assets and each Obligor irrevocably submits to the jurisdiction of the English courts.
- (b) Nothing in paragraph (a) above limits or prevents any Interim Finance Party from taking proceedings against an Obligor in any other court nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by applicable law.

#### **32.2 Forum Convenience**

Each Obligor:



- (a) agrees that the courts of England are the most appropriate and convenient courts to settle any Dispute and waives any objection to the courts of England on grounds of inconvenient forum or otherwise; and
- (b) agrees that a judgment or order of an English court in connection with a Dispute is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

### 32.3 **Service of Process**

Without prejudice to any other mode of service permitted by law, the Guarantor:

- (a) irrevocably appoints the Company as its agent for service of process in connection with any Dispute before the English courts;
- (b) agrees that service of any claim, form, notice or other document for the purpose of any proceedings shall be duly served upon it if delivered or sent by registered post to 27 Old Gloucester Street, London, United Kingdom, WC1N 3AX or such other address in England or Wales as Holdco may notify from time to time to the Interim Facility Agent by not less than five Business Days' notice; and
- (c) agrees that failure by such agent to notify Holdco of such proceedings or claim, form, notice or other document will not invalidate the proceedings or service of such claim, form, notice or other document.

Holdco may irrevocably appoint another person incorporated in England or Wales as its agent for service of process provided that the details of such company are notified to the Interim Facility Agent following such appointment (at which time Holdco shall be permitted to terminate the appointment of the existing agent).

### 32.4 **Specific Performance**

Each Interim Finance Party acknowledges and agrees that:

- (a) each Obligor may be irreparably harmed by a breach of any term of the Interim Documents and damages may not be an adequate remedy; and
- (b) each Obligor may be granted an injunction or specific performance for any threatened or actual breach of any term of the Interim Documents.

## 33. **CONTRACTUAL RECOGNITION OF BAIL-IN**

Notwithstanding any other term of any Interim Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Interim Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
  - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Interim Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

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

**SCHEDULE 1  
THE ORIGINAL INTERIM LENDERS**

<b>Name of Original Interim Lender</b>	<b>Commitment</b>	<b>Qualifying Interim Lender Confirmation</b>	<b>Treaty passport scheme reference number and jurisdiction of tax residence (if applicable)</b>
Bank of Montreal, London Branch	US\$287,165,192	Qualifying Interim Lender other than a Treaty Lender	DTTP: N/A Jurisdiction of tax residence: Canada
Fédération des caisses Desjardins du Québec	US\$162,000,000	Treaty Lender	DTTP: N/A Jurisdiction of tax residence: Canada
National Bank of Canada	US\$217,000,000	Treaty Lender	DTTP: 3/N/371498/DTTP Jurisdiction of tax residence: Canada
<b>Total</b>	<b>US\$666,165,192</b>		

**SCHEDULE 2**  
**FORM OF REQUESTS**  
**PART I**  
**UTILISATION REQUEST**

To: **BMO CAPITAL MARKETS** as Interim Facility Agent

From: **GLOBAL AUTO HOLDINGS LIMITED**

Date: [•]

**Interim Facility Agreement dated [•] (the Interim Facility Agreement)**

1. We refer to the Interim Facility Agreement. This is a Utilisation Request. Words and expressions defined in the Interim Facility Agreement shall have the same meanings when used in this Utilisation Request.
2. We wish to borrow an Interim Term Loan on the following terms:

Interim Facility:	[•]
Borrower:	Global Auto Holdings Limited
Utilisation Date:	[•]
Amount/Currency:	[•]
Interest Period:	[•]
3. Our payment instructions are: [•]
4. We confirm that each applicable condition specified in Clause 3 (*Conditions Precedent to the Interim Facility*) of the Interim Facility Agreement will be satisfied on the Utilisation Date.
5. [We confirm that the Offer has become or has been declared unconditional in accordance with the requirements of the Code]/ [We confirm that the Scheme Effective Date has occurred.]<sup>1</sup>
6. This Utilisation Request is irrevocable.

By:

[the Company]

---

<sup>1</sup> Relevant confirmation to be included in first Interim Utilisation Request

**SCHEDULE 3**  
**FORM OF TRANSFER CERTIFICATE**

To: **BMO CAPITAL MARKETS** as Interim Facility Agent  
From: [•] (the Existing Interim Lender) and [•] (the New Interim Lender)  
Date: [•]

**Interim Facility Agreement dated [•] (the Interim Facility Agreement)**

1. We refer to the Interim Facility Agreement. This is a Transfer Certificate. Words and expressions defined in the Interim Facility Agreement shall have the same meanings when used in this Transfer Certificate.
2. The New Interim Lender confirms that it is a Qualifying Interim Lender, and undertakes to notify the Interim Facility Agent and the Borrower promptly if it ceases to be a Qualifying Interim Lender in the terms set out in Clause 10 (*Taxes*).
3. The Existing Interim Lender transfers by novation to the New Interim Lender all the rights and obligations of the Existing Interim Lender which correspond to that portion of the Existing Interim Lender's Interim Commitments and participations in the Interim Term Loans under the Interim Documents specified in the schedule to this Transfer Certificate (the Schedule) in accordance with the terms of the Interim Documents.
4. The proposed Transfer Date is [•].
5. On the Transfer Date the New Interim Lender becomes party to the Interim Documents as an Interim Lender.
6. The New Interim Lender confirms that it is [not a Qualifying Interim Lender] [a Qualifying Interim Lender that is not a Treaty Lender] [a Treaty Lender].<sup>2</sup>
7. [The New Interim Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [ ]) and is tax resident in [ ], so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax, subject to completion of procedural formalities and requests that the Interim Facility Agent notifies the Holdco that it wishes that scheme to apply to the Interim Facility Agreement.]<sup>3</sup>
8. The administrative details of the New Interim Lender for the purposes of the Interim Documents are set out in the Schedule.
9. This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate and is governed by English law. Clause 31 (*Jurisdiction*) of the Interim Facility Agreement is hereby incorporated into this Transfer Certificate mutatis mutandis.

---

<sup>2</sup> Delete as applicable. Each New Interim Lender is required to confirm which of these three categories it falls within.

<sup>3</sup> Delete if not applicable. If applicable, retain and include scheme reference number and jurisdiction of tax residence.

**SCHEDULE 4**  
**RIGHTS AND OBLIGATIONS TO BE TRANSFERRED BY NOVATION**

**PART I**  
**INTERIM COMMITMENT**

*[Insert details of applicable Interim Commitments]*

**PART II**  
**PARTICIPATION IN INTERIM UTILISATIONS**

*[Insert details of applicable participations in Interim Utilisations]*

**Administrative details of the New Interim Lender**

*[Insert details of Facility Office, address for notices and payment details etc.]*

By:

*[Existing Interim Lender]*

By:

*[New Interim Lender]*

This Transfer Certificate is accepted by the Interim Facility Agent and the Transfer Date is confirmed by the Interim Facility Agent as [ ].

By:

*[Interim Facility Agent]*

As Interim Facility Agent and for and on behalf of each of the parties to the Interim Facility Agreement (other than the Existing Interim Lender and the New Interim Lender)

## SCHEDULE 5 CONDITIONS PRECEDENT

1. Constitutional documents: A copy of the constitutional documents of the Company.
2. Corporate resolutions: A copy of a resolution of the board of directors of the Company approving the terms of, and the transactions contemplated by, the Interim Documents to which it is a party.
3. Specimen Signatures: A specimen of the signature of each person authorised on behalf of the Company to (and which will) execute any Interim Document to which it is a party and/or to sign and send any document or notice in connection with the Interim Documents to which it is a party.
4. Certificate of an authorised signatory: A certificate of an authorised signatory of the Company certifying on behalf of the Company that:
  - (a) each copy document relating to it specified in this Schedule is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement; and
  - (b) utilisation of, securing and guaranteeing by the Company of the Interim Facility would not breach any borrowing, guarantee or similar limit binding on it (as applicable).
5. Legal opinions: A legal opinion of Paul Hastings LLP, counsel to the Interim Finance Parties as to English law, in relation to the enforceability of the Interim Documents and the due authorisation and capacity of the Company to enter into the Interim Documents to which it is a party, to be in substantially the form distributed to the Arrangers prior to the date of this Agreement.
6. Interim Documents: A copy of:
  - (a) this Agreement;
  - (b) the Fee Letter; and
  - (c) the Security Agreement,duly executed by the relevant Obligor party thereto.
7. Final draft announcement: A copy of the final draft Announcement.
8. Reports: A copy of each of the following due diligence reports commissioned by the Company in connection with the Acquisition (on a non-reliance basis and subject to the applicable Interim Finance Parties having signed (and returned to the relevant report provider) all applicable confidentiality/release letters (or equivalent) in relation thereto):
  - (a) the financial due diligence report on the Target Group prepared by MHA LLP;
  - (b) the tax due diligence report on the Target Group prepared by MHA LLP;
  - (c) the OEM risk advisory report on the Target Group prepared by MHA LLP; and
  - (d) the legal due diligence report on the Target Group prepared by Skadden, Arps, Slate, Meagher & Flom (UK) LLP,

together the **Reports** (provided that it is confirmed that the draft or final Reports which have been supplied to the Arrangers on or before the date of this Agreement are in form and substance satisfactory to the Interim Facility Agent and Reports in all material respects in that form will be satisfactory to the Interim Facility Agent). For the avoidance of doubt, the Company may update any due diligence (including any Original Report) from time to time in its sole and absolute discretion, and there shall be no requirement for any such updates to be provided to any Interim Finance Party (and failure to provide such updates, or the provision of such updates in form and



substance that is not satisfactory to one or more Interim Finance Parties, shall not affect the satisfaction of this condition).

9. Tax Structure Memorandum: A copy of the Tax Structure Memorandum (provided that it is confirmed that the draft or final Tax Structure Memorandum which has been supplied to the Arrangers on or before the date of this Agreement is in form and substance satisfactory to the Interim Facility Agent and a Tax Structure Memorandum in all material respects in that form tendered in satisfaction of this condition precedent will be satisfactory to the Interim Facility Agent).
10. Group structure chart: A structure chart showing the anticipated structure of the Group as at the First Utilisation Date (only if not included in the Tax Structure Memorandum and provided that such structure chart shall not be required to be in a form and substance satisfactory to the Interim Facility Agent).
11. Fees: Evidence that the pre-agreed fees due from the Borrower under this Agreement pursuant to the Fee Letter have been paid or will be paid by the First Utilisation Date (which may be satisfied by a provision providing for their deduction from the first Interim Utilisation in the draft Utilisation Request).
12. PSC register: In the event that the Company is legally required to comply with Part 21A of the Companies Act 2006, to the extent not available from public records at Companies House, a copy of the PSC Register of the Company (provided that, for the avoidance of doubt, such PSC Register shall not be required to be in a form and substance satisfactory to the Interim Facility Agent).
13. Financial model: A financial model relating to agreed members of the Group (provided that it is confirmed that the draft or final financial model which has been supplied to the Arrangers on or before the date of this Agreement is in form and substance satisfactory to the Interim Facility Agent and a financial model in all material respects in that form tendered in satisfaction of this condition precedent will be satisfactory to the Interim Facility Agent). For the avoidance of doubt, the Company may update the financial model from time to time in its sole and absolute discretion, and there shall be no requirement for any such updates to be provided to any Interim Finance Party (and failure to provide such updates, or the provision of such updates in form and substance that is not satisfactory to one or more Interim Finance Parties, shall not affect the satisfaction of this condition).
14. “Know your customer” requirements: Any requested information and evidence reasonably required by any entity which is an Interim Finance Party at the date of this Agreement and notified to the Company prior to the date of this Agreement in order to comply with “know your client” procedures under applicable laws.
15. Holdco Accession:
  - (a) A copy of the constitutional documents of Holdco, including the consent issued to Holdco pursuant to the Control of Borrowing (Jersey) Order 1958, as amended.
  - (b) A copy of a resolution of the board of directors of Holdco approving the terms of, and the transactions contemplated by, the Interim Documents to which it is a party.
  - (c) A copy of a resolution of the shareholders of the Company (in a form reasonably satisfactory to the Interim Facility Agent) amending the Company's articles of association.
  - (d) A copy of a resolution of the shareholders of the Company approving the terms of, and the transactions contemplated by, the Interim Documents to which it is a party.

- (e) A specimen of the signature of each person authorised on behalf of Holdco to (and which will) execute any Interim Document to which it is a party and/or to sign and send any document or notice in connection with the Interim Documents to which it is a party.
- (f) A certificate of an authorised signatory of Holdco certifying on behalf of Holdco that:
  - (i) each copy document relating to it specified in this Schedule is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement; and
  - (ii) the securing and guaranteeing by Holdco of the Interim Facility would not breach any borrowing, guarantee or similar limit binding on it (as applicable).
- (g) A legal opinion of:
  - (i) A legal opinion of Paul Hastings LLP, counsel to the Interim Finance Parties as to English law, in relation to the enforceability of the Interim Documents, to be in substantially the form distributed to the Arrangers prior to the date of this Agreement;
  - (ii) Carey Olsen Jersey LLP, counsel to the Interim Finance Parties as to Jersey law, in relation to the due authorisations and capacity of Holdco to enter into the Interim Documents to which it is party, to be in substantially the form distributed to the Arrangers prior to the date of this Agreement;
- (h) A copy of the Accession Letter and the Security Accession Deed, in each case duly executed by the relevant Obligors party thereto.

**SCHEDULE 6**  
**MAJOR REPRESENTATIONS, MAJOR UNDERTAKINGS AND MAJOR DEFAULTS**

**PART I**  
**MAJOR REPRESENTATIONS**

The Company makes the representations and warranties in this Part I to the Interim Finance Parties on the date of this Agreement, on each Utilisation Date and on the first day of each Interest Period by reference to the facts and circumstances existing at such time. Holdco makes the representations and warranties in this Part I to the Interim Finance Parties on the date on which it becomes the Guarantor, on each Utilisation Date and on the first day of each Interest Period by reference to the facts and circumstances existing at such time. Each of Holdco and the Company acknowledges that each Interim Finance Party is relying on such representations and warranties.

**1. Incorporation and Status**

It is duly incorporated or, as the case may be, organised and validly existing under the laws of the place of its jurisdiction of incorporation or organisation.

**2. Power and Authority**

- (i) Subject to the Reservations, it has the power to enter into and perform its obligations under each of the Interim Documents to which it is a party.
- (ii) It has taken all necessary corporate action to authorise its entry into and the performance by it of its obligations under each Interim Document to which it is party.
- (iii) It has the power to own its assets and carry on its business in all material respects as it is being conducted.

**3. No Conflict**

Subject to the Reservations and the Perfection Requirements, the entry into and delivery by it of, and the performance by it of its obligations under, the Interim Documents to which it is a party do not conflict with:

- (i) any law or regulation applicable to it to an extent which has a Material Adverse Effect;
- (ii) its constitutional documents in any material respect; or
- (iii) any agreement or instrument binding on it or any of its assets to an extent which has a Material Adverse Effect.

**4. Binding Obligations**

Subject to the Reservations and the Perfection Requirements, the obligations expressed to be assumed by it under each Interim Document to which it is a party are legal, valid, binding and enforceable obligations.

**5. Validity and admissibility in evidence**

Subject to the Reservations and Perfection Requirements, all material authorisations required under any applicable law or regulation applicable to it in its jurisdiction of incorporation in order:

- (i) to enable it to lawfully enter into, and perform its material obligations, under the Interim Documents to which it is a party; and
- (ii) to make the Interim Documents to which it is a party admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected (or will be obtained or effected within the period allowed by applicable law), in each case, excluding any voluntary filing or registration or any action in connection with any assignment,

transfer or sub-participation (or similar) by any Party and to the extent that failure to obtain or effect those authorisations would have a Material Adverse Effect.

## **5 Holding Company**

It has not traded or carried on any business, acquired any material assets or incurred any material liabilities or commitments other than:

- (i) by entering into or under the Transaction Documents or otherwise in connection with the Transaction Documents and the transactions contemplated therein;
- (ii) in connection with any arrangements entered into (or proposed to be entered into) for the purpose of financing the Acquisition and/or refinancing amounts outstanding under the Interim Documents to which it is a party;
- (iii) establishment and administration costs;
- (iv) liabilities for Tax and other customary assets, rights and liabilities for a holding company;
- (v) payment of any fees, costs, expenses and Taxes in connection with the Acquisition or the Transaction Documents; and
- (vi) ownership of shares in its Subsidiaries and other assets acquired pursuant to the Acquisition or Transaction Documents, intragroup debit and credit balances (or other intragroup liabilities) or cash and cash equivalents.

**PART II**  
**MAJOR UNDERTAKINGS**

**1. Negative Pledge**

No Obligor will create or permit to subsist any Security Interest over any of its assets, other than (as applicable):

- (i) any Security Interest created or evidenced by the Security Documents;
- (ii) any Security Interest arising under the Transaction Documents;
- (iii) any Security Interest arising under or in connection with the Debt Facilities;
- (iv) any netting or set-off arrangement entered into in the ordinary course of its banking arrangements (including in connection with any hedging arrangements, clearing bank, overdraft or cash management facilities) for the purpose of netting debit and credit balances;
- (v) any Security Interest arising under general business conditions of any bank, saving bank or financial institution which whom it maintains a banking relationship in the ordinary course of business;
- (vi) any Security Interest arising by operation of law (or by contract to substantially the same effect) or under general business conditions, provided that if arising by reason of default on the part of an Obligor, such default does not subsist for a period of more than 90 days; and
- (vii) any Security Interest securing any Financial Indebtedness provided that, in aggregate, the principal amount of the Financial Indebtedness secured under this paragraph (vii) does not exceed USD 5,000,000 at any time.

**2. Indebtedness**

No Obligor will incur or allow to remain outstanding any Financial Indebtedness, other than (as applicable):

- (i) any Financial Indebtedness which is incurred under the Transaction Documents;
- (ii) any Financial Indebtedness arising under or in connection with the Debt Facilities;
- (iii) any Financial Indebtedness arising under or in connection with any hedging transaction; and
- (iv) any Financial Indebtedness provided that, in aggregate, the principal amount of the Financial Indebtedness outstanding pursuant this paragraph (iv) does not exceed USD 5,000,000 at any time.

**3. Acquisitions & Mergers**

No Obligor will:

- (i) acquire or subscribe for any shares, stocks or securities convertible into share capital in any person, or ownership interest in any person or acquire any business, or incorporate any company;
- (ii) enter into any merger, amalgamation, demerger or reconstructions; or
- (iii) enter into, invest in or acquire any shares, stocks, securities convertible into share capital, or other interest in any joint venture or transfer any assets or lend to or

guarantee or give an indemnity for or give security for the obligations of a joint venture or maintain the solvency of or provide working capital to any joint venture, other than:

- (A) pursuant to the Acquisition;
- (B) the acquisition or subscription by Holdco of shares, stocks, securities or ownership interests in the Company; or
- (C) as set out in or contemplated by the Transaction Documents.

#### **4. Disposals**

- (i) Holdco will not dispose of any of its shares in the capital of the Company;
- (ii) The Company will not dispose of any Target Shares acquired by it pursuant to the Acquisition,  
in each case, other than to the extent that the disposal is by way of the granting of a Security Interest in favour of the Interim Finance Parties.

#### **5. Distributions**

- (i) Holdco will not:
  - (A) declare, make or pay, or pay any interest of any unpaid amount of, any dividend, charge, fee or other distribution (whether in cash or in kind) on or in respect of its shares or share capital (or any class of its share capital);
  - (B) repay or distribute any share premium reserve;
  - (C) redeem, purchase, defease, retire or repay any of its shares or share capital; or
  - (D) pay any management, advisory or other similar fee to the Investors; or
  - (E) repay, prepay or discharge any amount outstanding (whether of principal, interest, premium or other charge) in respect of any Equity Investment.
- (ii) Paragraph (i) does not apply to:
  - (A) to enable a Holding Company of Holdco to (i) pay Taxes, duties or similar amounts for which it is liable; (ii) pay fees, expenses and other costs incurred in acting as, or maintaining its existence as, a holding company or arising by operation of law or in the ordinary course of administration of its business; and (iii) meet substance requirements for Tax purposes, provided that, in aggregate, any distribution pursuant this sub-paragraph (A) (when aggregated with any distribution pursuant to sub-paragraph (B) below) does not exceed USD 10,000,000 at any time; or
  - (B) for the purpose of funding transaction costs incurred in connection with the Acquisition and/or the Interim Facility (including any such costs incurred by the Equity Investors and recharged to a member of the Group) provided that, in aggregate, any distribution pursuant this sub-paragraph (B) (when aggregated with any distribution pursuant to sub-paragraph (A) above) does not exceed USD 10,000,000 at any time.

#### **6. Holding Companies**

The Obligors shall not trade, carry on any business, own any assets or incur any liabilities other than in connection with the Acquisition and the Interim Documents (as determined by each of the Obligors, acting reasonably) other than:

- (i) by entering into or under the Transaction Documents or otherwise in connection with the Transaction Documents and the transactions contemplated therein;
- (ii) in connection with any arrangements entered into (or proposed to be entered into) for the purpose of financing the Acquisition and/or refinancing amounts outstanding under the Interim Documents to which it is a party;
- (iii) establishment and administration costs;
- (iv) liabilities for Tax and other customary assets, rights and liabilities for a holding company;
- (v) payment of any fees, costs, expenses and Taxes in connection with the Acquisition or the Transaction Documents; and
- (vi) ownership of shares in its Subsidiaries and other assets acquired pursuant to the Acquisition or Transaction Documents, intragroup debit and credit balances (or other intragroup liabilities) or cash and cash equivalents.

## **7. Conduct of Scheme and/or Offer**

- (i) The Company shall not waive, amend or treat as satisfied (where the Company considers it not actually satisfied) any material term or condition relating to the Acquisition from that set out in the draft Announcement delivered to the Interim Facility Agent in accordance with paragraph 7 of Schedule 5 (*Conditions Precedent*) (or any replacement or new Announcement compliant with paragraph (v) below) where it would be materially adverse to the interests of the Interim Lenders (taken as a whole) under the Interim Documents to which it is a party except:
  - (A) to the extent required by, or reasonably determined by the Company as being necessary or desirable to comply with the requirements or requests (as applicable) of, the City Code, the Panel or the Court or any applicable law, regulation or regulatory body;
  - (B) any change in the purchase price funded by equity (or amendment to any written agreement related thereto) in connection with the Acquisition;
  - (C) extending the period in which holders of the shares in Target may vote in favour of or accept the terms of the Scheme or, as the case may be, the Offer (including by reason of the adjournment of any meeting or court hearing);
  - (D) to the extent it relates to a condition to the Acquisition which the Company reasonably considers that it would not be entitled, in accordance with Rule 13.5(a) of the City Code, to invoke so as to cause the Acquisition not to proceed, to lapse or to be withdrawn (and the other conditions to the Acquisition have been, or will contemporaneously be, satisfied or waived, as permitted under this sub-paragraph (i)); and/or
  - (E) to the extent required to allow the Acquisition to switch from being effected by way of Scheme to an Offer or from an Offer to a Scheme.

- (ii) Unless otherwise agreed by the Majority Interim Lenders, if the Acquisition is effected by way of the Offer, the Company shall not reduce the Minimum Acceptance Threshold.
- (iii) The Company shall comply in all material respects with the City Code, subject to waivers granted by or requirements of the Panel or the requirements of the Court, and all relevant laws and regulations relating to the Acquisition, save where non-compliance would not be materially prejudicial to the interests of the Interim Lenders (taken as a whole) under the Interim Documents to which it is a party.
- (iv) The Company shall not take any steps as a result of which any member of the Group is obliged to make a mandatory offer under Rule 9 of the City Code.
- (v) Except to the extent required by the City Code, the Panel or the Court, the Company shall not, without the prior consent of the Majority Interim Lenders, modify the Announcement (or any replacement or new Announcement compliant with this sub-paragraph (v)) (except as permitted by sub-paragraph (i) above unless prohibited by sub-paragraph (ii) above) from the final draft delivered to the Interim Facility Agent as a condition precedent to signing in any manner which would be materially adverse to the interests of the Interim Lenders under the Interim Documents to which it is a party (taken as a whole) or otherwise contrary to the terms of this Agreement. For purposes of this sub-paragraph (v) any issuance of a replacement or new Announcement shall be considered a modification.
- (vi) The Company shall ensure that the Scheme Circular and the Offer Document are substantially consistent in all material respects with the terms of the Announcement (or any replacement or new Announcement compliant with sub-paragraph (v) above) together with any amendments or other changes which would be permitted under sub-paragraphs (i) or (v) above.
- (vii) Subject to any confidentiality, regulatory, legal or other restrictions relating to the supply of such information, the Company will keep the Interim Facility Agent reasonably informed as to any material developments in relation to the Acquisition, including if the Scheme or the Offer lapses, terminates or is withdrawn, and, will from time to time, if the Interim Facility Agent reasonably requests, give the Interim Facility Agent reasonable details as to the current level of acceptances for any Offer.
- (viii) The Company shall provide to the Interim Facility Agent:
  - (A) a copy of (x) the Scheme Circular or (y) as the case may be, the Offer Document published and sent to shareholders of the Target by or on behalf of Target or Company (as applicable) promptly following such publication; and
  - (B) a copy of any new or replacement Announcement made after the date of this Agreement promptly following the making thereof.
- (ix) The Company shall:
  - (A) if the Acquisition is being effected by way of the Scheme, use all reasonable endeavours to de-list the Target from the Official List of the UK Financial Conduct Authority and re-register it as a private limited company, in each case, within 60 days of the date on which the Scheme has become effective in accordance with its terms;



- (B) if the Acquisition is being effected by way of an Offer, use all reasonable endeavours to procure (except to the extent prevented by law, regulation or a court) that the Target is de-listed from the Official List of the UK Financial Conduct Authority and re-registered as a private limited company, in each case, within 60 days of the later of (i) the First Utilisation Date and (ii) the date on which the Company has acquired Target Shares carrying 75% or more of the voting rights attributable to the capital of the Target which are then exercisable at a general meeting of the Target; and
  - (C) if the Acquisition is being effected by way of an Offer, and to the extent the Company has, by virtue of acceptances of the Offer, acquired or unconditionally contracted to acquire, not less than 90% in value of the Target Shares and not less than 90% of the voting rights of the Target Shares the subject of the Offer, use all reasonable endeavours to, promptly (and in any event within the maximum time period prescribed by such actions) complete a Squeeze-out.
- (x) The Company shall not make any public statement which refers to the Interim Documents and the financing of the Scheme or Offer which would be materially prejudicial to the interests of the Interim Lenders (taken as a whole) under the Interim Documents (other than any Announcement, any Scheme Document or any Offer Document), without the consent of all Interim Lenders (not to be unreasonably withheld or delayed) unless requested or required to do so by law or regulation or by the City Code, the Panel or the Court. For the avoidance of doubt, this paragraph (ix) shall not restrict the Company from making any disclosure that is required, permitted or customary in relation to the Interim Documents or the identity of the Interim Finance Parties in any Announcement, any Scheme Document or any Offer Document or making any filings as required by law or its auditors or in its audited financial statements or in accordance with or in order to satisfy or comply with the terms of the Interim Documents.

**PART III**  
**MAJOR DEFAULTS**

**1. Payment Default**

An Obligor does not pay on the due date any amount payable by it under the Interim Documents to which it is a party at the place at and in the currency in which it is expressed to be payable unless:

- (i) in the case of principal or interest, payment is made within three Business Days of the due date; and
- (ii) in the case of any amount not constituting principal or interest, payment is made within five Business Days of the due date.

**2. Breach of Other Obligations**

- (i) An Obligor does not comply with any Major Undertaking applicable to it.
- (ii) No Major Default under paragraph (i) above will occur if the failure to comply is capable of remedy and is remedied within 20 Business Days of the earlier of the Interim Facility Agent giving notice of the breach to the relevant Obligor requesting it to be remedied and the relevant Obligor becoming aware of the failure to comply.

**3. Misrepresentation**

- (i) A Major Representation is incorrect or misleading in any material respect when made or deemed to be repeated by an Obligor.
- (ii) No Major Default under paragraph (i) above will occur if the circumstances giving rise to that misrepresentation are capable of remedy and are remedied within 20 Business Days of the earlier of the Interim Facility Agent giving written notice of the breach to the relevant Obligor requesting it to be remedied and such Obligor becoming aware of the misrepresentation.

**4. Invalidity, Unlawfulness and Repudiation**

- (i) Subject to the Reservations and the Perfection Requirements, any material obligation of an Obligor under any Interim Document to which it is a party becomes invalid or unenforceable to an extent which is materially prejudicial to the interests of the Interim Lenders taken as a whole under the Interim Documents to which it is a party.
- (ii) Subject to the Reservations and the Perfection Requirements, it is or becomes unlawful in any applicable jurisdiction for an Obligor to perform any of its material obligations under the Interim Documents to which it is a party to an extent which is materially prejudicial to the interests of the Interim Lenders taken as a whole under the Interim Documents to which it is a party.
- (iii) An Obligor repudiates or rescinds an Interim Document to which it is a party and such repudiation or rescission is materially prejudicial to the interests of the Interim Lenders taken as a whole under the Interim Documents to which it is a party.

**5. Insolvency**

- (i) An Obligor is unable to pay its debts as they fall due (other than solely as a result of liabilities exceeding assets), suspends making payments on all or a material part of its debts or, by reason of actual or anticipated financial difficulties, commences

negotiations with its creditors generally (other than the Interim Finance Parties) for the rescheduling of any of its Financial Indebtedness.

- (ii) A moratorium is declared in respect of any Financial Indebtedness of an Obligor.

## **6. Insolvency Proceedings**

- (i) Any corporate action, legal proceedings or other formal procedure is taken for:
  - (A) the winding-up, dissolution or administration of an Obligor;
  - (B) a composition, compromise or assignment with the creditors generally of any Obligor for reasons of financial difficulty; or
  - (C) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory or interim manager or other similar officer in respect of an Obligor or any of its material assets.
- (ii) Paragraph (i) above shall not apply to:
  - (A) any proceedings or actions which are contested in good faith and discharged, stayed or dismissed within 28 days of commencement;
  - (B) any petition or similar presented by a creditor which (A) is being contested in good faith and due diligence and the relevant entity has demonstrated to the Interim Facility Agent (acting reasonably and in good faith) that it has sufficient financial means to meet the amount of the claim requested by the creditor, (B) is, in the opinion of the Company (acting reasonably and in good faith), frivolous and vexatious or (C) is discharged within 30 days.

## **7. Analogous Proceedings**

There occurs in relation to an Obligor in any jurisdiction to which it or any of its assets are subject, any event which corresponds to any of those referred to in paragraph 5 (*Insolvency*) or 6 (*Insolvency Proceedings*).

## **8. Change of Control**

A Change of Control Event under paragraphs (a) to (d) inclusive of that definition has occurred.

**SCHEDULE 7  
FORM OF ACCESSION LETTER**

To: **BMO CAPITAL MARKETS** as Interim Facility Agent

From: [*Acceding Entity*] and **GLOBAL AUTO HOLDINGS LIMITED** as Company

Date: [•]

Dear Sirs

**Interim Facility Agreement dated [•] (the Interim Facility Agreement)**

1. We refer to the Interim Facility Agreement. This is an Accession Letter for the purposes of the Interim Facility Agreement. Words and expressions defined in the Interim Facility Agreement shall have the same meanings when used in this Accession Letter.
2. [*Acceding Entity*] agrees to become a Guarantor and to be bound by the terms of the Interim Facility Agreement and the other Interim Documents as a Guarantor pursuant to Clause 25.2 (*Accession of Guarantors*) of the Interim Facility Agreement. [*Acceding Entity*] is a company duly incorporated under the laws of [*name of relevant jurisdiction*] and is a limited liability company with registered number [                    ].
3. The Company confirms that no Major Event of Default is continuing or would occur as a result of [*Acceding Entity*] becoming a Guarantor.
4. [*Acceding Entity*] confirms and agrees that, with effect from (and including) the date of this Accession Letter, the guarantees and indemnities set out in Clause 15 (*Guarantee and Indemnity*) of the Interim Facility Agreement shall apply and extend to the obligations of [*Acceding Entity*] under the Interim Documents (including this Accession Letter), subject to the guarantee limitations set out in Clause 15.9 (*Guarantee Limitation*) of the Interim Facility Agreement.
5. [*Acceding Entity's*] administrative details for the purposes of the Interim Facilities Agreement are as follows:  
  
Address:  
  
Email:  
  
Attention:
6. This Accession Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.
7. The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement.

[Company]

[Subsidiary]

[Interim Facility Agent]

**SCHEDULE 8**  
**DAILY NON-CUMULATIVE COMPOUNDED RFR RATE**

The “**Daily Non-Cumulative Compounded RFR Rate**” for any RFR Banking Day “**i**” during an Interest Period for a Compounded Rate Loan is the percentage rate per annum (without rounding, to the extent reasonably practicable) calculated as set out below:

$$(UCCDR_i - UCCDR_{i-1}) \times \frac{dcc}{n_i}$$

where:

**UCCDR<sub>i</sub>** means the Unannualised Cumulative Compounded Daily Rate for that RFR Banking Day “**i**”;

**UCCDR<sub>i-1</sub>** means, in relation to that RFR Banking Day “**i**”, the Unannualised Cumulative Compounded Daily Rate for the immediately preceding RFR Banking Day (if any) during that Interest Period;

“**dcc**” means 360 or, in any case where market practice in the Relevant Market is to use a different number for quoting the number of days in a year, that number;

“**n<sub>i</sub>**” means the number of calendar days from, and including, that RFR Banking Day “**i**” up to, but excluding, the following RFR Banking Day; and

the “**Unannualised Cumulative Compounded Daily Rate**” for any RFR Banking Day (the “**Cumulated RFR Banking Day**”) during that Interest Period is (without rounding, to the extent reasonably practicable) calculated as set out below:

$$ACCDR \times \frac{tn_i}{dcc}$$

where:

“**ACCDR**” means the Annualised Cumulative Compounded Daily Rate for that Cumulated RFR Banking Day;

“**tn<sub>i</sub>**” means the number of calendar days from, and including, the first day of the Cumulation Period to, but excluding, the RFR Banking Day which immediately follows the last day of the Cumulation Period;

“**Cumulation Period**” means the period from, and including, the first RFR Banking Day of that Interest Period to, and including, the Cumulated RFR Banking Day;

“**dcc**” has the meaning given to that term above; and

the “**Annualised Cumulative Compounded Daily Rate**” for that Cumulated RFR Banking Day is the percentage rate per annum (rounded to four decimal places) calculated as set out below:

$$\left[ \prod_{i=1}^{d_o} \left( 1 + \frac{DailyRate_{i-LP} \times n_i}{dcc} \right) - 1 \right] \times \frac{dcc}{tn_i}$$

where:

“**do**” means the number of RFR Banking Days in the Cumulation Period;

“**Cumulation Period**” has the meaning given to that term above;

“**i**” means a series of whole numbers from one to do, each representing the relevant RFR Banking Day in chronological order in the Cumulation Period;

“**DailyRate<sub>i-LP</sub>**” means, for any RFR Banking Day “**i**” during the Cumulation Period, the Daily Rate for the RFR Banking Day which is the applicable Lookback Period prior to that RFR Banking Day “**i**”;

“**n<sub>i</sub>**” means, for any RFR Banking Day “**i**” during the Cumulation Period, the number of calendar days from, and including, that RFR Banking Day “**i**” up to, but excluding, the following RFR Banking Day;

“**dcc**” has the meaning given to that term above; and

“**tn<sub>i</sub>**” has the meaning given to that term above.

**[SIGNATURE PAGES DELIBERATELY OMITTED]**



**The Arrangers**  
For and on behalf of

**BMO CAPITAL MARKETS**

**BANK OF MONTREAL**

By:

By:

**For the purposes of notices:**

Address:

Email:

Attention:

The Arrangers

For and on behalf of

**DESJARDINS CAPITAL MARKETS**

**FÉDÉRATION DES CAISSES DESJARDINS  
DU QUÉBEC**

By:

By:

**For the purposes of notices:**

Address:

Email:

Attention:

**The Arrangers**

For and on behalf of

**NATIONAL BANK OF CANADA**

**NATIONAL BANK OF CANADA by  
NATIONAL BANK FINANCIAL  
MARKETS**

By:

By:



**For the purposes of notices:**

Address:

Email:

Attention:



**The Original Interim Lenders**

For and on behalf of

**BANK OF MONTREAL, LONDON  
BRANCH**

**BANK OF MONTREAL, LONDON BRANCH**

By

By

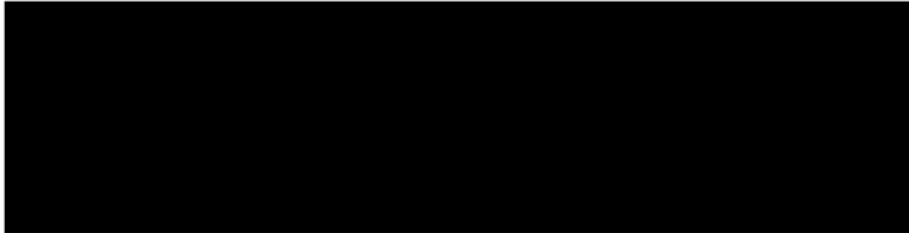


**For the purposes of notices:**

Address:

Email:

Attention:



The Original Interim Lenders

For and on behalf of

**FÉDÉRATION DES CAISSES  
DESJARDINS DU QUÉBEC**

**FÉDÉRATION DES CAISSES DESJARDINS DU  
QUÉBEC**

By:

By:

**For the purposes of notices:**

Address:

Email:

Attention:

**The Original Interim Lenders**

For and on behalf of

**NATIONAL BANK OF CANADA**

**NATIONAL BANK OF CANADA**

By:

By:



**For the purposes of notices:**

Address:

Email:

Attention:



**The Interim Facility Agent**  
For and on behalf of

**BANK OF MONTREAL**

**BMO CAPITAL MARKETS**

By:

By:

**For the purposes of notices:**

Address:

Email:

Attention:

**The Interim Security Agent**  
For and on behalf of

**BANK OF MONTREAL**

**BMO CAPITAL MARKETS**

By:

By:

**For the purposes of notices:**

Address:

Email:

Attention:



**The Company**  
**GLOBAL AUTO HOLDINGS LIMITED**

By:

Name:

Title:

Address:

Email:

Attention:

**The Guarantor**

**IMPERO JERSEY CORP LTD**

By: [REDACTED]  
Name: [REDACTED]  
Title: [REDACTED]  
Address: [REDACTED]  
Attention: [REDACTED]