M

COMPANIES FORM No. 466(Scot)

Particulars of an instrument of alteration to a floating charge created by a company registered in Scotland

466

CHFP025

Please do not write in this margin

A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge.

Pursuant to section 410 and 466 of the Companies Act 1985

Please complete legibly, preferably in black type, or bold block lettering

To the Registrar of Companies
(Address overleaf - Note 6)

For official use

Company number SC031961

Name of company

* *insert full name of Company*

* KCA DEUTAG DRILLING LIMITED (the "Company")

Date of creation of the charge (note 1)

16 May 2014

Description of the instrument creating or evidencing the charge or of any ancillary document which has been altered (note 1)

Cash Management Account Charge

Names of the persons entitled to charge

Lloyds Bank plc as Security Agent

Short particulars of all the property charged

(1) All of the Company's present and future rights, title and interest in and to the Cash Management Accounts.

(2) The Company's undertaking and all its rights and assets, both present and future, in and to the Cash Management Accounts.

Please see continuation sheet for definitions.

Presentor's name address and reference (if any):
CMS Cameron McKenna LLP
Saltire Court
20 Castle Terrace
Edinburgh EH1 2EN

DX 553001

For official use (06/2005)
Charges Section

FRIDAY

S390BDQR
SCT 30/05/2014 #75
COMPANIES HOUSE

Names, and addresses of the persons who have executed the instrument of alteration (note 2)

KCA Deutag Alpha II Limited (formerly known as Turbo Alpha II Limited), Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

Abbot Group Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Holdings Norge AS, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

Please see continuation sheet for additional names.

Please do not write in this margin

Please complete legibly, preferably in black type, or bold block lettering

Date(s) of execution of the instrument of alteration

16 May 2014

A statement of the provisions, if any, imposed by the instrument of alteration prohibiting or restricting the creation by the company of any fixed security or any other floating charge having, priority over, or ranking pari passu with the floating charge

Please see continuation sheet.

Short particulars of any property released from the floating charge

N/A

The amount, if any, by which the amount secured by the floating charge has been increased

N/A

Please do not write in this margin

Please complete legibly, preferably in black type or bold block lettering

A statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

Each of the Parties agrees that the Transaction Security created pursuant to the Transaction Security Documents shall rank and secure the Liabilities as follows:

(a) first, the Senior Secured Facilities Lender Liabilities, the Creditor Representative Liabilities, the Arranger Liabilities, the Senior Secured Notes Liabilities, the Facility D Liabilities, the Pari Passu Debt and the Hedging Liabilities, *pari passu* and without any preference between them; and

(b) second, the High Yield Secured Liabilities, *pari passu* and without any preference between them; but, in each case:

(i) only to the extent that such Transaction Security is expressed to secure those Liabilities;

(ii) irrespective of the order of execution, creation, registration, notice, enforcement or otherwise;

(iii) irrespective of the date on which the Liability arose; and

(iv) irrespective of the fluctuation in the amount, or any intermediate discharge in whole or in part, of any Liability.

The Subordinated Liabilities and the High Yield Unsecured Liabilities shall not be secured by any of the Transaction Security.

Continuation of the statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

Please do not write in this margin

Please complete legibly, preferably in black type, or bold block lettering

Signed CMS Cameron McKenna Date 23/5/16

On behalf of [company][chargee] †

A fee is payable to Companies House in respect of each register entry for a mortgage or charge. (See Note 5)

† delete as appropriate

Notes

1. A description of the instrument e.g. "Instrument of Charge" "Debenture" etc, as the case may be, should be given. For the date of creation of a charge see section 410(5) of the Companies Act.
2. In accordance with section 466(1) the instrument of alteration should be executed by the company, the holder of the charge and the holder of any other charge (including a fixed security) which would be adversely affected by the alteration.
3. A certified copy of the instrument of alteration, together with this form with the prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of execution of that instrument.
4. A certified copy must be signed by or on behalf of the person giving the certification and where this is a body corporate it must be signed by an officer of that body.
5. A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge. Cheques and Postal Orders are to be made payable to **Companies House.**
6. The address of the Registrar of Companies is: Companies House, 139 Fountainbridge, Edinburgh, EH3 9FF DX 235 Edinburgh or LP - 4 Edinburgh 2

This is the Continuation Sheet referred to in the foregoing Form 466 relative to the Amendment and Restatement Deed to an Intercreditor Agreement between, among others, KCA Deutag Drilling Limited, KCA Deutag Technical Support Limited, KCA Deutag Rig Design Services Limited and Lloyds Bank plc as the Acceding RCF Agent and the Acceding Security Agent, dated 16 May 2014.

Names and addresses of the persons who have executed the instrument of alteration

Abbot Holdings Norge AS, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Offshore AS, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

The Royal Bank of Scotland plc, 2 ½ Devonshire Square, London EC2M 4BA

KCA Deutag Alpha Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag UK Finance plc, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

Abbot Group Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

Abbot Holdings Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Drilling Group Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

Abbot Investments (North Africa) Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Caspian Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA European Holdings Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Drilling Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Technical Support Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

Bentec GMBH Drilling and Oilfield Systems, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Drilling GMBH, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

Abbot Verwaltungsgesellschaft MBH, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Tiefbohrgesellschaft MBH, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Holdings Norge AS, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Drilling Norge AS, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Modular Rigs AS, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Offshore AS, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Drilling (Ben Rinnes) AS, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Pte. Ltd, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Overseas Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag (Cyprus) Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Europe BV, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Nederland BV, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Investments BV, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Investments Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCAD Holdings II Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag Alpha II Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Rig Design Services Limited, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag GMBH, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

Abbot Verwaltungsgesellschaft MBH, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

KCA Deutag US Finance LLC, Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW

Deutsche Trustee Company Limited, Winchester House, 1 Great Winchester Street, London EC2N 2DB

Goldman Sachs International, Peterborough Court, 133 Fleet Street, London EC4A 2BB

J.P. Morgan Securities LLC, 500 Stanton Christiana Road, Newark, DE 19713-2107 U.S.A.

HSBC Bank plc, 141 Bothwell Street, Glasgow G2 7EQ

Lloyds Securities, Inc., 1095 Avenue of the Americas, New York, NY 10036

Globe Luxembourg SCA, 13-15 Avenue de la Liberté, L-1931 Luxembourg

Goldman Sachs Lending Partners LLC, 200 West Street, New York, NY 10282-2198

Lloyds Bank plc, 25 Gresham Street, London EC2V 7HN

A statement of the provisions, if any, imposed by the instrument of alteration prohibiting or restricting the creation by the company of any fixed security or any other floating charge having, priority over, or ranking pari passu with the floating charge

Clause 3.3: Subject to Clause 4.2 (*Security: Ancillary Lenders, Guarantee Banks and Issuing Banks*) of the Intercreditor Agreement or pursuant to the Facility D Continuing Security Documents, no Debtor or Third Party Chargor shall (and the Parent shall procure that no member of the Restricted Group will) grant to any of the Secured Parties the benefit of any Security in respect of that Secured Party's Secured Liabilities, in addition to the Transaction Security, unless, (A) the granting of such Security is permitted by the Secured Debt Documents, and (B) to the extent legally possible, at the same time it is also offered either:

a) to the Security Agent as agent and/or trustee for the other Secured Parties in respect of their Secured Liabilities; or

b) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as trustee for the Secured Parties:

   i. to the other Secured Parties in respect of their Secured Liabilities; or

   ii. to the Security Agent under a parallel debt structure or otherwise for the benefit of the other Secured Parties,

and ranks in the same order of priority as that contemplated in Clause 3.1 (*Transaction Security*) of the Intercreditor Agreement.

Clause 4.2: No Ancillary Lender, Guarantee Bank or Issuing Bank will, unless the prior written consent of the Majority Senior Secured Creditors (in each case, acting through their respective Creditor Representatives) is obtained, take, accept or receive from any member of the Restricted Group the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of any of the Senior Secured Facilities Lender Liabilities owed to it other than:

a) the Transaction Security;

b) each guarantee, indemnity or other assurance against loss contained in:

   i. the Senior Secured Facilities Finance Documents;

   ii. the Intercreditor Agreement; or

   iii. any Shared Assurance;

c) indemnities and assurances against loss contained in the Ancillary Documents no greater in extent than any of those referred to in paragraph (b) above;

d) any Senior Secured Facilities Cash Cover permitted under the Senior Secured Facilities Finance Documents and not prohibited by the Senior Secured Notes Documents, the Facility D Agreement or the Pari Passu Debt Documents relating to any Ancillary Facility or for any Letter of Credit issued by an Issuing Bank or Bank Guarantee issued by a Guarantee Bank;

e) the indemnities, rights of set-off and netting contained in an ISDA Master Agreement (in the case of a Hedging Ancillary Document which is based on an ISDA Master Agreement) or any indemnities, rights of set-off and netting which are similar in meaning and effect to those indemnities (in the case of a Hedging Ancillary Document which is not based on an ISDA Master Agreement); and

f) any Security, guarantee, indemnity or other assurance against loss giving effect to, or arising as a result of the effect of, any netting or set-off arrangement relating to the Ancillary Facilities for the purpose of netting debit and credit balances arising under the Ancillary Facilities.

Definitions

"**Additional Liabilities**" means, in relation to any Liability, any money, debt or liability due, owing or incurred under or in connection with:

(a) any deferral or extension of such Liability;

(b) any further advance which may be made under any document, agreement or instrument supplemental to any original finance document under or in connection with which such Liability was incurred or created together with any related interest, fees and costs;

(c) any claim for damages or restitution in the event of rescission of such Liability or otherwise in connection with any relevant agreement, deed, document or instrument relating to such Liability;

(d) any claim against any Debtor flowing from any recovery by a Debtor or any liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer of a payment or discharge in respect of such Liability on the grounds of preference or otherwise; and

(e) any amount (such as post-insolvency interest and post-insolvency expenses and any other interest, fees, expenses and other charges that pursuant to the Finance Documents continue to accrue after the commencement of any Bankruptcy Event, whether or not such interest, fees, expenses and other charges are allowed under the applicable bankruptcy or insolvency law or during any such Bankruptcy Event) which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings.

"Administrative Agent" means Goldman Sachs Lending Partners LLC, as Facility D administrative agent for the Senior Secured Facilities Finance Parties.

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

"**Amendment and Restatement Deed**" means the amendment and restatement deed dated 16 May 2014 in relation to the Intercreditor Agreement.

"**Ancillary Documents**" has the meaning given to the term "Ancillary Document" in the Senior Secured Facilities Agreement.

"**Ancillary Facility**" has the meaning given to the term "Ancillary Facility" in the Senior Secured Facilities Agreement.

"**Ancillary Lender**" means each Senior Secured Facilities Lender or an Affiliate (thereof) which makes an Ancillary Facility available pursuant to the terms of the Senior Secured Facilities Finance Documents.

"**Arranger Liabilities**" means all Liabilities of any Debtor to any Arranger under the Senior Secured Facilities Finance Documents.

"Arrangers" means Goldman Sachs International, J.P. Morgan Securities LLC, HSBC Bank plc and Lloyds Securities, Inc. (or any of its lending affiliates).

"**Bankruptcy Event**" means:

(a) in relation to any Debtor or Third Party Chargor:

(i) (A) any voluntary or involuntary case or proceeding under U.S. Bankruptcy Law is commenced with respect to such Debtor, (B) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding is commenced with respect to a material portion of such Debtor's

assets, (C) any liquidation, dissolution, reorganization or winding up of such Debtor whether voluntary or involuntary and involving insolvency or bankruptcy is commenced and (D) any assignment for the benefit of creditors; or

(ii) the appointment of any liquidator, receiver, administrator, administrative receiver, compulsory manager, trustee or similar officer in respect of that Debtor or any of its assets,

provided that this paragraph (a) shall not apply to any involuntary case, proceeding or appointment that is discharged, stayed or dismissed within 60 days;

(b) in relation to a Debtor or Third Party Chargor incorporated in Germany:

(i) any such Debtor or any third party files for opening of insolvency proceedings over the assets of any such Debtor (*Antrag auf Eröffnung eines Insolvenzverfahrens*) except to the extent that a filing by a third party is frivolous or vexatious and is withdrawn, discharged or dismissed within 15 Business Days of such filing; or

(ii) the competent court takes any of the actions set out in section 21 of the German Insolvency Code (*Insolvenzordnung*) (*Anordnung von Sicherungsmaßnahmen*) or the competent court institutes or rejects (for reason of insufficiency of its funds to implement such proceedings) insolvency proceedings against any such Debtor (*Eröffnung des Insolvenzverfahrens/Abweisung der Eröffnung des Insolvenzverfahrens mangels Masse*); or

(c) any analogous events to those mentioned in paragraph (a) or (b) above affecting any Debtor in any jurisdiction.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in London and New York and:

(a) (in relation to any date for payment or purchase of a currency other than Euro) the principal financial centre of the country of that currency; or

(b) (in relation to any date for payment or purchase of Euro) which is a TARGET Day.

"**Cash Management Account Charge**" means the cash management account charge between, among others, the Company and Lloyds Bank plc as security agent, dated 16 May 2014.

"**Cash Management Accounts**" means the accounts held by the Company from time to time with HSBC Bank plc in London including those accounts details of which are set out in Schedule 2 to the Cash Management Account Charge and any future accounts, in each case together with the debt or debts represented thereby including for the avoidance of doubt all balances now or in the future standing to the credit of or accrued or accruing on those accounts which, in each case are subject to the Cash Management Arrangement.

"**Cash Management Arrangement**" means the grouped accounts multi-currency collective net overdraft facility dated on our about the date of the Cash Management Account Charge between HSBC Bank plc and the Company.

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

"**Creditor Representative**" means:

(a) in relation to the Senior Secured Facilities Lenders, the Administrative Agent and the RCF Agent;

(b) in relation to the Senior Secured Noteholders, the Senior Secured Notes Trustee;

(c) in relation to the Facility D Lenders, the Facility D Agent;

(d) in relation to any Pari Passu Creditor of any Pari Passu Debt, the Pari Passu Debt Representative in respect of those Pari Passu Creditors;

(e) in relation to any High Yield Noteholders, the High Yield Notes Trustee in respect of those High Yield Noteholders; and

(f) in relation to any Hedging Bank, each Hedging Bank shall be its own Creditor Representative.

"**Creditor/Creditor Representative Accession Undertaking**" means:

(a) an undertaking substantially in the form set out in Schedule 3 (*Form of Creditor/Creditor Representative Accession Undertaking*) of the Intercreditor Agreement;

(b) a Transfer Certificate, an Assignment Agreement or an Increase Confirmation (each as defined in the relevant Senior Secured Facilities Finance Document); or

(c) in the case of an acceding Debtor which is expressed to accede as an Intra-Group Lender in the relevant Debtor Accession Deed, that Debtor Accession Deed.

"**Creditor Representative Liabilities**" means all the Liabilities owed by the Debtors to the Creditor Representatives (other than to a Hedging Bank in its capacity as its own Creditor Representative) under or in connection with the Finance Documents (but does not include any amount in respect of principal, interest, redemption or prepayment).

"**Creditors**" means the Primary Creditors and the Subordinated Creditors.

"**Debenture**" means the debenture made between the companies listed in Schedule 1 to the Debenture and Lloyds Bank plc as security agent, dated 16 May 2014.

"**Debt Documents**" means each of the Intercreditor Agreement, the Finance Documents, the Transaction Security Documents, Intra-Group Debt Documents, Shareholder Debt Documents and any other document designated as such by the Security Agent and the Parent.

"**Debtor**" means each Original Debtor and any person which becomes a Party as a Debtor in accordance with the terms of Clause 21 (*Changes to the Parties*) of the Intercreditor Agreement and for purposes of (a) paragraph (b) of the definition of "Secured Obligations" and (b) paragraphs (a)(ii) and (b) of Clause 19.4 (*Parallel Debt (Covenant to pay the Security Agent)*) of the Intercreditor Agreement, shall include each Third Party Chargor and each entity that owes High Yield Secured Liabilities.

"**Debtor Accession Deed**" means:

(a) a deed substantially in the form set out in Schedule 2 (*Form of Debtor Accession Deed*) of the Intercreditor Agreement; or

(b) (only in the case of a member of the Restricted Group which is acceding as a borrower or a guarantor under the Facility D Agreement) an Accession Deed (as defined in the Facility D Agreement).

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

"**Effective Date**" has the meaning given to that term in the Amendment and Restatement Deed.

"**Facility D**" means the principal amount of each loan or advance made or to be made under Facility D (as defined in the Facility D Agreement) as from time to time reduced by prepayment or repayment.

"Facility D Agent" means Globe Luxembourg SCA, a partnership limited by shares (*société en commandite par actions*) organised under the laws of the Grand-Duchy of Luxembourg, registered with the trade and companies register under number B176.822, with registered office at 13-15 Avenue de la Liberté, L-1931 Luxembourg and share capital of USD 45,000.

"**Facility D Agreement**" means that certain senior facilities agreement originally dated 15 March 2008 (as amended and restated from time to time including on or immediately following the Effective Date) among the Parent, the Facility D Lenders, the Facility D Agent and the Guarantors (as defined therein) under which "Facility D" is made available (being the only credit or debt facility available thereunder as at Effective Date).

"Facility D Borrower" means each of Abbot Group Limited, KCA Deutag Holdings Norge AS, Abbot Holdings Norge AS and KCA Deutag Offshore AS.

"**Facility D Commitment**" has the meaning given to the term "Commitment" when designated as "Facility D" in the Facility D Agreement.

"**Facility D Continuing Security Document**" means each of the documents listed in Schedule 5 (*Facility D Continuing Security Documents*) in the Intercreditor Agreement.

"**Facility D Creditors**" means the Facility D Lenders and the Facility D Agent.

"**Facility D Lenders**" means each "Facility D Lender" under and as defined in the relevant Facility D Agreement.

"**Facility D Liabilities**" means the Liabilities owed by the Debtors to the Facility D Creditors under or in connection with the Facility D Agreement.

"Facility D Security Agent" means The Royal Bank of Scotland plc, as security agent for the Facility D Creditors.

"**Finance Documents**" means the Senior Secured Facilities Finance Documents, the Senior Secured Notes Documents, the Facility D Agreement, the Pari Passu Debt Documents, the High Yield Documents and the Hedging Documents.

"**Guarantee Bank**" has the meaning given to the term "Guarantee Bank" in the Senior Secured Facilities Agreement.

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

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

"**Hedging Banks**" means the Hedging Banks to the extent they are owed Hedging Liabilities.

"**Hedging Document**" means any master agreement, confirmation, schedule, spot or forward delivery foreign exchange contract, guarantee or other agreement entered into by a Debtor and a Hedging Bank for the purposes of hedging any interest rate and foreign exchange exposures in respect of the Senior Secured Facilities Finance Documents, the Senior Secured Notes Documents, the Facility D Agreement and the Pari Passu Debt Documents that are permitted under the terms of the Finance Documents to be entered into and to share in the Transaction Security.

"**Hedging Liabilities**" means the Liabilities owed by any Debtor to any Hedging Bank under or in connection with any Hedging Document (whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise).

"**High Yield Creditor**" means a High Yield Secured Creditor or a High Yield Unsecured Creditors.

"**High Yield Document**" means a High Yield Secured Document or a High Yield Unsecured Document.

"**High Yield Guarantee**" means the guarantees granted by each High Yield Guarantor in respect of any High Yield Notes and in the form set out in the relevant High Yield Indenture.

"**High Yield Guarantor**" means each member of the Restricted Group that is a guarantor or provides an indemnity to the High Yield Creditors (or any of them) for the High Yield Liabilities (or any of them) under any High Yield Document.

"**High Yield Indenture**" means a High Yield Secured Indenture or a High Yield Unsecured Indenture.

"**High Yield Issuer**" means a Holding Company of the Parent or any direct Subsidiary of that Holding Company not a member of the Restricted Group which issues High Yield Notes and which accedes to the Intercreditor Agreement as a High Yield Issuer in accordance with Clause 21.9 (*New Shareholder Creditor or High Yield Issuer*) of the Intercreditor Agreement.

"**High Yield Liabilities**" means the High Yield Secured Liabilities and the High Yield Unsecured Liabilities.

"**High Yield Noteholder**" means a High Yield Secured Noteholder or a High Yield Unsecured Noteholder.

"**High Yield Notes**" means any high yield, exchange notes, securities or other debt instruments issued or to be issued by a High Yield Issuer after the Effective Date under a High Yield Indenture and any additional notes issued from time to time under such High Yield Indenture, together with any related Additional Liabilities.

"**High Yield Notes Trustee**" means a High Yield Secured Trustee or a High Yield Unsecured Trustee.

"**High Yield Notes Trustee Amounts**" for a High Yield Notes Trustee, means the Relevant Creditor Representative Amounts of that High Yield Notes Trustee.

"**High Yield Proceeds Loan**" means the loan, bond or other debt instrument whereby any proceeds of the issue of any High Yield Notes are lent by the relevant High Yield Issuer or any other Holding Company of the Parent to the Parent.

"**High Yield Secured Creditor**" means a High Yield Secured Trustee (on behalf of itself and the High Yield Secured Noteholders that it represents) that accedes to the Intercreditor Agreement in relation to the issuance of the High Yield Secured Notes in accordance with Clause 21.11 (*High Yield Creditors and Creditor Representative*) of the Intercreditor Agreement and the Security Agent.

"**High Yield Secured Documents**" means any High Yield Secured Indenture, any High Yield Secured Note, any High Yield Guarantees in respect of the High Yield Secured Notes, the Intercreditor Agreement and the Transaction Security Documents.

"**High Yield Secured Guarantee Liabilities**" means all present and future money, debts and liabilities due, owing or incurred by any High Yield Guarantor to any High Yield Secured Creditor under or in connection with the High Yield Secured Documents, together with any related Additional Liabilities (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise), provided, however, that the definition of "High Yield Secured Guarantee Liabilities" shall not include the High Yield Notes Trustee Amounts of the High Yield Secured Trustee(s).

"**High Yield Secured Indenture**" means any indenture entered into in connection with the issuance of any High Yield Secured Notes by the High Yield Issuer.

"**High Yield Secured Issuer Liabilities**" means all present and future money, debts and liabilities due, owing or incurred by any High Yield Issuer to any High Yield Secured Creditor under or in connection with the High Yield Secured Documents, together with any related Additional Liabilities (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise), provided, however, that the definition of "High Yield Secured Issuer Liabilities" shall not include the High Yield Notes Trustee Amounts of the High Yield Unsecured Trustee(s).

"**High Yield Secured Liabilities**" means the High Yield Secured Guarantee Liabilities and the High Yield Secured Issuer Liabilities.

"**High Yield Secured Noteholders**" means the holders, from time to time, of the High Yield Secured Notes.

"**High Yield Secured Notes**" means any High Yield Notes which are secured by any of the Transaction Security on a second priority basis as contemplated by Clause 3.1 (*Transaction Security*) of the Intercreditor Agreement.

"**High Yield Secured Trustee**" means any trustee for the holders of the High Yield Secured Notes under the relevant High Yield Secured Indenture, which has acceded as a Creditor Representative of such parties.

"**High Yield Unsecured Creditor**" means a High Yield Unsecured Trustee on behalf of itself and the High Yield Unsecured Noteholders that it represents that accedes to the Intercreditor Agreement in relation to the issuance of the High Yield Unsecured Notes in accordance with Clause 21.11 (*High Yield Creditors and Creditor Representative*) of the Intercreditor Agreement.

"**High Yield Unsecured Documents**" means any High Yield Unsecured Indenture, any High Yield Unsecured Note and any High Yield Guarantees in respect of the High Yield Unsecured Notes and the Intercreditor Agreement.

"**High Yield Unsecured Guarantee Liabilities**" means all present and future money, debts and liabilities due, owing or incurred by any High Yield Guarantor to any High Yield Unsecured Creditor under or in connection with the High Yield Unsecured Documents, together with any related Additional Liabilities (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise), provided, however, that the definition of "High Yield Unsecured Guarantee Liabilities" shall not include the High Yield Notes Trustee Amounts of the High Yield Unsecured Trustee(s).

"**High Yield Unsecured Indenture**" means any indenture entered into in connection with the issuance of any High Yield Unsecured Notes by the High Yield Issuer.

"**High Yield Unsecured Issuer Liabilities**" means all present and future money, debts and liabilities due, owing or incurred by any High Yield Issuer to any High Yield Unsecured Creditor under or in connection with the High Yield Unsecured Documents, together with any related Additional Liabilities (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise), provided, however, that the definition of "High Yield Unsecured Issuer Liabilities" shall not include the High Yield Notes Trustee Amounts of the High Yield Secured Trustee(s).

"**High Yield Unsecured Liabilities**" means the High Yield Unsecured Guarantee Liabilities and the High Yield Unsecured Issuer Liabilities.

"**High Yield Unsecured Noteholders**" means the holders, from time to time, of the High Yield Unsecured Notes.

"**High Yield Unsecured Notes**" means any High Yield Notes which are not secured by any Transaction Security.

"**High Yield Unsecured Trustee**" means any trustee for the holders of the High Yield Unsecured Notes under the relevant High Yield Unsecured Indenture, which has acceded as a Creditor Representative of such parties.

"**Holdco Liabilities**" means all money and liabilities now or in the future due or owing to a High Yield Issuer or any Holding Company of the Parent by the Parent under or in connection with the High Yield Proceeds Loan.

"**Holding Company**" means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

"**Intercreditor Agreement**" means the intercreditor agreement originally dated 15 March 2008 and as amended and restated on 27 March 2008, 28 March 2011 and most recently on 16 May 2014 pursuant to the Amendment and Restatement Deed, being the instrument of alteration.

"**Intra-Group Debt Documents**" means all documents, agreements and instruments between any member of the Restricted Group and any Intra-Group Lender evidencing any Intra-Group Liabilities.

"**Intra-Group Lenders**" means:

(a) each Original Intra-Group Lender; and

(b) each member of the Restricted Group which has made a loan available to, granted credit to or made any other financial arrangement having similar effect with another member of the Restricted Group and which becomes a party as an Intra-Group Lender in accordance with the terms of Clause 21 (*Changes to the Parties*),

which, in each case, has not ceased to be an Intra-Group Lender in accordance with the Intercreditor Agreement.

"**Intra-Group Liabilities**" means all amounts whatsoever (including Liabilities) owing or outstanding by any member of the Restricted Group to any of the Intra-Group Lenders on any account whatsoever.

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

"**Issuing Bank**" has the meaning given to the term "Issuing Bank" in the Senior Secured Facilities Agreement.

"**Letter of Credit**" has the meaning given to the term "Letter of Credit" in the Senior Secured Facilities Agreement.

"**Liabilities**" means all present and future moneys, debts, liabilities and obligations due at any time by any member of the Restricted Group to any Creditor under the Debt Documents, both actual and contingent and whether incurred solely or jointly with any other person or in any other capacity, together with any related Additional Liabilities.

"**Majority Senior Secured Creditors**" means, at any time, those Senior Secured Creditors whose Senior Secured Credit Participations at that time aggregate more than 50% of the total Senior Secured Credit Participations at that time.

"Original Debtor" means the Subsidiaries of the Parent listed in Part 3 of Schedule 1 (*The Parties*) to the Intercreditor Agreement, the Parent, the Senior Secured Notes Issuer and the Facility D Borrower

"Original Intra-Group Lender" means the companies listed in Part 1 of Schedule 1 (*The Parties*) of the Intercreditor Agreement.

"Original Shareholder Creditor" means the persons listed in Part 2 of Schedule 1 (*The Parties*) of the Intercreditor Agreement.

"Original Third Party Chargors" means the companies listed in Part 4 of Schedule 1 (*The Parties*) to the Intercreditor Agreement.

"**Parallel Debt Obligations**" has the meaning given to it in paragraph (a)(i) of Clause 19.4 (*Parallel Debt (Covenant to pay the Security Agent)*) of the Intercreditor Agreement.

"Parent" means KCA Deutag Alpha Limited, a company with limited liability incorporated under the laws of England and Wales with registered number 06433748, whose registered office is at 3 Colmore Circus, Birmingham, B4 6BH.

"**Pari Passu Creditor**" means a lender or a creditor in respect of any Pari Passu Debt and each of their respective Pari Passu Debt Representatives.

"**Pari Passu Debt**" means the Liabilities (that are not subordinated in right of payment to any then existing Senior Secured Liabilities) owed by the Debtors in respect of any loan, credit or guarantee facility, notes, indenture or security which are permitted under the terms of the Finance Documents then existing or, to the extent not permitted under any Finance Document, with the consent of the relevant Creditor Representatives under each such document (acting on the instructions of the requisite level of creditors under such documents) to share in the Transaction Security with the rights and obligations of Pari Passu Creditors as provided for in the Intercreditor Agreement, provided that the Pari Passu Creditors (or their Pari Passu Debt Representative) have acceded to the Intercreditor

Agreement in accordance with Clause 21.2 (*New Pari Passu Creditors and Creditor Representatives*) thereof.

"**Pari Passu Debt Documents**" means each document or instrument entered into between any member of the Restricted Group and a Pari Passu Creditor setting out the terms of any loan, credit or guarantee facility, notes, indenture or security which creates or evidences any Pari Passu Debt.

"**Pari Passu Debt Representative**" means the creditor representative for any tranche of Pari Passu Creditors which has acceded to the Intercreditor Agreement as a Creditor Representative of such parties.

"**Party**" means a party to the Intercreditor Agreement.

"**Payment**" means any payment, repayment, prepayment, redemption, defeasance or discharge of any principal, interest or other amount on or in respect of any of the Liabilities (or other liabilities or obligations).

"**Primary Creditors**" means the Senior Secured Creditors and the High Yield Creditors.

"**RCF Agent**" means Lloyds Bank plc, as revolving credit administrative agent for the Senior Secured Facilities Finance Parties.

"**Receiver**" means a receiver or receiver and manager or administrative receiver or preliminary receiver (*vorläufiger Insolvenzverwalter*) or other similar officer of the whole or any part of the Charged Property.

"**Relevant Creditor Representative Amounts**" has the meaning given to it in Clause 22.11 (*Payments*) of the Intercreditor Agreement.

"**Restricted Group**" means the Parent and each of its Restricted Subsidiaries for the time being.

"**Restricted Subsidiary**" has the meaning given to such term in the Senior Secured Facilities Agreement (in its form at the date of the Intercreditor Agreement), the Senior Secured Notes Indenture (in its form at the Effective Date), the Facility D Agreement (in its form at the Effective Date), any Pari Passu Debt Documents and any High Yield Documents.

"**Secured Debt Documents**" means the Finance Documents other the High Yield Unsecured Documents.

"**Secured Liabilities**" means the Senior Secured Facilities Lender Liabilities, the Creditor Representative Liabilities, the Arranger Liabilities, the Senior Secured Notes Liabilities, the Facility D Liabilities, the Pari Passu Debt, the High Yield Secured Liabilities and the Hedging Liabilities.

"**Secured Obligations**" means:

(a) all the Secured Liabilities; and

(b) all other present and future debts and obligations at any time due, owing or incurred by any member of the Restricted Group and by each Debtor to any Secured Party under the relevant Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity including the Parallel Debt Obligations.

"**Secured Parties**" means the Senior Secured Creditors, the High Yield Secured Creditors, the Arrangers, the Security Agent, the Facility D Security Agent and any Receiver or Delegate thereof from time to time but:

(a) in the case of each Senior Secured Creditor and High Yield Secured Creditor, only if its Creditor Representative is party to the Intercreditor Agreement or has acceded to the Intercreditor Agreement, in the appropriate capacity, pursuant to Clause 21 (*Changes to the Parties*) of the Intercreditor Agreement; and

(b) in the case of each Senior Secured Facilities Lender and Pari Passu Creditor under a bilateral loan, credit or guarantee facility who is not represented by a facility agent,

each Hedging Bank, each Ancillary Lender which is an Affiliate of a Senior Secured Facilities Lender and each Arranger, only if it is party to the Intercreditor Agreement or has acceded to the Intercreditor Agreement, in the appropriate capacity, pursuant to Clause 21 (*Changes to the Parties*) of the Intercreditor Agreement.

"**Security**" means a mortgage, charge, assignation, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"Security Agent" means Lloyds Bank plc, as security agent for the Secured Parties.

"Senior Secured Credit Participations" means, in relation to a Senior Secured Facilities Lender, Senior Secured Noteholder, a Facility D Lender or a Pari Passu Creditor, the aggregate of:

(a) the aggregate outstanding principal amount (including capitalised interest, if applicable) of the Senior Secured Notes held by it, if any;

(b) the aggregate (drawn, undrawn and contingent) Senior Secured Facilities Commitments, if any;

(c) the aggregate (drawn and undrawn) Facility D Commitments, if any; and

(d) if applicable and if the aggregate amount of the Pari Passu Debt is equal to more than US$20,000,000, the aggregate outstanding principal amount (including capitalised interest, if applicable), the amount of any participation in any guarantee and any ancillary facility exposure, in each case, in respect of any Pari Passu Debt in respect of which it is the creditor (if any) and its undrawn commitments under any Pari Passu Debt (or, if such undrawn commitments have been cancelled in full by the relevant Pari Passu Creditors by reason of default (howsoever described), the amount of such undrawn commitments immediately prior to such cancellation),

but, for the purposes of Clause 18 (Equalisation) only, Senior Secured Credit Participations has the meaning given to it in paragraph (b) of Clause 18.1 (Equalisation Definitions) of the Intercreditor Agreement.

"Senior Secured Creditors" means the Senior Secured Facilities Creditors, the Senior Secured Notes Creditors, the Facility D Creditors, the Pari Passu Creditors and the Hedging Banks.

"**Senior Secured Documents**" means the Senior Secured Facilities Finance Documents, the Senior Secured Notes Documents, the Facility D Finance Documents, the Pari Passu Debt Documents and the Hedging Documents.

"**Senior Secured Facilities Agreement**" means the senior secured facilities agreement made between the Senior Secured Facilities Borrowers, the Administrative Agent, the RCF Agent, the Senior Secured Facilities Lenders and others dated on or around the date of the Intercreditor Agreement.

"**Senior Secured Facilities Borrower**" has the meaning given to the term "Borrower" in the Senior Secured Facilities Agreement.

"**Senior Secured Facilities Cash Cover**" has the meaning given to the term "Cash Cover" in the Senior Secured Facilities Agreement.

"**Senior Secured Facilities Commitment**" has the meaning given to the term "Commitment" in the Senior Secured Facilities Agreement.

"Senior Secured Facilities Creditors" means the Senior Secured Facilities Lenders, the Administrative Agent and the RCF Agent.

"**Senior Secured Facilities Finance Documents**" has the meaning given to the term "Loan Documents" in the Senior Secured Facilities Agreement.

"**Senior Secured Facilities Finance Parties**" means each "Secured Party" referred to in the Senior Secured Facilities Agreement.

"**Senior Secured Facilities Lender Liabilities**" means the Liabilities (including, for the avoidance of doubt, the Ancillary Outstandings as defined in the Senior Secured Facilities Agreement) owed by the Debtors to the Senior Secured Facilities Lenders under or in connection with the Senior Secured Facilities Finance Documents.

"**Senior Secured Facilities Lenders**" means each "Lender", "Issuing Bank", "Guarantee Bank" and "Ancillary Lender" each under and as defined in the relevant Senior Secured Facilities Finance Documents.

"**Senior Secured Liabilities**" means the Liabilities (including, for the avoidance of doubt, the Ancillary Outstandings as defined in the Senior Secured Facilities Agreement) owed by the Debtors to the Senior Secured Creditors under the Senior Secured Documents.

"**Senior Secured Noteholders**" means the holders of the Senior Secured Notes at any time pursuant to the terms of the Senior Secured Notes Indenture.

"**Senior Secured Notes**" means the $375 million senior secured notes due 2021 issued by the Senior Secured Notes Issuer pursuant to the terms of the Senior Secured Notes Indenture and any additional notes issued from time to time under the Senior Secured Notes Indenture.

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

"**Senior Secured Notes Documents**" means:

(a) the Senior Secured Notes Indenture;

(b) the Senior Secured Notes;

(c) the Intercreditor Agreement;

(d) the Senior Secured Notes Guarantees; and

(e) the Transaction Security Documents.

"**Senior Secured Notes Guarantees**" means the "Guarantees" as defined in the Senior Secured Notes Indenture.

"**Senior Secured Notes Indenture**" means the Senior Secured Notes indenture dated on or about the Effective Date between, among others, the Senior Secured Notes Issuer and the Senior Secured Notes Trustee, as amended from time to time.

"Senior Secured Notes Issuer" means KCA Deutag UK Finance plc.

"Senior Secured Notes Liabilities" means the Liabilities owed by the Senior Secured Notes Issuer and the Debtors to the Senior Secured Notes Creditors under the Senior Secured Notes.

"Senior Secured Notes Trustee" means Deutsche Trustee Company Limited as trustee for the Senior Secured Noteholders.

"**Shared Assurance**" means any guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, the benefit of which (however conferred) is, to the extent legally possible, given to all the Secured Parties in respect of their Secured Liabilities.

"**Shareholder Creditors**" means:

(a) any Original Shareholder Creditor; and

(b) any direct or indirect shareholder (or Affiliate who is not a member of the Restricted Group) of the Parent (and their respective transferees and successors) which has made a loan or financial accommodation to the Parent or another member of the Restricted Group, which is not prohibited under the terms of the Finance Documents and which accedes to the Intercreditor Agreement by executing a Creditor/Creditor Representative Accession Undertaking in accordance with the terms of Clause 21 (*Changes to the Parties*),

which, in each case, has not ceased to be a Shareholder Creditor in accordance with the Intercreditor Agreement.

"**Shareholder Debt Documents**" means all documents, agreements and instruments between any Debtor and any Shareholder Creditor evidencing any Shareholder Liabilities.

"**Shareholder Liabilities**" means all Liabilities of any Debtor to any Shareholder Creditor together with any related Additional Liabilities (including any financial indebtedness, dividend or other distributions in respect of share capital and Holdco Liabilities) excluding, for the avoidance of doubt, any Liabilities of any Debtor under the Debt Documents purchased by any Shareholder Creditor to the extent permitted thereunder.

"**Subordinated Creditors**" means the Shareholder Creditors and the Intra-Group Lenders.

"**Subordinated Liabilities**" means the Shareholder Liabilities and the Intra-Group Liabilities.

"**Subsidiary**" means, in relation to any person, any entity which is controlled directly or indirectly by that person and any entity (whether or not so controlled) treated as a subsidiary in the latest financial statements of that person from time to time, and "control" for this purpose means the direct or indirect ownership of the majority of the voting share capital of such entity or the right or ability to determine the composition of a majority of the board of directors (or like board) of such entity, in each case whether by virtue of ownership of share capital, contract or otherwise.

"**Third Party Chargor**" means the Original Third Party Chargors or any other entity that has provided Transaction Security over any or all of its assets in respect of the obligations of any of the Debtors under any of the Secured Debt Documents but is not a Debtor of any of the Liabilities.

"**Transaction Security Documents**" means:

(a) each "Security Document" as defined in the Senior Secured Facilities Finance Documents;

(b) each Facility D Continuing Security Document;

(c) any other document entered into at any time by any of the Debtors creating any guarantee, indemnity, Security or other assurance against financial loss in favour of any of the Secured Parties as security for any of the Secured Obligations; and

(d) any Security granted by the Debtors or any Third Party Chargor under any covenant for further assurance in any of the documents set out in paragraphs (a) and (c) above,

which, in each case, to the extent legally possible:

(i) is created in favour of the Security Agent as trustee for the other Secured Parties in respect of their Liabilities or in the case of the Facility D Continuing Security Documents, in favour of the Facility D Security Agent as trustee for the Facility D Creditors in respect of the Facility D Liabilities;

(ii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent or the Facility D Security Agent as trustee for the Secured Parties is created in favour of:

(A) all the Secured Parties in respect of their Liabilities; or

(B) the Security Agent under a parallel debt structure or otherwise for the benefit of all the Secured Parties; or

(iii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Facility D Security Agent as trustee for the Facility D Creditors in respect of the Facility D Liabilities is created in favour of:

(A) all the Facility D Creditors in respect of their Facility D Liabilities; or

(B) the Facility D Security Agent under a parallel debt structure or otherwise for the benefit of all the Facility D Creditors.

"Transaction Security" means the Security created or expressed to be created in favour of the Security Agent, the Facility D Security Agent and/or the Secured Parties under or pursuant to the Transaction Security Documents.



FILE COPY

CERTIFICATE OF THE REGISTRATION OF AN ALTERATION TO A FLOATING CHARGE

COMPANY NO. 31961
CHARGE CODE SC03 1961 0047

I HEREBY CERTIFY THAT PARTICULARS OF AN INSTRUMENT OF ALTERATION DATED 16 MAY 2014 WERE DELIVERED PURSUANT TO SECTION 466 OF THE COMPANIES ACT 1985 ON 30 MAY 2014

THE INSTRUMENT RELATES TO A CHARGE CREATED ON 16 MAY 2014

BY KCA DEUTAG DRILLING LIMITED

IN FAVOUR OF
LLOYDS BANK PLC AS SECURITY AGENT

GIVEN AT COMPANIES HOUSE, EDINBURGH 3 JUNE 2014



Companies House



We hereby certify this to be a true copy of the original save for redactions under s859G Companies Act 2006
Latham & Watkins
LATHAM & WATKINS (London) LLP

AMENDMENT AND RESTATEMENT DEED

TO AN

INTERCREDITOR AGREEMENT
dated 15 March 2008 as amended and restated by an amendment and restatement agreement dated 27 March 2008 and an amendment and restatement agreement dated 28 March 2011

between

KCA DEUTAG ALPHA II LIMITED
as Holdco

THE ROYAL BANK OF SCOTLAND PLC
as Senior Agent and Security Agent

GLOBE LUXEMBOURG SCA
as Facility D Lender

DEUTSCHE TRUSTEE COMPANY LIMITED
as Acceding Senior Secured Notes Trustee

GOLDMAN SACHS LENDING PARTNERS LLC
as Acceding Administrative Agent

LLOYDS BANK PLC
as Acceding RCF Agent

LLOYDS BANK PLC
as Acceding Security Agent

and others

LATHAM&WATKINS

TABLE OF CONTENTS

		Page
1.	INTERPRETATION	6
2.	AMENDMENT AND RESTATEMENT OF THE ORIGINAL INTERCREDITOR AGREEMENT	7
3.	ACCEDING PARTIES	9
4.	REPRESENTATIONS AND WARRANTIES	12
5.	COSTS AND EXPENSES	13
6.	MISCELLANEOUS	13
7.	GOVERNING LAW	14
SCHEDULE 1 AMENDED AND RESTATED INTERCREDITOR AGREEMENT		15

THIS AMENDMENT AND RESTATEMENT DEED (this "**Deed**") is dated 16 May 2014 and made between:

(1) **KCA DEUTAG ALPHA II LIMITED (formerly known as TURBO ALPHA II LIMITED)**, a company with limited liability incorporated under the laws of England and Wales with registered number 06511474, whose registered office is at 3 Colmore Circus, Birmingham, B4 6BH ("**Holdco**");

(2) **ABBOT GROUP LIMITED, KCA DEUTAG HOLDINGS NORGE AS, ABBOT HOLDINGS NORGE AS** and **KCA DEUTAG OFFSHORE AS** (the "**Facility D Borrowers**");

(3) **THE ROYAL BANK OF SCOTLAND PLC** as Senior Agent for itself and on behalf of each Senior Finance Party (each as defined in the Original Intercreditor Agreement) until its replacement as contemplated by Recital (F)(h)(i) below (the "**Senior Agent**");

(4) **THE ROYAL BANK OF SCOTLAND PLC** as Security Agent for itself and on behalf of each Senior Party (each as defined in the Original Intercreditor Agreement) (the "**Security Agent**" and for purposes of the Amended and Restated Intercreditor Agreement the "**Facility D Security Agent**");

(5) **KCA DEUTAG ALPHA LIMITED** ("**Parent**"), in its own capacity and in its capacity as Obligor's Agent under and as defined in the Existing Senior Credit Agreement, for the other entities named in Schedule 1 to the Amended and Restated Intercreditor Agreement as Original Intra-Group Lenders, Original Shareholder Creditors, Original Debtors and Original Third Party Chargors and certain other entities named in such capacities in such schedule (the "**Companies**");

(6) **KCA DEUTAG UK FINANCE PLC** (the "**Acceding Senior Secured Notes Issuer**");

(7) **DEUTSCHE TRUSTEE COMPANY LIMITED** in its capacity as the senior secured notes trustee under a senior secured notes indenture dated on or about the Effective Time (as supplemented from time to time) (the "**Acceding Senior Secured Notes Trustee**");

(8) **GOLDMAN SACHS INTERNATIONAL, J.P. MORGAN SECURITIES LLC, HSBC BANK PLC** and **LLOYDS SECURITIES, INC.** as arrangers under the New Credit Agreement (the "**Acceding Arrangers**");

(9) **GLOBE LUXEMBOURG SCA**, a partnership limited by shares (*société en commandite par actions*) organised under the laws of the Grand-Duchy of Luxembourg, registered with the trade and companies register under number B176.822, with registered office at 13-15 Avenue de la Liberté, L-1931 Luxembourg and share capital of USD 45,000 as Facility D Lender ("**Facility D Lender**"), following its appointment as contemplated by Recital (F)(h)(i) below, as "**Senior Agent**" and for the purposes of the Amended and Restated Intercreditor Agreement, until resignation or cancellation of such role as contemplated hereunder, the "**Facility D Agent**";

(10) **GOLDMAN SACHS LENDING PARTNERS LLC** as term loan administrative agent under the New Credit Agreement (the "**Acceding Administrative Agent**");

(11) **LLOYDS BANK PLC** as revolving credit administrative agent under the New Credit Agreement (the "**Acceding RCF Agent**"); and

(12) **LLOYDS BANK PLC** as security agent for the Secured Parties (the "**Acceding Security Agent**").

WHEREAS:

(A) Holdco, the Facility D Lender, the Senior Agent and the Security Agent (among others) have entered into: (i) the Existing Senior Credit Agreement (as defined below); and (ii) the Original Intercreditor Agreement (as defined below).

(B) In connection with the partial refinancing of the Existing Senior Credit Agreement such that the only commitments thereunder comprise Facility D Commitments (as defined therein) pursuant to the execution of and funding under the New Credit Agreement (as defined below) and the issue of New Senior Secured Notes, the parties hereto wish to make certain amendments to the terms of the Original Intercreditor Agreement.

(C) Without prejudice to the express authorisations below, pursuant to Clause 33.4 (*Senior Refinancing)* of the Original Intercreditor Agreement, the Security Agent is authorised to enter into this Deed on behalf of the Secured Creditors (as defined in the Original Intercreditor Agreement).

(D) The Lenders and the Secured Parties (each as defined in the New Credit Agreement) have expressly authorised the Acceding RCF Agent, Acceding Administrative Agent and Acceding Security Agent to enter into this Deed (including on their behalf) in the New Credit Agreement.

(E) The Parent, Holdco, the Facility D Lender and the Senior Secured Notes Trustee (as defined in the Existing Senior Credit Agreement) have expressly authorised the Senior Agent and the Facility D Agent (and, as applicable, the Facility D Security Agent) to enter into this Deed, an amendment and restatement deed dated on or about the date hereof in respect of the Existing SFA, the Release Documents and the Payoff Letter (including on its behalf) and ratify any action they have taken in doing so. In addition, the Facility D Lender wishes to be a party to this Deed for the purposes of section 4.23(g) of the 2018 Notes Indenture.

(F) On the date of this Deed, the following steps are intended to be taken in the following order:

(a) at the same time (i) the Parent, certain of the Subsidiaries of the Parent listed therein, the Acceding Arrangers, the Acceding Administrative Agent, the Acceding RCF Agent and the Acceding Security Agent are to enter into the New Credit Agreement and the Guaranty Agreement (as applicable); (ii) the Parent, certain of the Subsidiaries of the Parent listed therein and the Acceding Senior Secured Notes Trustee will enter into the New Notes Indenture; and (iii) the Parent and the 2018 Notes Trustee are to enter into the Supplemental Indenture so that the 2018 Notes Indenture is amended as set out in the Supplemental Indenture;

(b) a Borrowing Request is to be submitted by the Parent requesting the utilisation in full of the Term Loan under and in accordance with the New Credit Agreement on the date of this Deed (as each such term is defined in the New Credit Agreement);

(c) the Parties are to enter into this Deed;

(d) the Payoff Letter is to be signed and delivered to the Parent by the Facility D Security Agent;

(e) the New Senior Secured Notes are to be issued and the proceeds of the issuance of the New Senior Secured Notes are to be paid to the Senior Agent for the account of the relevant lenders to be applied in prepayment of the facilities (other than Facility D) under the Existing Senior Credit Agreement;

(f) the Original Term Loan Lenders are to make the Term Loan available to the Term Loan Borrowers (as each such term is defined in the New Credit Agreement) who are to pay or direct those proceeds to the Senior Agent for application in prepayment of the facilities (other than Facility D) under the Existing Senior Credit Agreement;

(g) immediately upon the receipt of the proceeds in paragraphs (e) and (f) above in accordance with and subject to, the Senior Agent is to apply those amounts in repayment in full of all of the facilities (other than Facility D) under the Existing Senior Credit Agreement in connection with a Senior Facility Refinancing Event (as defined in section 4.23(g) of the 2018 Notes Indenture) and is to issue the Payoff Amount Confirmation to the Facility D Security Agent;

(h) immediately upon receipt of the Payoff Amount Confirmation:

(i) The Royal Bank of Scotland plc is to resign as the Senior Agent (subject to the continuation of certain protective provisions set out herein) and the Facility D Lender is to be treated as the replacement Senior Agent and Facility D Agent until the amendment and restatement of the Existing Senior Credit Agreement contemplated in paragraph (j) below is effective;

(ii) the Facility D Security Agent is to(and is to be authorised by the Facility D Lender and the Parent and Holdco to) execute and release the Release Documents in accordance with the terms of the Payoff Letter;

(iii) the Facility D Security Agent is to confirm that it is satisfied that the Release Time has occurred;

(i) immediately upon the Release Time and at the Effective Time, in accordance with clause 33.3.5. of the Original Intercreditor Agreement the Original Intercreditor Agreement is to be amended and restated by this Deed so that it is in the form set out at Schedule 1 (Amended and Restated Intercreditor Agreement). The Parties (other than the Acceding Parties) intend that:

(i) the Amended and Restated Intercreditor Agreement is to be substantially in the form that is attached to the 2018 Notes Indenture with such amendments as reasonably required by agents or trustees and such other modifications that do not adversely affect the rights of the Facility D Lender in any material respect; and

(ii) the Amended and Restated Intercreditor Agreement and Security Documents are to place the Subordinated Parties or other Secured Party in substantially the same, or a better, position relative to the Senior Creditors as they were in under the intercreditor arrangements and Group Security existing immediately prior to such amendment or replacement (but after taking account of the relevant Senior Refinancing), and otherwise satisfy the requirements for amending and replacing intercreditor arrangements and releasing and retaking the Group Security (each such term is defined in the Original Intercreditor Agreement); and

(j) immediately upon the Release Time and at the Effective Date, each of the Facility D Lender, the Parent and certain subsidiaries of the Parent are to enter into an amendment and restatement agreement so that the Existing Senior Credit Agreement is amended and restated in accordance with Clause 2.2(b) of the Facility D Covenant Agreement.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Deed:

"**2018 Notes**" means the $500.0 million 95⁄8% senior secured notes due 2018 issued by the Facility D Issuer pursuant to the 2018 Notes Indenture.

"**2018 Notes Indenture**" means the indenture governing the 2018 Notes entered into on 9 May 2013, among the Facility D Lender (as issuer), Deutsche Trustee Company Limited as trustee and security trustee, Deutsche Bank Trust Company Americas as principal paying agent, registrar and transfer agent and Deutsche Bank AG, London Branch as paying agent.

"**2018 Notes Trustee**" means Deutsche Trustee Company Limited as trustee with respect to the 2018 Notes.

"**Acceding Parties**" means the Acceding Senior Secured Notes Issuer, the Acceding Senior Secured Notes Trustee, the Acceding Arrangers, the Acceding Administrative Agent, the Acceding RCF Agent and the Acceding Security Agent.

"**Amended and Restated Intercreditor Agreement**" means the Original Intercreditor Agreement as amended and restated pursuant to Clause 2 (*Amendment and restatement of the Original Intercreditor Agreement*).

"**Creditor/Creditor Representative Accession Undertaking**" has the meaning given to that term in the Amended and Restated Intercreditor Agreement.

"**Effective Time**" means the time immediately upon the notification by the Senior Agent to the Parent that the Release Time has occurred.

"**Existing Senior Credit Agreement**" means the senior facilities agreement dated 15 March 2008 (as amended and restated from time to time) between Holdco, certain subsidiaries of Holdco as borrowers and guarantors and the Senior Finance Parties (as defined in the Original Intercreditor Agreement), including the Facility D Lender.

"**Facility D**" has the meaning given to that term in the Existing Senior Credit Agreement.

"**Facility D Covenant Agreement**" means the covenant agreement entered into on 9 May 2013 between, amongst other, the Facility D Lender and the Facilities Obligors (as defined therein), pursuant to which such Facilities Obligors undertook to comply with the covenants (other than payment obligations) applicable to them under the 2018 Notes Indenture.

"**Guaranty Agreement**" means the guaranty agreement dated on or about the date of this Deed between the Parent, the Subsidiaries of the Parent listed therein, the Acceding Administrative Agent and the Acceding RCF Agent.

"**Loan Document**" has the meaning given to that term in the New Credit Agreement.

"**Original Intercreditor Agreement**" means intercreditor agreement dated 15 March 2008 as amended and restated by an amendment and restatement agreement dated 27 March 2008 and an amendment and restatement agreement dated 28 March 2011 between amongst others, Holdco, the Senior Agent and Security Agent.

"**Party**" means a party to this Deed.

"**New Credit Agreement**" means the credit agreement dated on or about the date of this Deed and made between, among others, the Parent, the Subsidiaries of the Parent listed therein, the Acceding Arrangers, the Acceding Administrative Agent, the Acceding RCF Agent and the Acceding Security Agent.

"**New Senior Secured Notes**" means the $375 million 7¼ % Senior Secured Notes due 2021 by the Acceding Senior Secured Notes Issuer.

"**New Notes Indenture**" means the indenture governing the New Senior Secured Notes entered into on 16 May 2014, among the Acceding Senior Secured Notes Issuer, the guarantors (as defined therein), Deutsche Trustee Company Limited as trustee, Deutsche Bank Trust Company Americas as principal paying agent, registrar and transfer agent, Deutsche Bank AG, London Branch as paying agent, and Lloyds Bank plc as security agent.

"**Purchase Agreement**" means the purchase agreement entered into on the date of this Deed in connection with the issue of the New Senior Secured Notes.

"**Payoff Amount Confirmation**" has the meaning given to that term in the Payoff Letter.

"**Payoff Letter**" means the payoff letter dated on or about the date of this Deed between the Parent and the Facility D Security Agent.

"**Release Documents**" has the meaning given to that term in the Payoff Letter.

"**Release Time**" has the meaning given to that term in the Payoff Letter.

"**Supplemental Indenture**" means the supplemental indenture to the 2018 Notes Indenture entered into on or about the date of this Deed.

1.2 **Construction**

Clause 1.2 (*Construction*) of the Amended and Restated Intercreditor Agreement will be deemed to be set out in full in this Deed, but as if references in each such clause to "this Agreement" were references to this Deed.

1.3 **Third Party Rights**

A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

1.4 **Deed**

The Parties intend that this document shall take effect as a deed, notwithstanding that a party to it may only execute it under hand.

2. AMENDMENT AND RESTATEMENT OF THE ORIGINAL INTERCREDITOR AGREEMENT

2.1 **Original Intercreditor Agreement**

The Parties agree for themselves and for their successors, transferees and assignees that, with effect from (and including) the Effective Time (acknowledging that The Royal Bank of Scotland plc shall have been replaced by the Facility D Lender as Senior Agent at that time), the Original Intercreditor Agreement shall be amended and restated by this Deed so that it shall be in the form set out at Schedule 1 (*Amended and Restated Intercreditor Agreement*) and that they shall be bound by the provisions of the Amended and Restated Intercreditor Agreement in their stated capacities in all respects.

2.2 **Continuing Effect**

(a) Except as varied by the terms of this Deed, each of the Senior Finance Documents (as defined in the Original Intercreditor Agreement) entered into prior to the Effective Time remains in full force and effect save to the extent otherwise expressly contemplated by the terms of the New Credit Agreement or the Payoff Letter.

(b) After the Effective Time, the Original Intercreditor Agreement and this Deed shall be read and construed as one document and any references in the Original Intercreditor Agreement or any other Senior Finance Document (as defined in the Original Intercreditor Agreement) or any other document, to the Original Intercreditor Agreement or to any provision of the Original Intercreditor Agreement will be construed as a reference to the Amended and Restated Intercreditor Agreement, or that provision, as amended and restated by this Deed.

2.3 **Further assurance**

Each Debtor shall, at the request of the Facility D Security Agent or the Acceding Security Agent and at its own expense, do all such acts and things necessary or desirable to give effect to the amendments effected or to be effected pursuant to this Deed.

2.4 **No Novation**

Each of the parties to this Deed confirms that the amendment of the Original Intercreditor Agreement pursuant to this Deed shall not constitute a novation of the Original Intercreditor Agreement.

2.5 **Designation**

(a) The Senior Agent agrees that this Deed is designated as a Senior Finance Document (as defined in the Existing Senior Credit Agreement).

(b) Each of the Acceding Administrative Agent and the Acceding RCF Agent agree that this Deed is designated as a Loan Document.

2.6 **Senior Agent and Security Agent**

(a) The parties to this Deed acknowledge that the Senior Agent and the Security Agent are entering into and performing their obligations under this Deed, an amendment and restatement deed dated on or about the date hereof in respect of the Existing SFA, the Release Documents and the Payoff Letter in reliance upon the Instructions.

(b) The parties to this Deed hereby irrevocably and unconditionally confirm that all of the actions to be taken by the Senior Agent and the Security Agent directly or indirectly in connection with the entry into this Deed will be excluded from liability in accordance with clause 29.9 (*Exclusion of Liability*) of the Original Intercreditor Agreement respectively.

2.7 **Facility D Lender**

By executing this Deed:

(a) the Facility D Lender expressly instructs and authorises the Senior Agent, Security Agent, the Facility D Agent and, as applicable, the Facility D Security Agent to execute; and

(b) Holdco and the Parent expressly requests that the Senior Agent, Security Agent, the Facility D Agent and, as applicable, the Facility D Security Agent executes,

this Deed, an amendment and restatement deed dated on or about the date hereof in respect of the Existing SFA, the Release Documents and the Payoff Letter and to hereby ratify any action they may take in doing so.

2.8 **Release Time and Effective Time**

(a) In accordance with the terms of the Payoff Letter, the Facility D Security Agent will notify Parent promptly when the Release Time occurs and the Parent will promptly notify the Acceding Administrative Agent and the Acceding RCF Agent thereafter.

(b) The Senior Agent will notify the Parent promptly when the Effective Time occurs and the Parent will promptly notify the Acceding Administrative Agent and the Acceding RCF Agent thereafter. If the Effective Time has not occurred by 31 May 2014 (or any later date which the Acceding Security Agent may stipulate with the consent of the Facility D Security Agent), then this Clause 2 shall lapse and none of the amendments recorded in Clause 2.1 (*Original Intercreditor Agreement*) will take effect.

3. ACCEDING PARTIES

3.1 **Accession of Acceding Companies**

(a) Immediately upon the Effective Time, the other Parties hereby accept each Company (including by way of accession to the extent not currently party to the Original Intercreditor Agreement such Company an "**Acceding Company**") as an Original Intra-Group Lender, Original Shareholder Creditor, Original Debtor and Original Third Party Chargor (as the case may be) for the purposes of the Amended and Restated Intercreditor Agreement and each Acceding Company hereby confirms that, as from the Effective Time, it intends to be a party to the Amended and Restated Intercreditor Agreement as an Original Intra-Group Lender, Original Shareholder Creditor, Original Debtor and Original Third Party Chargor (as the case may be) and undertakes to perform all the obligations expressed in the Amended and Restated Intercreditor Agreement to be assumed by an Original Intra-Group Lender, Original Shareholder Creditor, Original Debtor and Original Third Party Chargor (as the case may be) and agrees that it shall be bound by all the provisions of the Amended and Restated Intercreditor Agreement as if it had been an original party to the Amended and Restated Intercreditor Agreement. Each Acceding Company requests that its execution and delivery of this Deed be treated by the other Parties as having satisfied the requirements of the Amended and Restated Intercreditor Agreement to accede as a party to the Amended and Restated Intercreditor Agreement, and the other Parties confirm and agree that they shall treat such execution and delivery as satisfying such requirements.

(b) Each Company confirms that its address for notices for the purposes of Clause 27 (*Notices*) of the Amended and Restated Intercreditor Agreement is that identified with its name below.

3.2 **Accession of Acceding Senior Secured Notes Issuer**

(a) Immediately upon the Effective Time, the other Parties hereby accept the Acceding Senior Secured Notes Issuer as the Senior Secured Notes Issuer for the purposes of the Amended and Restated Intercreditor Agreement and the Acceding Senior Secured Notes Issuer hereby confirms that, as from the Effective Time, it intends to be a party

to the Amended and Restated Intercreditor Agreement as the Senior Secured Notes Issuer and undertakes to perform all the obligations expressed in the Amended and Restated Intercreditor Agreement to be assumed by the Senior Secured Notes Issuer and agrees that it shall be bound by all the provisions of the Amended and Restated Intercreditor Agreement as if it had been an original party to the Amended and Restated Intercreditor Agreement. The Acceding the Senior Secured Notes Issuer requests that its execution and delivery of this Deed be treated by the other Parties as having satisfied the requirements of the Amended and Restated Intercreditor Agreement to accede as a party to the Amended and Restated Intercreditor Agreement, and the other Parties confirm and agree that they shall treat such execution and delivery as satisfying such requirements.

(b) The Acceding Senior Secured Notes Issuer confirms that its address for notices for the purposes of Clause 27 (*Notices*) of the Amended and Restated Intercreditor Agreement is that identified with its name below.

3.3 **Accession of Acceding Senior Secured Notes Trustee**

(a) Immediately upon the Effective Time, the other Parties hereby accept the Acceding Senior Secured Notes Trustee as a Senior Secured Notes Trustee for the purposes of the Amended and Restated Intercreditor Agreement and the Acceding Senior Secured Notes Trustee hereby confirms that, as from the Effective Time, it intends to be a party to the Amended and Restated Intercreditor Agreement as Senior Secured Notes Trustee and undertakes to perform all the obligations expressed in the Amended and Restated Intercreditor Agreement to be assumed by a Senior Secured Notes Trustee and agrees that it shall be bound by all the provisions of the Amended and Restated Intercreditor Agreement as if it had been an original party to the Amended and Restated Intercreditor Agreement.

(b) The Acceding Senior Secured Notes Trustee requests that its execution and delivery of this Deed be treated by the other Parties as having satisfied the requirements of the Acceding Senior Secured Notes Trustee under the Amended and Restated Intercreditor Agreement to deliver a Creditor/Creditor Representative Accession Undertaking, and the other Parties confirm and agree that they shall treat such execution and delivery as delivery of a Creditor/Creditor Representative Accession Undertaking.

(c) The Acceding Senior Secured Notes Trustee confirms that its address for notices for the purposes of Clause 27 (*Notices*) of the Amended and Restated Intercreditor Agreement is that identified with its name below.

3.4 **Accession of Acceding Arrangers**

(a) Immediately upon the Effective Time, the other Parties hereby accept each Acceding Arranger as an Arranger for the purposes of the Amended and Restated Intercreditor Agreement and each Acceding Arranger hereby confirms that, as from the Effective Time, it intends to be a party to the Amended and Restated Intercreditor Agreement as an Arranger and undertakes to perform all the obligations expressed in the Amended and Restated Intercreditor Agreement to be assumed by an Arranger and agrees that it shall be bound by all the provisions of the Amended and Restated Intercreditor Agreement as if it had been an original party to the Amended and Restated Intercreditor Agreement.

(b) Each Acceding Arranger requests that its execution and delivery of this Deed be treated by the other Parties as having satisfied the requirements of each Acceding Arranger under the Amended and Restated Intercreditor Agreement to deliver a

Creditor/Creditor Representative Accession Undertaking, and the other Parties confirm and agree that they shall treat such execution and delivery as delivery of a Creditor/Creditor Representative Accession Undertaking.

(c) Each Acceding Arranger confirms that its address for notices for the purposes of Clause 27 (*Notices*) of the Amended and Restated Intercreditor Agreement is that identified with its name below.

3.5 **Accession of Acceding Administrative Agent**

(a) Immediately upon the Effective Time, the other Parties hereby accept the Acceding Administrative Agent as a Creditor Representative for the purposes of the Amended and Restated Intercreditor Agreement and the Acceding Administrative Agent hereby confirms that, as from the Effective Time, it intends to be a party to the Amended and Restated Intercreditor Agreement as a Creditor Representative and undertakes to perform all the obligations expressed in the Amended and Restated Intercreditor Agreement to be assumed by a Creditor Representative and agrees that it shall be bound by all the provisions of the Amended and Restated Intercreditor Agreement as if it had been an original party to the Amended and Restated Intercreditor Agreement.

(b) The Acceding Administrative Agent request that its execution and delivery of this Deed be treated by the other Parties as having satisfied the requirements of the Acceding Administrative Agent under the Amended and Restated Intercreditor Agreement to deliver a Creditor/Creditor Representative Accession Undertaking, and the other Parties confirm and agree that they shall treat such execution and delivery as delivery of a Creditor/Creditor Representative Accession Undertaking.

(c) The Acceding Administrative Agent confirms that its address for notices for the purposes of Clause 27 (*Notices*) of the Amended and Restated Intercreditor Agreement is that identified with its name below.

3.6 **Accession of Acceding RCF Agent**

(a) Immediately upon the Effective Time, the other Parties hereby accept the Acceding RCF Agent as a Creditor Representative for the purposes of the Amended and Restated Intercreditor Agreement and the Acceding RCF Agent hereby confirms that, as from the Effective Time, it intends to be a party to the Amended and Restated Intercreditor Agreement as a Creditor Representative and undertakes to perform all the obligations expressed in the Amended and Restated Intercreditor Agreement to be assumed by a Creditor Representative and agrees that it shall be bound by all the provisions of the Amended and Restated Intercreditor Agreement as if it had been an original party to the Amended and Restated Intercreditor Agreement.

(b) The Acceding RCF Agent request that its execution and delivery of this Deed be treated by the other Parties as having satisfied the requirements of the Acceding RCF Agent under the Amended and Restated Intercreditor Agreement to deliver a Creditor/Creditor Representative Accession Undertaking, and the other Parties confirm and agree that they shall treat such execution and delivery as delivery of a Creditor/Creditor Representative Accession Undertaking.

(c) The Acceding RCF Agent confirms that its address for notices for the purposes of Clause 27 (*Notices*) of the Amended and Restated Intercreditor Agreement is that identified with its name below.

3.7 **Accession of Acceding Security Agent**

(a) Immediately upon the Effective Time, the other Parties hereby accept the Acceding Security Agent as a Security Agent for the purposes of the Amended and Restated Intercreditor Agreement and the Acceding Security Agent hereby confirms that, as from the Effective Time, it intends to be a party to the Amended and Restated Intercreditor Agreement as the Security Agent and undertakes to perform all the obligations expressed in the Amended and Restated Intercreditor Agreement to be assumed by the Security Agent and agrees that it shall be bound by all the provisions of the Amended and Restated Intercreditor Agreement as if it had been an original party to the Amended and Restated Intercreditor Agreement.

(b) The Acceding Security Agent requests that its execution and delivery of this Deed be treated by the other Parties as having satisfied the requirements of the Acceding Security Agent under the Amended and Restated Intercreditor Agreement to deliver a Creditor/Creditor Representative Accession Undertaking, and the other Parties confirm and agree that they shall treat such execution and delivery as delivery of a Creditor/Creditor Representative Accession Undertaking.

(c) The Security Agent confirms that its address for notices for the purposes of Clause 27 (*Notices*) of the Amended and Restated Intercreditor Agreement is that identified with its name below.

3.8 **Appointment of Senior Agent**

Upon the appointment of a successor Senior Agent as contemplated in Recital (F)(h)(i), The Royal Bank of Scotland plc as Senior Agent shall be discharged from any further obligation in respect of the Debt Documents but shall continue to be entitled to the benefit of any rights and undertakings in its favour in the Finance Documents (as defined in the Existing Senior Credit Agreement) in the form existing prior to the date of this Deed in order to complete the application of any Pay-Off Amount (as defined in the Payoff Letter) and, in respect of any act or omission by it whilst it was the Security Agent, remain entitled to the benefit of Clause 29 (*The Agent and other Finance Parties*) of the Existing Senior Credit Agreement.

4. REPRESENTATIONS AND WARRANTIES

4.1 **Reliance**

Each Debtor represents and warrants as set out in this Clause 4 to each of the parties hereto (and for the benefit of the Primary Creditors under and as defined in the Amended and Restated Intercreditor Agreement) for itself and on behalf of each other Debtor and acknowledges that the Senior Agent, Security Agent, the Facility D Lender, the Facility D Security Agent and the Acceding Parties have entered into this Deed and have agreed to the amendments effected by this Deed in full reliance on those representations and warranties.

4.2 **Binding Obligations**

Subject to the Legal Reservations (as defined in the Amended and Restated Intercreditor Agreement), the obligations expressed to be assumed by it under this Deed are valid, legally binding and enforceable obligations.

4.3 **Non-Conflict with Other Obligations**

The entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with:

(a) any law or regulation applicable to it in any material respect;

(b) its constitutional documents in any material respect; or

(c) any agreement or instrument binding upon it or any member of the Group or any of its or their respective assets where such breach would have a Material Adverse Effect (as defined in the Amended and Restated Intercreditor Agreement).

4.4 **Power and Authorisation**

It has the power to enter into, deliver, exercise its rights and perform and comply with its obligations under this Deed and the transactions contemplated by it.

4.5 **Approvals**

All material authorisations, consents, approvals, resolutions, licenses, exemptions, filings, notarisations or registrations required by it in order:

(a) to enable it to lawfully enter into, exercise its rights and comply with its obligations under this Deed; and

(b) to make this Deed, subject to the Legal Reservations, admissible in evidence in its jurisdiction of incorporation or organisation, have been obtained or effected and, subject to the Legal Reservations, are in full force and effect.

4.6 **No Default**

No Default or Event of Default (in each case as defined in the Amended and Restated Intercreditor Agreement) has occurred and is continuing or will result from the entry into, the performance of or any transaction contemplated by this Deed.

4.7 **Repetition**

The representations and warranties in this Clause 4 are made at the Effective Time by reference to the facts and circumstances existing at that time.

5. COSTS AND EXPENSES

Clause 24 (*Costs and expenses*) of the Amended and Restated Intercreditor Agreement shall be deemed to incorporated into this Deed, *mutatis mutandis*, save that all references in that clause 24 to "this Agreement" shall be construed as references to "this Deed".

6. MISCELLANEOUS

6.1 **Counterparts**

This Deed 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 Deed.

6.2 **Contact Details**

Each of the parties hereto (not otherwise having made such confirmation) confirms that its address for notices for the purposes of Clause 27 (*Notices*) of the Amended and Restated Intercreditor Agreement is that identified with its name below.

6.3 **Partial Invalidity**

If, any provision of this Deed is or becomes invalid, illegal or unenforceable in any respect under any law the validity, legality or enforceability of the remaining provisions shall not be affected or impaired in any way.

6.4 **Remedies and Waivers**

No failure to exercise, nor any delay in exercising, on the part of any Primary Creditor (as defined in the Amended and Restated Intercreditor Agreement), any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

7. **GOVERNING LAW**

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law and each of Holdco and the other Debtors submits to the jurisdiction of the English courts in the terms set out in Clause 32 (*Enforcement*) of the Amended and Restated Intercreditor Agreement save that all references in Clause 32 to "this Agreement" shall be construed as references to "this Deed".

IN WITNESS whereof this Deed has been duly executed as a deed on the date first above written.

SCHEDULE 1

AMENDED AND RESTATED INTERCREDITOR AGREEMENT

Originally dated 15 March 2008

KCA DEUTAG ALPHA II LIMITED
as Holdco

KCA DEUTAG ALPHA LIMITED
as Parent

KCA DEUTAG UK FINANCE PLC
as Senior Secured Notes Issuer

ABBOT GROUP LIMITED, KCA DEUTAG HOLDINGS NORGE AS, ABBOT HOLDINGS NORGE AS AND KCA DEUTAG OFFSHORE AS
as Facility D Borrowers

THE COMPANIES NAMED IN PART 2 OF SCHEDULE 1
as Original Debtors

GOLDMAN SACHS LENDING PARTNERS LLC
as Administrative Agent

LLOYDS BANK PLC
as RCF Agent

DEUTSCHE TRUSTEE COMPANY LIMITED
as Senior Secured Notes Trustee

GLOBE LUXEMBOURG SCA
as Facility D Agent

LLOYDS BANK PLC
as Security Agent

THE ROYAL BANK OF SCOTLAND PLC
as Facility D Security Agent

and

CERTAIN ENTITIES

as Intra-Group Lenders, Third Party Chargors, Hedging Banks, Arrangers and Shareholder Creditors

---

INTERCREDITOR AGREEMENT

as amended and restated by an amendment and restatement agreement dated 27 March 2008, an amendment and restatement agreement dated 28 March 2011 and an amendment and restatement agreement dated 16 May 2014

LATHAM&WATKINS

99 Bishopsgate
London EC2M 3XF
+44.20.7710.1000 (Tel)

CONTENTS

Clause		Page
1.	DEFINITIONS AND INTERPRETATION	2
2.	RANKING AND PRIORITY	35
3.	TRANSACTION SECURITY	35
4.	SENIOR SECURED FACILITIES LENDERS AND SENIOR SECURED FACILITIES LENDER LIABILITIES	37
5.	SENIOR SECURED NOTEHOLDERS AND SENIOR SECURED NOTES LIABILITIES	39
6.	FACILITY D LENDERS AND FACILITY D LIABILITIES	40
7.	PARI PASSU CREDITORS AND PARI PASSU DEBT	41
8.	HEDGING BANKS AND HEDGING LIABILITIES	42
9.	HIGH YIELD NOTEHOLDERS AND HIGH YIELD LIABILITIES	48
10.	INTRA-GROUP LENDERS AND INTRA-GROUP LIABILITIES	55
11.	SHAREHOLDER CREDITORS AND SHAREHOLDER LIABILITIES	58
12.	EFFECT OF INSOLVENCY EVENT	60
13.	TURNOVER OF RECEIPTS	62
14.	REDISTRIBUTION	65
15.	ENFORCEMENT OF TRANSACTION SECURITY	66
16.	PROCEEDS OF DISPOSALS	69
17.	APPLICATION OF PROCEEDS	75
18.	EQUALISATION	79
19.	THE SECURITY AGENT	81
20.	CHANGE OF SECURITY AGENT AND DELEGATION	97
21.	CHANGES TO THE PARTIES	99
22.	RELEVANT CREDITOR REPRESENTATIVE PROTECTIONS	105
23.	ADDITIONAL INDEBTEDNESS	110
24.	COSTS AND EXPENSES	113
25.	INDEMNITIES	114
26.	INFORMATION	116
27.	NOTICES	118
28.	PRESERVATION	120
29.	CONSENTS, AMENDMENTS AND OVERRIDE	121
30.	COUNTERPARTS	127
31.	GOVERNING LAW	127
32.	ENFORCEMENT	127
SCHEDULE 1		129

PART 1 ORIGINAL INTRA-GROUP LENDERS 129
PART 2 ORIGINAL SHAREHOLDER CREDITORS 130
PART 3 ORIGINAL DEBTORS 130
PART 4 ORIGINAL THIRD PARTY CHARGORS 131
SCHEDULE 2 132
SCHEDULE 3 134
SCHEDULE 4 136
SCHEDULE 5 137
SCHEDULE 6 138

THIS AGREEMENT is originally dated 15 March 2008 and has been amended and restated by an amendment and restatement agreement dated 27 March 2008, an amendment and restatement agreement dated 28 March 2011 and an amendment and restatement agreement dated 16 May 2014 and made between:

(1) **KCA DEUTAG ALPHA II LIMITED**, a company with limited liability incorporated under the laws of England and Wales with registered number 0651144, whose registered office is at 3 Colmore Circus, Birmingham, B4 6BH ("**Holdco**");

(2) **KCA DEUTAG ALPHA LIMITED**, a company with limited liability incorporated under the laws of England and Wales with registered number 06433748, whose registered office is at 3 Colmore Circus, Birmingham, B4 6BH (the "**Parent**");

(3) **KCA DEUTAG UK FINANCE PLC** (the "**Senior Secured Notes Issuer**");

(4) **ABBOT GROUP LIMITED, KCA DEUTAG HOLDINGS NORGE AS, ABBOT HOLDINGS NORGE AS** and **KCA DEUTAG OFFSHORE AS** (the "**Facility D Borrowers**");

(5) **GOLDMAN SACHS LENDING PARTNERS LLC**, as Facility D administrative agent for the Senior Secured Facilities Finance Parties (the "**Administrative Agent**");

(6) **LLOYDS BANK PLC**, as revolving credit administrative agent for the Senior Secured Facilities Finance Parties (the "**RCF Agent**");

(7) **DEUTSCHE TRUSTEE COMPANY LIMITED**, as trustee for the Senior Secured Noteholders (the "**Senior Secured Notes Trustee**");

(8) **GLOBE LUXEMBOURG SCA**, a partnership limited by shares (*société en commandite par actions*) organised under the laws of the Grand-Duchy of Luxembourg, registered with the trade and companies register under number B176.822, with registered office at 13-15 Avenue de la Liberté, L-1931 Luxembourg and share capital of USD 45,000, as agent for the Facility D Lenders (the "**Facility D Agent**") and as a Facility D Lender;

(9) **THE COMPANIES** listed in Part 1 of Schedule 1 (*The Parties*) hereto as intra-group lenders (the "**Original Intra-Group Lenders**");

(10) **THE PERSONS** listed in Part 2 of Schedule 1 (*The Parties*) hereto as shareholder creditors (the "**Original Shareholder Creditors**");

(11) **THE SUBSIDIARIES** of the Parent listed in Part 3 of Schedule 1 (*The Parties*) hereto as debtors (together with the Parent, the Senior Secured Notes Issuer and the Facility D Borrower, the "**Original Debtors**");

(12) **THE COMPANIES** listed in Part 4 of Schedule 1 (*The Parties*) hereto as third party chargors (the "**Original Third Party Chargors**");

(13) **GOLDMAN SACHS INTERNATIONAL, J.P. MORGAN SECURITIES LLC, HSBC BANK PLC** and **LLOYDS SECURITIES, INC.** (or any of its lending affiliates) as the arrangers (together, the "**Arrangers**");

(14) **LLOYDS BANK PLC**, as security agent for the Secured Parties (the "**Security Agent**");

(15) **THE ROYAL BANK OF SCOTLAND PLC**, as security agent for the Facility D Creditors (as defined below) (the "**Facility D Security Agent**"); and

(16) **UPON ACCESSION**, each Hedging Bank.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

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

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

"**Acceding Debtor**" has the meaning given to that term in Schedule 2 (*Form of Debtor Accession Deed*).

"**Acceleration Event**" means a Senior Acceleration Event or a High Yield Acceleration Event.

"**Acceptable Bank**" has the meaning given to it in the relevant Senior Secured Facilities Finance Document or, if not so defined, as agreed among the Parent and the Security Agent.

"**Additional Indebtedness**" has the meaning given to that term in Clause 23.1 (*Incurrence of Additional Indebtedness*).

"**Additional Liabilities**" means, in relation to any Liability, any money, debt or liability due, owing or incurred under or in connection with:

(a) any deferral or extension of such Liability;

(b) any further advance which may be made under any document, agreement or instrument supplemental to any original finance document under or in connection with which such Liability was incurred or created together with any related interest, fees and costs;

(c) any claim for damages or restitution in the event of rescission of such Liability or otherwise in connection with any relevant agreement, deed, document or instrument relating to such Liability;

(d) any claim against any Debtor flowing from any recovery by a Debtor or any liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer of a payment or discharge in respect of such Liability on the grounds of preference or otherwise; and

(e) any amount (such as post-insolvency interest and post-insolvency expenses and any other interest, fees, expenses and other charges that pursuant to the Finance Documents continue to accrue after the commencement of any Bankruptcy Event, whether or not such interest, fees, expenses and other charges are allowed under the applicable bankruptcy or insolvency law or during any such Bankruptcy Event) which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings.

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

"**Amendment and Restatement Deed**" means the amendment and restatement deed dated 16 May 2014 in relation to this Agreement.

"**Ancillary Document**" has the meaning given to the term "Ancillary Document" in the Senior Secured Facilities Agreement.

"**Ancillary Facility**" has the meaning given to the term "Ancillary Facility" in the Senior Secured Facilities Agreement.

"**Ancillary Lender**" means each Senior Secured Facilities Lender or an Affiliate (thereof) which makes an Ancillary Facility available pursuant to the terms of the Senior Secured Finance Documents.

"**Arranger**" means the Arranger and any other person who becomes a party to this Agreement as an Arranger pursuant to Clause 21.3 (*New Senior Secured Facilities Lenders, Change of Senior Secured Facilities Lenders and Ancillary Lenders*).

"**Arranger Liabilities**" means all Liabilities of any Debtor to any Arranger under the Senior Secured Facilities Finance Documents.

"**Bankruptcy Event**" means:

(a) in relation to any Debtor or Third Party Chargor:

(i) (A) any voluntary or involuntary case or proceeding under U.S. Bankruptcy Law is commenced with respect to such Debtor, (B) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding is commenced with respect to a material portion of such Debtor's assets, (C) any liquidation, dissolution, reorganization or winding up of such Debtor whether voluntary or involuntary and involving insolvency or bankruptcy is commenced and (D) any assignment for the benefit of creditors; or

(ii) the appointment of any liquidator, receiver, administrator, administrative receiver, compulsory manager, trustee or similar officer in respect of that Debtor or any of its assets,

provided that this paragraph (a) shall not apply to any involuntary case, proceeding or appointment that is discharged, stayed or dismissed within 60 days;

(b) in relation to a Debtor or Third Party Chargor incorporated in Germany:

(i) any such Debtor or any third party files for opening of insolvency proceedings over the assets of any such Debtor (*Antrag auf Eröffnung eines Insolvenzverfahrens*) except to the extent that a filing by a third party is frivolous or vexatious and is withdrawn, discharged or dismissed within 15 Business Days of such filing; or

(ii) the competent court takes any of the actions set out in section 21 of the German Insolvency Code (*Insolvenzordnung*) (*Anordnung von Sicherungsmaßnahmen*) or the competent court institutes or rejects (for reason of insufficiency of its funds to implement such proceedings) insolvency proceedings against any such Debtor (*Eröffnung des Insolvenzverfahrens/Abweisung der Eröffnung des Insolvenzverfahrens mangels Masse*); or

(c) any analogous events to those mentioned in paragraph (a) or (b) above affecting any Debtor in any jurisdiction.

"**Base Currency**" means USD.

"**Base Currency Amount**" means, in relation to an amount, that amount converted (to the extent not already denominated in the Base Currency) into the Base Currency at the Administrative Agent's Spot Rate of Exchange or if applicable, the relevant Creditor Representative's Spot Rate of Exchange and to the extent not applicable, the Spot Rate of Exchange of an Acceptable Bank to be agreed among the Parties, in each case, on the Business Day prior to the relevant calculation.

"**Borrowing Liabilities**" means, in relation to a member of the Restricted Group, the liabilities (not being Guarantee Liabilities) it may have as a principal debtor to a Creditor or Debtor in respect of Indebtedness (as such term is defined in the relevant Debt Documents) arising under the Debt Documents (whether incurred solely or jointly and including, without limitation, liabilities as a "Borrower" under and as defined in the relevant Senior Secured Facilities Finance Documents, the Facility D Agreement or the Pari Passu Debt Documents and/or liabilities as an "Issuer" under and as defined in the relevant Senior Secured Notes Documents, the Pari Passu Debt Documents or the High Yield Documents).

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in London and New York and:

(a) (in relation to any date for payment or purchase of a currency other than Euro) the principal financial centre of the country of that currency; or

(b) (in relation to any date for payment or purchase of Euro) which is a TARGET Day.

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

"**Close-Out Netting**" means:

(a) in respect of a Hedging Document or a Hedging Ancillary Document based on a 1992 ISDA Master Agreement, any step involved in determining the amount payable in respect of an Early Termination Date (as defined in the 1992 ISDA Master Agreement) under section 6(e) of the 1992 ISDA Master Agreement before the application of any subsequent Set-off (as defined in the 1992 ISDA Master Agreement);

(b) in respect of a Hedging Document or a Hedging Ancillary Document based on a 2002 ISDA Master Agreement, any step involved in determining an Early Termination Amount (as defined in the 2002 ISDA Master Agreement) under section 6(e) of the 2002 ISDA Master Agreement; and

(c) in respect of a Hedging Document or a Hedging Ancillary Document not based on an ISDA Master Agreement, any step involved on a termination of the transactions under that Hedging Document or Hedging Ancillary Document (as the case may be) pursuant to any provision of that Hedging Document or Hedging Ancillary Document (as the case may be) which has a similar effect to either provision referenced in paragraph (a) and paragraph (b) above.

"**Consensual Close-Out**" means a close-out referred to in paragraph (a)(v) of Clause 8.8 (*Permitted Enforcement: Hedging Banks*).

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

"**Creditor Representative**" means:

(a) in relation to the Senior Secured Facilities Lenders, the Administrative Agent and the RCF Agent;

(b) in relation to the Senior Secured Noteholders, the Senior Secured Notes Trustee;

(c) in relation to the Facility D Lenders, the Facility D Agent;

(d) in relation to any Pari Passu Creditor of any Pari Passu Debt, the Pari Passu Debt Representative in respect of those Pari Passu Creditors;

(e) in relation to any High Yield Noteholders, the High Yield Notes Trustee in respect of those High Yield Noteholders; and

(f) in relation to any Hedging Bank, each Hedging Bank shall be its own Creditor Representative.

"**Creditor Representative Liabilities**" means all the Liabilities owed by the Debtors to the Creditor Representatives (other than to a Hedging Bank in its capacity as its own Creditor Representative) under or in connection with the Finance Documents (but does not include any amount in respect of principal, interest, redemption or prepayment).

"**Creditor/Creditor Representative Accession Undertaking**" means:

(a) an undertaking substantially in the form set out in Schedule 3 (*Form of Creditor/Creditor Representative Accession Undertaking*);

(b) a Transfer Certificate, an Assignment Agreement or an Increase Confirmation (each as defined in the relevant Senior Secured Facilities Finance Document); or

(c) in the case of an acceding Debtor which is expressed to accede as an Intra-Group Lender in the relevant Debtor Accession Deed, that Debtor Accession Deed.

"**Creditors**" means the Primary Creditors and the Subordinated Creditors.

"**Debt Documents**" means each of this Agreement, the Finance Documents, the Transaction Security Documents, Intra-Group Debt Documents, Shareholder Debt Documents and any other document designated as such by the Security Agent and the Parent.

"**Debtor**" means each Original Debtor and any person which becomes a Party as a Debtor in accordance with the terms of Clause 21 (*Changes to the Parties*) and for purposes of (a) paragraph (b) of the definition of "Secured Obligations" and (b) paragraphs (a)(ii) and (b) of Clause 19.4 (*Parallel Debt (Covenant to pay the Security Agent)*), shall include each Third Party Chargor and each entity that owes High Yield Secured Liabilities.

"**Debtor Accession Deed**" means:

(a) a deed substantially in the form set out in Schedule 2 (*Form of Debtor Accession Deed*); or

(b) (only in the case of a member of the Restricted Group which is acceding as a borrower or a guarantor under the Facility D Agreement) an Accession Deed (as defined in the Facility D Agreement).

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

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

"**Defaulting Lender**" means a Senior Secured Facilities Lender which is a "Defaulting Lender" under, and as defined in, the Senior Secured Facilities Agreement.

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

"**Designated Cancellation Event**" has the meaning given to it in the Senior Secured Facilities Agreement.

"**Designated Gross Amount**" means, in relation to a Multi-account Overdraft Facility, that Multi-account Overdraft Facility's maximum gross amount.

"**Designated Net Amount**" means, in relation to a Multi-account Overdraft Facility, that Multi-account Overdraft Facility's maximum net amount.

"**Disposal Proceeds**" has the meaning given to that term in paragraph (a) of Clause 16.1 (*Non-Distressed Disposals*).

"**Distress Event**" means any of:

(a) an Acceleration Event; or

(b) the enforcement of any Transaction Security.

"**Distressed Disposal**" means a disposal of an asset subject to the Transaction Security of a member of the Restricted Group or a Third Party Chargor which is being effected:

(a) at the request of the Senior Secured Instructing Group in circumstances where the Transaction Security has become enforceable;

(b) by enforcement of the Transaction Security; or

(c) after the occurrence of a Distress Event, by a Debtor or a Third Party Chargor to a person or persons which is not a member of the Restricted Group (including, without limitation, any disposal of an asset pursuant to Section 363 of the U.S. Bankruptcy Code or a plan of reorganisation pursuant to chapter 11 of the U.S. Bankruptcy Code).

"**Early Termination Date**" means an "Early Termination Date" (as defined in the relevant Hedging Document).

"**Effective Date**" has the meaning given to that term in the Amendment and Restatement Deed.

"**Enforcement**" means the enforcement of the Transaction Security, the requesting of a Distressed Disposal and/or the release of claims and/or Transaction Security on a Distressed Disposal under Clause 16.2 (*Distressed Disposals*) and the taking of any other actions in respect of any Transaction Security to effect the enforcement of the Transaction Security.

"**Enforcement Action**" means:

(a) in relation to any Liabilities:

(i) the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for a Senior Secured Creditor or a High Yield Creditor to perform its obligations under, or of any voluntary or mandatory prepayment arising under, the Debt Documents);

(ii) the making of any declaration that any Liabilities are payable on demand;

(iii) the making of a demand for payment in relation to a Liability that is payable on demand;

(iv) the making of a demand against any member of the Restricted Group in relation to any Guarantee Liabilities of that member of the Restricted Group;

(v) the exercise of any right to require any member of the Restricted Group to acquire any Liability (including exercising any put or call option against any member of the Restricted Group for the redemption or purchase of any Liability) other than in connection with an Asset Sale Offer, a Notes Offer or a Change of Control Offer (each as defined in the Senior Secured Notes Indenture, the Facility D Agreement, any Pari Passu Debt Document or any High Yield Document);

(vi) the exercise of any right of set-off, account combination or payment netting against any member of the Restricted Group in respect of any Liabilities, other than the exercise of any such right which is expressly permitted by law or under the Senior Secured Facilities Finance Documents, the Senior Secured Notes Indenture, the Facility D Agreement, the Pari Passu Debt Documents or the High Yield Documents or as Non-Credit Related Close-Out by a Hedging Bank or by a Hedging Ancillary Lender or as Payment Netting by a Hedging Bank or by a Hedging Ancillary Lender; or

(vii) the suing for, commencing or joining of any legal or arbitration proceedings against any member of the Restricted Group to recover any Liabilities;

(b) the exercise or enforcement of any right under any Transaction Security (including the crystallisation of any floating charge forming part of the Transaction Security);

(c) in relation to any Hedging Liabilities only, the designation of an Early Termination Date under any Hedging Document, or the termination of, or closing out of any transaction under, any Hedging Document, prior to its stated maturity (other than a Non-Credit Related Close-Out), or the demand for payment of any amount which would become payable on or following an Early Termination Date or any such termination or close-out unless it is a Permitted Hedging Payment;

(d) the entering into of any composition, compromise, assignment or arrangement with any member of the Restricted Group which owes any Liabilities, or has given any Security, guarantee or indemnity or other assurance against loss in respect of the Liabilities (other than any action permitted under Clause 21 (*Changes to the Parties*)); or

(e) the petitioning, applying or voting for, or the taking of any formal steps (including the appointment of any liquidator, receiver, administrator, custodian, assignee for the

benefit of creditors, administrative receiver, compulsory manager, trustee or similar officer) in relation to, the insolvency, winding up, dissolution, liquidation, receivership, custodianship, assignment for the benefit of creditors, administration, bankruptcy or reorganisation of any member of the Restricted Group which owes any Liabilities, or has given any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, or any of such member of the Restricted Group's assets or any suspension of payments or moratorium of any indebtedness of any such member of the Restricted Group, or any analogous procedure or step in any jurisdiction,

except that:

(i) the taking of any action falling within paragraphs (a)(vii) or (e) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of the aforementioned Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods, shall not constitute Enforcement Action;

(ii) a Primary Creditor bringing any legal proceedings against any person in connection with any fraud, securities violation or securities or listing regulations shall not constitute Enforcement Action; and

(iii) allegations of material misstatements or omissions made by a Primary Creditor in connection with the offering materials related to the Senior Secured Notes Liabilities or the High Yield Liabilities or in reports furnished to the Senior Secured Notes Creditors or the High Yield Creditors or any exchange on which the Senior Secured Notes or the High Yield Notes are listed by a member of the Restricted Group pursuant to information and reporting requirements under the Senior Secured Notes Documents or the High Yield Documents shall not constitute Enforcement Action.

"**Enforcement Proceeds**" means any amount received or recovered by any Secured Party or otherwise realised by a Secured Party from the assets of a Debtor (including by way of a Distressed Disposal) from the enforcement of any Transaction Security over assets of that Debtor.

"**Euro**", "**EUR**" or "**€**" means the single currency of a Participating Member State.

"**Event of Default**" means any event or circumstance specified as such in any of the Senior Secured Facilities Finance Documents, the Senior Secured Notes Indenture, the Facility D Agreement, the Pari Passu Debt Documents or the High Yield Documents.

"**Existing LC Facility**" has the meaning given to it in the Senior Secured Facilities Agreement.

"**Facility D**" means the principal amount of each loan or advance made or to be made under Facility D (as defined in the Facility D Agreement) as from time to time reduced by prepayment or repayment.

"**Facility D Acceleration Event**" means the Facility D Agent exercising any of its rights under the Facility D Agreement to accelerate the Facility D Liabilities or any acceleration provisions being automatically invoked under the Facility D Agreement.

"**Facility D Agent Permanent Resignation**" means the resignation of a Facility D Agent (or cancellation of such role) in accordance with the Facility D Agreement in circumstances where there is no corresponding appointment of a replacement or successor Facility D Agent.

"**Facility D Agreement**" means that certain senior facilities agreement originally dated 15 March 2008 (as amended and restated from time to time including on or immediately following the Effective Date) among the Parent, the Facility D Lenders, the Facility D Agent and the Guarantors (as defined therein) under which "Facility D" is made available (being the only credit or debt facility available thereunder as at Effective Date).

"**Facility D Commitment**" has the meaning given to the term "Commitment" when designated as "Facility D" in the Facility D Agreement.

"**Facility D Continuing Obligors**" has the meaning given to it in Clause 19.5(a) *(Parallel Debt (Covenant to pay Facility D Security Agent))*.

"**Facility D Continuing Security Document**" means each of the documents listed in Schedule 5 (*Facility D Continuing Security Documents*).

"**Facility D Creditors**" means the Facility D Lenders and the Facility D Agent.

"**Facility D Discharge Date**" means the first date on which all Facility D Liabilities have been fully and finally discharged to the satisfaction of the relevant Creditor Representative(s), whether or not as the result of an enforcement, and the Facility D Lenders are under no further obligation to provide financial accommodation to any of the Debtors under the Facility D Agreement.

"**Facility D Finance Documents**" means the Facility D Agreement and the Facility D Continuing Security Documents.

"**Facility D Guarantor**" means a "Guarantor" under, and as defined in, the Facility D Agreement.

"**Facility D Lenders**" means each "Facility D Lender" under and as defined in the relevant Facility D Agreement.

"**Facility D Liabilities**" means the Liabilities owed by the Debtors to the Facility D Creditors under or in connection with the Facility D Agreement.

"**Facility D Required Lenders**" means, in respect of any direction, approval, consent or waiver, the Facility D Agent acting on behalf of the Facility D Lenders required and permitted under the terms of the Facility D Agreement to vote in favour of such direction, approval, consent or waiver, or, if the required amount is not specified, the Facility D Lenders holding at least a majority of the principal amount then outstanding, in accordance with the Facility D Agreement.

"**Facility D Security**" means the Security constituted by the Facility D Continuing Security Documents.

"**Final Discharge Date**" means the last to occur of the Senior Secured Discharge Date and the High Yield Discharge Date.

"**Finance Documents**" means the Senior Secured Facilities Finance Documents, the Senior Secured Notes Documents, the Facility D Agreement, the Pari Passu Debt Documents, the High Yield Documents and the Hedging Documents.

"**Financial Advisor**" means an internationally recognised investment bank or accountancy firm or, if it is not practicable for the Security Agent or the Facility D Security Agent to appoint any such bank or firm on commercially reasonable terms (including for reasons of conflicts of interest) as determined by the Security Agent or the Facility D Security Agent (acting in good faith), another third party professional firm which is regularly engaged in providing valuations in respect of the relevant type of assets (in each case not being the firm appointed as the relevant Debtor's administrator or other relevant officer holder) selected by the Security Agent or the Facility D Security Agent.

"**German Debtor**" means a Debtor incorporated or organised under the laws of Germany.

"**Guarantee Bank**" has the meaning given to the term "Guarantee Bank" in the Senior Secured Facilities Agreement.

"**Guarantee Liabilities**" means, in relation to a member of the Restricted Group, the liabilities under the Debt Documents (present or future, actual or contingent and whether incurred solely or jointly) it may have to a Creditor or Debtor as, or as a result of its being, a guarantor or surety (including, without limitation, liabilities arising by way of guarantee, indemnity, contribution or subrogation and in particular any guarantee or indemnity arising under or in respect of the Finance Documents or this Agreement).

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

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

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

"**Hedging Banks**" means the Hedging Banks to the extent they are owed Hedging Liabilities.

"**Hedging Discharge Date**" means the date on which all Hedging Liabilities have been fully and finally discharged to the satisfaction of the Hedging Banks whether or not as a result of an enforcement, and no further Hedging Liabilities can arise under or in respect of any Hedging Documents entered into by such Hedging Bank.

"**Hedging Document**" means any master agreement, confirmation, schedule, spot or forward delivery foreign exchange contract, guarantee or other agreement entered into by a Debtor and a Hedging Bank for the purposes of hedging any interest rate and foreign exchange exposures in respect of the Senior Secured Facilities Finance Documents, the Senior Secured Notes Documents, the Facility D Agreement and the Pari Passu Debt Documents that are permitted under the terms of the Finance Documents to be entered into and to share in the Transaction Security.

"**Hedging Liabilities**" means the Liabilities owed by any Debtor to any Hedging Bank under or in connection with any Hedging Document (whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise).

"**High Yield Acceleration Event**" means a High Yield Notes Trustee or any of the High Yield Noteholders exercising any acceleration rights (howsoever described) or any acceleration provisions being automatically invoked, in each case, under the High Yield Documents.

"**High Yield Creditor**" means a High Yield Secured Creditor or a High Yield Unsecured Creditors.

"**High Yield Default**" means a High Yield Event of Default or any event or circumstances which would (with the expiry of a grace period, the giving of notice, the making of any determination provided for in the relevant definition of such High Yield Event of Default or any combination of the foregoing) be a High Yield Event of Default.

"**High Yield Discharge Date**" means the date on which all High Yield Liabilities have been fully and finally discharged to the satisfaction of the relevant High Yield Notes Trustee, whether or not as the result of an enforcement.

"**High Yield Document**" means a High Yield Secured Document or a High Yield Unsecured Document.

"**High Yield Enforcement Notice**" has the meaning given to it in Clause 9.9 (*Permitted High Yield Enforcement*).

"**High Yield Event of Default**" means an event of default under any High Yield Indenture.

"**High Yield Guarantee**" means the guarantees granted by each High Yield Guarantor in respect of any High Yield Notes and in the form set out in the relevant High Yield Indenture.

"**High Yield Guarantee Liabilities**" means the High Yield Secured Guarantee Liabilities and the High Yield Unsecured Liabilities.

"**High Yield Guarantor**" means each member of the Restricted Group that is a guarantor or provides an indemnity to the High Yield Creditors (or any of them) for the High Yield Liabilities (or any of them) under any High Yield Document.

"**High Yield Indenture**" means a High Yield Secured Indenture or a High Yield Unsecured Indenture.

"**High Yield Issuer**" means a Holding Company of the Parent or any direct Subsidiary of that Holding Company not a member of the Restricted Group which issues High Yield Notes and which accedes to this Agreement as a High Yield Issuer in accordance with Clause 21.9 (*New Shareholder Creditor or High Yield Issuer*).

"**High Yield Liabilities**" means the High Yield Secured Liabilities and the High Yield Unsecured Liabilities.

"**High Yield Noteholder**" means a High Yield Secured Noteholder or a High Yield Unsecured Noteholder.

"**High Yield Notes**" means any high yield, exchange notes, securities or other debt instruments issued or to be issued by a High Yield Issuer after the Effective Date under a High Yield Indenture and any additional notes issued from time to time under such High Yield Indenture, together with any related Additional Liabilities.

"**High Yield Notes Trustee**" means a High Yield Secured Trustee or a High Yield Unsecured Trustee.

"**High Yield Notes Trustee Amounts**" for a High Yield Notes Trustee, means the Relevant Creditor Representative Amounts of that High Yield Notes Trustee.

"**High Yield Payment Stop Notice**" has the meaning given to it in paragraph (a)(ii) of Clause 9.5 (*Issue of High Yield Payment Stop Notice*).

"**High Yield Proceeds Loan**" means the loan, bond or other debt instrument whereby any proceeds of the issue of any High Yield Notes are lent by the relevant High Yield Issuer or any other Holding Company of the Parent to the Parent.

"**High Yield Required Holders**" means, in respect of any direction, approval, consent or waiver, the High Yield Noteholders of the principal amount of High Yield Notes required to vote in favour of such direction, consent or waiver under the terms of the High Yield Documents or, if the required amount is not specified, the holders holding at least the majority of the principal amount of the then outstanding High Yield Notes, in accordance with the High Yield Documents.

"**High Yield Secured Creditor**" means a High Yield Secured Trustee (on behalf of itself and the High Yield Secured Noteholders that it represents) that accedes to this Agreement in relation to the issuance of the High Yield Secured Notes in accordance with Clause 21.11 (*High Yield Creditors and Creditor Representative*) and the Security Agent.

"**High Yield Secured Documents**" means any High Yield Secured Indenture, any High Yield Secured Note, any High Yield Guarantees in respect of the High Yield Secured Notes, this Agreement and the Transaction Security Documents.

"**High Yield Secured Guarantee Liabilities**" means all present and future money, debts and liabilities due, owing or incurred by any High Yield Guarantor to any High Yield Secured Creditor under or in connection with the High Yield Secured Documents, together with any related Additional Liabilities (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise), provided, however, that the definition of "High Yield Secured Guarantee Liabilities" shall not include the High Yield Notes Trustee Amounts of the High Yield Secured Trustee(s).

"**High Yield Secured Indenture**" means any indenture entered into in connection with the issuance of any High Yield Secured Notes by the High Yield Issuer.

"**High Yield Secured Issuer Liabilities**" means all present and future money, debts and liabilities due, owing or incurred by any High Yield Issuer to any High Yield Secured Creditor under or in connection with the High Yield Secured Documents, together with any related Additional Liabilities (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise), provided, however, that the definition of "High Yield Secured Issuer Liabilities" shall not include the High Yield Notes Trustee Amounts of the High Yield Unsecured Trustee(s).

"**High Yield Secured Liabilities**" means the High Yield Secured Guarantee Liabilities and the High Yield Secured Issuer Liabilities.

"**High Yield Secured Noteholders**" means the holders, from time to time, of the High Yield Secured Notes.

"**High Yield Secured Notes**" means any High Yield Notes which are secured by any of the Transaction Security on a second priority basis as contemplated by Clause 3.1 (*Transaction Security*).

"**High Yield Secured Required Holders**" means the High Yield Required Holders in respect of the High Yield Secured Notes in accordance with the High Yield Secured Documents.

"**High Yield Secured Trustee**" means any trustee for the holders of the High Yield Secured Notes under the relevant High Yield Secured Indenture, which has acceded as a Creditor Representative of such parties.

"**High Yield Standstill Period**" has the meaning given to it in Clause 9.10 (*High Yield Standstill Period*).

"**High Yield Unsecured Creditor**" means a High Yield Unsecured Trustee on behalf of itself and the High Yield Unsecured Noteholders that it represents that accedes to this Agreement in relation to the issuance of the High Yield Unsecured Notes in accordance with Clause 21.11 (*High Yield Creditors and Creditor Representative*).

"**High Yield Unsecured Documents**" means any High Yield Unsecured Indenture, any High Yield Unsecured Note and any High Yield Guarantees in respect of the High Yield Unsecured Notes and this Agreement.

"**High Yield Unsecured Guarantee Liabilities**" means all present and future money, debts and liabilities due, owing or incurred by any High Yield Guarantor to any High Yield Unsecured Creditor under or in connection with the High Yield Unsecured Documents, together with any related Additional Liabilities (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise), provided, however, that the definition of "High Yield Unsecured Guarantee Liabilities" shall not include the High Yield Notes Trustee Amounts of the High Yield Unsecured Trustee(s).

"**High Yield Unsecured Indenture**" means any indenture entered into in connection with the issuance of any High Yield Unsecured Notes by the High Yield Issuer.

"**High Yield Unsecured Issuer Liabilities**" means all present and future money, debts and liabilities due, owing or incurred by any High Yield Issuer to any High Yield Unsecured Creditor under or in connection with the High Yield Unsecured Documents, together with any related Additional Liabilities (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise), provided, however, that the definition of "High Yield Unsecured Issuer Liabilities" shall not include the High Yield Notes Trustee Amounts of the High Yield Secured Trustee(s).

"**High Yield Unsecured Liabilities**" means the High Yield Unsecured Guarantee Liabilities and the High Yield Unsecured Issuer Liabilities.

"**High Yield Unsecured Noteholders**" means the holders, from time to time, of the High Yield Unsecured Notes.

"**High Yield Unsecured Notes**" means any High Yield Notes which are not secured by any Transaction Security.

"**High Yield Unsecured Trustee**" means any trustee for the holders of the High Yield Unsecured Notes under the relevant High Yield Unsecured Indenture, which has acceded as a Creditor Representative of such parties.

"**Holdco Liabilities**" means all money and liabilities now or in the future due or owing to a High Yield Issuer or any Holding Company of the Parent by the Parent under or in connection with the High Yield Proceeds Loan.

"**Holding Company**" means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

"**Impaired Security Agent**" means the Security Agent or Facility D Security Agent at any time when:

(a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;

(b) the Security Agent or Facility D Security Agent otherwise rescinds or repudiates a Finance Document to which it is party;

(c) (if the Security Agent or Facility D Security Agent is also a Senior Secured Facilities Lender) it is a Defaulting Lender under paragraph (a), (b), (c) or (d) of the definition of "Defaulting Lender" under the terms of the Senior Secured Facilities Agreement;

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

(i) its failure to pay is caused by:

(A) administrative or technical error; or

(B) a Disruption Event (as defined in the relevant Senior Secured Facilities Finance Document); and

payment is made within three Business Days of its due date;

(ii) the Security Agent or Facility D Security Agent is disputing in good faith whether it is contractually obliged to make the payment in question;

(iii) the Security Agent or Facility D Security Agent has been instructed not to make the relevant payment pursuant to instructions received by it from the requisite number of any of the Secured Parties (as applicable); or

(iv) its failure to pay is caused by the Borrower (under and as defined in the relevant Debt Document) failing to make a corresponding and required payment to the Security Agent or Facility D Security Agent.

"**Insolvency Event**" means:

(a) in relation to any Debtor or Third Party Chargor:

(i) any Bankruptcy Event pursuant to clause (a) of the definition thereof; or

(ii) any composition, compromise, assignment or arrangement is made with any of its creditors;

(iii) the appointment of any liquidator, receiver, administrator, administrative receiver, compulsory manager, trustee or similar officer in respect of that Debtor or Third Party Chargor or any of its assets;

(iv) a suspension of payments, any voluntary or involuntary insolvency, bankruptcy, receivership, custodianship, liquidation, dissolution, reorganisation, assignment for the benefit of creditors, appointment of a custodian, receiver, trustee or other officer with similar powers of any other proceeding for the liquidation, dissolution or other winding up of that Debtor or Third Party Chargor or any of its assets; or

(v) enforcement of any Transaction Security over any assets of that Debtor;

(b) in relation to a Debtor or Third Party Chargor incorporated in Germany:

(i) any such Debtor or Third Party Chargor is unable to pay its debts when due and payable (*zahlungsunfähig*) within the meaning of section 17 of the German Insolvency Code (*Insolvenzordnung*) or over-indebted (*überschuldet*) within the meaning of section 19 of the German Insolvency Code (*Insolvenzordnung*);

(ii) any such Debtor or Third Party Chargor suspends or announces its intention to suspend making payments on its debts generally;

(iii) any such Debtor or Third Party Chargor or any third party files for opening of insolvency proceedings over the assets of any such Debtor (*Antrag auf Eröffnung eines Insolvenzverfahrens*) except to the extent that a filing by a third party is frivolous or vexatious and is not withdrawn, discharged or dismissed within 15 Business Days of such filing;

(iv) the competent court takes any of the actions set out in section 21 of the German Insolvency Code (*Insolvenzordnung*) (*Anordnung von Sicherungsmaßnahmen*) or the competent court institutes or rejects (for reason of insufficiency of its funds to implement such proceedings) insolvency proceedings against any such Debtor (*Eröffnung des Insolvenzverfahrens/Abweisung der Eröffnung des Insolvenzverfahrens mangels Masse*); or

(c) any analogous events to those mentioned in paragraph (a) or (b) above affecting any Debtor or Third Party Chargor in any jurisdiction.

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

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

"**Intercreditor Amendment**" has the meaning given to that term in paragraph (f) of Clause 19.8 (*Instructions to Security Agent and exercise of discretion*).

"**Intra-Group Debt Documents**" means all documents, agreements and instruments between any member of the Restricted Group and any Intra-Group Lender evidencing any Intra-Group Liabilities.

"**Intra-Group Lenders**" means:

(a) each Original Intra-Group Lender; and

(b) each member of the Restricted Group which has made a loan available to, granted credit to or made any other financial arrangement having similar effect with another member of the Restricted Group and which becomes a party as an Intra-Group Lender in accordance with the terms of Clause 21 (*Changes to the Parties*),

which, in each case, has not ceased to be an Intra-Group Lender in accordance with this Agreement.

"**Intra-Group Liabilities**" means all amounts whatsoever (including Liabilities) owing or outstanding by any member of the Restricted Group to any of the Intra-Group Lenders on any account whatsoever.

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

"**Issuing Bank**" has the meaning given to the term "Issuing Bank" in the Senior Secured Facilities Agreement.

"**Legal Reservations**" means:

(a) the principle that certain remedies may be granted or refused at the discretion of the court, the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganization, court schemes, moratoria, judicial management, administration and other laws generally affecting the rights of creditors and secured creditors;

(b) the time barring of claims under applicable limitation laws and defenses of acquiescence, set-off or counterclaim and the possibility that an undertaking to assume liability for or to indemnify a person against non-payment of stamp duty may be void;

(c) the principle that in certain circumstances Liens (as defined in the Senior Secured Facilities Agreement) and certain Collateral (as defined in the Senior Secured Facilities Agreement) granted by way of fixed charge may be recharacterized as a floating charge or that Liens and certain Collateral purported to be constituted as an assignment may be recharacterized 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 Liens 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 a Lien has purportedly been created;

(g) similar principles, rights and defenses under the laws of any relevant jurisdiction; and

(h) any other matters which are set out as qualifications or reservations (however described) as to matters of law in any legal opinion delivered to the Security Agent in accordance with Sections 4.01(b) or 5.15 of the Senior Secured Facilities Agreement.

"**Letter of Credit**" has the meaning given to the term "Letter of Credit" in the Senior Secured Facilities Agreement.

"**Liabilities**" means all present and future moneys, debts, liabilities and obligations due at any time by any member of the Restricted Group to any Creditor under the Debt Documents, both actual and contingent and whether incurred solely or jointly with any other person or in any other capacity, together with any related Additional Liabilities.

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

(a) purchases by way of assignment or transfer;

(b) enters into any sub-participation in respect of; or

(c) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of,

the rights and benefits in respect of those Liabilities.

"**Majority Senior Secured Creditors**" means, at any time, those Senior Secured Creditors whose Senior Secured Credit Participations at that time aggregate more than 50% of the total Senior Secured Credit Participations at that time.

"**Material Adverse Effect**" means (taking into account any indemnity, insurance or other reimbursement right or claim which any member of the Group has in connection with the relevant event or circumstance) 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 Loan Documents; or

(c) subject to the Legal Reservations, the validity or enforceability of the Security Documents taken as a whole or which is materially adverse to the interests of the Secured Parties under the Loan Documents.

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

"**Non-Credit Related Close-Out**" means a Permitted Hedging Close-Out described in any of paragraphs (a)(ii) or (a)(iv) and (a)(v) of Clause 8.8 (*Permitted Enforcement: Hedging Banks*).

"**Notes Trustee**" means (a) in respect of the Senior Secured Notes, the Senior Secured Notes Trustee, (b) in respect of any Pari Passu Debt in the form of debt securities, the relevant Pari Passu Debt Representative for that tranche of Pari Passu Debt, or (c) in respect of the relevant tranche of the High Yield Notes, the High Yield Notes Trustee for that tranche of High Yield Notes.

"**Notes Trustee Amounts**" means the Relevant Creditor Representative Amounts of a Note Trustee.

"**Other Liabilities**" means, in relation to a member of the Restricted Group, any trading and other liabilities (not being Borrowing Liabilities or Guarantee Liabilities) it may have to an Intra-Group Lender or Debtor.

"**Parallel Debt**" has the meaning given to it in paragraph (b) of 19.5 (*Parallel Debt ((Covenant to pay the Facility D Security Agent)*).

"**Parallel Debt Obligations**" has the meaning given to it in paragraph (a)(i) of Clause 19.4 (*Parallel Debt (Covenant to pay the Security Agent)*).

"**Pari Passu Creditor**" means a lender or a creditor in respect of any Pari Passu Debt and each of their respective Pari Passu Debt Representatives.

"**Pari Passu Debt**" means the Liabilities (that are not subordinated in right of payment to any then existing Senior Secured Liabilities) owed by the Debtors in respect of any loan, credit or guarantee facility, notes, indenture or security which are permitted under the terms of the Finance Documents then existing or, to the extent not permitted under any Finance Document, with the consent of the relevant Creditor Representatives under each such document (acting on the instructions of the requisite level of creditors under such documents) to share in the Transaction Security with the rights and obligations of Pari Passu Creditors as provided for in this Agreement, provided that the Pari Passu Creditors (or their Pari Passu Debt Representative) have acceded to this Agreement in accordance with Clause 21.2 (*New Pari Passu Creditors and Creditor Representatives*).

"**Pari Passu Debt Acceleration Event**" means a Pari Passu Debt Representative exercising:

(a) in the case of any Pari Passu Debt that constitutes a loan, credit or guarantee facility, the Pari Passu Debt Representative in relation to such Pari Passu Debt exercising any of its rights under acceleration provision(s) corresponding to those described in the definition of Senior Secured Facilities Acceleration Event; and

(b) in the case of any Pari Passu Debt that constitutes an issuance of debt securities, any acceleration rights (howsoever described) or any acceleration provisions being automatically invoked in each case under the Pari Passu Debt Documents.

"**Pari Passu Debt Discharge Date**" means the first date on which all Pari Passu Debt has been fully and finally discharged to the satisfaction of each relevant Pari Passu Debt Representative (acting reasonably) in relation to the relevant Pari Passu Debt, whether or not as the result of an enforcement, and the Pari Passu Creditors are under no further obligation to provide financial accommodation to any of the Debtors under the Pari Passu Debt Documents.

"**Pari Passu Debt Documents**" means each document or instrument entered into between any member of the Restricted Group and a Pari Passu Creditor setting out the terms of any loan, credit or guarantee facility, notes, indenture or security which creates or evidences any Pari Passu Debt.

"**Pari Passu Debt Representative**" means the creditor representative for any tranche of Pari Passu Creditors which has acceded to this Agreement as a Creditor Representative of such parties.

"**Pari Passu Debt Required Holders**" means, in respect of any direction, approval, consent or waiver to be granted by a tranche of the Pari Passu Debt, the Pari Passu Creditors of the principal amount of the relevant tranche of Pari Passu Debt required to vote in favour of such direction, consent or waiver under the terms of the relevant Pari Passu Debt Documents or, if the required amount is not specified, the holders holding at least the majority of the principal amount of the then outstanding relevant tranche of Pari Passu Debt, in accordance with the relevant Pari Passu Debt Documents. For the avoidance of doubt, in determining whether the Pari Passu Creditors of the required principal amount of the relevant tranche of Pari Passu Debt have concurred in any direction, waiver or consent, relevant Pari Passu Debt owned by any Debtor, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with any Debtor, will be considered as though not outstanding.

"**Participating Member State**" means any member state of the European Communities that adopts or has adopted the Euro as its lawful currency in accordance with legislation of the European Community relating to Economic and Monetary Union.

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

"**Payment**" means any payment, repayment, prepayment, redemption, defeasance or discharge of any principal, interest or other amount on or in respect of any of the Liabilities (or other liabilities or obligations).

"**Payment Netting**" means:

(a) in respect of a Hedging Document or a Hedging Ancillary Document based on an ISDA Master Agreement, netting under section 2(c) of the relevant ISDA Master Agreement; and

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

"**Permitted Facility D Payments**" means the Payments permitted by Clause 6 (*Facility D Lenders and Facility D Liabilities*).

"**Permitted Gross Amount**" means, in relation to a Multi-account Overdraft Facility, any amount, not exceeding the Designated Gross Amount, which is the aggregate gross debit balance of overdrafts comprised in that Multi-account Overdraft Facility.

"**Permitted Hedging Close-Out**" means, in relation to a transaction under a Hedging Document, a termination or close-out of that transaction which is permitted pursuant to Clause 8.8 (*Permitted Enforcement: Hedging Banks*).

"**Permitted Hedging Payments**" means the Payments permitted by Clause 8.3 (*Permitted Payments: Hedging Liabilities*).

"**Permitted High Yield Payment**" means the Payments permitted by 9.4 (*Permitted High Yield Payments*).

"**Permitted Intra-Group Payments**" means the Payments permitted by Clause 10.2 (*Permitted Payments: Intra-Group Liabilities*).

"**Permitted Pari Passu Debt Payments**" means the Payments permitted by Clause 7.2 (*Payment of Pari Passu Debt*).

"**Permitted Payment**" means a Permitted Hedging Payment, a Permitted Pari Passu Debt Payment, a Permitted Senior Secured Noteholder Payment, a Permitted Facility D Payment, a Permitted Intra-Group Payment, a Permitted Shareholder Creditor Payment, a Permitted High Yield Payment or a Permitted Senior Secured Facilities Lender Payment.

"**Permitted Senior Secured Facilities Lender Payments**" means the Payments permitted by Clause 4.1 (*Payment of Senior Secured Facilities Lender Liabilities*).

"**Permitted Senior Secured Noteholder Payments**" means the Payments permitted by Clause 5 (*Senior Secured Noteholders and Senior Secured Notes Liabilities*).

"**Permitted Shareholder Creditor Payments**" means the Payments permitted by Clause 11.2 (*Permitted Payments: Shareholder Liabilities*).

"**Primary Creditors**" means the Senior Secured Creditors and the High Yield Creditors.

"**Public Auction**" means an auction or other competitive sale process of assets, by or on behalf of the Security Agent or Facility D Security Agent pursuant to an enforcement of

Transaction Security (or by a member of the Restricted Group in circumstances that are a Distressed Disposal), the process of such sale or disposal having been conducted as follows:

(a) prior to the sale or other disposal, the Security Agent or Facility D Security Agent shall, in respect of such auction or other competitive sale process, consult with an internationally recognised investment bank or accounting firm selected by the Security Agent or Facility D Security Agent (acting reasonably) with respect to the procedures which may reasonably be expected to be used to obtain a fair market price in the then prevailing market conditions (taking into account all relevant circumstances and with a view to facilitating a prompt and expeditious sale at a fair market price in the prevailing market conditions although there shall be no obligation to postpone any such sale in order to achieve a higher price);

(b) the Security Agent or Facility D Security Agent shall have implemented (to the extent permitted by law) in all material respects the procedures recommended by such bank or firm in relation to such auction or process; and

(c) the Creditors shall have a right to participate.

For the purposes of paragraphs (a), (b) and (c) above:

(i) the Security Agent or Facility D Security Agent shall be entitled to retain any such internationally recognised investment bank or accounting firm as its and/or any of the other Creditors' financial advisor to advise and assist in the proposed sale or disposition for such remuneration as the Security Agent or Facility D Security Agent in good faith determines is appropriate for the circumstances;

(ii) except as required by applicable law, the Security Agent or Facility D Security Agent shall not have any obligation to any person to engage in or to use reasonable efforts to engage in a listing of any or all of any equity interests the subject of such auction or other competitive sale process, including, without limitation, if recommended by such investment bank or accounting firm;

(iii) by reason of certain prohibitions, or exemptive or safe-harbour provisions from such prohibitions, contained in law or regulations of any applicable governmental authority, the Security Agent or Facility D Security Agent may, with respect to any sale of all or any part of such equity interests or assets:

(A) limit purchasers to those who meet the requirements of such governmental authority or exemptive or safe-harbour provision (as applicable) and/or make representations and undertakings satisfactory to the Security Agent or Facility D Security Agent relating to compliance with such requirements and/or provisions; and/or

(B) limit purchasers to persons who will agree, among other things to acquire such shares for their own account, for investment and not with a view to the distribution or resale thereof;

(iv) the Security Agent, the Facility D Security Agent and other Creditors shall not under any circumstances be required to make representations, warranties or undertakings to any actual or proposed purchaser (other than customary representations in a security enforcement as to power to transfer the relevant equity interests pursuant to the Security Documents) or to indemnify any

actual or proposed purchaser against any costs, liabilities or similar expenses or losses; and

(v) without limitation to the other circumstances of the sale or other disposition that the Security Agent or Facility D Security Agent and such investment bank or accounting firm may take into consideration, the Security Agent or Facility D Security Agent may (but is not required to) in all circumstances specify that no offer to purchase equity interest or other assets will be entertained unless such offer:

(A) is for all (and not some only) of the equity interests being sold or otherwise disposed;

(B) is for cash consideration payable at closing (and therefore not including, for the avoidance of doubt, any element of deferred compensation) and is not subject to any financing conditions; and/or

(C) contemplates a closing of the sale of the equity interests or other assets in not more than three months (or such longer period as the Security Agent or Facility D Security Agent may specify) from the time of initiation of the sale or disposition process; and

(vi) a "**right to participate**" means:

(A) any offer, or indication of a potential offer, that a Creditor makes shall be considered by the Security Agent or Facility D Security Agent or such investment bank or accounting firm against the same criteria as any offer, or indication of a potential offer, by any other bidder or potential bidder. For the avoidance of doubt, if after having applied that same criteria, the offer or indication of a potential offer made by a Creditor is not considered by the Security Agent or Facility D Security Agent or such investment bank or accounting firm to be sufficient to continue in the sale or disposal process, such consideration being against the same criteria as any offer, or indication of a potential offer, by any other bidder or potential bidder (such continuation may include being invited to review additional information or being invited to have an opportunity to make a subsequent or revised offer, whether in another round of bidding or otherwise) then the right to participate of that Creditor under this Agreement shall be deemed to be satisfied; and

(B) shall not apply if the Security Agent or Facility D Security Agent believes in good faith that it may (or there is a risk that it may) result in a violation of any applicable laws or that it may (or there is a risk that it may) result in a requirement for registration under any applicable securities laws.

For the purposes of paragraph (a), such investment bank or accounting firm may be instructed by the Security Agent or Facility D Security Agent to take the limitations set out in sub-paragraphs (i) to (vi) (inclusive) above into account and to formulate recommendations that are consistent with them.

"**Receiver**" means a receiver or receiver and manager or administrative receiver or preliminary receiver (*vorläufiger Insolvenzverwalter*) or other similar officer of the whole or any part of the Charged Property.

"**Recoveries**" has the meaning given to that term in Clause 17.1 (*Order of Application*).

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

"**Relevant Creditor Representative**" means the Administrative Agent, the RCF Agent, the Senior Secured Notes Trustee, the Facility D Agent, the Pari Passu Debt Representative(s) and the High Yield Notes Trustee(s).

"**Relevant Creditor Representative Amounts**" has the meaning given to it in Clause 22.11 (*Payments*).

"**Relevant Guarantee Bank**" means, in respect of any Senior Secured Facilities Cash Cover, the Guarantee Bank (if any) for which that Senior Secured Facilities Cash Cover is provided.

"**Relevant High Yield Default**" has the meaning given to it in paragraph (a)(i) of Clause 9.9 (*Permitted High Yield Enforcement*).

"**Relevant Issuing Bank**" means, in respect of any Senior Secured Facilities Cash Cover, the Issuing Bank (if any) for which that Senior Secured Facilities Cash Cover is provided.

"**Relevant Liabilities**" means:

(a) in the case of a Creditor:

(i) the Arranger Liabilities owed to an Arranger ranking (in accordance with the terms of this Agreement) pari passu with or in priority to that Creditor;

(ii) the Liabilities owed to Creditors ranking (in accordance with the terms of this Agreement) pari passu with or in priority to that Creditor together with all Creditor Representative Liabilities owed to the respective Creditor Representative; and

(iii) all present and future liabilities and obligations, actual and contingent, of the Debtors to the Security Agent or Facility D Security Agent; and

(b) in the case of a Debtor, the Liabilities owed to the Creditors together with the Creditor Representative Liabilities owed to the Creditor Representatives of those Creditors, the Arranger Liabilities and all present and future liabilities and obligations, actual and contingent, of the Debtors to the Security Agent or Facility D Security Agent.

"**Relevant Representative**" has the meaning given to it in paragraph (a)(ii) of Clause 9.5 (*Issue of High Yield Payment Stop Notice*).

"**Relevant Senior Creditor Representative**" has the meaning given to it in paragraph (a) of Clause 9.13 (*Option to purchase: High Yield Creditors*).

"**Restricted Group**" means the Parent and each of its Restricted Subsidiaries for the time being.

"**Restricted Subsidiary**" has the meaning given to such term in the Senior Secured Facilities Agreement (in its form at the date of this Agreement), the Senior Secured Notes Indenture (in its form at the Effective Date), the Facility D Agreement (in its form at the Effective Date), any Pari Passu Debt Documents and any High Yield Documents.

"**Retiring Security Agent**" has the meaning given to that term in Clause 20 (*Change of Security Agent and Delegation*).

"**Secured Debt Documents**" means the Finance Documents other the High Yield Unsecured Documents.

"**Secured Liabilities**" means the Senior Secured Facilities Lender Liabilities, the Creditor Representative Liabilities, the Arranger Liabilities, the Senior Secured Notes Liabilities, the Facility D Liabilities, the Pari Passu Debt, the High Yield Secured Liabilities and the Hedging Liabilities.

"**Secured Obligations**" means:

(a) all the Secured Liabilities; and

(b) all other present and future debts and obligations at any time due, owing or incurred by any member of the Restricted Group and by each Debtor to any Secured Party under the relevant Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity including the Parallel Debt Obligations.

"**Secured Parties**" means the Senior Secured Creditors, the High Yield Secured Creditors, the Arrangers, the Security Agent, the Facility D Security Agent and any Receiver or Delegate thereof from time to time but:

(a) in the case of each Senior Secured Creditor and High Yield Secured Creditor, only if its Creditor Representative is party to this Agreement or has acceded to this Agreement, in the appropriate capacity, pursuant to Clause 21 (*Changes to the Parties*); and

(b) in the case of each Senior Secured Facilities Lender and Pari Passu Creditor under a bilateral loan, credit or guarantee facility who is not represented by a facility agent, each Hedging Bank, each Ancillary Lender which is an Affiliate of a Senior Secured Facilities Lender and each Arranger, only if it is party to this Agreement or has acceded to this Agreement, in the appropriate capacity, pursuant to Clause 21 (*Changes to the Parties*).

"**Security**" means a mortgage, charge, assignation, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Security Agent's Spot Rate of Exchange**" means, in respect of the conversion of one currency (the "**First Currency**") into another currency (the "**Second Currency**"), the Security Agent's or, as the case may be, the Facility D Security Agent's spot rate of exchange for the purchase of the Second Currency with the First Currency in the London foreign exchange market at or about 11:00 am (London time) on a particular day (or, if the Security Agent so determines, the Administrative Agent's spot rate of exchange), which shall be notified by the Security Agent or Facility D Security Agent in accordance with paragraph (d) of Clause 19.11 (*Security Agent's obligations*).

"**Security Property**" means:

(a) the Transaction Security expressed to be granted in favour of the Security Agent or Facility D Security Agent including for itself in respect of the Parallel Debt Obligations and Parallel Debt, respectively, for its own account and as trustee or agent for the applicable Secured Parties and all proceeds of that Transaction Security;

(b) all obligations expressed to be undertaken by a Debtor to pay amounts in respect of (i) the Liabilities to the Security Agent or Facility D Security Agent as trustee or agent

for the Secured Parties or (ii) the Parallel Debt Obligations and Parallel Debt (as applicable) and, in each case, secured by the Transaction Security, together with all representations and warranties expressed to be given by a Debtor in favour of the Security Agent or Facility D Security Agent for itself in respect of the Parallel Debt Obligations and Parallel Debt, respectively and as trustee or agent for the applicable Secured Parties;

(c) the Security Agent's or Facility D Security Agent's interest in any trust fund created pursuant to Clause 13 (*Turnover of Receipts*); and

(d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent or Facility D Security Agent is required by the terms of the Debt Documents to hold as trustee or agent on trust for the Secured Parties.

"**Senior Acceleration Event**" means a Senior Secured Facilities Acceleration Event, a Senior Secured Notes Acceleration Event, a Facility D Acceleration Event or a Pari Passu Debt Acceleration Event.

"**Senior Discharge Date**" has the meaning given to the term "Senior Secured Discharge Date" in this Agreement.

"**Senior Event of Default**" means an Event of Default under (and as defined in) any of (a) the Senior Secured Facilities Agreement, (b) the Senior Secured Notes Indenture, (c) the Facility D Agreement or (d) any Pari Passu Debt Documents.

"**Senior Payment Default**" means:

(a) an Event of Default under Section 7.01(a) or (b) (*Events of Default*) of the Senior Secured Facilities Agreement;

(b) any Event of Default arising by reason of any non-payment under a Senior Secured Notes Document other than in respect of an amount (i) not constituting principal, interest, Additional Amounts (as defined therein), premium, if any, or fees and (ii) not exceeding $200,000 (or its equivalent in other currencies);

(c) an Event of Default under Clause 27.1 (*Payment Default*) of the Facility D Agreement; and/or

(d) any Event of Default arising by reason of any non-payment under a Pari Passu Debt Document other than in respect of an amount (i) not constituting principal, interest, Additional Amounts (as defined therein), premium, if any, or fees and (ii) not exceeding $200,000 (or its equivalent in other currencies).

"**Senior Secured Credit Participation**" means, in relation to a Senior Secured Facilities Lender, Senior Secured Noteholder, a Facility D Lender or a Pari Passu Creditor, the aggregate of:

(a) the aggregate outstanding principal amount (including capitalised interest, if applicable) of the Senior Secured Notes held by it, if any;

(b) the aggregate (drawn, undrawn and contingent) Senior Secured Facilities Commitments, if any;

(c) the aggregate (drawn and undrawn) Facility D Commitments, if any; and

(d) if applicable and if the aggregate amount of the Pari Passu Debt is equal to more than US$20,000,000, the aggregate outstanding principal amount (including capitalised interest, if applicable), the amount of any participation in any guarantee and any ancillary facility exposure, in each case, in respect of any Pari Passu Debt in respect of which it is the creditor (if any) and its undrawn commitments under any Pari Passu Debt (or, if such undrawn commitments have been cancelled in full by the relevant Pari Passu Creditors by reason of default (howsoever described), the amount of such undrawn commitments immediately prior to such cancellation),

but, for the purposes of Clause 18 (*Equalisation*) only, Senior Secured Credit Participations has the meaning given to it in paragraph (b) of Clause 18.1 (*Equalisation Definitions*).

"**Senior Secured Creditors**" means the Senior Secured Facilities Creditors, the Senior Secured Notes Creditors, the Facility D Creditors, the Pari Passu Creditors and the Hedging Banks.

"**Senior Secured Discharge Date**" means the last to occur of the Senior Secured Facilities Discharge Date, the Senior Secured Notes Discharge Date, the Facility D Discharge Date, the Hedging Discharge Date and the Pari Passu Debt Discharge Date.

"**Senior Secured Documents**" means the Senior Secured Facilities Finance Documents, the Senior Secured Notes Documents, the Facility D Finance Documents, the Pari Passu Debt Documents and the Hedging Documents.

"**Senior Secured Facilities**" has the meaning given to the term "Facility" in the Senior Secured Facilities Agreement and includes, for the avoidance of doubt, any permitted Incremental Facility (as defined therein) in accordance with Section 2.18 (*Incremental Facilities*) of the original form Senior Secured Facilities Agreement and which indebtedness is entitled under the terms of the Finance Documents to share in the Transaction Security with the rights and obligations of the Senior Secured Facilities Creditors as provided for in this Agreement.

"**Senior Secured Facilities Acceleration Event**" means the Administrative Agent exercising any of its rights under Section 7.01 (*Events of Default*) of the Senior Secured Facilities Agreement or commitments thereunder are automatically cancelled and amounts thereunder are automatically accelerated.

"**Senior Secured Facilities Agreement**" means the senior secured facilities agreement made between the Senior Secured Facilities Borrowers, the Administrative Agent, the RCF Agent, the Senior Secured Facilities Lenders and others dated on or around the date of this Agreement.

"**Senior Secured Facilities Borrower**" has the meaning given to the term "Borrower" in the Senior Secured Facilities Agreement.

"**Senior Secured Facilities Cash Cover**" has the meaning given to the term "Cash Cover" in the Senior Secured Facilities Agreement.

"**Senior Secured Facilities Commitment**" has the meaning given to the term "Commitment" in the Senior Secured Facilities Agreement.

"**Senior Secured Facilities Creditors**" means the Senior Secured Facilities Lenders, the Administrative Agent and the RCF Agent.

"**Senior Secured Facilities Discharge Date**" means the date on which all Senior Secured Facilities Liabilities have been fully and finally discharged to the satisfaction of the

Administrative Agent, whether or not as the result of an enforcement, and the Senior Secured Facilities Finance Parties are under no further obligation to provide financial accommodation to any of the Debtors under the Senior Secured Facilities Finance Documents.

"**Senior Secured Facilities Finance Documents**" has the meaning given to the term "Loan Documents" in the Senior Secured Facilities Agreement.

"**Senior Secured Facilities Finance Parties**" means each "Secured Party" referred to in the Senior Secured Facilities Agreement.

"**Senior Secured Facilities Guarantor**" has the meaning given to the term "Guarantor" in the Senior Secured Facilities Agreement.

"**Senior Secured Facilities Lender Liabilities**" means the Liabilities (including, for the avoidance of doubt, the Ancillary Outstandings as defined in the Senior Secured Facilities Agreement) owed by the Debtors to the Senior Secured Facilities Lenders under or in connection with the Senior Secured Facilities Finance Documents.

"**Senior Secured Facilities Lenders**" means each "Lender", "Issuing Bank", "Guarantee Bank" and "Ancillary Lender" each under and as defined in the relevant Senior Secured Facilities Finance Documents.

"**Senior Secured Facilities Required Lenders**" means, in respect of any direction, approval, consent or waiver, the Administrative Agent acting on behalf of the Senior Secured Facilities Lenders required and permitted under the terms of the Senior Secured Facilities Agreement to vote in favour of such direction, approval, consent or waiver, or, if the required amount is not specified, the Senior Secured Facilities Lenders holding at least a majority of the principal amount then outstanding, in accordance with the Senior Secured Facilities Agreement.

"**Senior Secured Instructing Group**" means, at any time the Majority Senior Secured Creditors (in each case, acting through their respective Creditor Representative(s) (in the case of the Facility D Lenders, prior to a Facility D Agent Permanent Resignation) provided that:

(a) to the extent that the Administrative Agent is acting on the instructions of the Senior Secured Facilities Required Lenders in accordance with the terms of the Senior Secured Facilities Finance Documents in respect of a relevant consent, the Administrative Agent will not be required to obtain any further consent from such the Senior Secured Facilities Required Lenders in respect of such decision if such consent is not required by the relevant Secured Facilities Finance Document;

(b) to the extent that the Senior Secured Notes Trustee is acting on the instructions of the Senior Secured Notes Required Holders in accordance with the terms of the Senior Secured Notes Indenture in respect of a relevant consent, the Senior Secured Notes Trustee will not be required to obtain any further consent from the Senior Secured Notes Required Holders in respect of such decision if such consent is not required by the Senior Secured Notes Indenture;

(c) to the extent that prior to a Facility D Agent Permanent Resignation the Facility D Agent is acting on the instructions of the Facility D Required Lenders in accordance with the terms of the Facility D Agreement in respect of a relevant consent, the Facility D Agent will not be required to obtain any further consent from such Facility D Required Lenders in respect of such decision if such consent is not required by the Facility D Agreement; and

(d) to the extent that a Pari Passu Debt Representative is acting on the instructions of the Pari Passu Debt Required Holders of a tranche of Pari Passu Debt in accordance with

the terms of the Pari Passu Debt Documents in respect of a relevant consent, that Pari Passu Debt Representative will not be required to obtain any further consent from such Pari Passu Debt Required Holders in respect of such decision if such consent is not required by the relevant Pari Passu Debt Document.

"**Senior Secured Liabilities**" means the Liabilities (including, for the avoidance of doubt, the Ancillary Outstandings as defined in the Senior Secured Facilities Agreement) owed by the Debtors to the Senior Secured Creditors under the Senior Secured Documents.

"**Senior Secured Noteholders**" means the holders of the Senior Secured Notes at any time pursuant to the terms of the Senior Secured Notes Indenture.

"**Senior Secured Notes**" means the $375 million senior secured notes due 2021 issued by the Senior Secured Notes Issuer pursuant to the terms of the Senior Secured Notes Indenture and any additional notes issued from time to time under the Senior Secured Notes Indenture.

"**Senior Secured Notes Acceleration Event**" means the Senior Secured Notes Trustee or any of the Senior Secured Noteholders exercising any acceleration rights (howsoever described) or any acceleration provisions being automatically invoked in each case under section 6.02 of the Senior Secured Notes Indenture.

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

"**Senior Secured Notes Discharge Date**" means the date on which all Senior Secured Notes Liabilities have been fully and finally discharged to the satisfaction of the Senior Secured Notes Trustee, whether or not as the result of an enforcement, and the Senior Secured Noteholders are under no further obligation to provide financial accommodation to any of the Debtors under the Senior Secured Notes Documents.

"**Senior Secured Notes Documents**" means:

(a) the Senior Secured Notes Indenture;

(b) the Senior Secured Notes;

(c) this Agreement;

(d) the Senior Secured Notes Guarantees; and

(e) the Transaction Security Documents.

"**Senior Secured Notes Guarantees**" means the "Guarantees" as defined in the Senior Secured Notes Indenture.

"**Senior Secured Notes Indenture**" means the Senior Secured Notes indenture dated on or about the Effective Date between, among others, the Senior Secured Notes Issuer and the Senior Secured Notes Trustee, as amended from time to time.

"**Senior Secured Notes Liabilities**" means the Liabilities owed by the Senior Secured Notes Issuer and the Debtors to the Senior Secured Notes Creditors under the Senior Secured Notes Documents (but excluding any Hedging Liabilities).

"**Senior Secured Notes Required Holders**" means, in respect of any direction, approval, consent or waiver, the Senior Secured Notes Trustee acting on behalf of the holders of the principal amount of the then outstanding Senior Secured Notes required and permitted under the terms of the Senior Secured Notes Indenture to vote in favour of such direction, approval,

consent or waiver, or, if the required amount is not specified, the holders holding at least a majority of the principal amount of the then outstanding Senior Secured Notes, in accordance with the Senior Secured Notes Indenture. For the avoidance of doubt, in determining whether the Senior Secured Noteholders of the required principal amount of relevant tranche of Senior Secured Notes have concurred in any direction, waiver or consent, Senior Secured Notes owned by any Debtor, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with any Debtor, will be considered as though not outstanding.

"**Senior Secured Notes Trustee Amounts**" means the Relevant Creditor Representative Amounts of the Senior Secured Notes Trustee.

"**Shared Assurance**" means any guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, the benefit of which (however conferred) is, to the extent legally possible, given to all the Secured Parties in respect of their Secured Liabilities.

"**Shareholder Creditors**" means:

(a) any Original Shareholder Creditor; and

(b) any direct or indirect shareholder (or Affiliate who is not a member of the Restricted Group) of the Parent (and their respective transferees and successors) which has made a loan or financial accommodation to the Parent or another member of the Restricted Group, which is not prohibited under the terms of the Finance Documents and which accedes to this agreement by executing a Creditor/Creditor Representative Accession Undertaking in accordance with the terms of Clause 21 (*Changes to the Parties*),

which, in each case, has not ceased to be a Shareholder Creditor in accordance with this Agreement.

"**Shareholder Debt Documents**" means all documents, agreements and instruments between any Debtor and any Shareholder Creditor evidencing any Shareholder Liabilities.

"**Shareholder Liabilities**" means all Liabilities of any Debtor to any Shareholder Creditor together with any related Additional Liabilities (including any financial indebtedness, dividend or other distributions in respect of share capital and Holdco Liabilities) excluding, for the avoidance of doubt, any Liabilities of any Debtor under the Debt Documents purchased by any Shareholder Creditor to the extent permitted thereunder.

"**Sponsor Affiliate**" has the meaning given to the term "Affiliated Lender" in the Senior Secured Facilities Agreement; provided that for this purpose "Affiliated Lender" shall not include "Debt Fund Affiliates" as such term is defined in the Senior Secured Facilities Agreement.

"**Spot Rate of Exchange**" means the Administrative Agent's or the relevant Creditor Representative's (as applicable) spot rate of exchange for the purchase of the relevant currency with the Base Currency in the London foreign exchange market at or about 11:00 a.m. on a particular day.

"**Subordinated Creditors**" means the Shareholder Creditors and the Intra-Group Lenders.

"**Subordinated Documents**" means the Shareholder Debt Documents and the Intra-Group Documents.

"**Subordinated Liabilities**" means the Shareholder Liabilities and the Intra-Group Liabilities.

"**Subsidiary**" means, in relation to any person, any entity which is controlled directly or indirectly by that person and any entity (whether or not so controlled) treated as a subsidiary in the latest financial statements of that person from time to time, and "control" for this purpose means the direct or indirect ownership of the majority of the voting share capital of such entity or the right or ability to determine the composition of a majority of the board of directors (or like board) of such entity, in each case whether by virtue of ownership of share capital, contract or otherwise.

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

"**Third Party Chargor**" means the Original Third Party Chargors or any other entity that has provided Transaction Security over any or all of its assets in respect of the obligations of any of the Debtors under any of the Secured Debt Documents but is not a Debtor of any of the Liabilities.

"**Transaction Security**" means the Security created or expressed to be created in favour of the Security Agent, the Facility D Security Agent and/or the Secured Parties under or pursuant to the Transaction Security Documents.

"**Transaction Security Documents**" means:

(a) each "Security Document" as defined in the Senior Secured Facilities Finance Documents;

(b) each Facility D Continuing Security Document;

(c) any other document entered into at any time by any of the Debtors creating any guarantee, indemnity, Security or other assurance against financial loss in favour of any of the Secured Parties as security for any of the Secured Obligations; and

(d) any Security granted by the Debtors or any Third Party Chargor under any covenant for further assurance in any of the documents set out in paragraphs (a) and (c) above,

which, in each case, to the extent legally possible:

(i) is created in favour of the Security Agent as trustee for the other Secured Parties in respect of their Liabilities or in the case of the Facility D Continuing Security Documents, in favour of the Facility D Security Agent as trustee for the Facility D Creditors in respect of the Facility D Liabilities;

(ii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent or the Facility D Security Agent as trustee for the Secured Parties is created in favour of:

(A) all the Secured Parties in respect of their Liabilities; or

(B) the Security Agent under a parallel debt structure or otherwise for the benefit of all the Secured Parties; or

(iii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Facility D Security Agent as trustee for the Facility D Creditors in respect of the Facility D Liabilities is created in favour of:

(A) all the Facility D Creditors in respect of their Facility D Liabilities; or

(B) the Facility D Security Agent under a parallel debt structure or otherwise for the benefit of all the Facility D Creditors.

"**U.S.**" or "**United States**" means the United States of America, its territories, possessions and other areas subject to the jurisdiction of the United States of America.

"**U.S. Bankruptcy Code**" means Title 11 of the United States Code entitled "Bankruptcy" as now and hereafter in effect and any successor statute and all rules and regulations promulgated thereunder.

"**U.S. Bankruptcy Law**" means the U.S. Bankruptcy Code, or any other United States federal or state bankruptcy, insolvency or similar law and any similar federal or state law for the relief of debtors.

"**Underlying Indenture**" has the meaning given to "Senior Secured Note Indenture" in the Facility D Agreement.

"**Underlying Noteholders**" means a holder of the Underlying Notes. In determining whether the Underlying Noteholders of the required principal amount of Underlying Notes have concurred in any direction, waiver or consent, Underlying Notes owned by any Debtor, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with any Debtor, will be considered as though not outstanding.

"**Underlying Notes**" has the meaning given to "Senior Secured Notes" in the Facility D Agreement.

"**USD**" or "**$**" means the lawful currency of the United States.

"**VAT**" means value added tax as provided for in Council Directive 2006/112/EC as amended on the common system of value added tax and any other tax of a similar nature (including goods and services tax) wherever imposed.

1.2 Construction

(a) Unless a contrary indication appears, a reference in this Agreement to:

(i) Administrative Agent, Ancillary Lender, Arranger, Creditor, Creditor Representative, Debtor, Facility D Security Agent, Guarantee Bank, Hedging Bank, High Yield Creditor, Intra-Group Lender, Issuing Bank, Parent, Pari Passu Creditor, Pari Passu Debt Representative, Party, RCF Agent, Secured Party, Security Agent, Senior Secured Facilities Lender, Senior Secured Facilities Finance Party, Senior Secured Noteholder, Senior Secured Notes Issuer, Senior Secured Notes Trustee, Shareholder Creditor, Subordinated Creditor, subject to paragraph (n) below Facility D Agent or Facility D Lender or Third Party Chargor shall be construed to be a reference to it in its capacity as such and not in any other capacity;

(ii) Administrative Agent, Ancillary Lender, Arranger, Creditor, Creditor Representative, Debtor, Facility D Security Agent, Guarantee Bank, Hedging Bank, Intra-Group Lender, Issuing Bank, Pari Passu Creditor, Pari Passu Debt Representative, Party, RCF Agent, Secured Party, Security Agent, Senior Secured Facilities Lender, Senior Secured Facilities Finance Party, Senior Secured Noteholder, Senior Secured Notes Issuer, Senior Secured Notes Trustee, Shareholder Creditor, Subordinated Creditor, High Yield Creditor, subject to paragraph (n) below Facility D Agent, Facility D Lender or any other person shall be construed so as to include its successors in title,

permitted assigns and permitted transferees and, in the case of the Security Agent(s) or Facility D Security Agent(s), any person for the time being appointed as Security Agent or Security Agents in accordance with this Agreement, including, in relation to any Additional Liabilities, any person acting in a corresponding capacity;

(iii) "**assets**" includes present and future properties, revenues and rights of every description;

(iv) a "**Debt Document**" or any other document, agreement or instrument is (other than a reference to a "**Debt Document**" or any other document, agreement or instrument in "**original form**") a reference to that Debt Document, or other document, agreement or instrument, as amended, novated, supplemented, extended, increased (by way of any structural adjustment or otherwise) or restated as permitted or not prohibited by this Agreement;

(v) "**enforcing**" (or any derivation) the Transaction Security shall include the appointment of an administrator of a Debtor by the Security Agent or, as applicable, the Facility D Security Agent;

(vi) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

(vii) the "**original form**" of a "**Debt Document**" or any other document, agreement or instrument is a reference to that Debt Document, document, agreement or instrument as originally entered into;

(viii) a "**person**" or "**Person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);

(ix) 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, which is generally complied with by those to whom it is addressed) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;

(x) "**set-off**" includes (a) combining accounts and payment netting except that, in relation to any Hedging Liabilities, "set-off" does not include Payment Netting or close-out netting; and (b) Scots law pleas of balancing of accounts in insolvency, retention and compensation;

(xi) "**shares**" or "share capital" include equivalent ownership interests (and "**shareholder**" and similar expressions shall be construed accordingly); and

(xii) a provision of law is a reference to that provision as amended or re-enacted.

(b) Section, Clause and Schedule headings are for ease of reference only.

(c) Terms defined in or whose interpretation or construction is provided for in a Debt Document shall have the same meaning when used in this Agreement as set forth in the relevant Debt Document as at its original date, unless separately defined or interpreted in this Agreement.

(d)

(i) any Default or Event of Default "continuing" or arising under the Senior Secured Notes Documents will have the meaning ascribed to such term in the Senior Secured Notes Indenture;

(ii) any Default or Event of Default "continuing" or arising under the Facility D Agreement will have the meaning ascribed to such term in the Facility D Agreement;

(iii) any Default or Event of Default will be considered to be outstanding or "continuing" or arising under the relevant Senior Secured Facilities Finance Documents on the basis of the relevant Senior Secured Facilities Finance Document;

(iv) any Default or Event of Default "continuing" or arising under any other Debt Document will have the meaning ascribed to such term in the relevant Debt Document; and

(v) any reference to an Insolvency Event is to an Insolvency Event which is "continuing" unless such Insolvency Event also constitutes a Bankruptcy Event.

(e) In determining whether any Liabilities have been fully and finally discharged, the relevant Creditor Representative (and, if applicable, the Security Agent or, as applicable, the Facility D Security Agent) will disregard contingent liabilities (such as the risk of clawback from a preference claim) except to the extent that it believes (on advice of its external counsel) that those contingent liabilities will become actual liabilities.

(f) Any matter expressed to require the consent or approval of the Senior Secured Facilities Lenders (or any specified majority thereof) or of their Creditor Representatives shall only require such consent or approval prior to the Senior Secured Facilities Discharge Date and shall be deemed not to require the consent of any Senior Secured Facilities Lender which has been repaid, prepaid or replaced in accordance with the relevant Senior Secured Facilities Finance Document.

(g) Any matter expressed to require the consent or approval of the Senior Secured Noteholders (or any specified majority thereof) or of the Senior Secured Notes Trustee shall only require such consent or approval prior to the Senior Secured Notes Discharge Date and shall be deemed not to require the consent of any Senior Secured Noteholder which has been repaid, prepaid or replaced in accordance with the Senior Secured Notes Indenture.

(h) Any matter expressed to require the consent or approval of the Facility D Lenders (or any specified majority thereof) or of the Facility D Agent shall only require such consent or approval prior to the Facility D Discharge Date and shall be deemed not to require the consent of any Facility D Lender which has been repaid, prepaid or replaced in accordance with the Facility D Agreement.

(i) Any matter expressed to require the consent or approval of the Pari Passu Creditors (or any specified majority thereof) or of a Pari Passu Debt Representative shall only require such consent or approval prior to the Pari Passu Debt Discharge Date and shall be deemed not to require the consent of any Pari Passu Creditor which has been repaid, prepaid or replaced in accordance with the relevant Pari Passu Debt Document.

(j) Any matter expressed to require the consent or approval of the High Yield Creditors (or any specified majority thereof) or of a High Yield Notes Trustee shall only require such consent or approval prior to the High Yield Discharge Date and shall be deemed not to require the consent of any High Yield Creditor which has been repaid, prepaid or replaced in accordance with the relevant High Yield Document.

(k) Any matter expressed to require the consent or approval of the Hedging Banks (or any specified majority thereof) shall only require such consent or approval prior to the Hedging Discharge Date and shall be deemed not to require the consent of any Hedging Bank which has been terminated or closed out in accordance with the relevant Hedging Document.

(l) Any consent to be given under this Agreement shall mean such consent is to be given in writing, which for the purposes of this Agreement will be deemed to include any instructions, waivers or consents provided through any applicable clearance system in accordance with the terms of the relevant Debt Document.

(m) References to any matter being "permitted" under one or more Debt Document shall include reference to such matters not being prohibited under such Debt Documents.

(n) Upon and following the occurrence of a Facility D Agent Permanent Resignation, subject to the proviso below, all references in this Agreement to the "Facility D Agent" shall be deemed to be references to the "Facility D Lenders"; provided that:

(i) any reference to provisions in this Agreement applying prior to the Facility D Agent Permanent Resignation shall remain unaffected;

(ii) any reference in this Agreement to the Facility D Agent (including as Creditor Representative) acting on the instructions of the Facility D Required Lenders shall mean a determination of the Facility D Required Lenders;

(iii) there shall be no Relevant Creditor Representative Amounts attributable to the Facility D Agent or Facility D Lenders;

(iv) references to the Facility D Agent (including as a Creditor Representative or Relevant Creditor Representative) in Clause 22 (*Relevant Creditor Representative Protections)* shall not be deemed to be references to the Facility D Lenders; and

(v) the Facility D Lenders shall not be deemed to be Creditor Representatives for purposes of Clause 17 (*Application of Proceeds*).

1.3 Third Party Rights

(a) Unless expressly provided to the contrary in this Agreement, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Rights Act**") to enforce or to enjoy the benefit of any term of this Agreement.

(b) Notwithstanding any term of this Agreement, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

(c) Any Receiver or Delegate may, subject to this Clause 1.3 and the Third Parties Rights Act, rely on any Clause of this Agreement which expressly confers rights on it.

(d) The Third Parties Rights Act shall apply to this Agreement in respect of:

(i) any Senior Secured Noteholder which, by holding a Senior Secured Note, has effectively agreed to be bound by the provisions of this Agreement and will be deemed to receive the benefits hereof, and be subject to the terms and conditions hereof, as if such person was a Party hereto;

(ii) any Facility D Lender which, by providing any Facility D, has effectively agreed to be bound by the provisions of this Agreement and will be deemed to receive the benefits hereof, and be subject to the terms and conditions hereof, as if such person was a Party hereto;

(iii) any Senior Secured Facilities Lender which, by providing any Senior Secured Facilities, has effectively agreed to be bound by the provisions of this Agreement and will be deemed to receive the benefits hereof, and be subject to the terms and conditions hereof, as if such person was a Party hereto;

(iv) any Pari Passu Creditor which, by holding any Pari Passu Debt, has effectively agreed to be bound by the provisions of this Agreement and will be deemed to receive the benefits hereof, and be subject to the terms and conditions hereof, as if such person was a Party hereto;

(v) any High Yield Creditor which, by holding any High Yield Notes, has effectively agreed to be bound by the provisions of this Agreement and will be deemed to receive the benefits hereof, and be subject to the terms and conditions hereof, as if such person was a Party hereto; and

(vi) any Underlying Noteholder which, by holding any of the Underlying Notes, has effectively agreed to be bound by the provisions of this Agreement and will be deemed to receive the benefits hereof, and be subject to the terms and conditions hereof, as if such person was a Party hereto.

(e) For purposes of paragraph (b) and paragraph (d) above, upon any person becoming a Senior Secured Noteholder, a Senior Secured Facilities Lender, a Facility D Lender, a Pari Passu Creditor or a High Yield Noteholder, such person shall be deemed a Party to this Agreement.

1.4 Facility D Agreement

(a) Any matter expressed to be "permitted" by or under, "in accordance with" the terms of, "is/is not required under", "not prohibited" by or under the Facility D Agreement shall include a reference to such matter being "permitted" by or under, "in accordance with" the terms of, "is/is not required under", "not prohibited" by or under the terms of the Underlying Indenture corresponding to the Facility D (as defined in the Facility D Agreement).

(b) If a term or provision is not expressly specified in the Facility D Agreement, any corresponding term or provision from the Underlying Indenture shall apply and any reference to Facility D Agreement in this Agreement shall include the Underlying Indenture.

1.5 Dutch law

English language words used in this Agreement to describe Dutch law concepts are intended to describe such concepts only, and the consequences of the use of those words in English law or another foreign law are to be disregarded.

2. RANKING AND PRIORITY

Unless expressly provided to the contrary in this Agreement, the Liabilities shall rank in right and priority of payment and are postponed and subordinated to any prior ranking Liabilities in the following order:

(a) first, the Senior Secured Facilities Lender Liabilities, the Creditor Representative Liabilities, the Arranger Liabilities, the Senior Secured Notes Liabilities, the Facility D Liabilities, the Pari Passu Debt and the Hedging Liabilities, *pari passu* and without any preference between them;

(b) second, the High Yield Guarantee Liabilities and the Holdco Liabilities, *pari passu* and without any preference between them;

(c) third, the Intra-Group Liabilities, *pari passu* between themselves and without any preference between them; and

(d) fourth, the Shareholder Liabilities (other than the Holdco Liabilities), *pari passu* between themselves and without any preference between them.

3. TRANSACTION SECURITY

3.1 Transaction Security

Each of the Parties agrees that the Transaction Security created pursuant to the Transaction Security Documents shall rank and secure the Liabilities as follows:

(a) first, the Senior Secured Facilities Lender Liabilities, the Creditor Representative Liabilities, the Arranger Liabilities, the Senior Secured Notes Liabilities, the Facility D Liabilities, the Pari Passu Debt and the Hedging Liabilities, *pari passu* and without any preference between them; and

(b) second, the High Yield Secured Liabilities, *pari passu* and without any preference between them;

but, in each case:

(i) only to the extent that such Transaction Security is expressed to secure those Liabilities;

(ii) irrespective of the order of execution, creation, registration, notice, enforcement or otherwise;

(iii) irrespective of the date on which the Liability arose; and

(iv) irrespective of the fluctuation in the amount, or any intermediate discharge in whole or in part, of any Liability.

3.2 Subordinated Liabilities and High Yield Unsecured Liabilities

The Subordinated Liabilities and the High Yield Unsecured Liabilities shall not be secured by any of the Transaction Security.

3.3 Security: Debtors' Obligations

Subject to Clause 4.2 (*Security: Ancillary Lenders, Guarantee Banks and Issuing Banks*) or pursuant to the Facility D Continuing Security Documents, no Debtor or Third Party Chargor shall (and the Parent shall procure that no member of the Restricted Group will) grant to any of the Secured Parties the benefit of any Security in respect of that Secured Party's Secured Liabilities, in addition to the Transaction Security, unless, (A) the granting of such Security is permitted by the Secured Debt Documents, and (B) to the extent legally possible, at the same time it is also offered either:

(a) to the Security Agent as agent and/or trustee for the other Secured Parties in respect of their Secured Liabilities; or

(b) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as trustee for the Secured Parties:

(i) to the other Secured Parties in respect of their Secured Liabilities; or

(ii) to the Security Agent under a parallel debt structure or otherwise for the benefit of the other Secured Parties,

and ranks in the same order of priority as that contemplated in Clause 3.1 (*Transaction Security*).

3.4 Security and guarantees: Secured Parties

Other than as set out in Clause 4.2 (*Security: Ancillary Lenders, Guarantee Banks and Issuing Banks*) or pursuant to the Facility D Continuing Security Documents, the Secured Parties may take, accept or receive the benefit of:

(a) any Security from any member of the Restricted Group or a Third Party Chargor in respect of the Secured Liabilities in addition to the Transaction Security if (except for any Security permitted under Clause 4.2 (*Security: Ancillary Lenders, Guarantee Banks and Issuing Banks*)) and to the extent legally possible, at the same time it is also offered either:

(i) to the Security Agent as agent or trustee for the other Secured Parties in respect of the Secured Liabilities; or

(ii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as agent or trustee for the Secured Parties:

(A) to the other Secured Parties in respect of the Secured Liabilities; or

(B) to the Security Agent under a parallel debt structure, joint and several creditor structure, agency structure or otherwise for the benefit of the other Secured Parties,

and ranks in the same order of priority as that contemplated in Clause 3.1 (*Transaction Security*), provided that all amounts received or recovered by any Secured Party with respect to such Security are immediately paid to the Security

Agent and held and applied in accordance with Clause 17 (*Application of Proceeds*); and

(b) any guarantee, indemnity or other assurance against loss from any member of the Restricted Group in respect of the Secured Liabilities in addition to those in:

(i) the original form of Senior Secured Facilities Finance Documents, the Senior Secured Notes Indenture, Pari Passu Documents, the Hedging Documents or the Facility D Agreement;

(ii) this Agreement; or

(iii) any Shared Assurance,

only if (except for any guarantee, indemnity or other assurance against loss permitted under Clause 4.2 *(Security: Ancillary Lenders, Guarantee Banks and Issuing Banks)*) and to the extent legally possible, at the same time it is also offered to the other Secured Parties in respect of their Secured Liabilities and ranks in the same order of priority as that contemplated in Clause 2 (*Ranking and Priority*). This Clause 3.4 shall not require any Security or guarantee to be granted in respect of any High Yield Unsecured Liabilities.

(c) The foregoing notwithstanding, no Secured Party may take, accept or receive the benefit of any Security pursuant to paragraph (a) or any guarantee, indemnity or assurance against loss pursuant to paragraph (b) unless the grant of such Security and the giving of such guarantee, indemnity or other assurance is permitted by the Finance Documents.

4. SENIOR SECURED FACILITIES LENDERS AND SENIOR SECURED FACILITIES LENDER LIABILITIES

4.1 Payment of Senior Secured Facilities Lender Liabilities

(a) The Debtors may make Payments of the Senior Secured Facilities Lender Liabilities at any time in accordance with the terms of the relevant Senior Secured Facilities Finance Documents.

(b) Following the occurrence of an Acceleration Event, no member of the Restricted Group may make a Payment of any Senior Secured Facilities Lender Liabilities except from Enforcement Proceeds or Recoveries distributed in accordance with Clause 17 (*Application of Proceeds*) or as agreed by the Administrative Agent, the Senior Secured Notes Trustee, the Facility D Agent, any relevant Pari Passu Debt Representatives and any relevant High Yield Notes Trustees, provided that:

(i) for the avoidance of doubt, unless any such Payment constitutes proceeds referred to in Clause 13.2 (*Turnover by the Primary Creditors*), it shall not be required to be turned over by any Senior Secured Facilities Lender under Clause 13.2 (*Turnover by the Primary Creditors*);

(ii) the Payments prohibited by this paragraph (b) will remain owing by the relevant Debtor(s); and

(iii) nothing in this paragraph (b) shall prevent a Senior Secured Facilities Lender from receiving any Payment of Senior Secured Facilities Lender Liabilities from a liquidator (or equivalent) of a Debtor (subject to any applicable turnover obligation under Clause 13.2 (*Turnover by the Primary Creditors*)).

(c) The Parties acknowledge that the agency fees and costs arising in accordance with the Senior Secured Facilities Finance Documents are senior obligations of the Debtors and Payments in respect of the same are not restricted by or subject to the terms of this Agreement.

4.2 Security: Ancillary Lenders, Guarantee Banks and Issuing Banks

No Ancillary Lender, Guarantee Bank or Issuing Bank will, unless the prior written consent of the Majority Senior Secured Creditors (in each case, acting through their respective Creditor Representatives) is obtained, take, accept or receive from any member of the Restricted Group the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of any of the Senior Secured Facilities Lender Liabilities owed to it other than:

(a) the Transaction Security;

(b) each guarantee, indemnity or other assurance against loss contained in:

(i) the Senior Secured Facilities Finance Documents;

(ii) this Agreement; or

(iii) any Shared Assurance;

(c) indemnities and assurances against loss contained in the Ancillary Documents no greater in extent than any of those referred to in paragraph (b) above;

(d) any Senior Secured Facilities Cash Cover permitted under the Senior Secured Facilities Finance Documents and not prohibited by the Senior Secured Notes Documents, the Facility D Agreement or the Pari Passu Debt Documents relating to any Ancillary Facility or for any Letter of Credit issued by an Issuing Bank or Bank Guarantee issued by a Guarantee Bank;

(e) the indemnities, rights of set-off and netting contained in an ISDA Master Agreement (in the case of a Hedging Ancillary Document which is based on an ISDA Master Agreement) or any indemnities, rights of set-off and netting which are similar in meaning and effect to those indemnities (in the case of a Hedging Ancillary Document which is not based on an ISDA Master Agreement); and

(f) any Security, guarantee, indemnity or other assurance against loss giving effect to, or arising as a result of the effect of, any netting or set-off arrangement relating to the Ancillary Facilities for the purpose of netting debit and credit balances arising under the Ancillary Facilities.

4.3 Restriction on Enforcement: Ancillary Lenders, Guarantee Banks and Issuing Banks

Subject to Clause 4.4 (*Permitted Enforcement: Ancillary Lenders, Guarantee Banks and Issuing Banks*), so long as any of the Senior Secured Facilities Lender Liabilities (other than any Liabilities owed to the Ancillary Lenders, Guarantee Banks or Issuing Banks) are or may be outstanding, none of the Ancillary Lenders, Guarantee Banks and the Issuing Banks shall be entitled to take any Enforcement Action in respect of any of the Senior Secured Facilities Lender Liabilities owed to it in such capacity.

4.4 Permitted Enforcement: Ancillary Lenders, Guarantee Banks and Issuing Banks

(a) The Ancillary Lenders, Guarantee Banks and the Issuing Banks may take Enforcement Action if:

(i) at the same time as, or immediately prior to, that action, Enforcement Action has been taken in respect of the Senior Secured Facilities Lender Liabilities (excluding the Liabilities owing to Ancillary Lenders, Guarantee Banks or the Issuing Banks), in which case the Ancillary Lenders, Guarantee Banks and the Issuing Banks may take the same Enforcement Action as has been taken in respect of those Senior Secured Facilities Lender Liabilities;

(ii) that action is contemplated by the Senior Secured Facilities Finance Documents or Clause 4.2 (*Security: Ancillary Lenders, Guarantee Banks and Issuing Banks*), if applicable;

(iii) that Enforcement Action is taken in respect of Senior Secured Facilities Cash Cover which has been provided in accordance with the relevant Senior Secured Facilities Finance Documents;

(iv) at the same time as or prior to, that action, the consent of the Required Lenders (as defined in the relevant Senior Secured Facilities Finance Documents) to that Enforcement Action is obtained; or

(v) a Bankruptcy Event has occurred in relation to any member of the Restricted Group, in which case after the occurrence of that Bankruptcy Event, each Ancillary Lender, Guarantee Bank and each Issuing Bank shall be entitled (if it has not already done so) to exercise any right it may otherwise have in respect of that member of the Restricted Group to:

(A) accelerate any of that member of the Restricted Group's Senior Secured Facilities Lender Liabilities or declare them prematurely due and payable on demand;

(B) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Restricted Group in respect of any Senior Secured Facilities Lender Liabilities;

(C) exercise any right of set-off or take or receive any Payment in respect of any Senior Secured Facilities Lender Liabilities of that member of the Restricted Group; or

(D) claim and prove in the liquidation of that member of the Restricted Group for the Senior Secured Facilities Lender Liabilities owing to it.

(b) Clause 4.3 (*Restriction on Enforcement: Ancillary Lenders, Guarantee Banks and Issuing Banks*) shall not restrict (i) any right of an Ancillary Lender to net or set-off in relation to a Multi-account Overdraft Facility, in accordance with the terms of the relevant Senior Secured Facilities Finance Documents, to the extent that the netting or set-off represents a reduction from a Permitted Gross Amount of that Multi-account Overdraft Facility to or towards its Designated Net Amount; or (ii) any right of an Ancillary Lender under the Existing LC Ancillary Facility to exercise its rights upon the occurrence of a Designated Cancellation Event.

5. SENIOR SECURED NOTEHOLDERS AND SENIOR SECURED NOTES LIABILITIES

(a) The Debtors may make Payments of the Senior Secured Notes Liabilities at any time in accordance with the terms of the Senior Secured Notes Documents subject any restrictions contained in Section 6.13 (*Existing Senior Secured Notes Repurchase Conditions*) of the Senior Secured Facilities Agreement (unless otherwise agreed by

the Administrative Agent), and, for the avoidance of doubt, the Senior Secured Noteholders shall not be under any obligation to turn over any such payments under Clause 13.2 (*Turnover by the Primary Creditors*).

(b) Following the occurrence of an Acceleration Event, no member of the Restricted Group may make Payment of the Senior Secured Notes Liabilities except from Enforcement Proceeds or Recoveries distributed in accordance with Clause 17 (*Application of Proceeds*) or as agreed with by the Administrative Agent, the Senior Secured Notes Trustee, the Facility D Agent, any relevant Pari Passu Debt Representatives and any relevant High Yield Notes Trustees, provided that:

(i) for the avoidance of doubt, unless any such Payment constitutes proceeds referred to in Clause 13.2 (*Turnover by the Primary Creditors*), it shall not be required to be turned over by any Senior Secured Noteholders under Clause 13.2 (*Turnover by the Primary Creditors*);

(ii) the Payment prohibited by this paragraph (b) will remain owing by the relevant Debtor(s); and

(iii) nothing in this paragraph (b) shall prevent a Senior Secured Noteholder from receiving any Payment of any Senior Secured Notes Liabilities from a liquidator (or equivalent) of a Debtor (subject to any applicable turnover obligation under Clause 13.2 (*Turnover by the Primary Creditors*)).

(c) The Parties acknowledge that Senior Secured Notes Trustee Amounts are senior obligations of the Senior Secured Notes Issuer and the Debtors and Payments in respect of the same are not restricted by or subject to the terms of this Clause 5 or Clause 13.2 (*Turnover by the Primary Creditors*).

6. FACILITY D LENDERS AND FACILITY D LIABILITIES

(a) The Debtors may make Payments of the Facility D Liabilities at any time in accordance with the terms of the Facility D Agreement subject to any restrictions contained in Section 6.13 (*Existing Senior Secured Notes Repurchase*) of the Senior Secured Facilities Agreement (except, if in the case of Facility D Liabilities, to the extent this restriction would otherwise conflict with any mandatory provisions of the Senior Secured Notes (as defined in the Facility D Agreement) in their form as at the date hereof; provided that for the avoidance of doubt, the foregoing shall not prevent the occurrence of any Default or Event of Default (under and as defined in the Senior Secured Facilities Agreement) arising as a result of such actions) (unless otherwise agreed by the Administrative Agent), and, for the avoidance of doubt, the Facility D Lenders shall not be under any obligation to turn over any such payments under Clause 13.2 (*Turnover by the Primary Creditors*).

(b) Following the occurrence of an Acceleration Event, no member of the Restricted Group may make a Payment of any Facility D Liabilities except from Enforcement Proceeds or Recoveries distributed in accordance with Clause 17 (*Application of Proceeds*) or as agreed by the Administrative Agent, the Senior Secured Notes Trustee, any relevant Pari Passu Debt Representatives and any relevant High Yield Notes Trustees, provided that:

(i) for the avoidance of doubt, unless any such Payment constitutes proceeds referred to in Clause 13.2 (*Turnover by the Primary Creditors*), it shall not be required to be turned over by any Facility D Lender under Clause 13.2 (*Turnover by the Primary Creditors*);

(ii) the Payments prohibited by this paragraph (b) will remain owing by the relevant Debtor(s); and

(iii) nothing in this paragraph (b) shall prevent a Facility D Lender from receiving any payment of Facility D Liabilities from a liquidator (or equivalent) of a Debtor (subject to any applicable turnover obligations under Clause 13.2 (*Turnover by the Primary Creditors*)).

(c) The Parties acknowledge that the agency fees and costs arising in accordance with the Facility D Agreement (including, without limitation, the Relevant Creditor Representative Amounts of the Facility D Agent (prior to the Facility D Agent Permanent Resignation), any "Facility D Lender Services Amount" and/or "Senior Secured Note Trustee Amounts" as defined in the Facility D Agreement (in its form following amendment and restatement on or about the Effective Date) and any amount owing to the Facility D Security Agent) are senior obligations of the Debtors and Payments in respect of the same are not restricted by or subject to the terms of this Agreement.

7. PARI PASSU CREDITORS AND PARI PASSU DEBT

7.1 Entry into Pari Passu Debt Documents

(a) No Debtor shall enter into any Pari Passu Debt Documents unless such Pari Passu Debt Documents (and the incurrence of any financial indebtedness thereunder) are permitted by any Senior Secured Facilities Finance Documents, the Senior Secured Notes Documents, the Facility D Agreement, any High Yield Documents and any Pari Passu Debt Documents then outstanding and the issuer or borrower of the Pari Passu Debt is the Senior Secured Notes Issuer.

(b) No Debtor may enter into a Pari Passu Debt Document unless the prior written consent of the Security Agent to act as security trustee for the holders of the Pari Passu Debt thereunder has been obtained (not to be unreasonably withheld or delayed).

7.2 Payment of Pari Passu Debt

(a) The Debtors may make Payments of the Pari Passu Debt at any time in accordance with the terms of the relevant Pari Passu Debt Documents subject to, any restrictions contained in Section 6.13 (*Existing Senior Secured Notes Repurchase*) of the Senior Secured Facilities Agreement (unless otherwise agreed by the Administrative Agent), and, for the avoidance of doubt, the Pari Passu Creditors shall not be under any obligation to turn over any such payments under Clause 13.2 (*Turnover by the Primary Creditors*).

(b) Following the occurrence of an Acceleration Event no member of Restricted Group may make a Payment of any Pari Passu Debt except from Enforcement Proceeds or Recoveries distributed in accordance with Clause 17 (*Application of Proceeds*) or as agreed by the Administrative Agent, the Senior Secured Notes Trustee, the Creditor Representatives of the Facility D Lenders, any relevant Pari Passu Debt Representatives and any relevant High Yield Notes Trustees, provided that:

(i) for the avoidance of doubt, unless any such Payment constitutes proceeds referred to in Clause 13.2 (*Turnover by the Primary Creditors*), it shall not be required to be turned over by any Pari Passu Creditors under Clause 13.2 (*Turnover by the Primary Creditors*);

(ii) the Payments prohibited by this paragraph (b) will remain owing by the relevant Debtor(s); and

(iii) nothing in this paragraph (b) shall prevent a Pari Passu Creditor from receiving any Payment from a liquidator (or equivalent) of a Debtor (subject to any applicable turnover obligations under Clause 13.2 (*Turnover by the Primary Creditors*)).

(c) The Parties acknowledge that the fees and costs arising in accordance with the Pari Passu Debt Documents are senior obligations of the Debtors and Payments in respect of the same are not restricted by or subject to the terms of this Clause 7.2 or Clause 13.2 (*Turnover by the Primary Creditors*).

8. HEDGING BANKS AND HEDGING LIABILITIES

8.1 Identity of Hedging Banks and Designation of Hedging Documents

(a) Subject to paragraph (b) below, no person providing hedging arrangements to any Debtor shall be entitled to share in any of the Transaction Security or in the benefit of any guarantee or indemnity in respect of any of the liabilities arising in relation to those hedging arrangements nor shall those liabilities be treated as Hedging Liabilities unless such Hedging Bank is or becomes a party to this Agreement as a Hedging Bank.

(b) Paragraph (a) above shall not apply to a Hedging Ancillary Lender.

8.2 Restriction on Payment: Hedging Liabilities

The Debtors shall not, and shall procure that no other member of the Restricted Group will, make any Payment of the Hedging Liabilities at any time unless:

(a) that Payment is permitted under Clause 8.3 (*Permitted Payments: Hedging Liabilities*); or

(b) the taking or receipt of that Payment is permitted under paragraph (c) of Clause 8.8 (*Permitted Enforcement: Hedging Banks*).

8.3 Permitted Payments: Hedging Liabilities

(a) Subject to paragraph (b) below, the Debtors may make Payments to any Hedging Bank in respect of the Hedging Liabilities then due to that Hedging Bank under any Hedging Document in accordance with the terms of that Hedging Document:

(i) if the Payment is a scheduled Payment arising under the relevant Hedging Document;

(ii) to the extent that the relevant Debtor's obligation to make the Payment arises as a result of the operation of:

(A) any of sections 2(d) (*Deduction or Withholding for Tax*) (and any provision requiring the payment of any tax credit related to Section 2(d)), 2(e) (*Default Interest; Other Amounts*), 8(a) (*Payment in the Contractual Currency*), 8(b) (*Judgments*) and 11 (*Expenses*) of the 1992 ISDA Master Agreement (if the Hedging Document is based on a 1992 ISDA Master Agreement);

(B) any of sections 2(d) (*Deduction or Withholding for Tax*), (and any provision requiring the payment of any tax credit related to Section 2(d)), 8(a) (*Payment in the Contractual Currency*), 8(b) (*Judgments*), 9(h)(i) (*Prior to Early Termination*) and 11 (*Expenses*) of the 2002 ISDA Master Agreement (if the Hedging Document is based on a 2002 ISDA Master Agreement); or

(C) any provision of a Hedging Document which is similar in meaning and effect to any provision listed in paragraphs (A) or (B) above (if the Hedging Document is not based on an ISDA Master Agreement);

(iii) to the extent that the relevant Debtor's obligation to make the Payment arises from a Non-Credit Related Close-Out;

(iv) to the extent that:

(A) the relevant Debtor's obligation to make the Payment arises from a Credit Related Close-Out or a Consensual Close-Out in relation to that Hedging Document; and

(B) no Event of Default under any Senior Secured Document is continuing at the time of that Payment;

(v) if the Majority Senior Secured Creditors (excluding the Hedging Banks) and the High Yield Required Holders of each tranche of High Yield Notes (in each case, acting through their respective Creditor Representatives) give prior written consent to the Payment being made, in each case, to the extent prohibited by the relevant Finance Documents of such Primary Creditors; or

(vi) in order to comply with any limit on the marked-to-market exposure (howsoever described) under any Hedging Document.

(b) No Payment may be made to a Hedging Bank under paragraph (a) above if:

(i) any scheduled Payment due from that Hedging Bank to a Debtor under a Hedging Document to which they are both party is due and unpaid; or

(ii) an Acceleration Event has occurred.

(c) Failure by a Debtor to make a Payment to a Hedging Bank which results solely from the operation of paragraph (b) above shall, without prejudice to Clause 8.4 (*Payment obligations continue*), not result in a default (however described) in respect of that Debtor under that Hedging Document.

(d) Nothing in this Agreement obliges a Hedging Bank to make a payment to a Debtor under a Hedging Document to which they are both party if any scheduled payment due from that Debtor to the Hedging Bank under the Hedging Document is due and unpaid.

8.4 Payment obligations continue

No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under the terms of any Debt Document by the operation of Clauses 8.2 (*Restriction on Payment: Hedging Liabilities*) and 8.3 (*Permitted Payments: Hedging Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

8.5 No acquisition of Hedging Liabilities

The Debtors shall not, and shall procure that no other member of the Restricted Group will:

(a) enter into any Liabilities Acquisition; or

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

in respect of any of the Hedging Liabilities, unless the prior written consent of the Majority Senior Secured Creditors (excluding the Hedging Banks) and the High Yield Required Holders of each tranche of High Yield Notes (in each case, acting through their respective Creditor Representative) is obtained, in each case, to the extent prohibited by the relevant Finance Document of such Primary Creditor.

8.6 Security: Hedging Banks

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

(a) the Transaction Security;

(b) any guarantee, indemnity or other assurance against loss contained in:

(i) this Agreement;

(ii) any Shared Assurance; or

(iii) the relevant Hedging Document no greater in extent than any of those referred to in paragraphs (i) and (ii) above; or

(c) the indemnities, rights of set-off and netting contained in the ISDA Master Agreements (in the case of a Hedging Document which is based on an ISDA Master Agreement) or any indemnities, rights of set-off and netting which are similar in meaning and effect to those indemnities (in the case of a Hedging Document which is not based on an ISDA Master Agreement).

8.7 Restriction on Enforcement: Hedging Banks

Subject to Clause 8.8 (*Permitted Enforcement: Hedging Banks*) and Clause 8.9 (*Required Enforcement: Hedging Banks*) and without prejudice to each Hedging Bank's rights under Clauses 15.3 (*Enforcement Instructions*) and 15.4 (*Manner of enforcement*), the Hedging Banks shall not take any Enforcement Action under any of the Hedging Documents at any time.

8.8 Permitted Enforcement: Hedging Banks

(a) .To the extent it is able to do so under the relevant Hedging Document, a Hedging Bank may terminate, reduce or close-out in whole or in part any transaction under that Hedging Document prior to its stated maturity:

(i) if a Distress Event has occurred;

(ii) if:

(A) in relation to a Hedging Document which is based on the 1992 ISDA Master Agreement:

(I) an Illegality or Tax Event or Tax Event Upon Merger (each as defined in the 1992 ISDA Master Agreement); or

(II) an event similar in meaning and effect to a "Force Majeure Event" (as defined in paragraph (B) below),

has occurred in respect of that Hedging Document;

(B) in relation to a Hedging Document which is based on the 2002 ISDA Master Agreement, an Illegality or Tax Event, Tax Event Upon Merger or a Force Majeure Event (each as defined in the 2002 ISDA Master Agreement) has occurred in respect of that Hedging Document; or

(C) in relation to a Hedging Document which is not based on an ISDA Master Agreement, any event similar in meaning and effect to an event described in paragraphs (A) or (B) above has occurred under and in respect of that Hedging Document;

(iii) if an Event of Default has occurred and is continuing under Section 7.01 (*Events of Default*) of the Senior Secured Facilities Agreement, section 6.01 of the Senior Secured Notes Indenture or the equivalent provisions of the Facility D Agreement, the Covenant Agreement (as defined in the Facility D Agreement), any Pari Passu Debt Document or High Yield Document in relation to a Debtor which is party to that Hedging Document;

(iv) if the Majority Senior Secured Creditors (excluding the Hedging Banks) and the High Yield Required Holders of each tranche of High Yield Notes (in each case, acting through their respective Creditor Representatives) give prior written consent to that termination or close-out being made, in each case, to the extent prohibited by the relevant Finance Documents of such Primary Creditors;

(v) if the Hedging Bank and the relevant Debtor consensually agree to close out a transaction under a Hedging Document or the relevant Hedging Document allows the relevant Debtor to close out a transaction under that Hedging Document pursuant to a Non-Credit Related Close-Out and, in each case, no Default is continuing under any Finance Document; or

(vi) in order to comply with any limit on the marked-to-market exposure (howsoever described) under any Hedging Document.

(b) If a Debtor has defaulted on any Payment due under a Hedging Document and the default has continued unwaived or unremedied for more than 30 Business Days (or such longer notice or grace period as the relevant Hedging Document allows) after notice of that default has been given to the relevant Debtor under that Hedging Document, with a copy to the Security Agent pursuant to paragraph (j) of Clause 26.3 (*Notification of prescribed events*), the relevant Hedging Bank:

(i) may, to the extent it is able to do so under the relevant Hedging Document, terminate or close-out in whole or in part any transaction under that Hedging Document; and

(ii) until such time as the Security Agent has given notice to that Hedging Bank that the Transaction Security is being enforced (or that any formal steps are being taken to enforce the Transaction Security), shall be entitled to exercise any right it might otherwise have to sue for, commence or join legal or arbitration proceedings against any Debtor to recover any Hedging Liabilities due under that Hedging Document (excluding any enforcement of the Transaction Security).

(c) After the occurrence of a Bankruptcy Event, in relation to any member of the Restricted Group, each Hedging Bank shall be entitled to exercise any right it may otherwise have in respect of that member of the Restricted Group to:

(i) prematurely close-out or terminate any Hedging Liabilities under any Hedging Document with that member of the Restricted Group owing to it in accordance with the terms of the relevant Hedging Document;

(ii) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Restricted Group in respect of any Hedging Liabilities owing to it;

(iii) exercise any right of set-off as between any Hedging Liabilities or take or receive any Payment in respect of any Hedging Liabilities of that member of the Restricted Group owing to it; or

(iv) claim and prove in the liquidation of that member of the Restricted Group for the Hedging Liabilities owing to it.

8.9 Required Enforcement: Hedging Banks

(a) Subject to paragraph (b) below, a Hedging Bank shall promptly terminate or close-out in full any transaction under all or any of the Hedging Documents to which it is party prior to their stated maturity, following:

(i) the occurrence of an Acceleration Event and delivery to it of a notice from the Security Agent that an Acceleration Event has occurred; and

(ii) delivery to it of a subsequent notice from the Security Agent (acting on the instructions of the Senior Secured Instructing Group) instructing it to do so.

(b) Paragraph (a) above shall not apply to the extent that such an Acceleration Event occurred as a result of an arrangement made between any Debtor and any Creditor with the purpose of bringing about such an Acceleration Event.

(c) If a Hedging Bank is entitled to terminate or close-out any transaction under paragraph (b) of Clause 8.8 (*Permitted Enforcement: Hedging Banks*) (or would have been able to if that Hedging Bank had given the notice referred to in that paragraph) but has not terminated or closed out each such transaction, that Hedging Bank shall promptly terminate or close-out in full each such transaction following a request by the Security Agent (acting on the instructions of the Senior Secured Instructing Group) instructing it to do so.

8.10 Treatment of Payments due to Debtors on termination of transactions under Hedging Documents

(a) If, on termination of any transaction under any Hedging Document occurring after a Distress Event, a settlement amount or other amount (following the application of any

Close-Out Netting, Payment Netting or Inter-Hedging Agreement Netting in respect of that Hedging Document) falls due from a Hedging Bank to the relevant Debtor then that amount shall be paid by that Hedging Bank to the Security Agent, treated as the proceeds of enforcement of the Transaction Security and applied in accordance with the terms of this Agreement.

(b) The payment of that amount by the Hedging Bank to the Security Agent in accordance with paragraph (a) above shall discharge the Hedging Bank's obligation to pay that amount to that Debtor.

8.11 Terms of Hedging Documents

The Hedging Banks (to the extent a Hedging Bank is a party to the Hedging Document in question) and the Debtors party to the Hedging Documents shall ensure that, at all times:

(a) each Hedging Document documents only hedging arrangements entered into for the purpose of hedging the types of liabilities described in the definition of "Hedging Document" and that no other hedging arrangements are carried out under or pursuant to a Hedging Document;

(b) each Hedging Document is based either:

(i) on an ISDA Master Agreement; or

(ii) on another framework agreement which is similar in effect to an ISDA Master Agreement;

(c) in the event of a termination of a transaction entered into under a Hedging Document, whether as a result of:

(i) a Termination Event or an Event of Default, each as defined in the relevant Hedging Document (in the case of a Hedging Document which is based on an ISDA Master Agreement); or

(ii) an event similar in meaning and effect to either of those described in paragraph (i) above (in the case of a Hedging Document which is not based on an ISDA Master Agreement),

that Hedging Document will:

(A) if it is based on a 1992 ISDA Master Agreement, provide for payments under the "Second Method" and will make no material amendment to section 6(e) (*Payments on Early Termination*) of the ISDA Master Agreement;

(B) if it is based on a 2002 ISDA Master Agreement, make no material amendment to the provisions of section 6(e) (*Payments on Early Termination*) of the ISDA Master Agreement; or

(C) if it is not based on an ISDA Master Agreement, provide for any other method the effect of which is that the party to which that event is referable will be entitled to receive payment under the relevant termination provisions if the net replacement value of all terminated transactions entered into under that Hedging Document is in its favour.

9. HIGH YIELD NOTEHOLDERS AND HIGH YIELD LIABILITIES

9.1 Entry into High Yield Documents

(a) No Debtor shall enter into any High Yield Documents unless such High Yield Documents (and the incurrence of any financial indebtedness thereunder) are permitted by the Finance Documents then outstanding.

(b) No Debtor may enter into a High Yield Secured Notes Document unless the prior written consent of the Security Agent to act as security trustee for the holders of the High Yield Secured Liabilities thereunder has been obtained (not to be unreasonably withheld or delayed).

9.2 Amendments and Waivers of High Yield Documents

The High Yield Creditors may amend or waive the terms of the High Yield Documents (other than this Agreement) in accordance with their terms at any time.

9.3 Restriction on Payment and Dealings: High Yield Liabilities

Until the Senior Secured Discharge Date (except with the prior consent of (x) the Administrative Agent, the Senior Secured Notes Trustee and the Facility D Agent (to the extent prohibited under the Senior Secured Facilities Finance Documents, the Senior Secured Notes Indenture or the Facility D Agreement (respectively)), and (y) (to the extent prohibited under the Pari Passu Debt Documents) the Pari Passu Debt Representative(s)), the Parent shall not (and the Parent shall ensure that no member of the Restricted Group will):

(a) pay, repay, prepay, redeem, acquire or defease any principal, interest or other amount on or in respect of, or make any distribution in respect of, any High Yield Liabilities in cash or in kind or apply any such money or property in or towards discharge of any High Yield Liabilities except as permitted by Clause 9.4 (*Permitted High Yield Payments*), Clause 9.9 (*Permitted High Yield Enforcement*) or Clause 12.5 (*Filing of claims*);

(b) exercise any set-off against any High Yield Liabilities, except as permitted by Clause 9.4 (*Permitted High Yield Payments*), Clause 9.9 (*Permitted High Yield Enforcement*) or Clause 12.5 (*Filing of claims*); or

(c) (in the case of Security only, with the prior consent of the High Yield Secured Trustee(s) to the extent prohibited under the High Yield Secured Documents then outstanding or in the case of a guarantee, with the prior consent of the High Yield Note Trustee(s) to the extent prohibited under the High Yield Documents then outstanding) create or permit to subsist any Security over any assets of any member of the Restricted Group or give any guarantees (and no High Yield Notes Trustee may accept the benefit of any such Security and no High Yield Notes Trustee or High Yield Creditors may accept the benefits of any such guarantee) from any member of the Restricted Group for, or in respect of, any relevant High Yield Liabilities other than the High Yield Guarantees and, in the case of the High Yield Secured Creditors, Transaction Security and unless not prohibited by the Finance Documents.

9.4 Permitted High Yield Payments

The Debtors may:

(a) prior to the Senior Secured Discharge Date, make Payments to the High Yield Creditors in respect of the High Yield Guarantee Liabilities then due in accordance

with the High Yield Documents (and to Shareholder Creditors in respect of the Holdco Liabilities then due in accordance with the Shareholder Debt Documents):

(i) if:

(A) the Payment is of:

(I) any of the principal amount of the High Yield Liabilities or the Holdco Liabilities which is either (1) not prohibited from being paid by the Senior Secured Facilities Finance Documents, the Senior Secured Notes Indenture, the Facility D Agreement, any Pari Passu Debt Document and any High Yield Document, or (2) paid on or after the final maturity date of such High Yield Liabilities (which for the avoidance of doubt shall not be permitted to arise earlier than 6 months following the Term Loan Maturity Date (under and as defined in the Senior Secured Facilities Agreement); or

(II) any other amount which is not an amount of principal or capitalised interest or a corresponding amount under the High Yield Proceeds Loan (such other amounts including all scheduled interest payments (including, if applicable, special interest or liquidated damages)) and default interest on the High Yield Liabilities accrued due and payable in cash in accordance with the terms of the relevant Finance Document (as at the date of issue of the same or as amended in accordance with the terms of this Agreement and the relevant Finance Document), additional amounts payable as a result of the tax gross-up provisions relating to the High Yield Liabilities and amounts in respect of currency indemnities in the relevant High Yield Indenture and/or, as applicable, the High Yield Proceeds Loan (to the extent such amounts are utilised to fund such interest payments));

(B) no High Yield Payment Stop Notice is outstanding; and

(C) no Senior Payment Default has occurred and is continuing; or

(ii) if the Majority Senior Secured Creditors and the High Yield Required Holders of each tranche of High Yield Notes (in each case, acting through their respective Creditor Representatives) give prior written consent to the Payment being made, in each case, to the extent prohibited by the relevant Finance Documents of such Primary Creditors;

(iii) if the Payment is of High Yield Notes Trustee Amounts;

(iv) if the Payment is of costs, commissions, taxes, consent fees and expenses incurred in respect of (or reasonably incidental to) the High Yield Documents (including in relation to any reporting or listing requirements under the High Yield Documents); and

(v) if the Payment is of costs, commissions, taxes, premiums and any expenses incurred in respect of (or reasonably incidental to) any refinancing of the High Yield Notes in compliance with this Agreement; and

(b) on or after the Senior Secured Discharge Date, make Payments to the High Yield Creditors in respect of the High Yield Liabilities in accordance with the High Yield

Documents and to a High Yield Issuer or any Holding Company of the Parent in respect of the Holdco Liabilities in accordance with any High Yield Proceeds Loan.

9.5 Issue of High Yield Payment Stop Notice

(a) Until the Senior Secured Debt Discharge Date, except with the prior consent of the Administrative Agent, the Facility D Agent, (to the extent prohibited under the Senior Secured Notes Indenture) the Senior Secured Notes Trustee and (to the extent prohibited under the Pari Passu Debt Documents) the Pari Passu Debt Representative(s), and subject to Clause 12 (*Effect of Insolvency Event*), the High Yield Issuer shall not make (and shall procure that none of its Subsidiaries shall make), and no High Yield Creditor may receive from the High Yield Issuer or any of its Subsidiaries, any Permitted High Yield Payment (other than High Yield Notes Trustee Amounts) if:

(i) a Senior Payment Default has occurred and is continuing; or

(ii) a Senior Event of Default (other than a Senior Payment Default) has occurred and is continuing, from the date on which the Administrative Agent, the Facility D Agent or the Pari Passu Debt Representative of any Pari Passu Debt with an aggregate principal amount outstanding of more than US$100,000,000 (as the case may be) (each, a "**Relevant Representative**") delivers a notice (a "**High Yield Payment Stop Notice**") to the High Yield Issuer, the Security Agent and the High Yield Notes Trustee(s) specifying the event or circumstance in relation to that Senior Event of Default until the earliest of:

(A) the date falling 179 days after delivery of that High Yield Payment Stop Notice;

(B) in relation to payments of High Yield Liabilities, if a High Yield Standstill Period is in effect at any time after delivery of that High Yield Payment Stop Notice, the date on which that High Yield Standstill Period expires;

(C) the date on which the relevant Senior Event of Default is no longer continuing and, if the relevant Senior Secured Liabilities have been accelerated, such acceleration has been rescinded;

(D) the date on which the Relevant Representative delivers a notice to the High Yield Issuer, the Security Agent and the High Yield Notes Trustee cancelling the High Yield Notes Payment Stop Notice;

(E) the Senior Secured Discharge Date; and

(F) the date on which the High Yield Notes Trustee(s) takes any Enforcement Action that it is permitted to take under Clause 9.9 (*Permitted High Yield Enforcement*) and Clause 9.10 (*High Yield Standstill Period*).

(b) Unless the High Yield Notes Trustee waives this requirement:

(i) a new High Yield Notes Payment Stop Notice may not be delivered unless and until 360 days have elapsed since the delivery of the immediately prior High Yield Notes Payment Stop Notice; and

(ii) no High Yield Notes Payment Stop Notice may be delivered in reliance on a Senior Event of Default more than 45 days after the date the Relevant Representative (as the case may be) received written notice of that Senior Event of Default.

(c) A Relevant Representative may serve only one High Yield Payment Stop Notice with respect to the same event or set of circumstances. Subject to paragraph (b) above, this shall not affect the right of a Relevant Representative to issue a High Yield Payment Stop Notice in respect of any other event or set of circumstances.

(d) No High Yield Payment Stop Notice may be served by a Relevant Representative in respect of a Senior Event of Default which had been notified to each of them at the time at which an earlier High Yield Payment Stop Notice was issued.

(e) For the avoidance of doubt, this Clause 9.5:

(i) acts as a suspension of payment and not as a waiver of the right to receive payment on the date such payments are due;

(ii) will not prevent the accrual or capitalisation of interest (including default interest) in accordance with the High Yield Documents;

(iii) will not prevent the payment of any High Yield Notes Trustee Amounts; and

(iv) will not prevent the payment of audit fees, directors' fees, taxes and other proper and incidental expenses required to maintain existence.

9.6 Effect of High Yield Note Payment Stop Notice or Senior Payment Default

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

(a) the occurrence of an Event of Default as a consequence of that failure to make a Payment in relation to the relevant High Yield Documents; or

(b) the issue of a High Yield Enforcement Notice on behalf of the High Yield Creditors.

9.7 Payment Obligations and Capitalisation of Interest Continue

(a) No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any High Yield Document by the operation of Clause 9.3 (*Restriction on Payment and Dealings: High Yield Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

(b) The accrual and capitalisation of interest (if any) in accordance with the High Yield Documents shall continue notwithstanding the issue of a High Yield Payment Stop Notice.

9.8 Restrictions on enforcement by High Yield Creditor

Until the Senior Secured Discharge Date, except with the prior consent of (to the extent prohibited in the relevant Finance Document) or as required by the Majority Senior Secured Creditors (in each case, acting through their respective Creditor Representatives) (i) no High Yield Creditor shall take or require the taking of any Enforcement Action in relation to the High Yield Guarantee Liabilities or (ii) no High Yield Secured Creditors shall take or require

the taking of any Enforcement Action in respect of any of the Transaction Security, in each case, except as permitted under Clause 9.9 (*Permitted High Yield Enforcement*).

9.9 Permitted High Yield Enforcement

(a) The restrictions in Clause 9.8 (*Restrictions on enforcement by High Yield Creditor*) will not apply in respect of the relevant High Yield Liabilities if:

(i) a High Yield Default under the relevant High Yield Document evidencing those High Yield Liabilities (the "**Relevant High Yield Default**") is continuing;

(ii) the Administrative Agent, the Facility D Agent, the Senior Secured Notes Trustee and the Pari Passu Debt Representative(s) have received a notice of the Relevant High Yield Default specifying the event or circumstance in relation to the Relevant High Yield Default from the relevant High Yield Notes Trustee;

(iii) a High Yield Standstill Period has elapsed; and

(iv) the High Yield Default is continuing at the end of the relevant High Yield Standstill Period.

(b) Promptly upon becoming aware of a Relevant High Yield Default, the relevant High Yield Notes Trustee may by notice (a "**High Yield Enforcement Notice**") in writing notify the Administrative Agent, the Facility D Agent, the Senior Secured Notes Trustee and the Pari Passu Debt Representative(s) of the existence of such Relevant High Yield Default.

9.10 High Yield Standstill Period

In relation to a Relevant High Yield Default, a High Yield Standstill Period shall mean the period beginning on the date (the "**High Yield Standstill Start Date**") the High Yield Notes Trustee serves a High Yield Enforcement Notice on the Administrative Agent, the Facility D Agent, the Senior Secured Notes Trustee and the Pari Passu Debt Representative(s) in respect of such Relevant High Yield Default and ending on the earlier to occur of:

(a) the date falling 179 days after the High Yield Standstill Start Date (the "**High Yield Standstill Period**");

(b) the date the Senior Secured Creditors take any Enforcement Action in relation to a particular High Yield Guarantor, provided, however, that:

(i) if a High Yield Standstill Period ends pursuant to this paragraph (b), the High Yield Creditors may only take the same Enforcement Action in relation to such High Yield Guarantor as the Enforcement Action taken by the Senior Secured Creditors against such High Yield Guarantor and not against any other member of the Restricted Group; and

(ii) Enforcement Action for the purpose of this paragraph (b) shall not include action taken to preserve or protect any Security as opposed to realise it;

(c) the date of a Bankruptcy Event in relation to a particular High Yield Guarantor against whom Enforcement Action is to be taken;

(d) the expiry of any other High Yield Standstill Period outstanding at the date such first mentioned High Yield Standstill Period commenced (unless that expiry occurs as a result of a cure, waiver or other permitted remedy);

(e) the date on which the Administrative Agent, the Senior Secured Notes Trustee, the Facility D Agent and the Pari Passu Debt Representative(s) (as applicable) consent to an enforcement in respect of the Relevant High Yield Default by the relevant High Yield Creditor; and

(f) a failure to pay the principal amount outstanding at the final stated maturity of the High Yield Notes.

9.11 Subsequent High Yield Defaults

The High Yield Creditors may take Enforcement Action under Clause 9.9 (*Permitted High Yield Enforcement*) in relation to a Relevant High Yield Default even if, at the end of any relevant High Yield Standstill Period or at any later time, a further High Yield Standstill Period has begun as a result of any other High Yield Default.

9.12 Enforcement on behalf of High Yield Creditors

Notwithstanding Clause 9.9 (*Permitted High Yield Enforcement*), no High Yield Secured Creditor may enforce any Transaction Security unless the Senior Secured Instructing Group have instructed the Security Agent or the Facility D Security Agent to take Enforcement Action in accordance with this Agreement, in which case, the permitted Enforcement Action of such High Yield Secured Creditor shall be limited to the same Enforcement Action taken by the Security Agent or the Facility D Security Agent on the instructions of the Senior Secured Instructing Group.

9.13 Option to purchase: High Yield Creditors

(a) The High Yield Creditors under the relevant High Yield Document evidencing the High Yield Liabilities owing to such High Yield Creditors (the "**Purchasing High Yield Creditors**") may, after a High Yield Payment Stop Notice has been delivered, by giving not less than ten days' notice to the Administrative Agent, the Facility D Agent, the Senior Secured Notes Trustee and the Pari Passu Debt Representative(s) (together, the "**Relevant Senior Creditor Representatives**") (provided such notice may not be given until all necessary approvals from the Purchasing High Yield Creditors have been obtained), require the transfer to them (or to a nominee or nominees), of all, but not part, of the rights, benefits and obligations in respect of the Senior Secured Facilities Lender Liabilities, the Facility D Liabilities, the Hedging Liabilities under the Hedging Agreements, the Senior Secured Notes Liabilities and the Pari Passu Debt (together, the "**Secured Debt**").

(b) Any purchase under paragraph (a) shall be on the following terms;

(i) that the transfer is lawful;

(ii) each Relevant Senior Creditor Representative, on behalf of the Creditors for which it is the Relevant Senior Creditor Representative, is paid an amount in cash equal to the aggregate of:

(A) the Liabilities to such Creditors outstanding as at the date that amount is to be paid, as determined by such Relevant Senior Creditor Representative (acting reasonably) together with costs and expenses (including legal fees) incurred by such Relevant Senior Creditor

Representative and such Creditors as a consequence of giving effect to the transfer to such Purchasing High Yield Creditor; and

(B) payment in full of the Hedging Liabilities in respect of the transaction under the relevant Hedging Agreements together with costs and expenses (including legal fees) incurred by the relevant Hedging Bank as a consequence of giving effect to the transfer to such Purchasing High Yield Creditor;

(iii) payment in full in cash of the amount which each such Creditor certifies to be necessary to compensate it for any loss on account of funds borrowed, contracted for or utilised to fund any amount included in the Liabilities to be transferred under this Clause 9.13 resulting from the receipt of that payment otherwise than on the last day of an interest period as set out in the relevant Debt Documents;

(iv) after the transfer, no Primary Creditor (not including any High Yield Creditor) will be under any actual or contingent liability to any Debtor or any other person under this Agreement, any Senior Secured Facilities Finance Document, Facility D Agreement, any Hedging Agreement, any Senior Secured Notes Document or any Pari Passu Debt Document for which it is not holding cash collateral in an amount and on terms reasonably satisfactory to it;

(v) the Purchasing High Yield Creditors (or, if required by the Primary Creditors making the transfers under this Clause 9.13, a third party acceptable to all such Primary Creditors) indemnifies each such Primary Creditor on the date of the relevant transfer and each Hedging Bank under the Hedging Agreements in respect of all losses which may be sustained or incurred by it as a result of any sum received or recovered by any of such Primary Creditors or any Hedging Bank from any Debtor, any Purchasing High Yield Creditor or any other person being required (or it being alleged that it is required) to be paid back by or clawed back from any such Primary Creditor or any Hedging Bank for any reason; and

(vi) the relevant transfer shall be without recourse to, or warranty from, any Primary Creditor, except that each such Primary Creditor shall be deemed to have represented and warranted on the date of that transfer that:

(A) it is the sole owner, free from all Security and third party interests (other than any arising under the relevant Debt Documents or by operation of law), of all rights and interests under the relevant Debt Documents purporting to be transferred by it by that transfer;

(B) it has the power to enter into and make, and has taken all necessary action to authorise its entry into and making, that transfer; and

(C) the transferring Primary Creditors are satisfied with the results of any "know your client" or other checks relating to the identity of any person that they or any representative are required by law to carry out in relation to such a transfer.

(c) For the avoidance of doubt, "Purchasing High Yield Creditors" in this Clause 9.13 shall not include the High Yield Notes Trustee.

10. INTRA-GROUP LENDERS AND INTRA-GROUP LIABILITIES

10.1 Restriction on Payment: Intra-Group Liabilities

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

(a) that Payment is permitted under Clause 10.2 (*Permitted Payments: Intra-Group Liabilities*); or

(b) the taking or receipt of that Payment is permitted under paragraph (c) of Clause 10.7 (*Permitted Enforcement: Intra-Group Lenders*).

For the avoidance of doubt, no release or discharge of any Intra-Group Liabilities of a member of the Restricted Group in consideration for the issue of shares in that member of the Restricted Group shall be restricted by this Clause 10.1 prior to an Acceleration Event.

10.2 Permitted Payments: Intra-Group Liabilities

(a) Subject to paragraph (b) below, the Debtors and any member of the Restricted Group may make Payments in respect of the Intra-Group Liabilities (whether of principal, interest or otherwise) from time to time and the Intra-Group Lenders may accept such payments.

(b) Payments in respect of the Intra-Group Liabilities may not be made pursuant to paragraph (a) above if, at the time of the Payment, an Acceleration Event has occurred under any of the Debt Documents unless:

(i) prior to the Senior Secured Discharge Date, to the extent prohibited under the relevant Finance Document, Majority Senior Secured Creditors (in each case, acting through their respective Creditor Representatives) consent to that Payment being made;

(ii) after the Senior Secured Discharge Date but prior to the Final Discharge Date, to the extent prohibited under the relevant High Yield Documents, the High Yield Required Holders of each tranche of High Yield Notes then issued (acting through their Creditor Representatives) consent to that Payment being made; and

(iii) that Payment is made to facilitate Payment of the Secured Liabilities or the High Yield Liabilities that are permitted to be paid under the terms of this Agreement.

or the relevant Payment is made by way of set-off by a German Debtor against any Intra-Group Liabilities owed to any Intra-Group Lender with any recovery claims such German Debtor might have against that Intra-Group Lender that result from any enforcement of a guarantee or indemnity against such relevant German Debtor under the Finance Documents without regard to any limitations stipulated in the relevant Finance Document with respect to such enforcement on any provision suspending the relevant limitations with a view to any amounts on-lent to the relevant German Debtor or any of its Subsidiaries.

10.3 Payment obligations continue

No member of the Restricted Group shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Clauses 10.1 (*Restriction on Payment: Intra-Group Liabilities*) and 10.2 (*Permitted Payments: Intra-Group Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

10.4 Acquisition of Intra-Group Liabilities

(a) Subject to paragraph (b) below, each Debtor may, and may permit any other member of the Restricted Group to:

(i) enter into any Liabilities Acquisition; or

(ii) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in respect of any Intra-Group Liabilities at any time.

(b) Subject to paragraph (c) below, no action described in paragraph (a) above may take place in respect of any Intra-Group Liabilities if:

(i) that action would result in a breach of (A) (prior to the Senior Secured Facilities Discharge Date) any Senior Secured Facilities Finance Documents, (B) (prior to the Senior Secured Notes Discharge Date) the Senior Secured Notes Documents, (C) (prior to the Facility D Discharge Date) the Facility D Agreement, (D) (prior to the Pari Passu Discharge Date) any Pari Passu Debt Documents or (E) (prior to the High Yield Discharge Date) any High Yield Documents pursuant to which any High Yield Note remains outstanding; or

(ii) at the time of that action, an Acceleration Event has occurred.

(c) The restrictions in paragraph (b) above shall not apply if:

(i) the Senior Secured Instructing Group has consented to that action; or

(ii) that action is taken to facilitate Payment of the Secured Liabilities or the High Yield Unsecured Liabilities.

10.5 Security: Intra-Group Lenders

Prior to the Final Discharge Date, no Intra-Group Lender may take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of the Intra-Group Liabilities unless the consent of the Senior Secured Instructing Group is obtained (or after the Senior Secured Discharge Date but prior to the Final Discharge Date, the High Yield Required Holders of each tranche of High Yield Notes then issued (acting through their Creditor Representatives)).

10.6 Restriction on enforcement: Intra-Group Lenders

Subject to Clause 10.7 (*Permitted Enforcement: Intra-Group Lenders*), no Intra-Group Lender shall be entitled to take any Enforcement Action (other than rights of set-off to enable Permitted Intra-Group Payments) in respect of any of the Intra-Group Liabilities at any time prior to the Final Discharge Date, except for any Enforcement Action set out in paragraphs (a)(i), (a)(ii), (a)(iii) and (a)(vi) of the definition of Enforcement Action in respect of any payment in respect of the Intra-Group Liabilities which at the time of such Enforcement

Action would be permitted by Clause 10.2 (*Permitted Payments: Intra-Group Liabilities*) unless, at such time, a Senior Secured Instructing Group is taking Enforcement Action (or, after the Senior Secured Discharge Date but prior to the Final Discharge Date, the High Yield Required Holders of each tranche of High Yield Notes then issued (acting through their Creditor Representatives)) or following an Acceleration Event.

10.7 Permitted Enforcement: Intra-Group Lenders

Prior to the Final Discharge Date and after the occurrence of a Bankruptcy Event, each Intra-Group Lender may only (unless otherwise directed by the Security Agent or the Facility D Security Agent or unless the Security Agent or the Facility D Security Agent has taken, or has given notice that it intends to take, action on behalf of that Intra-Group Lender in accordance with Clause 12.5 (*Filing of claims*)), exercise any right it may otherwise have against that member of the Restricted Group to:

(a) accelerate any of that member of the Restricted Group's Intra-Group Liabilities or declare them prematurely due and payable or payable on demand;

(b) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Restricted Group in respect of any Intra-Group Liabilities;

(c) exercise any right of set-off or take or receive any Payment in respect of any Intra-Group Liabilities of that member of the Restricted Group; or

(d) claim and prove in the liquidation of that member of the Restricted Group for the Intra-Group Liabilities owing to it,

but shall not take any other Enforcement Action.

10.8 Representations: Intra-Group Lenders

On the Effective Date, each Intra-Group Lender which is not a Debtor represents and warrants to the Primary Creditors, the Security Agent, the Facility D Security Agent and the Creditor Representatives that:

(a) it is duly incorporated or organised (as applicable) and validly existing (as applicable) under the law of its jurisdiction of incorporation or organisation;

(b) subject to the Legal Reservations, the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable obligations; and

(c) the entry into and performance by it of, and the transactions contemplated by, this Agreement do not conflict with:

(i) any law or regulation applicable to it in any material respect;

(ii) its constitutional documents in any material respect; or

(iii) any agreement or instrument binding upon it or constitute a default or termination event (however described) under any such agreement or instrument to an extent which would have or would be likely to have a Material Adverse Effect.

10.9 Intra-Group Lenders' Agent

(a) Each Intra-Group Lender (other than the Parent) irrevocably appoints the Parent to act on its behalf as its agent in relation to this Agreement and irrevocably authorises:

(i) the Parent on its behalf to supply all information concerning itself contemplated by this Agreement to the other Parties and to give and receive all notices, consents and instructions, to agree, accept and execute on its behalf all documents in connection with this Agreement (including amendments and variations of, and consents under, this Agreement) and to take such other action as may be necessary or desirable under, or in connection with, this Agreement; and

(ii) each other Party to give any notice, demand or other communication to that Intra-Group Lender pursuant to this Agreement to the Parent.

(b) Each Intra-Group Lender (other than the Parent) confirms that:

(i) it will be bound by any action taken by the Parent under, or in connection with, this Agreement; and

(ii) each other Party may rely on any action purported to be taken by the Parent on behalf of that Intra-Group Lender.

11. SHAREHOLDER CREDITORS AND SHAREHOLDER LIABILITIES

11.1 Restriction on Payment: Shareholder Liabilities

Subject to Clause 9.4 (*Permitted High Yield Payments*) with respect to Holdco Liabilities, prior to the Final Discharge Date, the Debtors shall not, and the Parent shall procure that no other member of the Restricted Group will, make any Payments of the Shareholder Liabilities at any time unless:

(a) that Payment is permitted under Clause 11.2 (*Permitted Payments: Shareholder Liabilities*); or

(b) the taking or receipt of that Payment is permitted under paragraph (c) of Clause 11.8 (*Permitted Enforcement: Shareholder Creditors*).

For the avoidance of doubt, no release or discharge of any Shareholder Liabilities of a member of the Restricted Group in consideration for the issue of shares in that member of the Restricted Group shall be restricted by this Clause 11.1 prior to an Acceleration Event.

11.2 Permitted Payments: Shareholder Liabilities

(a) Subject to paragraph (b) below, the Debtors and any member of the Restricted Group may make Payments in respect of the Shareholder Liabilities (whether of principal, interest or otherwise) from time to time if expressly permitted or not prohibited by the Finance Documents.

(b) Payments in respect of the Shareholder Liabilities may not be made pursuant to paragraph (a) above if, at the time of the Payment, an Acceleration Event has occurred under any of the Debt Documents unless:

(i) prior to the Senior Secured Discharge Date, to the extent prohibited under the relevant Finance Document, the Majority Senior Secured Creditors (in each case, acting through their respective Creditor Representatives) give prior written consent to that Payment being made;

(ii) after the Senior Secured Discharge Date but prior to the Final Discharge Date, to the extent prohibited under the relevant High Yield Documents, the High

Yield Required Holders of each tranche of High Yield Notes (acting through their Creditor Representatives) consent to that Payment being made; or

(i) the Payment is made to facilitate payment of the Secured Liabilities or the High Yield Liabilities.

11.3 Payment obligations continue

No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Clauses 11.1 (*Restriction on Payment: Shareholder Liabilities*) and 11.2 (*Permitted Payments: Shareholder Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

11.4 Acquisition of Shareholder Liabilities

Prior to the Final Discharge Date, no Debtor may, and the Parent may not permit any other member of the Restricted Group to:

(a) enter into any Liabilities Acquisition; or

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

in respect of any Shareholder Liabilities at any time unless:

(i) it is expressly permitted by the Finance Documents;

(ii) prior to the Senior Secured Discharge Date, the Majority Senior Secured Creditors (in each case, acting through their respective Creditor Representatives) have consented to that action;

(iii) on or after the Senior Secured Discharge Date but prior to the High Yield Discharge Date, the High Yield Required Holders of each tranche of High Yield Notes then issued (acting through its Creditor Representatives) have consented to that action;

(iv) any payments which are made in connection with such acquisition are Permitted Payments; or

(v) such acquisition is implemented by way of a share issued by the Parent that is permitted by the Senior Secured Facilities Finance Documents, the Facility D Agreement, the Senior Secured Notes Indenture(s), the Pari Passu Debt Document(s) and the High Yield Indenture(s).

11.5 Amendments and Waivers: Shareholder Liabilities

Prior to the Final Discharge Date, a Shareholder Creditor may not amend or waive the terms of any agreement evidencing the terms of the Shareholder Liabilities unless:

(a) following the amendment or waiver, the Shareholder Creditors would still not have recourse to any member of the Restricted Group other than the Parent and the Shareholder Liabilities would otherwise meet the criteria for "Shareholder Loans" (or its corresponding term) in the Finance Documents;

(b) the amendment or waiver is of a minor and administrative nature and is not materially prejudicial to the Primary Creditors; or

(c) the prior written consent of the Majority Senior Secured Creditors and the High Yield Required Holders of each tranche of High Yield Notes is obtained.

11.6 Security: Shareholder Creditors

Prior to the Final Discharge Date, the Shareholder Creditors may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of the Shareholder Liabilities other than as expressly permitted in the Finance Documents.

11.7 Restriction on enforcement: Shareholder Creditors

Subject to Clause 11.8 (*Permitted Enforcement: Shareholder Creditors*), none of the Shareholder Creditors shall be entitled to take any Enforcement Action in respect of any of the Shareholder Liabilities at any time prior to the Final Discharge Date except for any Enforcement Action set out in paragraph (a)(i) of the definition of Enforcement Action in respect of any payment in respect of the Shareholder Liabilities which at the time of such Enforcement Action would be permitted by Clause 11.2 (*Permitted Payments: Shareholder Liabilities*) of this Agreement unless, at such time, the Primary Creditors are or the Security Agent or the Facility D Security Agent is taking any Enforcement Action required by the Senior Secured Instructing Group (or, after the Senior Secured Discharge Date but prior to the Final Discharge Date, the High Yield Required Holders of each tranche of High Yield Notes then issued (acting through their Creditor Representatives)) or following an Acceleration Event.

11.8 Permitted Enforcement: Shareholder Creditors

Subject to Clause 13.3 (*Turnover by the Subordinated Creditors and High Yield Creditors*), prior to the Final Discharge Date and after the occurrence of a Bankruptcy Event, each Shareholder Creditor may only (unless otherwise directed by the Security Agent or the Facility D Security Agent or unless the Security Agent or the Facility D Security Agent has taken, or has given notice that it intends to take, action on behalf of that Shareholder Creditor in accordance with Clause 12.5 (*Filing of claims*)), exercise any right it may otherwise have against that member of the Restricted Group to:

(a) accelerate any of that member of the Restricted Group's Shareholder Liabilities or declare them prematurely due and payable or payable on demand;

(b) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Restricted Group in respect of any Shareholder Liabilities;

(c) exercise any right of set-off or take or receive any Payment in respect of any Shareholder Liabilities of that member of the Restricted Group; or

(d) claim and prove in the liquidation of that member of the Restricted Group for the Shareholder Liabilities owing to it,

but shall not take any other Enforcement Action.

12. EFFECT OF INSOLVENCY EVENT

12.1 Senior Secured Facilities Cash Cover

This Clause 12 is subject to Clause 17.3 (*Treatment of Senior Secured Facilities Cash Cover*) and Clause 22.5 (*Turnover obligations*).

12.2 Payment of distributions

(a) After the occurrence of an Insolvency Event in respect of any member of the Restricted Group, any Subordinated Creditor or High Yield Creditor entitled to receive a distribution out of the assets of the relevant member of the Restricted Group subject to the Insolvency Event in respect of:

(i) Subordinated Liabilities owed to that Subordinated Creditor;

(ii) High Yield Unsecured Liabilities owed to that High Yield Unsecured Creditor; and

(iii) High Yield Secured Liabilities owed to that High Yield Secured Creditor,

shall, to the extent it is able to do so, including pursuant to applicable law and regulation, direct the person responsible for the distribution of the assets of the relevant member of the Restricted Group to pay that distribution to the Security Agent until the Liabilities owing to the Secured Parties and, in the case of the Subordinated Creditors, the High Yield Unsecured Creditors have been paid in full.

(b) The Security Agent shall apply distributions paid to it under paragraph (a) above in accordance with Clause 17 (*Application of Proceeds*).

12.3 Set-Off

To the extent that any member of the Restricted Group's Liabilities are discharged by way of set-off (mandatory or otherwise) after the occurrence of an Insolvency Event, any Subordinated Creditor or High Yield Creditor which benefited from that set-off shall pay an amount equal to the amount of the Subordinated Liabilities or High Yield Liabilities (as applicable) owed to it which are discharged by that set-off to the Security Agent for application in accordance with Clause 17 (*Application of Proceeds*).

12.4 Non-cash distributions

If the Security Agent or the Facility D Security Agent or any other Secured Party receives a distribution in a form other than in cash in respect of any of the Liabilities, the Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Liabilities.

12.5 Filing of claims

Without prejudice to any Ancillary Lender's right of netting or set-off relating to a Multi-account Overdraft Facility (to the extent that the netting or set-off represents a reduction from a Permitted Gross Amount of that Multi-account Overdraft Facility to or towards its Designated Net Amount), until the Final Discharge Date, after the occurrence of an Insolvency Event in respect of any member of the Restricted Group each Subordinated Creditor and High Yield Creditor irrevocably authorises the Security Agent and the Facility D Security Agent (acting in accordance with Clause 12.7 (*Security Agent Instructions*)), on its behalf, to:

(a) take any Enforcement Action (in accordance with the terms of this Agreement) against the relevant member of the Restricted Group;

(b) demand, sue, prove and give receipt for any or all of the relevant member of the Restricted Group's Liabilities;

(c) collect and receive all distributions on, or on account of, any or all of the relevant member of the Restricted Group's Liabilities; and

(d) file claims, take proceedings and do all other things the Security Agent or the Facility D Security Agent considers reasonably necessary to recover the relevant member of the Restricted Group's Liabilities.

12.6 Creditors' actions

Each Subordinated Creditor and High Yield Creditor will:

(a) do all things that the Security Agent or the Facility D Security Agent (acting in accordance with Clause 12.7 (*Security Agent Instructions*)) reasonably requests in order to give effect to this Clause 12; and

(b) if the Security Agent or the Facility D Security Agent is not entitled to take any of the actions contemplated by this Clause 12 or if the Security Agent (acting in accordance with Clause 12.7 (*Security Agent Instructions*)) requests that a Subordinated Creditor or High Yield Creditor take that action, undertake that action itself in accordance with the instructions of the Security Agent or the Facility D Security Agent (acting in accordance with Clause 12.7 (*Security Agent Instructions*)) or grant a power of attorney to the Security Agent or the Facility D Security Agent on such terms as the Security Agent or the Facility D Security Agent (acting in accordance with Clause 12.7 (*Security Agent Instructions*)) may require to enable the Security Agent or the Facility D Security Agent to take such action.

12.7 Security Agent Instructions

For the purposes of Clause 12.5 (*Filing of claims*) and Clause 12.6 (*Creditors' actions*), the Security Agent shall act:

(a) on the instructions of the Senior Secured Instructing Group; or

(b) in the absence of any such instructions, in accordance with Clause 15.3 (*Enforcement Instructions*).

13. TURNOVER OF RECEIPTS

13.1 Senior Secured Facilities Cash Cover

This Clause 13 is subject to Clause 17.3 (*Treatment of Senior Secured Facilities Cash Cover*) and, in the case of the Relevant Creditor Representative, Clause 22.5 (*Turnover obligations*).

13.2 Turnover by the Primary Creditors

Subject to Clause 13.4 (*Exclusions*) and Clause 13.5 (*Permitted assurance and receipts*), if at any time prior to the Final Discharge Date any Creditor receives or recovers the proceeds of any enforcement of any Transaction Security (whether before or after an Insolvency Event) except in accordance with Clause 17 (*Application of Proceeds*), that Creditor will:

(a) in relation to receipts and recoveries not received or recovered by way of set-off:

(i) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for the Security Agent and separate from other assets, property or funds and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement; and

(ii) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement;

(b) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that receipt or recovery to the Security Agent for application in accordance with the terms of this Agreement.

13.3 Turnover by the Subordinated Creditors and the High Yield Creditors

Subject to Clause 13.4 (*Exclusions*) and Clause 13.5 (*Permitted assurance and receipts*), if at any time prior to the Final Discharge Date any Subordinated Creditor or High Yield Creditor receives or recovers:

(a) any Payment or distribution of, or on account of or in relation to, any of the Liabilities which is not either:

(i) a Permitted Payment; or

(ii) made in accordance with Clause 17 (*Application of Proceeds*);

(b) other than where Clause 12.3 (*Set-Off*) applies, any amount by way of set-off in respect of any of the Liabilities owed to it which does not give effect to a Permitted Payment;

(c) notwithstanding paragraphs (a) and (b) above, and other than where Clause 12.3 (*Set-Off*) applies, any amount:

(i) on account of, or in relation to, any of the Liabilities:

(A) after the occurrence of a Distress Event; or

(B) as a result of any other litigation or proceedings against a Debtor or a member of the Restricted Group (other than after the occurrence of an Insolvency Event in respect of that Debtor or that member of the Restricted Group); or

(ii) by way of set-off in respect of any of the Liabilities owed to it after the occurrence of a Distress Event; or

(d) other than where Clause 12.3 (*Set-Off*) applies, any distribution in cash or in kind or Payment of, or on account of or in relation to, any of the Liabilities owed by any Debtor which is not in accordance with Clause 17 (*Application of Proceeds*) and which is made as a result of, or after, the occurrence of an Insolvency Event in respect of that Debtor,

that High Yield Creditor or Subordinated Creditor (as applicable) will:

(i) in relation to receipts and recoveries not received or recovered by way of set-off:

(A) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for the Security Agent and separate from other assets, property or funds and promptly pay that amount to the Security Agent for application in accordance with Clause 17 (*Application of Proceeds*); and

(B) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with Clause 17 (*Application of Proceeds*); and

(ii) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that receipt or recovery to the Security Agent for application in accordance with Clause 17 (*Application of Proceeds*).

13.4 Exclusions

Clause 13.2 (*Turnover by the Primary Creditors*) and Clause 13.3 (*Turnover by the Subordinated Creditors and High Yield Creditors*) shall not apply to any receipt or recovery:

(a) by way of:

(i) Close-Out Netting by a Hedging Bank or a Hedging Ancillary Lender;

(ii) Payment Netting by a Hedging Bank or a Hedging Ancillary Lender;

(iii) Inter-Hedging Agreement Netting by a Hedging Bank; or

(iv) Inter-Hedging Ancillary Document Netting by a Hedging Ancillary Lender;

(b) by an Ancillary Lender by way of that Ancillary Lender's right of netting or set-off relating to a Multi-account Overdraft Facility (to the extent that that netting or set-off represents a reduction from a Permitted Gross Amount of that Multi-account Overdraft Facility to or towards its Designated Net Amount); or

(c) made in accordance with Clause 18 (*Equalisation*).

13.5 Permitted assurance and receipts

Nothing in this Agreement shall restrict the ability of any Primary Creditor to:

(a) arrange with any person which is not a member of the Restricted Group any assurance against loss in respect of, or reduction of its credit exposure to, a Debtor (including assurance by way of credit based derivative or sub-participation); or

(b) make any assignment or transfer permitted by Clause 21 (*Changes to the Parties*),

which is permitted by the relevant Finance Documents and is not in breach of Clause 8.5 (*No acquisition of Hedging Liabilities*) or Clause 10.4 (*Acquisition of Intra-Group Liabilities*) and that Primary Creditor shall not be obliged to account to any other Party for any sum received by it as a result of that action.

13.6 Sums received by Debtors or Third Party Chargors

If any of the Debtors or Third Party Chargors receive or recover any sum which, under the terms of any of the Debt Documents, should have been paid to the Security Agent or the Facility D Security Agent (as applicable), that Debtor or that Third Party Chargor will:

(a) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for the Security Agent or the Facility D Security Agent (as applicable) and separate from other assets, property or funds and

promptly pay that amount to the Security Agent or the Facility D Security Agent (as applicable) for application in accordance with the terms of this Agreement; and

(b) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent or the Facility D Security Agent (as applicable) for application in accordance with the terms of this Agreement.

13.7 Saving provision

If, for any reason, any of the trusts expressed to be created in this Clause 13 should fail or be unenforceable, the affected Creditor, Debtor or Third Party Chargor will promptly pay an amount equal to that receipt or recovery to the Security Agent or the Facility D Security Agent (as applicable) to be held on trust by the Security Agent or the Facility D Security Agent (as applicable) for distribution in accordance with Clause 17 (*Application of Proceeds*).

13.8 Non-creation of charge

Nothing in this Clause 13 or any other provision of this Agreement is intended to or shall create a charge or other security.

14. REDISTRIBUTION

14.1 Recovering Creditor's rights

(a) Any amount paid by a Creditor (a "**Recovering Creditor**") to the Security Agent or the Facility D Security Agent (as applicable) under Clause 12 (*Effect of Insolvency Event*) or Clause 13 (*Turnover of Receipts*) shall be treated as having been paid by the relevant Debtor and distributed to the Security Agent or the Facility D Security Agent (as applicable), the Creditor Representatives, the Arrangers and the Primary Creditors (each, a "**Sharing Creditor**") in accordance with the terms of this Agreement.

(b) On a distribution by the Security Agent or the Facility D Security Agent (as applicable) under paragraph (a) above of a Payment received by a Recovering Creditor from a Debtor, as between the relevant Debtor and the Recovering Creditor an amount equal to the amount received or recovered by the Recovering Creditor and paid to the Security Agent or the Facility D Security Agent (as applicable) (the "**Shared Amount**") will be treated as not having been paid by that Debtor and to the extent permitted by law, the liability of the relevant Debtor to the relevant Creditor shall be increased (or shall be treated as not having been reduced) by an amount equal to the Shared Amount made by such Creditor to the Security Agent or the Facility D Security Agent (as applicable) pursuant to paragraph (a) above and the relevant Debtor shall indemnify the relevant Creditor against any loss it may suffer as a result of paying such Shared Amount.

14.2 Reversal of redistribution

(a) If any part of the Shared Amount received or recovered by a Recovering Creditor becomes repayable to a Debtor and is repaid by that Recovering Creditor to that Debtor, then:

(i) each Sharing Creditor and, in the case of any Relevant Creditor Representative, subject to Clause 22.5 (*Turnover obligations*) shall, upon request of the Security Agent or the Facility D Security Agent (as applicable), pay to the Security Agent or the Facility D Security Agent (as applicable) for the account of that Recovering Creditor an amount equal to the appropriate part of its share of the Shared Amount received by it (together with an amount

as is necessary to reimburse that Recovering Creditor for its proportion of any interest on the Shared Amount which that Recovering Creditor is required to pay) (the "**Redistributed Amount**"); and

(ii) as between the relevant Debtor and each relevant Sharing Creditor, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Debtor.

(b) Neither the Security Agent nor the Facility D Security Agent shall be obliged to pay any Redistributed Amount to a Recovering Creditor under paragraph (a)(i) above until it has been able to establish to its satisfaction that it has actually received that Redistributed Amount from the relevant Sharing Creditor.

14.3 Deferral of Subrogation

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

(b) No Subordinated Creditor will exercise any rights which it may have to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights under the Debt Documents of any Creditor until such time as all of the Liabilities owing to each prior ranking Creditor have been irrevocably paid in full.

14.4 Exceptions

(a) This Clause 14 shall not apply to the extent that the Recovering Creditor would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Debtor and, in such case, the Recovering Creditor shall be entitled to rely on Clause 18 (*Equalisation*).

(b) A Recovering Creditor is not obliged to share with any Secured Party any amount which the Recovering Creditor has received or recovered as a result of taking legal or arbitration proceedings, if:

(i) it notified that Secured Party of the legal or arbitration proceedings; and

(ii) that Secured Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

15. ENFORCEMENT OF TRANSACTION SECURITY

15.1 Senior Secured Facilities Cash Cover

This Clause 15 is subject to Clause 17.3 (*Treatment of Senior Secured Facilities Cash Cover*).

15.2 Enforcement

The Secured Parties shall not give instructions to the Security Agent or the Facility D Security Agent as to the Enforcement of Transaction Security other than in accordance with this Agreement.

15.3 Enforcement Instructions

(a) The Security Agent and/or the Facility D Security Agent may refrain from enforcing the Transaction Security or taking any other Enforcement Action unless instructed otherwise by the Senior Secured Instructing Group.

(b) Subject to the Transaction Security having become enforceable in accordance with its terms, the Senior Secured Instructing Group may give instructions to the Security Agent and/or the Facility D Security Agent as to the Enforcement of the Transaction Security as they see fit.

(c) Prior to the Senior Secured Discharge Date:

(i) if the Senior Secured Instructing Group has instructed the Security Agent or the Facility D Security Agent not to enforce or to cease enforcing the Transaction Security; or

(ii) in the absence of instructions from the Senior Secured Instructing Group,

and if, in each case, the Senior Secured Instructing Group has not required any Debtor to make a Distressed Disposal, the Security Agent shall give effect to any instructions to enforce the Transaction Security which the High Yield Secured Required Holders are then entitled to give to the Security Agent under Clause 9.9 (*Permitted High Yield Enforcement*).

(d) Notwithstanding the preceding paragraph (c), if at any time the Administrative Agent, the Senior Secured Notes Trustee, the Facility D Agent or the Pari Passu Debt Representative(s) for a tranche of Pari Passu Debt are then entitled to give the Security Agent or the Facility D Security Agent instructions to enforce the Transaction Security and the High Yield Secured Required Holders either give such instruction or indicate any intention to give such instruction, then any of the Administrative Agent, the Senior Secured Notes Trustee, the Facility D Agent or such Pari Passu Debt Representative may give instructions to the Security Agent or the Facility D Security Agent to enforce the Transaction Security as it sees fit in lieu of any instructions to enforce given by High Yield Secured Required Holders under Clause 9.9 (*Permitted High Yield Enforcement*) and the Security Agent or the Facility D Security Agent shall act on the first such instructions received.

(e) After the Security Agent or the Facility D Security Agent has commenced enforcement of the Transaction Security on any instructions pursuant to paragraphs (b) or (c) above, it shall not accept any subsequent instructions from anyone other than the Senior Secured Instructing Group or High Yield Secured Required Holders (as applicable) that instructed it to take such Enforcement under such paragraphs, save as expressly set out in paragraph (d) of this Clause 15.3.

(f) The Security Agent and the Facility D Security Agent are entitled to rely on and comply with instructions given in accordance with this Clause 15.3 (*Enforcement Instructions*).

15.4 Manner of enforcement

(a) Subject to paragraph (d) of Clause 15.3 (*Enforcement instructions*), if the Transaction Security is being enforced or other action as to Enforcement is being taken pursuant to Clause 15.3 (*Enforcement Instructions*), the Security Agent and the Facility D Security Agent shall enforce the Transaction Security or take other action as to Enforcement in such manner (including, without limitation, the selection of any

administrator of any Debtor or Third Party Chargor to be appointed by the Security Agent and the Facility D Security Agent) as the Senior Secured Instructing Group or High Yield Secured Required Holders (acting through their respective Creditor Representatives) then entitled to instruct under this Clause 15 shall instruct.

(b) For the avoidance of doubt, in the absence of written instructions from (i) the Senior Secured Instructing Group; or (ii) the Creditor Representative for the High Yield Secured Required Holders then entitled to instruct under Clause 9.9 (*Permitted High Yield Enforcement*), neither the Security Agent more the Facility D Security Agent is required to take any action.

15.5 Exercise of voting rights

(a) Each Creditor (other than the Administrative Agent, the RCF Agent, the Senior Secured Notes Trustee, the Facility D Agent, the Pari Passu Debt Representative(s)) agrees with the Security Agent and the Facility D Security Agent that it will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any member of the Restricted Group as instructed by the Security Agent or the Facility D Security Agent.

(b) The Security Agent or the Facility D Security Agent shall give instructions for the purposes of paragraph (a) of this Clause 15.5 as directed by the Senior Secured Instructing Group or High Yield Secured Required Holders (as appropriate), provided in each case such instructions have been given in accordance with Clause 15.3 (*Enforcement Instructions*).

15.6 Duties owed

Each of the Secured Parties and the Debtors acknowledges that, in the event that the Security Agent or the Facility D Security Agent enforces or is instructed to enforce the Transaction Security prior to the Final Discharge Date, the duties of the Security Agent, the Facility D Security Agent and of any Receiver or Delegate owed to the Hedging Banks, the Senior Secured Facilities Lenders, the Senior Secured Noteholders, the Facility D Lenders, the Pari Passu Creditors, the High Yield Secured Creditors and any Creditor Representatives in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall, subject to paragraph (b) of Clause 16.3 (*Distressed Disposals – Application of Proceeds*), be no different to or greater than the duty that is owed by the Security Agent, the Facility D Security Agent, Receiver or Delegate to the Debtors under general law.

15.7 Waiver of rights

To the extent permitted under applicable law and subject to Clause 15.3 (*Enforcement Instructions*), Clause 15.4 (*Manner of enforcement*), paragraph (b) of Clause 16.3 (*Distressed Disposals – Application of Proceeds*) and Clause 17 (*Application of Proceeds*), each of the Secured Parties and the Debtors waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any sum received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

16. PROCEEDS OF DISPOSALS

16.1 Non-Distressed Disposals

(a) In this Clause 16.1, "**Disposal Proceeds**" means the proceeds of a Non-Distressed Disposal (as defined in paragraph (b) below).

(b) If, in respect of a disposal of an asset by a Debtor which is subject to the Transaction Security or a disposal of the shares in the capital of any Holding Company (for the avoidance of doubt, whether or not such Holding Company is itself a Debtor) of a Debtor which:

(i) is permitted under the Senior Secured Facilities Finance Documents;

(ii) is permitted under the Senior Secured Notes Indenture;

(iii) is permitted under the Pari Passu Debt Documents;

(iv) is permitted under the High Yield Documents;

(v) is permitted under the Facility D Agreement; and

(vi) is not a Distressed Disposal,

(a "**Non-Distressed Disposal**"), each of the Security Agent and the Facility D Security Agent is irrevocably authorised and instructed to execute and deliver on behalf of each Creditor, Debtor and Third Party Chargor (at the request and cost of the relevant Debtor and without any consent, sanction, authority or further confirmation from any Creditor, Debtor or Third Party Chargor) but subject to paragraph (c) below:

(A) any release of the Transaction Security and any other claim (relating to a Debt Document) over that asset;

(B) where that asset consists of shares in the capital of a Debtor, any release of the Transaction Security and any other claim (relating to a Debt Document) over that Debtor's assets and/or the shares in and assets of any of its Subsidiaries;

(C) any release of any Transaction Security and any other claim granted by any Subsidiary of that Holding Company over any of its assets;

(D) where that asset consists of shares in the capital of a Holding Company of a Debtor, any release of the Transaction Security and any other claims granted by or over that Holding Company or any Subsidiary of that Holding Company over any of its or their assets; and

(E) any release of the Transaction Security or any claim described in paragraphs (i) to (vi) above and issue any certificates of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent or the Facility D Security Agent (as applicable), be considered necessary or desirable,

provided that, in the case of a Non-Distressed Disposal made within the Restricted Group, (1) the release of the Transaction Security is permitted under the terms of the relevant Senior Secured Facilities Finance Document, the Senior Secured Notes

Indenture, the Facility D Agreement, any relevant Pari Passu Debt Document and any relevant High Yield Document, and (2) to the extent that replacement Transaction Security is required from the transferee under the terms of the Debt Documents, such Transaction Security will (subject to any requirements relating to the release, retaking, amendment or extension of the Transaction Security under the Debt Documents) be granted at the same time as (or before) the Non-Distressed Disposal is effected.

(c) If that Non-Distressed Disposal is not made, each release of Transaction Security or any claim described in paragraph (b) above shall have no effect and the Transaction Security or claim subject to that release shall continue in such force and effect as if that release had not been effected.

(d) If any Disposal Proceeds are required to be applied in mandatory prepayment of any of the Secured Liabilities pursuant to the terms of the relevant Debt Documents then the Disposal Proceeds shall be applied in or towards Payment of such Secured Liabilities in accordance with the terms of the relevant Debt Documents and the consent of any other Party shall not be required for that application.

16.2 Distressed Disposals

(a) Subject to paragraphs (b) and (c) below, if a Distressed Disposal is being effected, the Security Agent or the Facility D Security Agent (as applicable) is irrevocably authorised and instructed (at the cost of the relevant Debtor) and without any consent, sanction, authority or further confirmation from any Creditor, Debtor or Third Party Chargor:

(i) *Release of Transaction Security /non-crystallisation certificates*: to release the Transaction Security and any other claim over that asset and execute and deliver or enter into any release of that Transaction Security, or claim and issue any letters of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent or the Facility D Security Agent (as applicable), be considered necessary or desirable.

(ii) *Release of liabilities and Transaction Security on a share sale (Debtor)*: if the asset which is disposed of consists of shares in the capital of a Debtor, to release (or instruct to release):

(A) that Debtor and any Subsidiary of that Debtor from all or any part of:

(I) its Borrowing Liabilities (other than Borrowing Liabilities of the Parent, or the Senior Secured Note Issuer);

(II) its Guarantee Liabilities (other than the Guarantee Liabilities of the Parent); and

(III) its Other Liabilities;

(B) any Transaction Security granted by that Debtor or Subsidiary of that Debtor over any of its assets; and

(C) any other claim of an Intra-Group Lender or another Debtor over that Debtor's assets or over the assets of any Subsidiary of that Debtor,

on behalf of the relevant Creditors and Debtors.

(iii) *Release of liabilities and Transaction Security on a share sale (Holding Company)*: if the asset which is disposed of consists of shares in the capital of any Holding Company of a Debtor (for the avoidance of doubt, whether or not such Holding Company is itself a Debtor), to release (or instruct to release):

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

(I) its Borrowing Liabilities (other than Borrowing Liabilities of the Parent or the Senior Secured Note Issuer);

(II) its Guarantee Liabilities (other than the Guarantee Liabilities of the Parent); and

(III) its Other Liabilities;

(B) any Transaction Security granted by any Holding Company or any Subsidiary of that Holding Company over any of its assets; and

(C) any other claim of an Intra-Group Lender or another Debtor over the assets of any Holding Company or any Subsidiary of that Holding Company,

on behalf of the relevant Creditors and Debtor.

(iv) *Disposal of liabilities on a share sale*: if the asset which is disposed of consists of shares in the capital of a Debtor or the Holding Company of a Debtor and the Security Agent or the Facility D Security Agent (as applicable) (acting in accordance with paragraph (c) of Clause 16.3 (*Distressed Disposal – Application of Proceeds*)) decides to dispose of all or any part of:

(A) all or part of the Borrowing Liabilities (other than Borrowing Liabilities of the Parent or the Senior Secured Note Issuer); or

(B) the Guarantee Liabilities (other than the Guarantee Liabilities of the Parent); and

(C) the Other Liabilities,

owed by that Debtor or Holding Company or any Subsidiary of that Debtor or Holding Company (a "**Liabilities Disposal**"):

(I) (if the Security Agent or the Facility D Security Agent (acting in accordance with paragraph (c) of Clause 16.3 (*Distressed Disposal – Application of Proceeds*) below) does not intend that any transferee of those Liabilities or Debtor Liabilities (the "**Transferee**") will be treated as a Creditor or a Secured Party for the purposes of this Agreement), to execute and deliver or enter into any agreement to dispose of all (and not part only) of those Liabilities owed to the Creditors or Debtor Liabilities, provided that notwithstanding any other provision of any Debt Document the Transferee shall not be treated as a Creditor or a Secured Party for the purposes of this Agreement;

(II) (if the Security Agent or the Facility D Security Agent (acting in accordance with paragraph (c) Clause 16.3 (*Distressed Disposal – Application of Proceeds*) below) does intend that any Transferee will be treated as a Creditor or a Secured Party for the purposes of this Agreement), to execute and deliver or enter into any agreement to dispose of:

(1) all or part of the Borrowing Liabilities; or

(2) all or part of the Guarantee Liabilities (other than the Guarantee Liabilities of the Parent); and

(3) all or part of the Other Liabilities,

on behalf of, in each case, the relevant Creditors and Debtors.

(v) *Transfer of obligations in respect of liabilities on a share sale*: if the asset which is disposed of consists of shares in the capital of a Debtor or the Holding Company of a Debtor (the "**Disposed Entity**") and the Security Agent or the Facility D Security Agent (acting in accordance with paragraph (c) of Clause 16.3 (*Distressed Disposal – Application of Proceeds*)) decides to transfer to another Debtor (the "**Receiving Entity**") all or any part of the Disposed Entity's obligations or any obligations of any Subsidiary of that Disposed Entity in respect of:

(A) the Intra-Group Liabilities; or

(B) the Debtor Liabilities,

to execute and deliver or enter into any agreement to:

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

(II) to accept the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Debtor Liabilities on behalf of the Receiving Entity or Receiving Entities to which the obligations in respect of those Intra-Group Liabilities or Debtor Liabilities are to be transferred.

(b) *Certain limitations on release.* Notwithstanding paragraph (a) above, if before the later of the Senior Secured Discharge Date and the High Yield Discharge Date, a Distressed Disposal is being effected where the aggregate book value of the assets the subject of such Distressed Disposal exceeds $10,000,000 (or its equivalent in other currencies) and any Borrowing Liabilities (other than under the Subordinated Documents) of and/or Guarantees from and/or Transaction Security in relation to such assets (including without limitation (x) of, from or in relation to any company whose equity interests are included in such assets and (y) of, from or in relation to any of its Subsidiaries) will be released under paragraph (a) above, it is a further condition to the release that, either:

(i) each of the Administrative Agent, the Facility D Agent, the Senior Secured Notes Trustee, the Pari Passu Debt Representative(s) and any High Yield Notes Trustee(s) has approved the release; or

(ii) otherwise:

(A) all or substantially all of the proceeds of such Distressed Disposal are cash or Cash Equivalents (as each such term is defined in the Senior Secured Facilities Agreement (in its original form));

(B) all the claims of the Secured Parties against any member of the Restricted Group and any Restricted Subsidiary of that member of the Restricted Group (if any) whose equity interests or assets are sold or disposed of pursuant to such Distressed Disposal are unconditionally released and discharged or sold or disposed of concurrently with such sale or disposal (and are not assumed by the relevant purchaser or any of its Affiliates) and all Security under the Transaction Security Documents in respect of the assets that are sold or disposed of is simultaneously and unconditionally released and discharged concurrently with such sale, provided that in the event of a sale or disposal of any such claim (instead of a release or discharge):

(I) the Senior Secured Instructing Group or the High Yield Secured Required Holders (the "**Relevant Instructing Group**") instructing the Security Agent or the Facility D Security Agent (as applicable) in connection with such Distressed Disposal under this Agreement determines acting reasonably and in good faith that the Primary Creditors will in aggregate recover more than if such claim was released or discharged; and

(II) the Relevant Instructing Group (acting through a Representative) serve a notice on the Security Agent or the Facility D Security Agent notifying the Security Agent or the Facility D Security Agent of the same, in which case the Security Agent or the Facility D Security Agent shall be entitled immediately to sell and transfer such claim to such purchaser (or an Affiliate of such purchaser),

provided that nothing in this paragraph (B) shall permit credit bidding; and

(C) either such sale or disposal (including any sale or disposal of any claim) is made:

(I) pursuant to a Public Auction; or

(II) where a Financial Advisor confirms that the sale, disposal or transfer price is fair from a financial point of view after taking into account all relevant circumstances, although there shall be no obligation to postpone any such sale, disposal or transfer in order to achieve a higher price.

(c) *Restriction on High Yield enforcement.* If, prior to the Senior Secured Discharge Date, a Distressed Disposal or a Liabilities Sale is being effected at a time when the High Yield Secured Required Holders are entitled to give, and have given,

instructions under Clause 15.4 (*Manner of Enforcement*) on which the Security Agent or the Facility D Security Agent is acting, the Security Agent or the Facility D Security Agent is not authorised to release any Debtor, Subsidiary or Holding Company from any Senior Secured Liabilities or Transaction Security therefor unless the Senior Secured Liabilities will be paid (or repaid) in full in cash (or, in the case of any contingent liability relating to a Letter of Credit, Bank Guarantee or Ancillary Facility, made the subject of cash cover or cash collateral arrangements acceptable to the relevant Senior Secured Creditor), following that release.

16.3 Distressed Disposal – Application of Proceeds

(a) The net proceeds of each Distressed Disposal (and the net proceeds of any disposal of Liabilities or Debtor Liabilities pursuant to paragraph (a)(iv) of Clause 16.2 (*Distressed Disposals*) above) shall be paid to the Security Agent or the Facility D Security Agent (as applicable) for application in accordance with Clause 17 (*Application of Proceeds*) as if those proceeds were the proceeds of an enforcement of the Transaction Security and, to the extent that any disposal of Liabilities or Debtor Liabilities has occurred pursuant to paragraph (a)(iv) of Clause 16.2 (*Distressed Disposal*) above, as if that disposal of Liabilities or Debtor Liabilities had not occurred.

(b) In the case of a Distressed Disposal (or a disposal of Liabilities pursuant to paragraph (a)(iv) of Clause 16.2 (*Distressed Disposal*) above) effected by or at the request of the Security Agent or the Facility D Security Agent (acting in accordance with paragraph (c) below), the Security Agent and the Facility D Security Agent shall take reasonable care to obtain a fair market price (but shall not be liable to any Party for the actual price obtained) in the prevailing market conditions (though neither the Security Agent nor the Facility D Security Agent shall have an obligation to postpone any such Distressed Disposal or disposal of Liabilities in order to achieve a higher price).

(c) For the purposes of paragraphs (a)(iii), (a)(iv) and (a)(v) of Clause 16.2 (*Distressed Disposal*) and paragraph (b) above, the Security Agent and the Facility D Security Agent shall act:

(i) if the relevant Distressed Disposal is being effected by way of enforcement of the Transaction Security, in accordance with Clause 15.4 (*Manner of enforcement*); and

(ii) in any other case on the instructions of the Senior Secured Instructing Group.

For the avoidance of doubt, to the extent the Security Agent or the Facility D Security Agent does not receive any instructions, it shall not be required to take any action.

16.4 Creditors', Subordinated Creditors', Debtors' and Third Party Chargors' actions

Each Creditor (other than a Relevant Creditor Representative) and, until the Final Discharge Date, each Debtor and each Third Party Chargor will:

(a) do all things (or direct its Creditor Representative to do all things) that the Security Agent requests in order to give effect to this Clause 16 (*Proceeds of Disposals*) (which shall include, without limitation, the execution of any assignments, transfers, releases or other documents that the Security Agent or the Facility D Security Agent may consider to be necessary to give effect to the releases or disposals contemplated by this Clause 16 (*Proceeds of Disposals*)); and

(b) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 16 (*Proceeds of Disposals*) or if the Security Agent or the Facility D Security Agent requests that any Creditor (or Creditor Representative if so directed by its Creditors) or Debtor or Third Party Chargor take any such action, take that action itself in accordance with the instructions of the Security Agent or the Facility D Security Agent,

provided that the proceeds of those disposals are applied in accordance with Clause 16.1 (*Non-Distressed Disposals*) or Clause 16.2 (*Distressed Disposals*) as the case may be.

16.5 Security

Notwithstanding any other provision of this Agreement, the Security Agent and the Facility D Security Agent are irrevocably authorised and instructed to execute and deliver on behalf of each Creditor and Debtor (at the request and cost of the relevant Debtor and without any consent, sanction, authority or further confirmation from any Creditor or Debtor):

(a) any release of Transaction Security permitted under this Clause 16 (*Proceeds of Disposals*);

(b) any release of Transaction Security permitted under Clause 19.6 (*Transaction Security under German Law*);

(c) any release of Transaction Security permitted under Section 2.23 (g) of the Senior Secured Facilities Agreement, section 10.02 of the Senior Secured Notes Indenture, any equivalent provision in the Facility D Agreement or any equivalent provision of any other Senior Secured Facilities Finance Document, Pari Passu Debt Document and, to the extent applicable, any High Yield Document; or

(d) (i) any release of Facility D Security including any Parallel Debt and (ii) any release of any Guarantee Liabilities owing by any Facility D Guarantor with respect to the Facility D Liabilities only, permitted under the Facility D Agreement, in each case, by the Facility D Lenders without the requirement of consent under any other Debt Document,

in each case, in accordance with the relevant clause or document (as the case may be).

17. APPLICATION OF PROCEEDS

17.1 Order of Application

Subject to Clause 17.2 (*Prospective liabilities*), all amounts from time to time received or recovered by the Security Agent or the Facility D Security Agent in connection with the realisation or enforcement of all or any part of the Transaction Security or otherwise paid to the Security Agent or the Facility D Security Agent for application pursuant to this Clause 17.1 and all amounts received by the Security Agent or the Facility D Security Agent from another Creditor pursuant to Clause 13.2 (*Turnover by Primary Creditors*) (for the purposes of this Clause 17, the "**Recoveries**") shall be held by the Security Agent or the Facility D Security Agent (as applicable) on trust to apply them at any time as the Security Agent or (in the case of Recoveries in relation to the Facility D Security) the Facility D Security Agent (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 17), in the following order of priority:

(a) first, in payment of the following amounts in the following order:

(i) *pari passu* and pro rata any sums owing to the Security Agent, the Facility D Security Agent, any Receiver or any Delegate, any Pari Passu Debt Representative in respect of any Pari Passu Debt issued in the form of notes, any Notes Trustee Amounts payable to a Notes Trustee (as the case may be); and then

(ii) *pari passu* and pro rata to each Creditor Representative (to the extent not included in sub-paragraph (i) above and excluding any Hedging Bank in its capacity as its own Creditor Representative) of the unpaid fees, costs, expenses and liabilities (and all interest thereon as provided in the relevant Finance Documents) of each such Creditor Representative and any receiver, attorney or agent appointed by such Creditor Representative under any Transaction Security Document or this Agreement (to the extent that such Security has been given in favour of such obligations);

(b) second, *pari passu* and pro rata in or towards payment to the Administrative Agent on behalf of the Senior Secured Facilities Lenders, the Senior Secured Notes Trustee on behalf of the Senior Secured Noteholders, the Facility D Agent on behalf of the Facility D Lenders, the Pari Passu Debt Representatives on behalf of the Pari Passu Creditors and each of the Hedging Banks for application towards any unpaid costs and expenses incurred by or on behalf of any Senior Secured Facilities Creditors, Senior Secured Noteholders, Facility D Creditors, Pari Passu Creditors and the Hedging Banks in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of the Transaction Security Documents and this Agreement or any action taken at the request of the Security Agent or the Facility D Security Agent;

(c) third, *pari passu* and pro rata in or towards payment to the Administrative Agent on behalf of the Senior Secured Facilities Lenders for application towards the discharge of the Senior Secured Facilities Liabilities (in accordance with the Senior Secured Facilities Agreement) the Senior Secured Notes Trustee on behalf of the Senior Secured Noteholders for application towards the discharge of the Senior Secured Notes Liabilities (in accordance with the Senior Secured Notes Indenture), to the Facility D Agent on behalf of the Facility D Lenders for application towards the discharge of the Facility D Liabilities (in accordance with the Facility D Agreement), to the Pari Passu Debt Representatives on behalf of the Pari Passu Creditors for application towards the discharge of the Pari Passu Debt (in accordance with the relevant Pari Passu Documents) and to each of the Hedging Banks for application towards any Hedging Liabilities;

(d) fourth, *pari passu* and pro rata in or towards payment to the High Yield Secured Trustees on behalf of the High Yield Secured Creditors for application towards any unpaid costs and expenses incurred by or on behalf of any High Yield Secured Creditors in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of the Transaction Security Documents and this Agreement or any action taken at the request of the Security Agent or the Facility D Security Agent;

(e) fifth, *pari passu* and pro rata in or towards payment to the relevant High Yield Notes Trustees on behalf of the High Yield Noteholders for which it is Creditor Representative for application towards the discharge of High Yield Liabilities owing to that High Yield Creditor (in accordance with the High Yield Documents); and

(f) sixth, after the Final Discharge Date, in payment of the surplus (if any) to the relevant Debtor or other person entitled to it.

For purposes of this Clause 17 each of the Facility D Creditors expressly authorise and instruct the Facility D Security Agent to hold on trust and pay all Recoveries attributable to Facility D Security or otherwise paid to the Facility D Security Agent in the order of priorities referred to above.

17.2 Prospective liabilities

Following a Distress Event, the Security Agent and the Facility D Security Agent may, in its discretion, hold any amount of the Recoveries in an interest bearing suspense or impersonal account(s) in the name of the Security Agent and the Facility D Security Agent with an Acceptable Bank (or itself) and for so long as the Security Agent and the Facility D Security Agent (in its sole discretion) deems appropriate (the interest being credited to the relevant account) for later application under Clause 17.1 (*Order of Application*) in respect of:

(a) any sum to the Security Agent, the Facility D Security Agent, any Receiver or any Delegate; and

(b) any part of the Liabilities, the Arranger Liabilities or the Creditor Representative Liabilities,

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

17.3 Treatment of Senior Secured Facilities Cash Cover

(a) Nothing in this Agreement shall prevent any Issuing Bank, Guarantee Bank or Ancillary Lender taking any Enforcement Action in respect of any Senior Secured Facilities Cash Cover which has been provided for it in accordance with the relevant Senior Secured Facilities Finance Documents and/or exercising its rights under the Existing LC Ancillary Facility upon the occurrence of a Designated Cancellation Event.

(b) To the extent that any Senior Secured Facilities Cash Cover is not held with the Relevant Issuing Bank, Relevant Guarantee Bank or Relevant Ancillary Lender, all amounts from time to time received or recovered in connection with the realisation or enforcement of that Senior Secured Facilities Cash Cover shall be paid to the Security Agent and shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law, in the following order of priority:

(i) to the Relevant Issuing Bank, Relevant Guarantee Bank and Relevant Ancillary Lender towards the discharge of the Senior Secured Facilities Lender Liabilities for which that Senior Secured Facilities Cash Cover was provided; and

(ii) the balance, if any, in accordance with Clause 17.1 (*Order of Application*).

(c) To the extent that any Senior Secured Facilities Cash Cover is held with the Relevant Issuing Bank, Relevant Guarantee Bank or Relevant Ancillary Lender nothing in this Agreement shall prevent that Relevant Issuing Bank, Relevant Guarantee Bank or Relevant Ancillary Lender receiving and retaining any amount in respect of that Senior Secured Facilities Cash Cover.

(d) Nothing in this Agreement shall prevent any Issuing Bank receiving and retaining any amount in respect of any Senior Secured Facilities Lender Cash Cover provided for it

in accordance with the terms of the relevant Senior Secured Facilities Finance Documents.

17.4 Investment of proceeds

Prior to the application of the proceeds of the Security Property in accordance with Clause 17.1 (*Order of Application*) the Security Agent and the Facility D Security Agent may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Agent or the Facility D Security Agent with an Acceptable Bank and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) pending the application from time to time of those monies in the Security Agent's or the Facility D Security Agent's discretion in accordance with the provisions of this Clause 17 (*Application of Proceeds*).

17.5 Currency Conversion

(a) For the purpose of, or pending the discharge of, any of the Secured Obligations or any of the High Yield Unsecured Liabilities, the Security Agent and the Facility D Security Agent may convert any moneys received or recovered by the Security Agent or the Facility D Security Agent from one currency to another, at the Security Agent's or the Facility D Security Agent's (as applicable) Spot Rate of Exchange.

(b) The obligations of any Debtor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

17.6 Permitted Deductions

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

17.7 Good Discharge

(a) Any payment to be made in respect of the Secured Obligations or any High Yield Unsecured Liabilities by the Security Agent or the Facility D Security Agent:

(i) may be made to the relevant Creditor Representatives on behalf of its Creditors;

(ii) may be made to the Relevant Issuing Bank or Relevant Ancillary Lender in accordance with paragraph (b)(i) of Clause 17.3 (*Treatment of Senior Secured Facilities Cash Cover*); or

(iii) shall be made directly to the Hedging Banks,

and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Agent or the Facility D Security Agent.

(b) Neither the Security Agent nor the Facility D Security Agent is under an obligation to make the payments to the Creditor Representatives or the Hedging Banks under paragraph (a) of this Clause 17.7 in the same currency as that in which the Liabilities owing to the relevant Creditor are denominated.

17.8 Calculation of Amounts

For the purpose of calculating any person's share of any sum payable to or by it, the Security Agent shall be entitled to:

(a) notionally convert the Liabilities owed to any person into a common base currency (decided in its discretion by the Security Agent), that notional conversion to be made at the spot rate at which the Security Agent is able to purchase the notional base currency with the actual currency of the Liabilities owed to that person at the time at which that calculation is to be made; and

(b) assume that all moneys received or recovered as a result of the enforcement or realisation of the Security Property are applied in discharge of the Liabilities in accordance with the terms of the Debt Documents under which those Liabilities have arisen.

17.9 Limitation on application of proceeds

If the application of any recoveries under this Clause 17 in or towards the discharge of any Liabilities would result in or have the effect of an unlawful payment or discharge under applicable law ("**Affected Recoveries**"), then those Affected Recoveries will be applied in or towards the discharge in full only of the Liabilities (but subject at all times to the provisions of this Agreement) guaranteed or secured by the rights (whether guarantee, indemnity or security (including by way of prefunding)) the enforcement or realisation of which gave rise to the Affected Recoveries.

18. EQUALISATION

18.1 Equalisation Definitions

For the purposes of this Clause 18:

(a) "**Enforcement Date**" means the first date (if any) on which a Senior Secured Creditor or High Yield Required Holders (as applicable) takes enforcement action of the type described in paragraphs (a)(i), (a)(iii), (a)(iv) or (b) of the definition of "Enforcement Action" in accordance with the terms of this Agreement; and

(b) "**Senior Secured Credit Participation**" means the aggregate of:

(i) in relation to a Senior Secured Facilities Lender, a Senior Secured Noteholder, a Facility D Lender or a Pari Passu Creditor, the amounts as calculated in accordance with the definition of Senior Secured Credit Participations in Clause 1.1 (*Definitions*) but without reference to any threshold for Pari Passu Creditors as provided for in such definition; and

(ii) in relation a Hedging Bank:

(A) in respect of any transaction of that Hedging Bank under any Hedging Document that constitutes a Hedging Liability and that has, as of the date the calculation is made, been terminated or closed out in accordance with the terms of this Agreement, the amount (if any)

payable to it under any Hedging Document to the extent it constitutes a Hedging Liability in respect of that termination or close-out as of the date of termination or close-out (and before taking into account any interest accrued on that amount since the date of termination or close-out) to the extent the amount is unpaid; and

(B) in respect of any transaction of that Hedging Bank under any Hedging Document that constitutes a Hedging Liability and that has, as of the date the calculation is made, not been terminated or closed out, the amount (if any) which would be payable to it under that Hedging Document to the extent that it constitutes a Hedging Liability in respect of that transaction, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement or the corresponding definition in any Hedging Document not based on the ISDA Master Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement or the corresponding definition in any Hedging Document not based on the ISDA Master Agreement).

18.2 Implementation of equalisation

(a) The provisions of this Clause 18 (*Equalisation*) shall be applied at such time or times after the Enforcement Date as the Security Agent shall consider appropriate.

(b) Without prejudice to the generality of paragraph (a) above, if the provisions of this Clause 18 (*Equalisation*) have been applied before all the Liabilities have matured and/or been finally quantified, the Security Agent may elect to re-apply those provisions on the basis of revised Senior Secured Credit Participations and the Senior Secured Creditors shall make appropriate adjustment payments amongst themselves.

18.3 Equalisation

If, for any reason, any Senior Secured Liabilities remain unpaid after the Enforcement Date and after the application of Recoveries, as defined in, and in accordance with Clause 17.1 (*Order of Application*) and the resulting losses are not borne by the Senior Secured Creditors in the proportions which their Senior Secured Credit Participations at the Enforcement Date bore to the aggregate Senior Secured Credit Participations of all the Senior Secured Creditors at the Enforcement Date, the Senior Secured Creditors will make such payments, from such Recoveries (as defined in Clause 17.1 (*Order of Application*)) actually applied, amongst themselves as the Security Agent shall require to put the Senior Secured Creditors in such a position that (after taking into account such payments) those losses are borne in those proportions.

18.4 Turnover of enforcement proceeds

If:

(a) the Security Agent, the Facility D Security Agent, the Administrative Agent or any relevant Creditor Representative for any Senior Secured Creditor is not entitled, for reasons of applicable law, to pay amounts received pursuant to enforcement of the Transaction Security to the Senior Secured Creditors or the High Yield Secured Creditors, but is entitled to distribute those amounts to Creditors (such Creditors, the "**Receiving Creditors**") who, in accordance with the terms of this Agreement, are subordinated in right and priority of payment to the Senior Secured Creditors or the High Yield Secured Creditors; and

(b) the Pari Passu Debt Discharge Date, the Senior Secured Discharge Date or the High Yield Discharge Date (as the case may be) has not yet occurred (nor would occur after taking into account such payments),

then the Receiving Creditors shall make such payments to the Senior Secured Creditors or the High Yield Secured Creditors as the Security Agent or the Facility D Security Agent shall require to place the Senior Secured Creditors or the High Yield Secured Creditors, in the position they would have been in had such amounts been available for application against the Secured Liabilities.

18.5 Notification of Exposure

Before each occasion on which it intends to implement the provisions of this Clause 18 (*Equalisation*), the Security Agent shall send notice to the relevant Creditor Representative and each Hedging Bank requesting that it notify it of, respectively, its exposure.

18.6 Default in payment

If a Creditor fails to make a payment due from it under this Clause 18 (*Equalisation*), the Security Agent shall be entitled (but not obliged) to take action on behalf of the relevant Creditor(s) to whom such payment was to be redistributed (subject to being indemnified to its satisfaction by such Creditor(s) in respect of costs) but shall have no liability or obligation towards such Creditor(s), any other Creditor as regards such default in payment and any loss suffered as a result of such default shall lie where it falls.

19. THE SECURITY AGENT

19.1 Appointment by the Secured Parties of Security Agent

(a) Each Secured Party irrevocably appoints the Security Agent to act as its agent, trustee, German law trustee (*Treuhänder*), joint and several creditor and as beneficiary of a parallel debt (as the case may be), including the parallel debt under Clause 19.4 (*Parallel Debt (Covenant to pay the Security Agent)*) in the case of the Security Agent under this Agreement and with respect to the Transaction Security Documents, and irrevocably authorises the Security Agent on its behalf to:

(i) execute each Transaction Security Document expressed to be executed by the Security Agent on its behalf; and

(ii) perform such duties and exercise such rights and powers under this Agreement and the Transaction Security Documents as are specifically delegated to the Security Agent by the terms thereof, together with such rights, powers and discretions as are reasonably incidental thereto.

(b) Each Secured Party confirms that:

(i) the Security Agent has authority to accept on its behalf the terms of any reliance letter or engagement letter relating to any reports or letters provided in connection with the Finance Documents or the transactions contemplated by the Finance Documents, to bind it in respect of those reports or letters and to sign that reliance letter or engagement letter on its behalf and to the extent that reliance letter or engagement letter has already been entered into ratifies those actions; and

(ii) it accepts the terms and qualifications set out in that reliance letter or engagement letter.

(c) The Security Agent shall have only those duties, obligations and responsibilities which are expressly specified in this Agreement and/or the Transaction Security Documents to which the Security Agent is a Party (and no others shall be implied). The Security Agent's duties under this Agreement and/or the Transaction Security Documents to which the Security Agent is a Party are solely of a mechanical and administrative nature.

(d) The Security Agent is released from any applicable restrictions on entering into any transaction as a representative of:

(i) two or more principals contracting with each other; and

(ii) one or more principals with whom it is contracting in its own name,

including but not limited to the restrictions of section 181 of the German Civil Code (*BGB*) or any similar restriction of the applicable laws of any other jurisdiction.

19.2 Appointment of Facility D Security Agent

(a) Each Facility D Creditor appoints the Facility D Security Agent to act as security trustee under and in connection with the Facility D Finance Documents and this Agreement in relation to any security interest which is expressed to be or is construed to be governed by English law or any other law from time to time designated by the Facility D Security Agent and a Debtor and irrevocably authorises the Facility D Security Agent on its behalf to enter into any and each Facility D Continuing Security Document.

(b) Except as expressly provided in Clause 19.2(a), and without limiting or affecting Clause 19.5 (*Parallel Debt (Covenant to pay Facility D Security Agent)*), each Facility D Creditor appoints the Facility D Security Agent to act as security agent under and in connection with the Facility D Finance Documents and this Agreement.

(c) Without limiting or affecting Clause 19.5 (*Parallel Debt (Covenant to pay Facility D Security Agent)*) each Facility D Creditor authorises the Facility D Security Agent to exercise the rights, powers, authorities and discretions specifically given to it under or in connection with the Facility D Finance Documents and this Agreement together with any other incidental rights, powers, authorities and discretions including for Facility D Continuing Security Documents governed by German law, to hold any charged property thereunder, whether in its own name or on behalf of the other Facility D Creditors.

19.3 Trust

(a) The Security Agent declares that it shall hold the Security Property (including, for the avoidance of doubt, any Security governed by the laws of the Marshall Islands and Panama) on trust for the Secured Parties on the terms set out in this Agreement.

(b) Subject to paragraph (c) below, paragraph (a) above shall not apply to any Transaction Security Document which is expressed to be or is construed to be governed by German law or any Security Property arising under any such Transaction Security Document.

(c) Paragraph (b) above shall not affect or limit Clause 19.4 (*Parallel Debt (Covenant to pay the Security Agent)*) nor the applicability of the provisions of this Clause 19 (*The Security Agent*) with respect to any Transaction Security Document which is

expressed to be or is construed to be governed by German law or any Security Property arising under any such Transaction Security Document.

(d) Each other Secured Party agrees that the Security Agent shall have only those duties, obligations and responsibilities expressly specified in this Agreement or in the Transaction Security Documents to which the Security Agent is expressed to be a party (and no others shall be implied). The duties of the Security Agent under the Debt Documents are solely mechanical and administrative in nature.

19.4 Parallel Debt (Covenant to pay the Security Agent)

(a) In this Clause with respect to the Security Agent only:

(i) "**Parallel Debt Obligations**" has the meaning given to it in paragraph (b) below;

(ii) "**Secured Party Claim**" means any amount which a Debtor owes to a Secured Party under or in connection with the Debt Documents.

(b) Each Debtor or Third Party Chargor must pay the Security Agent, as an independent and separate creditor, an amount equal to each Secured Party Claim on its due date (each, a "**Parallel Debt Obligations**").

(c) Each Parallel Debt Obligations is created on the understanding that the Security Agent must:

(i) share the proceeds of each Parallel Debt Obligations with the other Secured Parties; and

(ii) pay those proceeds to the Secured Parties,

in accordance with Clause 17 (*Application of proceeds*) of this Agreement.

(d) The Security Agent may enforce performance of any Parallel Debt Obligations in its own name as an independent and separate right. This includes any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in respect of any kind of insolvency proceeding.

(e) Each Secured Party must, at the request of the Security Agent, perform any act required in connection with the enforcement of any Parallel Debt Obligations. This includes joining in any proceedings as co-claimant with the Security Agent.

(f) Unless the Security Agent fails to enforce a Parallel Debt Obligations within a reasonable time after its due date, a Secured Party may not take any action to enforce the corresponding Secured Party Claim unless it is requested to do so by the Security Agent.

(g) Each Debtor irrevocably and unconditionally waives any right it may have to require a Secured Party to join in any proceedings as co-claimant with the Security Agent in respect of any Parallel Debt Obligations.

(h) (i) Discharge by a Debtor of a Secured Party Claim will discharge the corresponding Parallel Debt Obligations in the same amount.

(ii) Discharge by a Debtor of a Parallel Debt Obligations will discharge the corresponding Secured Party Claim in the same amount.

(i) The aggregate amount of the Parallel Debt Obligations will never exceed the aggregate amount of Secured Party Claims.

(j) (i) A defect affecting a Parallel Debt Obligations against a Debtor will not affect any Secured Party Claim.

(ii) A defect affecting a Secured Party Claim against a Debtor will not affect any Parallel Debt Obligations.

(k) If the Security Agent returns to any Debtor, whether in any kind of insolvency proceedings or otherwise, any recovery in respect of which it has made a payment to a Secured Party, that secured Party must repay an amount equal to that recovery to the Security Agent.

19.5 Parallel Debt (Covenant to pay Facility D Security Agent)

(a) Each Debtor that has granted the Facility D Security in relation to its Facility D Liabilities (to such extent, each a "**Facility D Continuing Obligor**") hereby irrevocably and unconditionally undertakes to pay to the Facility D Security Agent amounts equal to any amounts owing from time to time (i) by that Facility D Continuing Obligor to any Facility D Creditor under the Facility D Agreement; and (ii) in connection with any other financial indebtedness as any Facility D Creditor and any Facility D Continuing Obligor may agree as and when those amounts are due and payable and subject, in the case of guarantees, to the same limitations as those set out in the Facility D Agreement.

(b) Each Facility D Continuing Obligor and the Facility D Security Agent acknowledges that the obligations of each such Obligor under Clause 19.5(a) are several and are separate and independent from, and shall not in any way limit or affect, the corresponding obligations of that Facility D Continuing Obligor to any Facility D Creditor or the Facility D Security Agent under the Facility D Agreement or in connection with any other financial indebtedness as any Facility D Creditor and any Facility D Continuing Obligor may agree (its "**Corresponding Debt**") nor shall the amounts for which each Facility D Continuing Obligor is liable under Clause 19.5(a) (its "**Parallel Debt**") be limited or affected in any way by its Corresponding Debt provided that:

(i) the Parallel Debt of each such Facility D Continuing Obligor shall be decreased to the extent that its Corresponding Debt has been paid or (in the case of guarantee obligations) discharged;

(ii) the Corresponding Debt of each such Facility D Continuing Obligor shall be decreased to the extent that its Parallel Debt has been paid or (in the case of guarantee obligations) discharged;

(iii) the amount of the Parallel Debt of any such Facility D Continuing Obligor shall at all times be equal to the amount of its Corresponding Debt; and

(iv) each Parallel Debt will be payable in the currency or currencies of the relevant Corresponding Debt.

(c) For the purpose of this Clause 19.5, the Facility D Security Agent acts in its own name and not as a trustee, and each Parallel Debt represents the Facility D Security Agent's own separate and independent claim to receive payment of such Parallel Debt from the relevant Facility D Continuing Obligor and shall not be held on trust. The Security granted under or in connection with the Facility D Continuing Security

Documents and the Facility D Agreement to the Facility D Security Agent to secure the Parallel Debt of any Facility D Continuing Obligor is granted to the Facility D Security Agent in its capacity as creditor of such Parallel Debt and shall not be held on trust.

(i) All moneys received or recovered by the Facility D Security Agent pursuant to this Clause 19.5, and all amounts received or recovered by the Facility D Security Agent from or by the enforcement of any Security granted to secure any Parallel Debt, shall be applied in accordance with Clause 17 (*Application of proceeds*).

(ii) Without limiting or affecting the Facility D Security Agent's rights against the Facility D Continuing Obligors (whether under this Clause 19.5 or under any other provision of the Facility D Continuing Security or the Facility D Agreement), each Facility D Continuing Obligor acknowledges that:

(A) nothing in this Clause 19.5 shall impose any obligation on the Facility D Security Agent to advance any sum to any Facility D Continuing Obligor or otherwise under the Facility D Agreement; and

(B) for the purpose of any vote taken under the Facility D Agreement or this Agreement, the Facility D Security Agent shall not be regarded as having any participation or commitment.

(iii) In this Clause 19.5, a reference to:

(A) a "Facility D Agreement", "Facility D Security Document" or any other agreement or instrument is a reference to that document, agreement or other instrument as it may have been or hereafter be, from time to time, amended, varied (including without limitation any new or increased facilities or change in purpose), supplemented, restated (however fundamentally and whether or not more onerously), novated, extended or replaced but excluding any such changes contrary to this Agreement; and

(B) an undertaking, obligation or liability shall be construed as a reference to such undertaking, obligation or liability as the same may have been, or may from time to time be, amended, varied, novated or supplemented but excluding any such changes contrary to this Agreement.

19.6 Transaction Security under German law

(a) Each of the Secured Parties (other than the Security Agent) hereby appoints the Security Agent as German law trustee (*Treuhänder*) and administrator for the purpose of accepting and, administering the Transaction Security Documents subject to German law for and on behalf of the other Secured Parties and the Security Agent hereby accepts such appointment on the terms and subject to the conditions set out in this Agreement. The Security Agent shall (i) hold and administer and, as the case may be, release and (subject to it having become enforceable) realise in its own name as trustee (*treuhänderisch*) under German law any German Transaction Security granted to it under a non-accessory security right (*nicht-akzessorische Sicherheit*) and administer and, as the case may be, release (with prior consent of all the relevant Secured Parties) and (subject to it having become enforceable) realise any German Transaction Security granted under an accessory security right (*akzessorische Sicherheit*) in its own name as trustee (*treuhänderisch*) under German law, in each

case, for the benefit and account of the Secured Parties on the basis of the parallel debt (covenant to pay the Security Agent) pursuant to Clause 19.4 (*Parallel Debt (Covenant to pay the Security Agent)*) or otherwise.

(b) It is hereby agreed that, in relation to any jurisdiction the courts of which would not recognise or give effect to the trust (*Treuhand*) expressed to be created by paragraph (a) above, the relationship of the Secured Parties to the Security Agent in relation to any German Transaction Security interest shall be construed as one of principal and agent but, to the extent permissible under the laws of such jurisdiction, all the other provisions of this Clause 19.6 shall have full force and effect between the Parties.

19.7 No independent power

Subject to Clause 17.3 (*Treatment of Senior Secured Facilities Cash Cover*), the Secured Parties (other than the Security Agent) shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any rights or powers arising under the Transaction Security Documents (other than the Senior Secured Facilities Agreement, any other Senior Secured Facilities Finance Document, the Senior Secured Notes, the Senior Secured Notes Guarantees, the Senior Secured Notes Indenture, the Facility D Finance Documents (which shall be governed by the other applicable provisions hereof) and the indenture or facility agreement in relation to any Pari Passu Debt and the indenture in relation to any High Yield Notes) or make or receive any declarations in relation thereto except through the Security Agent.

19.8 Instructions to Security Agent and exercise of discretion

(a) Subject to paragraphs (e), (f), (g) and (i) below, the Security Agent shall act in accordance with any instructions given to it by the Senior Secured Instructing Group (acting through the relevant Creditor Representatives) or, if so instructed by the Senior Secured Instructing Group, refrain from exercising any right, power, authority or discretion vested in it as Security Agent and shall be entitled to assume that (i) any instructions received by it from the Creditor Representatives, the Creditors or a group of Creditors are duly given in accordance with the terms of the Debt Documents and (ii) unless it has received actual notice of revocation, that those instructions or directions have not been revoked.

(b) The Security Agent shall not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (a) above.

(c) The Security Agent shall be entitled to request instructions, or clarification of any direction, from the Senior Secured Instructing Group as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions and the Security Agent may refrain from acting unless and until those instructions or clarification are received by it.

(d) Save as provided in Clause 15 (*Enforcement of Transaction Security*), any instructions given to the Security Agent by the Senior Secured Instructing Group shall override any conflicting instructions given by any other Parties.

(e) Paragraph (a) above shall not apply:

(i) where a contrary indication appears in this Agreement;

(ii) where this Agreement requires the Security Agent to act in a specified manner or to take a specified action;

(iii) in respect of any provision which protects the Security Agent's own position in its personal capacity as opposed to its role of Security Agent for the Secured Parties including, without limitation, the provisions set out in Clauses 19.10 (*Security Agent's discretions*) to Clause 19.25 (*Disapplication*);

(iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:

(A) Clause 16.1 (*Non-Distressed Disposals*);

(B) Clause 17.1 (*Order of Application*);

(C) Clause 17.2 (*Prospective liabilities*);

(D) Clause 17.3 (*Treatment of Senior Secured Facilities Cash Cover*); and

(E) Clause 17.6 (*Permitted Deductions*).

(f) If giving effect to instructions given by the Senior Secured Instructing Group would (in the Security Agent's opinion) have an effect equivalent to any amendment or waiver which is subject to Clause 29 (*Consents, Amendments and Override*) (an "**Intercreditor Amendment**"), the Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the Security Agent) whose consent would have been required in respect of that Intercreditor Amendment.

(g) In exercising any discretion to exercise a right, power or authority under this Agreement where either:

(i) it has not received any instructions from the Senior Secured Instructing Group as to the exercise of that discretion; or

(ii) the exercise of that discretion is subject to paragraph (e)(iv) above,

the Security Agent shall do so having regard to the interests of all the Secured Parties.

(h) After the Senior Secured Discharge Date, the Security Agent shall act in accordance with any instructions given to it by the High Yield Secured Required Holders and all references in this Clause 19 to Senior Secured Instructing Group shall thereafter be taken to refer to the High Yield Secured Required Holders.

(i) Notwithstanding any other term of this Agreement or the other Debt Documents:

(i) the Facility D Security Agent shall be entitled to refrain from exercising any discretion or acting upon any requirement under the Debt Documents or acting upon any direction or instruction from the Senior Secured Instructing Group, the Security Agent or any other person, in each case until:

(A) (other than in respect of actions requested by the Security Agent pursuant to and in accordance with Clause 16.2 (*Distressed Disposals*)), the Facility D Agent has confirmed (or, if the Facility D Agent does not provide such a confirmation for any reason or following a Facility D Agent Permanent Resignation, the Security Agent has confirmed) in writing to the satisfaction of the Facility D Security Agent that the Facility D Security Agent should exercise such discretion or take such action;

(B) in respect of actions requested by the Security Agent pursuant to and in accordance with Clause 16.2 (*Distressed Disposals*), the Security Agent has confirmed in writing to the satisfaction of the Facility D Security Agent that the Facility D Security Agent should exercise such discretion or take such action;

(C) if reasonably requested by the Facility D Security Agent, the Facility D Security Agent has received an opinion of counsel or opinion of another qualified expert (at the expense of the Debtors) on which the Facility D Security Agent can rely and satisfactory to it in relation to the exercise of such discretion or the taking of any such action; and

(D) the Facility D Security Agent is indemnified and/or secured to its satisfaction (whether by way of payment in advance or otherwise) by the Parent; and

(ii) the Parties agree that the Facility D Security Agent shall be entitled to rely upon any such confirmation (and, if requested by it, any such opinion) without further investigation or enquiry and that it is irrevocably and unconditionally authorised to exercise such discretion or take any such action without further consent, sanction, authority or confirmation from any other Creditor, Debtor or person.

19.9 Security Agent's Actions

Without prejudice to the provisions of Clause 15 (*Enforcement of Transaction Security*) and Clause 19.8 (*Instructions to Security Agent and exercise of discretion*), the Security Agent may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action (or refrain from taking action) in the exercise of any of its powers and duties under the Debt Documents as it considers in its discretion to be appropriate. The Security Agent shall have all the rights, privileges and immunities which gratuitous trustees have or may have in England, even though it is entitled to remuneration.

19.10 Security Agent's discretions

The Security Agent may:

(a) assume (unless it has received actual notice to the contrary from a Hedging Bank or one of the Creditor Representatives) that (i) no Default has occurred and no Debtor or Third Party Chargor is in breach of or default under its obligations under any of the Debt Documents and (ii) any right, power, authority or discretion vested by any Debt Document in any person has not been exercised;

(b) if it receives any instructions or directions under Clause 15 (*Enforcement of Transaction Security*) to take any action in relation to the Transaction Security, assume that all applicable conditions under the Debt Documents for taking that action have been satisfied;

(c) engage, pay for and rely on the advice or services of any legal advisers, accountants, tax advisers, surveyors or other experts (whether obtained by the Security Agent or by any other Secured Party) whose advice or services may at any time seem necessary, expedient or desirable;

(d) rely upon any communication or document believed by it to be genuine and, as to any matters of fact which might reasonably be expected to be within the knowledge of a

Secured Party, any Creditor or a Debtor, upon a certificate signed by or on behalf of that person; and

(e) refrain from acting in accordance with the instructions of any Party (including bringing any legal action or proceeding arising out of or in connection with the Debt Documents) until it has received any indemnification and/or security that it may in its discretion require (whether by way of payment in advance or otherwise and such indemnification or security, in the case of the Senior Secured Creditors and the High Yield Secured Creditors, being granted by the ultimate beneficial owners or holders of the debt securities or loans constituted by such Liabilities (as applicable) and not by (i) the Relevant Creditor Representative (as applicable) or; (ii) prior to definitisation of the Senior Secured Notes, any Pari Passu Debt in the form of debt securities or the High Yield Notes (as applicable), the registered owner of the Senior Secured Notes, the relevant Pari Passu Debt or the relevant High Yield Secured Notes, as applicable) for all costs, losses and liabilities which it may incur in so acting.

19.11 Security Agent's obligations

The Security Agent shall promptly:

(a) copy to each Creditor Representative (as applicable) the contents of any notice or document received by it from any Debtor or Third Party Chargor (as applicable) under any Debt Document;

(b) forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party, provided that, except where a Debt Document expressly provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party;

(c) inform each Creditor Representative (as applicable) of the occurrence of any Default or any default by a Debtor or Third Party Chargor in the due performance of or compliance with its obligations under any Debt Document of which the Security Agent has received notice from any other party to this Agreement; and

(d) to the extent that a Party (other than the Security Agent) is required to calculate a Base Currency Amount, and upon a request by that Party, notify that Party of the relevant Security Agent's Spot Rate of Exchange.

19.12 Excluded obligations

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

(a) be bound to enquire as to (i) whether or not any Default has occurred or (ii) the performance, default or any breach by a Debtor or a Third Party Chargor of its obligations under any of the Debt Documents;

(b) be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account;

(c) be bound to disclose to any other person (including but not limited to any Secured Party) (i) any confidential information or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty;

(d) have any duty to ensure:

(i) that any payment or other financial benefit in respect of any of the Security Property or any Liabilities are duly and punctually paid, received or collected; or

(ii) the taking up of any (or any offer of any) stocks, shares, rights, moneys or other property accruing or offered at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise in respect of any of the Security Property or any Liabilities; or

(e) have or be deemed to have any relationship of trust or agency with, any Debtor, any Third Party Chargor or Subordinated Creditor.

19.13 Exclusion of liability

None of the Security Agent, any Receiver or any Delegate shall accept responsibility or be liable for:

(a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Agent or any other person in or in connection with any Debt Document or the transactions contemplated in the Debt Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Debt Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;

(c) any losses to any person or any liability arising as a result of taking or refraining from taking any action in relation to any of the Debt Documents, the Security Property or otherwise, whether in accordance with an instruction from the Senior Secured Instructing Group, any Creditor Representative, or Hedging Bank or otherwise unless directly caused by its gross negligence or wilful misconduct;

(d) the exercise of, or the failure to exercise, any judgment, discretion or power given to it by or in connection with any of the Debt Documents, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, the Debt Documents or the Security Property;

(e) any shortfall which arises on the enforcement or realisation of the Security Property; or

(f) without prejudice to the generality of paragraphs (a) to (e) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:

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

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

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or

the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

Without prejudice to any provision of any Debt Document excluding or limiting the liability of the Security Agent, any Receiver or Delegate, any liability of the Security Agent, any Receiver or Delegate arising under or in connection with any Debt Document or the Charged Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Agent, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Agent, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Security Agent, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Agent, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

19.14 No proceedings

No Party (other than the Security Agent, that Receiver or that Delegate) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Debt Document or any Security Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause 19.14, subject to Clause 1.3 (*Third Party Rights*) and the provisions of the Third Parties Rights Act.

19.15 Own responsibility

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

(a) the financial condition, status and nature of each member of the Restricted Group;

(b) the legality, validity, effectiveness, adequacy and enforceability of any Debt Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;

(c) whether that Secured Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Debt Document, the Security Property, the transactions contemplated by the Debt Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;

(d) the adequacy, accuracy and/or completeness of any information provided by the Security Agent or by any other person under or in connection with any Debt Document, the transactions contemplated by any Debt Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document; and

(e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property,

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

19.16 No responsibility to perfect Transaction Security

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

(a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Debtor or any Third Party Chargor to any of the Charged Property;

(b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Debt Documents or the Transaction Security;

(c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any applicable laws in any jurisdiction or to give notice to any person of the execution of any of the Debt Documents or of the Transaction Security;

(d) take, or to require any of the Debtors to take, any steps to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under the laws of any jurisdiction; or

(e) require any further assurances in relation to any of the Transaction Security Documents.

19.17 Insurance by Security Agent

(a) The Security Agent shall not be under any obligation to insure any of the Charged Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in the Debt Documents. The Security Agent shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.

(b) Where the Security Agent is named on any insurance policy as an insured party, it shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless a Creditor Representative shall have requested it to do so in writing and the Security Agent shall have failed to do so within fourteen days after receipt of that request.

19.18 Custodians and nominees

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

19.19 Acceptance of title

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any of the Debtors may have to any of the Charged Property and shall not be liable for or bound to require any Debtor or any Third Party Chargor to remedy any defect in its right or title.

19.20 Refrain from illegality

Notwithstanding anything to the contrary expressed or implied in the Debt Documents, the Security Agent may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction and the Security Agent may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

19.21 Business with the Debtors

The Security Agent may accept deposits from, lend money to, and generally engage in any kind of banking or other business with any of the Debtors whether or not it may or does lead to a conflict with the interests of any of the Secured Parties. Similarly the Security Agent may undertake business with or for others even though it may lead to a conflict with the interests of any of the Secured Parties.

19.22 Winding up of trust

If the Security Agent, with the written approval of each Creditor Representative and each Hedging Bank, determines that (a) all of the Secured Obligations and all other obligations secured by the Transaction Security Documents have been fully and finally discharged and (b) none of the Secured Parties is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Debtor pursuant to the Debt Documents:

(a) the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Transaction Security Documents; and

(b) any Retiring Security Agent shall release, without recourse or warranty, all of its rights under each of the Transaction Security Documents.

19.23 Powers supplemental

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

19.24 Trustee division separate

(a) In acting as trustee or agent for the Secured Parties, the Security Agent shall be regarded as acting through its Syndicated Loans Agency department which shall be treated as a separate entity from any of its other divisions or departments.

(b) If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.

19.25 Disapplication

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement save to the extent required by law. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act.

19.26 Subordinated Creditors and Debtors and Third Party Chargors: Power of Attorney

(a) Each Subordinated Creditor, Third Party Chargor and Debtor by way of security for its obligations under this Agreement irrevocably appoints the Security Agent to be its attorney to do (until the Final Discharge Date) anything which that Subordinated Creditor, Third Party Chargor or Debtor has authorised the Security Agent or any other Party to do under this Agreement or is itself required to do under this Agreement but has failed to do within ten Business Days of receiving notice requiring it to do so (and the Security Agent may delegate that power on such terms as it sees fit). Each Subordinated Creditor, Third Party Chargor and Debtor ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall do in the exercise or purported exercise of the power of attorney granted in this Clause 19.26.

(b) Each of the Subordinated Creditors and Debtors hereby relieves the Security Agent from the restrictions of self-dealing pursuant to Section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) or any other applicable restrictions of self-dealing pursuant to any other applicable law, in each case to the extent legally possible, to perform its duties and obligations as Security Agent hereunder. The Security Agent shall have the authority to sub-delegate the power granted hereunder in accordance with this Agreement and to grant an exemption from the restrictions imposed by such code provision to any sub-delegate.

19.27 No fiduciary duties

Nothing in this Agreement constitutes the Security Agent (except as expressly provided in this Agreement) as a trustee or fiduciary of any other person.

19.28 Duties of the Facility D Security Agent

(a) The Facility D Agent shall promptly send to the Facility D Security Agent such certification as the Facility D Security Agent may reasonably require pursuant to paragraph 7 (*Basis of Distribution*) of Schedule 6 (*Facility D Security Agency Provisions*).

(b) The duties of the Facility D Security Agent under the Facility D Finance Documents and this Agreement are solely mechanical and administrative in nature.

19.29 Role of the Facility D Security Agent

The Facility D Security Agent shall not be an agent or trustee of any Facility D Creditor (save as expressly provided in this Agreement or any Facility D Finance Document) or any Debtor or any other person under or in connection with any Facility D Finance Document or this Agreement. The Facility D Security Agent is not acting as an agent or trustee of any Shareholder Creditor.

19.30 No fiduciary duties

(a) Nothing in this Agreement constitutes the Facility D Security Agent (except as expressly provided in Clause 19.5 (*Parallel Debt (Covenant to pay Facility D Security Agent)*) or Schedule 6 (*Facility D Security Agency Provisions)*) as a trustee or fiduciary of any other person.

(b) The Facility D Security Agent shall not be bound to account to any Facility D Creditor for any sum or the profit element of any sum received by it for its own account.

19.31 Business with the Group

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

19.32 Rights and discretions of the Facility D Security Agent

(a) The Facility D Security Agent may rely on:

(i) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and

(ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

(b) The Facility D Security Agent may assume, unless a responsible officer of it in its capacity as security trustee or security agent for the Facility D Creditors has received notice in writing to the contrary from the Security Agent or the Facility Agent, that:

(i) no default, event of default or potential event of default, however described, has occurred;

(ii) any right, power, authority or discretion vested in any Party or any group of Facility D Creditors has not been exercised; and

(iii) any notice or request made by Holdco (other than a Utilisation Request or Selection Notice (each as defined in the Facility D Agreement) under the Facility D Agreement) is made on behalf of and with the consent and knowledge of all the Debtors.

The Facility D Security Agent is not obliged to monitor or enquire whether any such default, event of default or potential event of default has occurred.

(c) The Facility D Security Agent may rely without enquiry on any notice, consent or certificate of the Security Agent or any Facility D Creditor as to the matters certified therein.

(d) The Facility D Security Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.

(e) The Facility D Security Agent may act in relation to the Facility D Finance Documents and this Agreement through its personnel and agents.

(f) The Facility D Security Agent may disclose to any other Party any information it reasonably believes it has received as Facility D Security Agent.

(g) Notwithstanding any other provision of any Facility D Finance Document or this Agreement to the contrary, the Facility D Security Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation, or a breach of a fiduciary duty or duty of confidentiality.

(h) The Facility D Security Agent is not authorised to act on behalf of a Facility D Creditor (without first obtaining that party's consent) in any legal or arbitration proceedings relating to any Facility D Finance Document or this Agreement.

(i) The Facility D Security Agent shall not be required to give any bond, surety, guarantee or indemnity with respect to the performance of its duties or the exercise of its powers under this Agreement or any other Facility D Finance Document.

19.33 Responsibility for documentation

The Facility D Security Agent is not responsible for:

(a) the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Facility D Security Agent, a Debtor or any other person given in or in connection with any Facility D Finance Document or this Agreement; or

(b) the legality, validity, effectiveness, adequacy or enforceability of any Facility D Finance Document, this Agreement or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Facility D Finance Document or this Agreement.

19.34 Exclusion of liability

(a) Without limiting paragraph (b) below, the Facility D Security Agent will not be liable for any action taken by it under or in connection with any Facility D Finance Document, or this Agreement, unless directly caused by its gross negligence or wilful misconduct.

(b) No Party (other than the Facility D Security Agent) may take any proceedings against any officer, employee or agent of the Facility D Security Agent in respect of any claim it might have against the Facility D Security Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Facility D Finance Document or this Agreement and any officer, employee or agent of the Facility D Security Agent may rely on this Clause.

(c) The Facility D Security Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Facility D Finance Documents or this Agreement to be paid by it if it 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 it for that purpose.

19.35 Indemnities to the Facility D Security Agent

(a) Each Facility D Lender shall in proportion to its share of the Facility D Liabilities then outstanding indemnify the Facility D Security Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Facility D Security Agent (otherwise than by reason of its gross negligence or wilful misconduct) in acting as Facility D Security Agent under the Facility D Finance Documents or this Agreement (unless it has been reimbursed by a Debtor pursuant to a Facility D Finance Document or this Agreement).

(b) Holdco and each Debtor shall promptly and in any event within five Business Days of demand (accompanied by reasonable calculations or details of the amount demanded) indemnify the Facility D Security Agent against any reasonable third party cost, loss or liability incurred by the Facility D Security Agent (acting reasonably) as a result of:

(i) the Facility D Security Agent or its representative investigating any event which it reasonably believes is a default, an event of default or potential event of default, however described under any of the Facility D Finance Documents or this Agreement, provided that if after so doing it is established that the event or matter is not a default or event of default such cost, loss or liability of investigation will be for the account of the relevant Facility D Creditors; or

(ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

20. CHANGE OF SECURITY AGENT AND DELEGATION

20.1 Resignation of the Security Agent

(a) The Security Agent and/or the Facility D Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the Parent and the Creditor Representatives for each Secured Party and the Hedging Banks.

(b) Alternatively the Security Agent and/or the Facility D Security Agent may resign by giving not less than 30 days' notice to the other Parties in which case (i) in the case of the Facility D Security Agent, the Term Loan Agent and (ii) in the case of the Security Agent, the Administrative Agent, the Senior Secured Notes Trustee, the Facility D Agent and the Pari Passu Debt Representative(s) (or, after the Senior Secured Discharge Date, the High Yield Secured Required Holders for each tranche of High Yield Secured Notes) may after consultation with the Parent and the Hedging Banks appoint a successor Security Agent and/or the Facility D Security Agent.

(c) If the Administrative Agent, the Senior Secured Notes Trustee, the Facility D Agent and the Pari Passu Debt Representative(s) (or, after the Senior Secured Discharge Date, the High Yield Secured Required Holders for each High Yield Secured Notes) have not appointed a successor Security Agent in accordance with paragraph (b) above within 30 days after the notice of resignation was given, the Security Agent (after consultation with the Parent and the Hedging Banks) may appoint a successor Security Agent.

(d) The retiring Security Agent and/or the Facility D Security Agent (the "**Retiring Security Agent**") shall, at its own cost (other than in the case of the Facility D Security Agent which shall be for the account of the Parent), make available to the successor Security Agent and/or the Facility D Security Agent such documents and records and provide such assistance as the successor Security Agent and/or the Facility D Security Agent may reasonably request for the purposes of performing its functions as Security Agent and/or the Facility D Security Agent under the Debt Documents.

(e) The Security Agent's and/or the Facility D Security Agent's resignation notice shall only take effect upon (i) the appointment of a successor and (ii) the transfer of all of the Security Property (including, without limitation, all rights in respect of the Parallel Debt Obligations and the Parallel Debt (as applicable)) to that successor, provided that, in the case of the resignation of the Facility D Security Agent, any such

conditions in paragraphs (e)(i) and (e)(ii) may be waived by the Facility D Lender without the consent of any other Party. Each Creditor and Debtor will do all things that the Security Agent and/or the Facility D Security Agent requests in order to give effect to such transfer of Security Property (which shall include, without limitation, the execution of any assignments, transfers, releases or other documents that the Security Agent and/or the Facility D Security Agent may consider to be necessary to give effect to the transfer).

(f) Upon the appointment of a successor, the Retiring Security Agent shall be discharged from any further obligation in respect of the Debt Documents (other than its obligations under paragraph (b) of Clause 19.22 (*Winding up of trust*) and under paragraph (d) above) but shall, in respect of any act or omission by it whilst it was the Security Agent, remain entitled to the benefit of Clauses 19 (*The Security Agent*), 25.1 (*Debtors' indemnity*) and 25.4 (*Creditors' indemnity*). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.

(g) After consultation with the Parent, the Administrative Agent, the Senior Secured Notes Trustee, the Facility D Agent and the Pari Passu Debt Representative(s) (or, after the Senior Secured Discharge Date, the High Yield Secured Required Holders for each tranche of High Yield Secured Notes or, in the case of the Facility D Security Agent, the Term Loan Agent) may, by notice to the Security Agent, require it to resign in accordance with paragraph (b) above (or, at any time the Security Agent and/or the Facility D Security Agent is an Impaired Security Agent, by giving any shorter notice determined by the Administrative Agent, the Senior Secured Notes Trustee, the Facility D Agent and the Pari Passu Debt Representative(s) (or, after the Senior Secured Discharge Date, the High Yield Secured Required Holders for each tranche of High Yield Secured Notes)). In this event, the Security Agent and/or the Facility D Security Agent shall resign in accordance with paragraph (b) above (or in accordance with such shorter notice as determined by the Administrative Agent, the Senior Secured Notes Trustee, the Facility D Agent and the Pari Passu Debt Representative(s) (or, after the Senior Secured Discharge Date, the High Yield Secured Required Holders for each High Yield Secured Notes or, in the case of the Facility D Security Agent, the Term Loan Agent)) but the cost referred to in paragraph (d) above shall be for the account of the Parent.

20.2 Delegation

(a) Each of the Security Agent and/or the Facility D Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Debt Documents.

(b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent or the Facility D Security Agent (as applicable), that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties, and it shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any such delegate or sub-delegate.

20.3 Additional Security Agents

(a) The Security Agent and/or the Facility D Security Agent may at any time appoint (and subsequently remove) any person to act as a separate trustee or agent or as a co-trustee or co-agent jointly with it: (i) if it considers that appointment to be in the interests of the Secured Parties; or (ii) for the purposes of conforming to any legal

requirements, restrictions or conditions which the Security Agent or the Facility D Security Agent (as applicable) deems to be relevant; or (iii) for obtaining or enforcing any judgment in any jurisdiction, and the Security Agent and/or the Facility D Security Agent shall give prior notice to the Parent and each of the Creditor Representatives of that appointment.

(b) Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Security Agent or the Facility D Security Agent (as applicable) by this Agreement) and the duties and obligations that are conferred or imposed by the instrument of appointment.

(c) The remuneration that the Security Agent or the Facility D Security Agent (as applicable) may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent or the Facility D Security Agent (as applicable).

(d) The Parent shall pay and, within three Business Days of demand, indemnify any separate trustee or agent or co-trustee (which has been appointed in accordance with the provisions of this Clause 20.3) against any cost, loss or liability of such separate trustee or agent or co-trustee on terms to be mutually agreed between the Parent and the separate trustee or agent or co-trustee (such indemnity to be on substantially similar terms to the indemnities provided to the Security Agent and Facility D Security Agent under this Agreement).

21. CHANGES TO THE PARTIES

21.1 Assignments and transfers

No Party may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities except as permitted by this Clause 21.

21.2 New Pari Passu Creditors and Creditor Representatives

(a) In order for indebtedness in respect of any issuance of debt securities to constitute Pari Passu Debt for the purposes of this Agreement, the trustee in respect of those debt securities shall accede to this Agreement as the Creditor Representative in relation to that Pari Passu Debt pursuant to Clause 21.12 (*Creditor/Creditor Representative Accession Undertaking*).

(b) In order for indebtedness under any other loan, credit or guarantee facility to constitute Pari Passu Debt for the purposes of this Agreement, the facility agent in respect of that loan, credit or guarantee facility shall accede to this Agreement as the Creditor Representative in relation to that loan, credit or guarantee facility pursuant to Clause 21.12 (*Creditor/Creditor Representative Accession Undertaking*) or, if there is no facility agent in relation to that loan, credit or guarantee facility, each creditor in respect of that credit facility shall accede to this Agreement as a Pari Passu Creditor of that Pari Passu Debt.

(c) A Pari Passu Creditor under any other loan, credit or guarantee facility may assign any of its rights and benefits or transfer by novation any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities if:

(i) that assignment or transfer is in accordance with the terms of the relevant Pari Passu Debt Documents; and

(ii) where the Pari Passu Creditor is:

(A) not represented by a facility agent under the relevant Pari Passu Debt Document, any assignee or transferee of the Pari Passu Debt made available under that Pari Passu Debt Document has acceded to this Agreement as a Pari Passu Creditor pursuant to Clause 21.12 (*Creditor/Creditor Representative Accession Undertaking*); or

(B) represented by a facility agent under the relevant Pari Passu Debt Document, that facility agent has acceded to this Agreement as a Creditor Representative for the relevant Pari Passu Debt,

in each case, except where that assignee or transferee or relevant Creditor Representative (as the case may be) is already party to this Agreement.

(d) No Creditor shall be entitled to share in any of the Transaction Security or benefit of any provisions of this Agreement as a Pari Passu Creditor unless such creditor (or, as the case may be, the trustee in relation to the debt securities held by such creditor or the facility agent in relation to the loan, credit or guarantee facility) has acceded to this Agreement in accordance with paragraphs (a), (b) or (c) above.

21.3 New Senior Secured Facilities Lenders, Change of Senior Secured Facilities Lenders and Ancillary Lenders

(a) A Senior Secured Facilities Lender (including any Ancillary Lender) may assign any of its rights and benefits or transfer by novation any of its rights, benefits and obligations in respect of, or assume any rights, benefits and obligations as an Senior Secured Facilities Lender under, any Debt Documents or the Liabilities if that assignment, transfer or assumption is in accordance with the terms of the Senior Secured Facilities Agreement and without having to become party to this Agreement.

(b) If any Affiliate of a Senior Secured Facilities Lender becomes an Ancillary Lender in accordance with Section 2.22(f) (*Affiliates of Lenders as Ancillary Lenders*) of the Senior Secured Facilities Agreement, it shall not be entitled to share in any of the Transaction Security or in the benefit of any guarantee or indemnity in respect of any of the liabilities arising in relation to its Ancillary Facilities unless it has (if not already party to this Agreement as a Senior Secured Facilities Lender) acceded to this Agreement as a Senior Secured Facilities Lender and to the Senior Secured Facilities Agreement or the relevant Senior Secured Facilities Finance Document as an Ancillary Lender pursuant to Clause 21.12 (*Creditor/Creditor Representative Accession Undertaking*).

21.4 New Facility D Lenders and Change of Facility D Lender

Subject to the proviso below, a Facility D Lender may assign any of its rights and benefits or transfer by novation any of its rights, benefits and obligations in respect of, or assume any rights, benefits and obligations as Facility D Lender under, any Debt Documents or the Liabilities if that assignment or transfer is in accordance with the terms of the Facility D Agreement and without having to become party to this Agreement; provided that following a Facility D Agent Permanent Resignation any such subsequent Facility D Lender shall be required to accede to this Agreement by executing a Creditor/Creditor Representation Accession Undertaking.

21.5 Hedging Bank or change in Hedging Bank

(a) No person shall be entitled to share in any of the Transaction Security or in the benefit of any guarantee or indemnity in respect of any of the liabilities arising in relation to any Hedging Document unless it has acceded to this Agreement as a Hedging Bank.

(b) A Hedging Bank may (in accordance with the terms of the relevant Hedging Document and subject to any consent required under that Hedging Document) transfer any of its rights and benefits or obligations in respect of the Hedging Documents to which it is a party if any transferee has (if not already party to this Agreement as a Hedging Bank) acceded to this Agreement as a Hedging Bank pursuant to Clause 21.12 (*Creditor/Creditor Representative Accession Undertaking*).

21.6 Change of Creditor Representative

No person shall become a Creditor Representative unless at the same time, it accedes to this Agreement as a Creditor Representative pursuant to Clause 21.12 (*Creditor/Creditor Representative Accession Undertaking*).

21.7 New Intra-Group Lender

If any member of the Restricted Group makes a loan to or grants any credit to or makes any other financial arrangement having similar effect with any member of the Restricted Group which is a Debtor, where such loan or credit is in an amount exceeding $2,500,000, the Parent will procure that the person giving that loan, granting that credit or making that other financial arrangement (if not already party to this Agreement as an Intra-Group Lender) accedes to this Agreement, as an Intra-Group Lender pursuant to Clause 21.12 (*Creditor/Creditor Representative Accession Undertaking*).

21.8 Change of Intra-Group Lender

Subject to Clause 10.4 (*Acquisition of Intra-Group Liabilities*) and to the terms of the other Debt Documents, any Intra-Group Lender may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of the Intra-Group Liabilities to another member of the Restricted Group if that member of the Restricted Group has (if not already party to this Agreement as an Intra-Group Lender) acceded to this Agreement as an Intra-Group Lender, pursuant to Clause 21.12 (*Creditor/Creditor Representative Accession Undertaking*).

21.9 New Shareholder Creditor or High Yield Issuer

If the Parent becomes a borrower in respect of Indebtedness (as defined in the relevant Debt Document) from any direct or indirect shareholder in the Parent, or if a Holding Company of the Parent is or becomes party to any High Yield Documents and proposes to issue any High Yield Notes, the Parent will procure that the person giving that loan, granting that credit, making that other financial arrangement or issuing that High Yield Note (if not already party to this Agreement as a Shareholder Creditor or as the High Yield Issuer) accedes to this Agreement, as a Shareholder Creditor or High Yield Issuer (as the case may be) pursuant to Clause 21.12 (*Creditor/Creditor Representative Accession Undertaking*).

21.10 Change of Shareholder Creditor

Subject to Clause 11.4 (*Acquisition of Shareholder Liabilities*) and to the terms of the other Debt Documents, any Shareholder Creditor may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of the Shareholder Liabilities if the assignee or transferee has (if not already party to this Agreement as a Shareholder

Creditor) acceded to this Agreement as a Shareholder Creditor, pursuant to Clause 21.12 (*Creditor/Creditor Representative Accession Undertaking*).

21.11 High Yield Creditors and Creditor Representative

(a) In order for indebtedness in respect of any issuance of debt securities to constitute High Yield Liabilities for the purposes of this Agreement, the trustee in respect of those debt securities shall accede to this Agreement as the Creditor Representative in relation to that High Yield Note to Clause 21.12 (*Creditor/Creditor Representative Accession Undertaking*).

(b) A High Yield Creditor may assign any of its rights and benefits or transfer by novation any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities if that assignment or transfer is in accordance with the terms of the relevant High Yield Documents.

(c) No creditor shall be entitled to share in any of the Transaction Security or benefit of any provisions of this Agreement as a High Yield Secured Creditor unless such creditor (or, as the case may be, the trustee in relation to the debt securities held by such creditor) has acceded to this Agreement in accordance with paragraphs (a) or (b) above and at the option of the Parent, such issuance is to be secured as provided for, and in accordance with, any High Yield Secured Documents.

21.12 Creditor/Creditor Representative Accession Undertaking

With effect from the date of acceptance by the Security Agent of a Creditor/Creditor Representative Accession Undertaking duly executed and delivered to the Security Agent by the relevant acceding party or, if later, the date specified in that Creditor/Creditor Representative Accession Undertaking:

(a) any Party ceasing entirely to be a Creditor or a Creditor Representative (as the case may be) shall be discharged from further obligations towards the Security Agent and other Parties under this Agreement and their respective rights against one another shall be cancelled (except, in each case, for those rights which arose prior to that date);

(b) as from that date, the replacement or new Creditor or Creditor Representative shall assume the same obligations, and become entitled to the same rights, as if it had been an original Party to this Agreement in that capacity; and

(c) any new Ancillary Lender (which is an Affiliate of a Senior Secured Facilities Lender) shall also become party to the Senior Secured Facilities Agreement as an Ancillary Lender and shall assume the same obligations and become entitled to the same rights as if it had been an original party to the Senior Secured Facilities Agreement.

21.13 New Debtor and Third Party Chargor

(a) If any member of the Restricted Group:

(i) incurs any Liabilities under the Finance Documents; or

(ii) gives any security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities under the Finance Documents,

the Debtors will procure that the person incurring those Liabilities or giving that assurance accedes to this Agreement as a Debtor or Third Party Chargor, in accordance with paragraph (b) below, no later than contemporaneously with the incurrence of those Liabilities or the giving of that assurance.

(b) With effect from the date of acceptance by the Security Agent of a Debtor Accession Deed duly executed and delivered to the Security Agent by the new Debtor or, if later, the date specified in the Debtor Accession Deed, the new Debtor shall assume the same obligations and become entitled to the same rights as if it had been an original Party to this Agreement as a Debtor.

21.14 Additional parties

(a) Each of the Parties irrevocably appoints and instructs the Security Agent to receive on its behalf each Debtor Accession Deed and Creditor/Creditor Representative Accession Undertaking delivered to the Security Agent and the Security Agent shall, subject to paragraphs (b) and (d) below, promptly after receipt by it, sign and accept the same if it appears on its face to have been completed, executed and, where applicable, delivered in the form contemplated by this Agreement or, where applicable, by the relevant Debt Document.

(b) In the case of a Creditor/Creditor Representative Accession Undertaking delivered to the Security Agent by any new Ancillary Lender (which is an Affiliate of a Senior Secured Facilities Lender):

(i) the Security Agent shall, as soon as practicable after signing and accepting that Creditor/Creditor Representative Accession Undertaking in accordance with paragraph (a) above, deliver that Creditor/Creditor Representative Accession Undertaking to the relevant Creditor Representative; and

(ii) the relevant Creditor Representative shall, as soon as practicable after receipt by it, sign and accept that Creditor/Creditor Representative Accession Undertaking if it appears on its face to have been completed, executed and delivered in the form contemplated by this Agreement.

(c) The relevant Creditor Representative shall be obliged to sign and accept a Debtor Accession Deed or Creditor/Creditor Representative Accession Undertaking received by it promptly after receipt by it, provided that it is satisfied that it has complied with all necessary "know your customer" or similar other checks under all applicable laws and regulations in relation to the accession by the prospective party to this Agreement.

(d) Each Party shall promptly upon the request of the Security Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Security Agent (for itself) from time to time in order for the Security Agent to carry out and be satisfied with the results of all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Debt Documents.

(e) The Parent shall provide the Security Agent with copies (certified by a director of the Parent to be true and complete) of each Debt Document as soon as reasonably practicable upon execution.

21.15 Resignation of a Debtor

(a) The Parent may request that a Debtor ceases to be a Debtor by delivering to the Security Agent a Debtor Resignation Request.

(b) The Security Agent shall accept a Debtor Resignation Request and notify the Parent and each other Party of its acceptance if:

(i) the Parent has confirmed that no Default is continuing or would result from the acceptance of the Debtor Resignation Request;

(ii) prior to the Senior Secured Facilities Discharge Date, the Administrative Agent notifies the Security Agent that the Debtor is not, or has ceased to be, a Senior Secured Facilities Borrower or a Senior Secured Facilities Guarantor;

(iii) prior to the Senior Secured Notes Discharge Date, the Senior Secured Notes Trustee notifies the Security Agent (such notice not to be unreasonably delayed) that the Debtor is not, or has ceased to be, a Senior Secured Notes Issuer or a guarantor of the Senior Secured Notes;

(iv) prior to the Facility D Discharge Date, the Facility D Agent notifies the Security Agent that the Debtor is not, or has ceased to be, a Facility D Borrower or a Facility D Guarantor;

(v) prior to the Pari Passu Debt Discharge Date, the Creditor Representative in relation to each tranche of Pari Passu Debt notifies the Security Agent that the Debtor is not, or has ceased to be, a borrower, issuer and/or guarantor of that Pari Passu Debt;

(vi) prior to the Hedging Discharge Date, each Hedging Bank notifies the Security Agent (such notice not to be unreasonably delayed) that that Debtor is under no actual or contingent obligations to that Hedging Bank in respect of the Hedging Liabilities; and

(vii) the Parent confirms that that Debtor is under no actual or contingent obligations in respect of the Intra-Group Liabilities and the Subordinated Liabilities.

(c) Upon notification by the Security Agent to the Parent of its acceptance of the resignation of a Debtor, that member of the Restricted Group shall cease to be a Debtor and shall have no further rights or obligations under this Agreement as a Debtor.

(d) The Security Agent shall, promptly upon receipt of a Debtor Resignation Request, request the notifications required in paragraph (b) above and each party required to give a notification under paragraph (b) above shall, promptly following receipt of the request (and provided the relevant conditions in paragraph (b) above have been met) give such notification.

21.16 Notification by Security Agent

The Security Agent shall notify the Creditor Representatives promptly of the receipt and execution by it on their behalf of any Debtor Accession Deed.

22. RELEVANT CREDITOR REPRESENTATIVE PROTECTIONS

22.1 Limitation of Relevant Creditor Representative liability

(a) It is expressly understood and agreed by the Parties that this Agreement is executed and delivered by each Relevant Creditor Representative not individually or personally but solely in its capacity as trustee (in the case of a Note Trustee) and agent (in the case of the Administrative Agent, the RCF Agent, the Facility D Agent and any facility agent of Pari Passu Debt in the form of any loan, credit or guarantee facility) in the exercise of the powers and authority conferred and vested in it under the relevant Debt Documents to which it is party. It is further understood by the Parties (and each Creditor represented by a Creditor Representative) (together, a "**Relevant Party**") that in no case shall a Relevant Creditor Representative be (i) responsible or accountable in damages or otherwise to any Relevant Party for any loss, damage or claim incurred by reason of any act or omission performed or omitted by the Relevant Creditor Representative in good faith in accordance with this Agreement and in a manner that the Relevant Creditor Representative believed to be within the scope of the authority conferred on it by this Agreement and the Debt Documents to which it is party or by law, or (ii) personally liable for or on account of any of the statements, representations, warranties, covenants or obligations stated to be those of any Relevant Party, all such liability, if any, being expressly waived by the Relevant Parties and any person claiming by, through or under such Relevant Party, provided however, that the Relevant Creditor Representative (or any such successor thereof) shall be liable under this Agreement for its own negligence or wilful misconduct. It is also acknowledged that the Relevant Creditor Representative shall not have any responsibility for the actions or omissions of any individual holder of the notes or loans pursuant to the relevant Debt Documents.

(b) Each Relevant Creditor Representative shall have no liability for acting for itself or in any capacity other than as trustee and nothing in this Agreement shall impose on it any obligation to pay any amount out of its personal assets. Notwithstanding any other provision of this Agreement, its obligations hereunder (if any) to make any payment of any amount or to hold any amount on trust shall be only to make payment of such amount to or hold any such amount on trust to the extent that (i) it has actual knowledge that such obligation has arisen and (ii) it has received and, on the date on which it acquires such actual knowledge, has not distributed to the noteholders for which it acts as trustee in accordance with the relevant indenture any such amount.

22.2 Relevant Creditor Representative not fiduciary for other Creditors

Subject to the fiduciary duties owed pursuant to the relevant Debt Documents to which it is party, a Relevant Creditor Representative shall not be deemed to owe any fiduciary duty to any of the Creditors or any member of the Restricted Group and shall not be liable to any Creditor or any member of the Restricted Group if that Relevant Creditor Representative shall in good faith mistakenly pay over or distribute to the Creditors it represents or to any other person cash, property or securities to which any such Creditor shall be entitled by virtue of this Agreement or otherwise. With respect to the Creditors, each Relevant Creditor Representative undertakes to perform or to observe only such of its covenants or obligations as are specifically set forth in the Debt Documents to which it is party and this Agreement and no implied covenants or obligations with respect to the Creditors shall be read into this Agreement against any Relevant Creditor Representative.

22.3 Reliance on certificates

Each Relevant Creditor Representative may rely without enquiry on any notice, consent or certificate of the Security Agent or any other Creditor Representative as to the matters certified therein.

22.4 Relevant Creditor Representative

In acting under and in accordance with this Agreement, each Relevant Creditor Representative shall act in accordance with the Debt Documents to which it is party and under which it is appointed as Creditor Representative and shall seek any necessary instruction from the relevant Creditors it represents to the extent provided for, and in accordance with, the relevant Debt Documents, and where it so acts on the instructions of the relevant Creditors, the Relevant Creditor Representative shall not incur any liability to any person for so acting. No Relevant Creditor Representative is liable to any person for any loss suffered as a result of any delay caused as a result of its seeking instructions from such Creditors. Furthermore, in the case of a Note Trustee only, prior to taking any action under this Agreement, the relevant Note Trustee may reasonably request and rely upon an opinion of counsel or opinion of another qualified expert, at the Parent's, Senior Secured Note Issuer's or High Yield Issuer's expense, as applicable; provided, however, that any such opinions shall be at the expense of the relevant Creditors represented by the relevant Note Trustee if such actions are on the instructions of those Creditors.

22.5 Turnover obligations

Notwithstanding any provision in the Agreement to the contrary, a Relevant Creditor Representative shall only have an obligation to turn over or repay amounts received or recovered under this Agreement by it (i) if it had actual knowledge that the receipt or recovery is an amount received in breach of a provision of this Agreement (a "**Turnover Receipt**") and (ii) to the extent that, prior to receiving that knowledge, it has not distributed the amount of the Turnover Receipt to the Creditors it represents in accordance with the provisions of the relevant Debt Documents. For the purpose of this Clause 22.5, (i) "**actual knowledge**" of the Relevant Creditor Representative shall be construed to mean the Relevant Creditor Representative shall not be charged with knowledge (actual or otherwise) of the existence of facts that would impose an obligation on it to make any payment or prohibit it from making any payment unless a responsible officer of the Relevant Creditor Representative has received, not less than two Business Days' prior to the date of such payment, a written notice that such payments are required or prohibited by this Agreement; and (ii) "**responsible officer**" when used in relation to the Relevant Creditor Representative means any person who is an officer within the corporate trust and agency department of the Relevant Creditor Representative, including any managing director, director, associate director, vice president, assistant vice president, assistant treasurer, trust officer, or any other officer of the Relevant Creditor Representative who customarily performs functions similar to those performed by such officers, or to whom any corporate trust matter is referred because of such individual's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Agreement.

22.6 Creditors and the Relevant Creditor Representative

In acting pursuant to this Agreement and the Debt Documents to which it is party, the Relevant Creditor Representative is not required to have any regard to the interests of the Creditors (other than the Creditors for which it is Creditor Representative).

22.7 Relevant Creditor Representative; reliance and information

(a) A Relevant Creditor Representative may rely and shall be fully protected in acting or refraining from acting upon any notice or other document reasonably believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person.

(b) Each Relevant Creditor Representative may engage, pay for and rely on professional advisers selected by it (including those representing a person other than the Relevant Creditor Representative).

(c) Without affecting the responsibility of any Debtor or any Third Party Chargor for information supplied by it or on its behalf in connection with any Debt Document, each Creditor confirms that it has not relied exclusively on any information provided to it by the Relevant Creditor Representative in connection with any Finance Document. The Relevant Creditor Representative is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another party.

(d) The Relevant Creditor Representative is entitled to assume that:

(i) any payment or other distribution made in respect of the Liabilities, respectively, has been made in accordance with the provisions of this Agreement;

(ii) the proceeds of enforcement of any Security conferred by the Transaction Security Documents have been applied in the order set out in Clause 17 (*Application of Proceeds*);

(iii) any Security, collateral, guarantee or indemnity or other assurance granted to it has been done so in compliance with Clause 3 (*Transaction Security*);

(iv) any Senior Secured Notes or High Yield Notes issued comply with the provisions of this Agreement;

(v) no Default or Event of Default has occurred; and

(vi) the Senior Secured Discharge Date has not occurred,

unless a responsible officer of the Relevant Creditor Representative has received written notice to the contrary. The Relevant Creditor Representative is not obliged to monitor or enquire whether any such default has occurred.

(e) No Notes Trustee shall have any obligation under Clause 12 (*Effect of Insolvency Event*) or Clause 14 (*Redistribution*) in respect of amounts received or recovered by it unless (i) a responsible officer has actual knowledge that such Clauses apply to the receipt or recovery, and (ii) it has not distributed to the relevant noteholders in accordance with the relevant indenture any amount so received or recovered.

22.8 No action

(a) The Relevant Creditor Representative shall not have any obligation to take any action under this Agreement unless it is indemnified and/or secured to its satisfaction (whether by way of payment in advance or otherwise) by the Debtors, the Creditors for which it is a Creditor Representative, as applicable in respect of all fees, costs, expenses and liabilities which it would in its opinion thereby incur (including legal fees and together with any associated VAT). The Relevant Creditor Representative is not required to indemnify any other person, whether or not a Party in respect of the transactions contemplated by this Agreement.

(b) Notwithstanding any other provisions of this Agreement or any other Finance Document to which a Notes Trustee is a party to, in no event shall a Notes Trustee be liable for special, indirect, punitive or consequential loss or damages of any kind whatsoever (including but not limited to loss of business, goodwill, opportunity or profits) whether or not foreseeable even if such Notes Trustee has been advised of the likelihood of such loss or damage and regardless of whether the claim for loss or damage is made in negligence, for breach of contract or otherwise.

22.9 Departmentalisation

In acting as Relevant Creditor Representative, the Relevant Creditor Representative shall be treated as acting through its corporate trust department which shall be treated as a separate entity from its other divisions and departments. Any information received or acquired by the Relevant Creditor Representative which is received or acquired by some other division or department or otherwise than in its capacity as Notes Trustee may be treated as confidential by the Relevant Creditor Representative and will not be treated as information possessed by the Relevant Creditor Representative in its capacity as such.

22.10 Other parties not affected

This Clause 22 is intended to afford protection to each Relevant Creditor Representative only and no provision of this Clause 22 shall alter or change the rights and obligations as between the other parties in respect of each other.

22.11 Payments

Subject, where Clause 17 (*Application of Proceeds*) is applicable, nothing in this Agreement shall prevent (i) payment by the High Yield Issuer or any Debtor of fees, costs and expenses (including legal fees) of the Relevant Creditor Representative (including any amount payable to the Relevant Creditor Representative by way of indemnity, remuneration or reimbursement for expenses incurred) payable to the Relevant Creditor Representative for its own account pursuant to the relevant Debt Documents or any engagement letter between the Relevant Creditor Representative and the Debtor and/or High Yield Issuer, and the costs of any actual or attempted Enforcement Action which is permitted by this Agreement which are recoverable pursuant to the terms of the relevant Debt Documents (collectively, "**Relevant Creditor Representative Amounts**"); or (ii) the receipt and retaining of such Relevant Creditor Representative Amounts by the relevant Creditor Representative. Relevant Creditor Representative Amounts shall also include such amounts in respect of a Relevant Creditor Representative's advisors, receivers, delegates, attorneys, agents and appointees.

22.12 Security Agent and the Relevant Creditor Representative

(a) A Relevant Creditor Representative is not responsible for the appointment or for monitoring the performance of the Security Agent or the Facility D Security Agent.

(b) The Security Agent and the Facility D Security Agent agree and acknowledge that they shall have no claim against any Relevant Creditor Representative in respect of any fees, costs, expenses and liabilities due and payable to, or incurred by, the Security Agent or the Facility D Security Agent.

(c) Each Relevant Creditor Representative shall be under no obligation to instruct or direct the Security Agent or the Facility D Security Agent to take any Enforcement unless it shall have been instructed to do so by the relevant Creditors for which it is Creditor Representative and indemnified and/or secured to its satisfaction.

22.13 Provision of information

No Relevant Creditor Representative is obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Relevant Party. No Relevant Creditor Representative is responsible for:

(a) providing any Creditor with any credit or other information concerning the risks arising under or in connection with the Finance Documents (including any information relating to the financial condition or affairs of any Debtor or any High Yield Issuer or their related entities or the nature or extent of recourse against any Party or its assets) whether coming into its possession before, on or after the date of this Agreement; or

(b) obtaining any certificate or other document from any Debtor or any High Yield Issuer.

22.14 Disclosure of information

Each Debtor, each Third Party Chargor and each High Yield Issuer irrevocably authorises the Relevant Creditor Representative to disclose to any Creditor any information that is received by the Relevant Creditor Representative in its capacity as Creditor Representative.

22.15 Illegality

A Relevant Creditor Representative may refrain from doing anything (including disclosing any information) which might, in its opinion, constitute a breach of any law or regulation and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation.

22.16 Resignation of the Relevant Creditor Representative

A Relevant Creditor Representative may resign or be removed in accordance with the terms of the Debt Documents to which it is party and under which it has been appointed, provided that a replacement Relevant Creditor Representative agrees with the Parties to become the replacement trustee and/or agent (as the case may be) under this Agreement by the execution of a Creditor/Creditor Representative Accession Undertaking.

22.17 Provisions Survive Termination

The provisions of this Clause 22 shall survive any termination of discharge of this Agreement and the resignation or termination of a Relevant Creditor Representative.

22.18 Agents

The Notes Trustees may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any attorney or agent appointed with due care by it hereunder.

22.19 No Requirement for Bond or Security

The Notes Trustees shall not be required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Agreement.

22.20 Responsibility of Relevant Creditor Representatives

No Relevant Creditor Representative shall be responsible to any other Secured Party for the legality, validity, effectiveness, enforceability, adequacy, accuracy, completeness or performance of:

(a) any Secured Debt Document or any other document;

(b) any statement or information (whether written or oral) made in or supplied in connection with any Secured Debt Document or any other document; or

(c) any observance by any Debtor of its obligations under any Secured Debt Document or any other document.

22.21 Confirmation

Without affecting the responsibility of any Debtor for information supplied by it or on its behalf in connection with any Debt Document, each Secured Party (other than the Notes Trustees (in their personal capacity) and the Security Agent) confirms that it:

(a) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Secured Debt Documents (including the financial condition and affairs of each Debtor or their related entities and the nature and extent of any recourse against any Party or its assets); and

(b) has not relied on any information provided to it by the Notes Trustees in connection with any Secured Debt Documents.

23. ADDITIONAL INDEBTEDNESS

23.1 Incurrence of Additional Indebtedness

(a) This Clause 23.1 is subject to any restrictions in the Senior Secured Facilities Finance Documents of the Senior Secured Facilities Agreement.

(b) If a Debtor gives written notice to the Security Agent and the Creditor Representatives that it intends to enter into one or more loans and/or credit or guarantee facilities and/or issue any debt securities under which it will incur additional or replacement indebtedness ("**Additional Indebtedness**") which is, under the terms of the Senior Secured Notes Documents, the Facility D Agreement, the Senior Secured Facilities Finance Documents, the existing High Yield Documents and the existing Pari Passu Debt Documents, (x) permitted to share in the Transaction Security and/or rank behind any existing Liabilities and/or to share in any existing Security behind such existing Liabilities or (y) permitted to be incurred subject to agreement of intercreditor provisions in accordance with the terms of such Debt Document, then the Parties will (at the cost of the Parent) co-operate with the Debtors with a view to enabling such financing or refinancing and such sharing in the Security to take place (as applicable and subject to paragraph (d)(iii) below in relation to the retaking of Security) to enter into a new intercreditor agreement on substantially the same terms as this Agreement including terms with respect to the limitation on enforcement and release of guarantees and priority (or on terms more favourable to the Creditors) or on such terms as may otherwise be required by the Senior Secured Notes Documents, the Facility D Agreement, the Senior Secured Facilities Finance Documents, the existing High Yield Documents and the existing Pari Passu Debt Documents (as applicable) or make one or more amendments to this Agreement in each case to:

(i) cure defects, resolve ambiguities or reflect changes, in each case, of a minor, technical or administrative nature;

(ii) increase the amount or types of indebtedness covered by this Agreement or any additional intercreditor agreement that may be incurred by the Parent or the Debtors;

(iii) make provision for the security securing Additional Indebtedness to rank pari passu with the Transaction Security; or

(iv) make any other change that does not adversely affect the rights of the Secured Parties in any material respect.

(c) No Debtor will, and the Parent will not cause or permit any Restricted Subsidiary to, take or knowingly or negligently omit to take, any action which action or omission might or would have the result of materially impairing any Security Interest with respect to the Transaction Security (it being understood that the Transaction Security Documents or other Security permitted under the terms of the Debt Documents shall under no circumstances be deemed to materially impair the security interest of the Secured Parties).

(d) No Debtor will, and will not cause or permit any Restricted Subsidiary to, grant to any person other than the Security Agent, for the benefit of the Secured Parties, any interest whatsoever in any of the Transaction Security, provided that:

(i) if an Event of Default under the Senior Secured Facilities is continuing at that time, the required consent under the Senior Secured Facilities is obtained;

(ii) nothing in this provision shall restrict the discharge or release of the Transaction Security in accordance with the terms of this Agreement; and

(iii) subject to Clause 16.5 of this Agreement, no Transaction Security Document may be amended, extended, renewed, restated, supplemented or otherwise modified, replaced or released (followed by an immediate retaking of Security of at least equivalent ranking over the same assets) unless contemporaneously with such amendment, extension, replacement, restatement, supplement, modification, renewal or release (followed by an immediate retaking of Security of at least equivalent ranking over the same assets), the Parent delivers to the Security Agent or the Facility D Security Agent (in the case of amendment, extension, replacement, restatement, supplement, modification, renewal or release of the Facility D Security) either:

(A) a solvency opinion from an internationally recognised investment bank or accounting firm, in form and substance reasonably satisfactory to the Security Agent or the Facility D Security Agent, as the case may be, confirming the solvency of the Parent and its Restricted Subsidiaries, taken as a whole, after giving effect to any transactions related to such amendment, extension, renewal, restatement, supplement, modification or replacement or release and retaking;

(B) a certificate from the board of directors or chief financial officer of the relevant person, which certificate confirms the solvency of the person granting such Transaction Security after giving effect to any transactions related to such amendment, extension, renewal,

restatement, supplement, modification or replacement or release and retaking; or

(C) an opinion of counsel, in form and substance reasonably satisfactory to the Security Agent or the Facility D Security Agent, as the case may be, (subject to customary exceptions and qualifications), confirming that, after giving effect to any transactions related to such amendment, extension, renewal, restatement, supplement, modification, replacement or release and retaking, the Transaction Security created under the Transaction Security Documents so amended, extended, renewed, restated, supplemented, modified, replaced or released and retaken is valid and perfected Transaction Security not otherwise subject to any limitation imperfection or new hardening period, in equity or at law, that such Transaction Security was not otherwise subject to immediately prior to such amendment, extension, renewal, restatement, supplement, modification, replacement or release and retaking.

(e) At the direction of the Parent and without the consent of any Secured Party (or the Facility D Creditors in case of a change made to the Facility D Continuing Security Documents only), the Security Agent or the Facility D Security Agent may from time to time enter into one or more amendments to the Transaction Security Documents (or enter into any additional or supplemental transaction security documents) to: (i) cure any ambiguity, omission, defect or inconsistency therein, (ii) (but subject to compliance with paragraph (d) above) provide for Security permitted under the terms of the Debt Documents, (iii) add to the Transaction Security, or (iv) make any other change thereto that does not adversely affect the rights of the Secured Parties (or the Facility D Creditors in case of a change made to the Facility D Continuing Security Documents only) in any material respect.

(f) In the event that the Parent complies with paragraph (d) above, each Creditor Representative and the Security Agent and the Facility D Security Agent shall (subject to customary protections and indemnifications) consent to such amendment, extension, renewal, restatement, supplement, modification, replacement or release with no need for instructions from any other Secured Party.

23.2 Authorisation of Creditor Representatives

(a) The Administrative Agent is authorised to and shall enter into the documentation described in Clause 23.1 (*Incurrence of Additional Indebtedness*) on behalf of itself and the Senior Secured Facilities Lenders and the same shall be binding for all purposes on the Senior Secured Facilities Lenders.

(b) The Senior Secured Notes Trustee is authorised to and shall enter into the documentation described in Clause 23.1 (*Incurrence of Additional Indebtedness*) on behalf of itself and the Senior Secured Noteholders and the same shall be binding for all purposes on the Senior Secured Noteholders.

(c) Prior to a Facility D Agent Permanent Resignation, the Facility D Agent is authorised to and shall enter into the documentation described in Clause 23.1 (*Incurrence of Additional Indebtedness*) on behalf of itself and the Facility D Lenders and the same shall be binding for all purposes on the Facility D Lenders.

(d) The Pari Passu Debt Representative in relation to any Pari Passu Debt that constitutes an issuance of debt securities is authorised to and shall enter into the documentation described in Clause 23.1 (*Incurrence of Additional Indebtedness*) above on behalf of

itself and the relevant Pari Passu Creditors and the same shall be binding for all purposes on those Pari Passu Creditors.

(e) The High Yield Notes Trustee in relation to any High Yield Notes that constitutes an issuance of debt securities is authorised to and shall enter into the documentation described in Clause 23.1 (*Incurrence of Additional Indebtedness*) above on behalf of itself and the relevant High Yield Creditors and the same shall be binding for all purposes on those High Yield Creditors.

(f) Subject to paragraph (d) of Clause 23.1 (*Incurrence of Additional Indebtedness*), if any Primary Creditor fails to enter into the documentation described in Clause 23.1 (*Incurrence of Additional Indebtedness*) above within ten Business Days of being requested to do so by the Security Agent or a Debtor, that Primary Creditor's Creditor Representative is authorised to and shall (provided that the relevant Primary Creditor has not notified the relevant Creditor Representative prior to such date that the entry into such documentation would be illegal for or contrary to any regulation with which the relevant Primary Creditor is required to comply or customarily complies) enter into such documentation on such Primary Creditor's behalf and the same shall be binding for all purposes on such Primary Creditor.

(g) For the avoidance of doubt, no consent or approval from a Creditor is required to enable a Creditor Representative to act pursuant to this Clause 23.2.

24. COSTS AND EXPENSES

For the purposes of this Clause 24, the definition Security Agent shall include the Facility D Security Agent.

24.1 Security Agent's on-going costs

(a) In the event of (i) an Event of Default which is continuing or (ii) the Security Agent considering it necessary or expedient or (iii) the Security Agent being requested by a Debtor or the Senior Secured Instructing Group to undertake duties which the Security Agent and the Parent agree to be of an exceptional nature and/or outside the scope of the normal duties of the Security Agent under the Debt Documents, the Parent shall pay to the Security Agent any additional remuneration (together with any applicable VAT) that may be agreed between them.

(b) If the Security Agent and the Parent fail to agree upon the nature of those duties or upon any additional remuneration, that dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Parent or, failing approval, nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Parent) and the determination of any investment bank shall be final and binding upon the parties to this Agreement, *provided that* such investment bank shall not be an affiliate of the Security Agent or any of the Secured Parties.

24.2 Transaction expenses

The Parent shall, within three Business Days of demand, pay (or procure the payment to) the Security Agent the amount of all documented costs and expenses (including legal fees, subject to a cap, if any, agreed between the Parent and the Security Agent) (together with any applicable VAT) reasonably incurred by the Security Agent and any Receiver or Delegate in connection with the negotiation, preparation, printing, execution, syndication and perfection of:

(a) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and

(b) any other Debt Documents executed after the Effective Date.

24.3 Stamp taxes

The Parent shall pay and, within three Business Days of demand, indemnify the Security Agent against any cost, loss or liability the Security Agent incurs in relation to all stamp duty, registration and other similar Tax payable in respect of any Debt Document (other than any transfer or assignment document).

24.4 Interest on demand

If any Creditor or Debtor fails to pay any amount payable by it under this Agreement on its due date, interest shall, without double-counting, accrue on the overdue amount (and be compounded with it) from the due date up to the date of actual payment (both before and after judgment and to the extent interest at a default rate is not otherwise being paid on that sum under any other Debt Document) at the rate which is one per cent. per annum over the rate at which the Security Agent was being offered, by leading banks in the London interbank market, deposits in an amount comparable to the unpaid amounts in the currencies of those amounts for any period(s) that the Security Agent may from time to time select.

24.5 Enforcement and preservation costs

The Parent shall, within three Business Days of demand, pay (or procure the payment) to the Security Agent the amount of all costs and expenses (including reasonable legal fees and together with any applicable VAT) incurred by it in connection with the enforcement of or the preservation of any rights under any Debt Document and the Transaction Security and any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Transaction Security or enforcing these rights.

25. INDEMNITIES

For the purposes of this Clause 25, the definition Security Agent shall include the Facility D Security Agent.

25.1 Debtors' indemnity

Subject to any applicable guarantee limitations, each Debtor (jointly and severally) shall, within three Business Days of demand, indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability (together with any applicable VAT) incurred by any of them:

(a) in relation to or as a result of:

(i) any failure by the Parent to comply with obligations under Clause 22.20 (*Costs and Expenses*);

(ii) the taking, holding, protection or enforcement of the Transaction Security;

(iii) the exercise of any of the rights, powers, discretions and remedies vested in the Security Agent, each Receiver and each Delegate by the Debt Documents or by law;

(iv) any default by any Debtor in the performance of any of the obligations expressed to be assumed by it in the Debt Documents;

(v) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or

(vi) instructing lawyers, accountants, tax advisors, surveyors, a Financial Advisor or any other professional advisers or experts as permitted under this Agreement; or

(b) which otherwise relates to any of the Security Property or the performance of the terms of this Agreement (otherwise than as a result of the gross negligence or wilful misconduct of the Security Agent, such Receiver or such Delegate).

Each Debtor expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 25.1 will not be prejudiced by any release or disposal under Clause 16.2 (*Distressed Disposals*) taking into account the operation of that Clause 16.2 (*Distressed Disposals*) *provided that* such person remains a member of the Restricted Group after such release or disposal.

25.2 Norwegian guarantee limitations

The obligations and liabilities of any Debtor incorporated in Norway under this clause 25 (*Indemnities*) shall be deemed to have been given only to the extent such indemnity does not violate Sections 8-7 and 8-10 of the Norwegian Limited Companies Act 1997 (the "Norwegian Companies Act") regulating unlawful financial assistance and other restricted loans, guarantees and joint and several liability as well as providing of security, and the liability of each Debtor incorporated in Norway only applies to the extent permitted by such provisions of the Norwegian Companies Act. Any Norwegian Debtor's obligations under this Agreement shall, however, be interpreted so as to make it liable to the fullest extent permitted by the Norwegian Companies Act from time to time.

25.3 Priority of indemnity

The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in Clause 25.1 (*Debtors' indemnity*) and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it.

25.4 Creditors' indemnity

Each Secured Party (except the Creditor Representatives and the Arrangers) shall (in the proportion that the Liabilities due to it bears to the aggregate of the Liabilities due to all the Secured Parties for the time being (or, if the Liabilities due to each of those Secured Parties is zero, immediately prior to their being reduced to zero)), indemnify the Security Agent and every Receiver and every Delegate, within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct) in acting as Security Agent, Receiver or Delegate under the Debt Documents (unless the relevant Security Agent, Receiver or Delegate has been reimbursed by a Debtor pursuant to a Debt Document) and the Debtors shall jointly and severally indemnify each Creditor against any payment made by it under this Clause 25.

25.5 The Parent's indemnity to Creditors

The Parent shall promptly and as principal Debtor indemnify each Creditor against any cost, loss or liability (together with any applicable VAT), whether or not reasonably foreseeable, incurred by any of them pursuant to the operation of Clause 16.2 (*Distressed Disposals*).

26. INFORMATION

26.1 Information and dealing

(a) The Creditors and Creditor Representatives shall provide to the Security Agent and the Facility D Security Agent from time to time (the Creditors acting through the relevant Creditor Representative as applicable) any information that the Security Agent or the Facility D Security Agent may reasonably specify as being necessary to enable the Security Agent to perform its functions as Security Agent or the Facility D Security Agent or trustee, provided that no Creditor or Creditor Representative will be entitled to disclose any confidential information (including any material non-public information) if expressly prohibited by the Debt Documents.

(b) Each Senior Secured Facilities Lender shall deal with the Security Agent exclusively through the Administrative Agent and the Hedging Banks shall deal directly with the Security Agent and shall not deal through any agent.

(c) Prior to a Facility D Agent Permanent Resignation, each Facility D Lender shall deal with the Security Agent and the Facility D Security Agent exclusively through the Facility D Agent and shall not deal through any other agent.

(d) No Creditor Representative shall be under any obligation to act as agent or otherwise on behalf of any Hedging Bank except as expressly provided for in, and for the purposes of, this Agreement.

(e) Each Senior Secured Noteholder shall deal with the Security Agent exclusively through the Senior Secured Notes Trustee and each Pari Passu Creditor and the High Yield Creditor shall deal with the Security Agent exclusively through the relevant Pari Passu Debt Representative or the High Yield Notes Trustee (as applicable).

26.2 Disclosure

Provided that they are otherwise in compliance with the confidentiality provisions under the Finance Documents (as applicable) and subject to applicable law, but notwithstanding any agreement to the contrary, each of the Debtors consents, until the Final Discharge Date, to the disclosure by any of the Creditors, the Creditor Representatives, the Arrangers and the Security Agent to each other (whether or not through the Creditor Representatives or the Security Agent) of such information concerning the Debtors as any Creditor, any Arranger, any Creditor Representative or the Security Agent shall see fit.

26.3 Notification of prescribed events

(a) If an Event of Default or a Default under a Senior Secured Facilities Finance Document either occurs or ceases to be continuing the relevant Creditor Representative shall, upon becoming aware of that occurrence or cessation, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Creditor Representative.

(b) If an Event of Default or a Default under the Senior Secured Notes Indenture either occurs or ceases to be continuing the Senior Secured Notes Trustee shall, upon becoming aware of that occurrence or cessation, notify the Security Agent and the Facility D Security Agent and the Security Agent shall, upon receiving that notification, notify each other Creditor Representatives.

(c) If an Event of Default or a Default under the Facility D Agreement either occurs or ceases to be continuing the Facility D Agent shall, upon becoming aware of that

occurrence or cessation, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Creditor Representatives.

(d) If an Event of Default or a Default under a Pari Passu Debt Document either occurs or ceases to be continuing the relevant Pari Passu Debt Representative shall, upon becoming aware of that occurrence or cessation, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Creditor Representatives.

(e) If an Event of Default or a Default under an High Yield Document either occurs or ceases to be continuing the relevant High Yield Notes Trustee shall, upon becoming aware of that occurrence or cessation, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Creditor Representatives.

(f) If an Acceleration Event occurs, the relevant Creditor Representative shall notify the Security Agent and the Security Agent and the Facility D Security Agent shall, upon receiving that notification, notify each other Creditor Representative.

(g) If the Security Agent and the Facility D Security Agent enforces, or takes formal steps to enforce, any of the Transaction Security it shall notify each Creditor Representative of that action.

(h) If any Creditor exercises any right it may have to enforce, or to take formal steps to enforce, any of the Transaction Security it shall notify the Security Agent and the Facility D Security Agent and the Security Agent or the Facility D Security Agent shall, upon receiving that notification, notify each other Creditor Representative of that action.

(i) If a Debtor defaults on any Payment due under a Hedging Document (prior to the expiry of any applicable notice or grace periods under that Hedging Document), the Hedging Bank which is party to that Hedging Document shall, upon becoming aware of that default, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each Creditor Representative.

(j) If a Hedging Bank terminates or closes-out, in whole or in part, any transaction under any Hedging Document under Clause 8.8 (*Permitted Enforcement: Hedging Banks*) it shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Creditor Representative.

(k) Each of the Creditor Representatives shall promptly notify the Security Agent and the Facility D Security Agent of the occurrence of the Final Discharge Date.

26.4 Hedging Bank

(a) Each Hedging Bank shall on request from either a Creditor Representative or the Security Agent from time to time notify each Creditor Representative and the Security Agent of the Notional Amount (as defined in the relevant Hedging Document) of each Hedging Document to which it is a party and the residual maturity of each such Hedging Document.

(b) If any Hedging Bank does not promptly on request notify each of the Creditor Representatives and the Security Agent of any matter pursuant to paragraph (a) above, the Creditor Representatives and the Security Agent may assume that the Notional Amount (as defined in the relevant Hedging Document) of each relevant Hedging

Document is that set out in that Hedging Document and may calculate the residual maturity of each relevant Hedging Document by reference to that Hedging Document.

27. NOTICES

27.1 Communications in writing

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

27.2 Security Agent's communications with Creditors

The Security Agent and the Facility D Security Agent shall be entitled to carry out all dealings with the Creditors (other than the Hedging Banks) and the Arrangers through the relevant Creditor Representative and may give to the relevant Creditor Representative any notice or other communication required to be given by the Security Agent and the Facility D Security Agent to a Creditor and with each Hedging Bank directly with that Hedging Bank.

27.3 Addresses

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

(a) in the case of the Parent and the Senior Secured Notes Issuer, that identified in the Amendment and Restatement Deed;

(b) in the case of the Security Agent and the Facility D Security Agent, that identified in the Amendment and Restatement Deed; and

(c) in the case of each other Party, that identified in the Amendment and Restatement Deed or that notified in writing to the Security Agent on or prior to the date on which it becomes a Party,

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

27.4 Delivery

(a) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:

(i) if by way of fax, when received in legible form; or

(ii) if by way of letter, when it has been left at the relevant address or seven Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 27.3 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Security Agent or the Facility D Security Agent or the Senior Secured Notes Trustee will be effective only when actually received by the Security Agent, the Facility D Security Agent or the Senior Secured Notes Trustee and then only if it is expressly marked for the attention

of the department or officer identified with the Security Agent's or the Facility D Security Agent's (or the Senior Secured Notes Trustee's) signature below (or any substitute department or officer as the Security Agent or the Senior Secured Notes Trustee shall specify for this purpose).

(c) All notices to and from a Debtor shall be sent through the relevant Creditor Representative. The Parent may make and/or deliver as agent of each Debtor notices and/or requests on behalf of each Debtor.

(d) Any communication or document made or delivered to the Parent or the Senior Secured Notes Issuer in accordance with this Clause 27.4 will be deemed to have been made or delivered to each of the Debtors.

27.5 Notification of address, email address and fax number

Promptly upon receipt of notification of an address, email address and fax number or change of address, email address or fax number pursuant to Clause 27.3 (*Addresses*) or changing its own address, email address or fax number, the Security Agent shall notify the other Parties.

27.6 Electronic communication

(a) Any communication to be made between the Security Agent or the Facility D Security Agent and the Creditor Representatives, the Arrangers or the Creditors under or in connection with this Agreement may be made by electronic mail or other electronic means, if the Security Agent, the Facility D Security Agent, the relevant Creditor Representative, Arranger and Creditor:

(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 Security Agent, the Facility D Security Agent and a Creditor Representative, Arranger, Hedging Bank or Creditor will be effective only when actually received in readable form and in the case of any electronic communication made by a Creditor Representative, Arranger, Hedging Bank or Creditor to the Security Agent or the Facility D Security Agent only if it is addressed in such a manner as the Security Agent or the Facility D Security Agent shall specify for this purpose.

27.7 English language

(a) Any notice or communication given under or in connection with this Agreement must be in English.

(b) All other documents provided under or in connection with this Agreement must be:

(i) in English; or

(ii) if not in English, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

27.8 Hedging Documents

For the avoidance of doubt, this Clause 27 (*Notices*) shall not apply to any communication between a Hedging Bank and a Debtor under or in connection with a Hedging Document.

28. PRESERVATION

28.1 Partial invalidity

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

28.2 No impairment

If, at any time after its date, any provision of a Debt Document (including this Agreement) is not binding on or enforceable in accordance with its terms against a person expressed to be a party to that Debt Document, neither the binding nature nor the enforceability of that provision or any other provision of that Debt Document will be impaired as against the other party(ies) to that Debt Document.

28.3 Remedies and waivers

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

28.4 Waiver of defences

The provisions of this Agreement will not be affected by an act, omission, matter or thing which, but for this Clause 28.4, would reduce, release or prejudice the subordination and priorities expressed to be created by this Agreement including (without limitation and whether or not known to any Party):

(c) any time, waiver or consent granted to, or composition with, any Debtor or other person;

(d) the release of any Debtor or any other person under the terms of any composition or arrangement with any creditor of any member of the Restricted Group;

(e) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Debtor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;

(f) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Debtor or other person;

(g) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature, and

whether or not more onerous) or replacement of a Debt Document or any other document or security including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Debt Document or security;

(h) any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security;

(i) any intermediate Payment of any of the Liabilities owing to the Creditors in whole or in part;

(j) any insolvency or similar proceedings;

(k) any postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of any person under any Debt Document resulting from any insolvency, liquidation or dissolution proceedings or from any law, regulation or order; or

(l) this Agreement or any other Debt Document not being executed by, or binding against, any person.

28.5 Priorities not affected

Except as otherwise provided in this Agreement the priorities referred to in Clause 2 (*Ranking and Priority*) will:

(a) not be affected by any reduction or increase in the principal amount secured by the Transaction Security in respect of the Liabilities owing to the Secured Parties or by any intermediate reduction or increase in, amendment, replacement, supplement or variation to any of the Debt Documents, or by any variation or satisfaction of, any of the Liabilities or any other circumstances;

(b) apply regardless of the order in which or dates upon which this Agreement and the other Debt Documents are executed or registered or notice of them is given to any person; and

(c) secure the Liabilities owing to the Secured Parties in the order specified, regardless of the date upon which any of the Liabilities arise or of any fluctuations in the amount of any of the Liabilities outstanding.

29. CONSENTS, AMENDMENTS AND OVERRIDE

29.1 Required consents

(a) Subject to paragraph (b) below, to Clause 23.1 (*Incurrence of Additional Indebtedness*), Clause 29.4 (*Exceptions*) and to Clause 29.5 (*Disenfranchisement of Sponsor Affiliates*), this Agreement may be amended or waived or any consent may be given under it with the written agreement of the Administrative Agent (acting on the instructions of the Senior Secured Facilities Required Lenders), the Facility D Agent (acting on the instructions of the Facility D Required Lenders), the Senior Secured Notes Trustee (acting on the instructions of the Senior Secured Notes Required Holders in accordance with the terms of the Senior Secured Notes Indenture), the Pari Passu Debt Required Holders (or the Pari Passu Debt Representative acting on the instructions of the Pari Passu Debt Required Holders in accordance with the terms of the Pari Passu Debt Documents), the High Yield Required Holders (or the High Yield Notes Trustee(s) acting on the instructions of the

relevant tranche of High Yield Required Holders in accordance with the terms of the relevant High Yield Documents), the Parent, the Facility D Security Agent and the Security Agent (except for amendments of a minor, technical or administrative nature which may be effected by the Security Agent and the Parent), provided that to the extent an amendment, waiver or consent only affects one class of Secured Party or High Yield Unsecured Creditor, and such amendment, waiver or consent could not reasonably be expected to materially and adversely affect the interests of the other classes of Secured Party or High Yield Unsecured Creditor, only written agreement from the affected class shall be required.

(b) An amendment or waiver of this Agreement that has the effect of changing or which relates to:

(i) Clause 2 (*Ranking and Priority*), Clause 13 (*Turnover of Receipts*), Clause 14 (*Redistribution*), Clause 15 (*Enforcement of Transaction Security*), Clause 16 (*Proceeds of Disposals*), Clause 17 (*Application of Proceeds*), this Clause 29;

(ii) paragraphs (e)(iii), (f) and (g) of Clause 19.8 (*Instructions to Security Agent and exercise of discretion*); and

(iii) the order of priority or subordination under this Agreement,

shall not be made without the written consent of all of:

(A) the Administrative Agent (acting on the instructions of all Senior Secured Facilities Lenders in accordance with the terms of the Senior Secured Facilities Finance Documents);

(B) the Senior Secured Notes Trustee (acting in accordance with the terms of the Senior Secured Indenture);

(C) the Facility D Agent (acting on the instructions of all Facility D Lenders in accordance with the terms of the Facility D Agreement);

(D) in the case of any Pari Passu Debt constituting an issuance of debt securities, the Pari Passu Debt Representative (acting in accordance with the terms of the relevant Pari Passu Debt Documents);

(E) in the case of any Pari Passu Debt constituting a credit facility, the Pari Passu Creditors in that tranche of Pari Passu Debt (or the relevant Pari Passu Debt Representative acting on their behalf);

(F) in the case of any High Yield Notes constituting an issuance of debt securities, the High Yield Notes Trustee (acting in accordance with the terms of the relevant High Yield Documents);

(G) each Hedging Bank (to the extent that the amendment or waiver would adversely affect the Hedging Bank);

(H) the Parent; and

(I) the Security Agent and the Facility D Security Agent.

(c) Subject to Clause 29.4 (*Exceptions*), any amendment or waiver or consent given in accordance with this Clause 29 (*Consents, Amendments and Override*) will be binding on all Parties.

29.2 Amendments and Waivers: Transaction Security Documents

(a) Subject to paragraph (b) of Clause 16.1 (*Non-Distressed Disposals*), Clause 16.2 (*Distressed Disposals*), paragraph (b) below and to Clause 29.4 (*Exceptions*) and unless the provisions of any Debt Document expressly provide otherwise, the Security Agent may, if authorised by the Administrative Agent (acting on the instruction and on behalf of the Senior Secured Facilities Required Lenders), the Senior Secured Notes Trustee (acting on the instructions and on behalf of the Senior Secured Notes Required Holders in accordance with the terms of the Senior Secured Notes Indenture), the Facility D Agent (acting on the instructions and on behalf of the Facility D Required Lenders in accordance with the terms of the Facility D Agreement), the Pari Passu Debt Required Holders in respect of each tranche of Pari Passu Debt (or the Pari Passu Debt Representatives acting on the instructions of the Pari Passu Debt Required Holders of each tranche of Pari Passu Debt in accordance with the terms of the relevant Pari Passu Debt Documents), the High Yield Secured Required Holders in respect of each tranche of High Yield Secured Notes and if the Parent consents, and in the case of the Facility D Continuing Security Documents only the Facility D Security Agent if authorised by the Facility D Lenders acting in accordance with the Facility D Agreement, amend the terms of, waive any of the requirements of or grant consents under, any of the Transaction Security Documents which shall be binding on each Party.

(b) Subject to paragraph (c) of Clause 29.4 (*Exceptions*), the prior consent of the Administrative Agent (acting on the instruction and on behalf of the Senior Secured Facilities Required Lenders), the Senior Secured Notes Trustee (acting on the instructions and on behalf of the Senior Secured Notes Required Holders in accordance with the terms of the Senior Secured Notes Indenture), the Facility D Agent (acting on the instructions and on behalf of the Facility D Required Lenders in accordance with the terms of the Facility D Agreement), the Pari Passu Debt Required Holders in respect of each tranche of Pari Passu Debt (or the Pari Passu Debt Representatives acting on the instructions of the Pari Passu Debt Required Holders of each tranche of Pari Passu Debt in accordance with the terms of the relevant Pari Passu Debt Documents), the High Yield Secured Required Holders in respect of each tranche of High Yield Notes and the Security Agent (or in the case of the Facility D Continuing Security Documents only, the Term Loan Agent (acting as specified above) and the Facility D Security Agent, is required to authorise any amendment or waiver of, or consent under, any Transaction Security Document which would affect the nature or scope of the Charged Property or the manner in which the proceeds of enforcement of the Transaction Security are distributed.

29.3 Effectiveness

Any amendment, waiver or consent given in accordance with this Clause 29 (*Consents, Amendments and Override*) will be binding on all Parties and the Security Agent and the Facility D Security Agent (in relation to the Facility D Continuing Security Documents only) may effect, on behalf of any Creditor Representative, Arranger or Creditor, any amendment, waiver or consent permitted by this Clause 29 (*Consents, Amendments and Override*).

29.4 Exceptions

(a) Subject to paragraphs (c) and (d) below, if the amendment, waiver or consent may impose new or additional obligations on or withdraw or reduce the rights of any Party other than:

(i) in the case of a Creditor, in a way which affects or would affect Creditors of that Party's class generally (and for the avoidance of doubt, (i) the Senior

Secured Facilities Lenders are a different class of Creditor from the Senior Secured Notes Creditors, the Facility D Creditors, the High Yield Creditors and the Pari Passu Creditors and (ii) the Senior Secured Creditors are a different class of Creditor from the High Yield Creditors); or

(ii) in the case of a Debtor, to the extent consented to by the Parent under paragraph (a) of Clause 29.2 (*Amendments and Waivers: Transaction Security Documents*),

the consent of that Party (or: (A) in the case of the Senior Secured Noteholders, the consent of the Senior Secured Notes Trustee; (B) in the case of the Facility D Lenders, the consent of the Facility D Agent; (C) in the case of any Pari Passu Creditor, the Creditor Representative in relation to such Pari Passu Debt; and (D) in the case of any High Yield Creditor in respect of an issue of debt securities comprising High Yield Notes, the Creditor Representative in relation to such High Yield Notes is required is required).

(b) Subject to paragraphs (c) and (d) below, an amendment, waiver or consent which relates to the rights or obligations of a Creditor Representative, an Arranger, the Security Agent or the Facility D Security Agent (including, without limitation, any ability of the Security Agent or the Facility D Security Agent to act in its discretion under this Agreement) or a Hedging Bank may not be effected without the consent of that Creditor Representative or, as the case may be, Arranger, the Security Agent or the Facility D Security Agent or that Hedging Bank.

(c) Neither paragraph (a) nor (b) above, nor paragraph (b) of Clause 29.2 (*Amendments and Waivers: Transaction Security Documents*) shall apply:

(i) to any release of Transaction Security, claim or Liabilities; or

(ii) to any consent,

which, in each case, the Security Agent or the Facility D Security Agent gives in accordance with Clause 16 (*Proceeds of Disposals*).

(d) Paragraphs (a) and (b) above shall apply to an Arranger only to the extent that Arranger Liabilities are then owed to that Arranger.

(e) This Agreement may be amended by the Creditor Representatives (without any further instruction from the relevant creditor groups), the Security Agent and the Parent without the consent of any other Party to cure defects, typographical errors, resolve ambiguities or reflect changes in each case of a minor technical or administrative nature.

29.5 Disenfranchisement of Sponsor Affiliates

(a) For so long as a Sponsor Affiliate (i) beneficially owns a Senior Secured Facilities Commitment or (ii) has entered into a sub-participation agreement relating to a Senior Secured Facilities Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated:

(i) in ascertaining:

(A) the Majority Senior Secured Creditors; or

(B) whether:

(I) any relevant percentage (including, for the avoidance of doubt, unanimity) of Senior Secured Credit Participations; or

(II) the agreement of any specified group of Creditors,

has been obtained to approve any request for a Consent or to carry any other vote or approve any action under this Agreement,

that Senior Secured Facilities Commitment shall be deemed to be zero and that Sponsor Affiliate (or the person with whom it has entered into that sub-participation, other agreement or arrangement (a "**Counterparty**")) shall be deemed not to be a Senior Secured Facilities Lender (except to the extent that a Counterparty is a Senior Secured Facilities Lender by virtue otherwise than by beneficially owning the relevant Senior Secured Facilities Commitment).

(b) Each Sponsor Affiliate that is a Senior Secured Facilities Lender agrees that:

(i) in relation to any meeting or conference call to which all the Creditors, all the Senior Secured Facilities Lenders or any combination of those groups of Creditors are invited to attend or participate, it shall not attend or participate in the same if so requested by the Administrative Agent or, unless such Credit Representatives otherwise agree, be entitled to receive the agenda or any minutes of the same; and

(ii) it shall not, unless the Administrative Agent otherwise agrees, be entitled to receive any report or other document prepared at the behest of, or on the instructions of, such Creditor Representative or one or more of the Creditors.

29.6 Disenfranchisement of Defaulting Lenders

(a) For so long as a Defaulting Lender has any Available Commitment:

(i) in ascertaining:

(A) the Majority Senior Secured Creditors; or

(B) whether:

(I) any relevant percentage (including, for the avoidance of doubt, unanimity) of Senior Secured Credit Participations; or

(II) the agreement of any specified group of Creditors

has been obtained to approve any request for a Consent or to carry any other vote or approve any action under this Agreement,

that Defaulting Lender's Commitments will be reduced by the amount of its Available Commitments and, to the extent that that reduction results in that Defaulting Lender's Commitments being zero, that Defaulting Lender shall be deemed not to be a Senior Secured Facilities Lender.

(b) For the purposes of this Clause 29.6, the relevant Creditor Representative may assume that the following Creditors are Defaulting Lenders:

(i) any Senior Secured Facilities Lender which has notified the Security Agent that it has become a Defaulting Lender;

(ii) any Senior Secured Facilities Lender to the extent that the relevant Creditor Representative has notified the Security Agent that that Senior Secured Facilities Lender is a Defaulting Lender; and

(iii) any Senior Secured Facilities Lender in relation to which it is aware that any of the events or circumstances referred to in paragraphs (a), (b) or (c) of the definition of "Defaulting Lender" in the Senior Secured Facilities Agreement has occurred, unless it has received notice to the contrary from the Senior Secured Facilities Lender concerned (together with any supporting evidence reasonably requested by the Administrative Agent) or the Administrative Agent is otherwise aware that the Senior Secured Facilities Lender has ceased to be a Defaulting Lender.

29.7 Calculation of Senior Secured Credit Participations

For the purpose of ascertaining whether any relevant percentage of Senior Secured Credit Participations has been obtained under this Agreement, the Security Agent may notionally convert the Senior Secured Credit Participations into their Base Currency Amounts.

29.8 Deemed consent

If, at any time prior to the Final Discharge Date, the Creditors give a consent, approval, release or waiver or agreement to any amendment (a "**Consent**") in respect of the Finance Documents then, if that action was permitted by the terms of this Agreement, the Subordinated Creditors and the Parent will (or will be deemed to):

(a) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and

(b) do anything (including executing any document) that the Creditors may reasonably require to give effect to paragraph (a) of this Clause 29.8.

29.9 Excluded consents

Clause 29.8 (*Deemed consent*) does not apply to any Consent which has the effect of:

(a) increasing or decreasing the Liabilities;

(b) changing the basis upon which any Permitted Payments are calculated (including the timing, currency or amount of such Payments); or

(c) changing the terms of this Agreement or of any Transaction Security Document.

29.10 No liability

None of the Creditors or Creditor Representatives will be liable to any other Creditor or Debtor or Third Party Chargor for any Consent given or deemed to be given under this Clause 29.

29.11 Agreement to override

(a) The other Debt Documents are subject to this Agreement and unless expressly stated otherwise in this Agreement, in the event of a conflict between the terms of a Debt Document and this Agreement the terms of this Agreement shall prevail.

(b) Notwithstanding anything to the contrary in this Agreement, the preceding paragraph (a) as between any Creditor and any Debtor or any member of the Restricted Group or Third Party Chargor will not cure, postpone, waive or negate in any manner any default or event of default (howsoever described) under any Debt Document as provided in the relevant Debt Document.

30. 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.

31. GOVERNING LAW

This Agreement and any non-contractual obligation arising out of or in connection with this Agreement is governed by, and shall be construed in accordance with, English law.

32. ENFORCEMENT

32.1 Jurisdiction

(a) Subject to paragraph (c) below, the courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement) or any non-contractual obligation arising out of or in connection with this Agreement (a "**Dispute**").

(b) Subject to paragraph (c) below, the Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) This Clause 32.1 is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

32.2 Service of process

(a) Without prejudice to any other mode of service allowed under any relevant law each Debtor (unless incorporated in England and Wales):

(i) irrevocably appoints the Parent as its agent for service of process in relation to any proceedings before the English courts in connection with this Agreement (and the Parent by its execution of this Agreement accepts that appointment); and

(ii) agrees that failure by a process agent to notify the relevant Debtor of the process will not invalidate the proceedings concerned;

(b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Parent (in the case of an agent for service of process for a Debtor or a Third Party Chargor) must immediately (and in any event within 15 Business Days of such event taking place) notify the Administrative Agent, Facility D Security Agent, the Facility D Agent, the Senior Secured Notes Trustee, the High Yield Notes Trustees and the Pari Passu Debt Representatives. Failing this, the Administrative Agent, the Senior Secured Notes Trustee, the High Yield Notes

Trustee or each Pari Passu Debt Representative (as the case may be) may appoint another agent for this purpose.

(c) Each Debtor and each Third Party Chargor expressly agrees and consents to the provisions of this Clause 32 and Clause 31 (*Governing Law*).

This Agreement has been entered into on the date stated at the beginning of this Agreement and executed as a deed by the Debtors, the Third Party Chargors, the Intra-Group Lenders and the Shareholder Creditors and is intended to be and is delivered by them as a deed on the date specified above.

SCHEDULE 1

Part 1
Original Intra-Group Lenders

Name of Entity	Jurisdiction of incorporation	Registration numbers
KCA Deutag Alpha Limited	England and Wales	06433748
KCA Deutag UK Finance PLC	England and Wales	09015065
Abbot Group Limited	England and Wales	00623285
Abbot Holdings Limited	England and Wales	02682916
KCA DEUTAG Drilling Group Limited	England and Wales	01059871
Abbot Investments (North Africa) Limited	England and Wales	05246036
KCA DEUTAG Caspian Limited	England and Wales	01877963
KCA European Holdings Limited	England and Wales	04286946
KCA DEUTAG Drilling Limited	Scotland	SC031961
KCA DEUTAG Technical Support Limited	Scotland	SC219425
Bentec GmbH Drilling and Oilfield Systems	Germany	HRB 130192
KCA DEUTAG Drilling GmbH	Germany	HRB 130813
Abbot Verwaltungsgesellschaft mbH	Germany	HRB 131347
KCA DEUTAG Tiefbohrgesellschaft mbH	Germany	HRB 131390
KCA DEUTAG Holdings Norge AS	Norway	987 558 741
Abbot Holdings Norge AS	Norway	989 528 270
KCA DEUTAG Drilling Norge AS	Norway	918 357 688
KCA DEUTAG Modular Rigs AS	Norway	979 392 710
KCA DEUTAG Offshore AS	Norway	986 709 770
KCA DEUTAG Drilling (Ben Rinnes) AS.	Norway	990 397 082
KCA DEUTAG Pte. Ltd.	Singapore	200510888Z
KCA DEUTAG Overseas Limited	Cyprus	HE 123933

KCA DEUTAG (Cyprus) Limited	Cyprus	HE 123984
KCA DEUTAG Europe BV	The Netherlands	34162210
KCA DEUTAG Nederland B.V.	The Netherlands	34162211
KCA DEUTAG Investments BV	The Netherlands	04078668
KCA Deutag Investments Limited	British Virgin Islands	672960

Part 2
Original Shareholder Creditors

Name of Entity	Jurisdiction of incorporation	Registration numbers
KCA Deutag Holdings II Limited	England and Wales	7555965
KCA Deutag Alpha II Limited	England and Wales	06511474

Part 3
Original Debtors

Name of Entity	Jurisdiction of incorporation	Registration numbers
KCA Deutag Alpha Limited	England and Wales	06433748
KCA Deutag UK Finance PLC	England and Wales	09015065
Abbot Group Limited	England and Wales	00623285
Abbot Holdings Limited	England and Wales	02682916
KCA DEUTAG Drilling Group Limited	England and Wales	01059871
Abbot Investments (North Africa) Limited	England and Wales	05246036
KCA DEUTAG Caspian Limited	England and Wales	01877963
KCA European Holdings Limited	England and Wales	04286946
KCA DEUTAG Drilling Limited	Scotland	SC031961
KCA DEUTAG Technical Support Limited	Scotland	SC219425
KCA Deutag Rig Design Services Limited	Scotland	SC421351
KCA DEUTAG GmbH	Germany	HRB131828

KCA DEUTAG Drilling GmbH	Germany	HRB 130813
Abbot Verwaltungsgesellschaft mbH	Germany	HRB 131347
KCA DEUTAG Tiefbohrgesellschaft mbH	Germany	HRB 131390
Bentec GmbH Drilling and Oilfield Systems	Germany	HRB 130192
KCA DEUTAG Holdings Norge AS	Norway	987 558 741
Abbot Holdings Norge AS	Norway	989 528 270
KCA DEUTAG Offshore AS	Norway	986 709 770
KCA DEUTAG Drilling (Ben Rinnes) AS	Norway	990 397 082
KCA DEUTAG Drilling Norge AS	Norway	918 357 688
KCA DEUTAG Modular Rigs AS	Norway	979 392 710
KCA Deutag US Finance LLC	Delaware	5522859
KCA DEUTAG Europe B.V.	The Netherlands	34162210
KCA DEUTAG Nederland B.V.	The Netherlands	34162211

Part 4
Original Third Party Chargors

Name of Entity	**Jurisdiction of incorporation**	**Registration numbers**
KCA Deutag Alpha II Limited	England and Wales	06511474

SCHEDULE 2

FORM OF DEBTOR ACCESSION DEED

THIS AGREEMENT is made on [•] and made between:

(1) [*Insert Full Name of New Debtor*] (the "**Acceding Debtor**"); and

(2) [*Insert Full Name of Security Agent*] (the "**Security Agent**"), for itself and each of the other parties to the intercreditor agreement referred to below.

This agreement is made on [*date*] by the Acceding Debtor in relation to an intercreditor agreement (the "**Intercreditor Agreement**") dated [•] between, amongst others, [•] as Security Agent, [•] as Administrative Agent and the Debtors (each as defined in the Intercreditor Agreement).

The Acceding Debtor intends to [incur Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]:

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

the "**Relevant Documents**".

IT IS AGREED as follows:

1. Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Agreement, bear the same meaning when used in this Agreement.

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

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

   (b) all proceeds of that Security; and]*

   (c) all obligations expressed to be undertaken by the Acceding Debtor to pay amounts in respect of the Liabilities (or under the Parallel Debt Obligations under Clause 19.4 (*Parallel Debt (Covenant to pay the Security Agent)*) to the Security Agent as trustee or agent for the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding Debtor (in the Relevant Documents or otherwise) in favour of the Security Agent as trustee or agent for the Secured Parties,

   on trust or as trustee (*Treuhänder*) under German law or, as the case may be, administer as trustee (*Treuhänder*) under German law or as agent for the Secured Parties, in each case, on the terms and conditions contained in the Intercreditor Agreement.

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

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

5. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by, and shall be construed in accordance with, English law.

THIS AGREEMENT has been signed on behalf of the Security Agent and executed as a deed by the Acceding Debtor and is delivered on the date stated above.

The Acceding Debtor)

EXECUTED AS A DEED)

By: [*Full Name of Acceding Debtor*])

_____

_____

Address for notices:

Address:

Fax:

The Security Agent

[*Full Name of Security Agent*]

By:

Date:

SCHEDULE 3

FORM OF CREDITOR/CREDITOR REPRESENTATIVE ACCESSION UNDERTAKING

To: [*Insert full name of current Security Agent*] for itself and each of the other parties to the Intercreditor Agreement referred to below.

From: [*Acceding Creditor/Creditor Representative*]

THIS UNDERTAKING is made on [*date*] by [*insert full name of Acceding Creditor/Creditor Representative*] (the "**Acceding Creditor/Creditor Representative**") in relation to the intercreditor agreement (the "**Intercreditor Agreement**") dated [•] between, among others, [*INSERT NAME OF SECURITY AGENT*] as Security Agent, [*INSERT NAME OF AGENT*] as Administrative Agent and the Debtors (each as defined in the Intercreditor Agreement). Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Undertaking, bear the same meanings when used in this Undertaking.

In consideration of the Acceding Creditor/Creditor Representative being accepted as a

[[Senior Secured Facilities Lender]/[Ancillary Lender]/[Hedging Bank]/[Senior Secured Notes Trustee]/[Facility D Agent]/[Pari Passu Creditor]/[Hedging Bank]/[Creditor Representative for [*insert relevant senior secured creditor including where creditor representative in paragraph (g) of definition of Creditor Representative*] and as a Senior Secured Creditor] **OR** [[High Yield Secured Creditor]/[High Yield Unsecured Creditor] and as Creditor Representative for the [High Yield Secured Creditor]/[High Yield Unsecured Creditor] **OR** [Intra-Group Lender] **OR** [Shareholder Creditor] [1]

for the purposes of the Intercreditor Agreement, the Acceding Creditor/Creditor Representative confirms that, as from [*date*], it intends to be party to the Intercreditor Agreement as a

[[Senior Secured Facilities Lender]/[Ancillary Lender]/[Hedging Bank]/[Senior Secured Notes Trustee]/[Facility D Agent]/[Pari Passu Creditor]/[Hedging Bank]/[Creditor Representative for [*insert relevant senior secured creditor including where creditor representative in paragraph (g) of definition of Creditor Representative*] and as a Senior Secured Creditor] **OR** [[High Yield Secured Creditor]/[High Yield Unsecured Creditor] and as Creditor Representative for the [High Yield Secured Creditor]/[High Yield Unsecured Creditor] **OR** [Intra-Group Lender] **OR** [Shareholder Creditor][2]

and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a

[[Senior Secured Facilities Lender]/[Ancillary Lender]/[Hedging Bank]/[Senior Secured Notes Trustee]/[Facility D Agent]/[Pari Passu Creditor]/[Hedging Bank]/[Creditor Representative for [*insert relevant senior secured creditor including where creditor representative in paragraph (g) of definition of Creditor Representative*] and as a Senior Secured Creditor] **OR** [[High Yield Secured Creditor]/[High Yield Unsecured Creditor] and as Creditor Representative for the [High Yield Secured Creditor]/[High Yield Unsecured Creditor] **OR** [Intra-Group Lender] **OR** [Shareholder Creditor][3]

and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

---

[1] Note: insert all intended capacities of Acceding Creditor/Creditor Representative.

[2] Note: insert all intended capacities of Acceding Creditor/Creditor Representative.

[3] Note: insert all intended capacities of Acceding Creditor/Creditor Representative.

[The Acceding Hedging Bank has become a provider of hedging arrangements to [the Parent]. In consideration of the Acceding Hedging Bank being accepted as a "Hedge Counterparty" for the purposes of the Senior Secured Facilities Agreement, the Acceding Hedging Bank confirms, for the benefit of the parties to the Senior Secured Facilities Agreement, that, as from [*date*], it intends to be party to the Senior Secured Facilities Agreement as a "Hedge Counterparty", and undertakes to perform all the obligations expressed in the Senior Secured Facilities Agreement to be assumed by a "Hedge Counterparty" and agrees that it shall be bound by all the provisions of the Senior Secured Facilities Agreement, as if it had been an original party to the Senior Secured Facilities Agreement as a "Hedge Counterparty".][4]

This Undertaking and any non-contractual obligations arising out of or in connection with it are governed by, and shall be construed in accordance with, English law.

THIS UNDERTAKING has been entered into on the date stated above [and is executed as a deed by the Acceding Creditor/Creditor Representative, if it is acceding as [an Intra-Group Lender]/[a Shareholder Creditor] and is delivered on the date stated above].

Acceding Creditor/Creditor Representative
[*insert full name of Acceding Creditor/Agent*]

By:
Address:
Fax:

Accepted by the Security Agent

_____

for and on behalf of
[*Insert full name of current Security Agent*]
Date:

[4] To be included if the proposed Acceding Creditor/Creditor Representative is a Hedging Bank.

SCHEDULE 4

FORM OF DEBTOR RESIGNATION REQUEST

To: [●] as Security Agent

From: [*resigning Debtor*] and [the Parent]

Dated:

Dear Sirs

[●] - Intercreditor Agreement dated [●] (the "**Intercreditor Agreement**")

1. We refer to the Intercreditor Agreement. This is a Debtor Resignation Request. Terms defined in the Intercreditor Agreement have the same meaning in this Debtor Resignation Request unless given a different meaning in this Debtor Resignation Request.

2. Pursuant to Clause 21.15 (*Resignation of a Debtor*) of the Intercreditor Agreement we request that [*resigning Debtor*] be released from its obligations as a Debtor under the Intercreditor Agreement.

3. We confirm that:

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

   (b) [*resigning Debtor*] is under no actual or contingent obligations in respect of the Subordinated Liabilities.

4. This letter and any non-contractual obligations arising out of or in connection with it are governed by, and shall be construed in accordance with, English law.

[The Parent]	[*resigning Debtor*]
By:	By:

SCHEDULE 5

FACILITY D CONTINUING SECURITY DOCUMENTS

Name of Security Grantor	Security Document
KCA DEUTAG (Cyprus) Ltd	Cypriot law general debenture
KCA DEUTAG Overseas Ltd	Cypriot law general debenture
KCA DEUTAG Offshore AS	Singaporean law share charge relating to the shares in KCA DEUTAG Pte. Ltd.
KCA DEUTAG Drilling Group Ltd	Cypriot law share pledge agreement relating to the shares in KCA DEUTAG (Cyprus) Ltd
KCA Deutag Investments Ltd	Cypriot law share pledge agreement relating to the shares in KCA Overseas Ltd
KCA DEUTAG Drilling (Ben Rinnes) AS	Panamanian law first preferred mortgage over the Ben Rinnes jack-up rig
KCA DEUTAG Pte. Ltd	Singaporean law general debenture Marshall Islands law vessel mortgage over the Ben Loyal jack-up rig Scottish law account charge
KCA DEUTAG Tender Barges (Offshore) Pte. Ltd	English law security assignment deed
KCA DEUTAG Tender Barges Pte. Ltd	English law security assignment deed Singaporean law general debentures and ship mortgages
Abbot Investments (North Africa) Ltd	Singaporean law share charges relating to the shares in KCA DEUTAG Global Tender Barges Pte. Ltd.

SCHEDULE 6

FACILITY D SECURITY AGENCY PROVISIONS

1 Definitions

In this Schedule:

"**Group Security Property**" means all right, title and interest in, to and under any Facility D Continuing Security Document, including:

(a) all the assets of the Facility D Continuing Obligors which from time to time are, or are expressed to be, the subject of the Security created or expressed to be created in favour of the Facility D Security Agent pursuant to the Facility D Continuing Security Documents ("**Charged Property**");

(b) the benefit of the undertakings in any Facility D Continuing Security Document; and

(c) all sums received or recovered by the Facility D Security Agent pursuant to any Facility D Continuing Security Document and any assets representing the same.

2 Declaration of Trust

2.1 The Facility D Security Agent and each other Facility D Creditor agree that the Facility D Security Agent shall hold the Group Security Property in trust for the benefit of the Facility D Creditors on the terms of the Agreement.

2.2 Subject to paragraph 2.3 of this Schedule, paragraph 2.1 of this Schedule shall not apply to any Facility D Continuing Security Document which is expressed to be or is construed to be governed by any law other than English law or any other law from time to time designated by the Facility D Security Agent and a Facility D Continuing Obligor or any Group Security Property arising under any such Facility D Security Document.

2.3 Paragraph 2.2 of this Schedule shall not affect or limit Clause 19.5 (*Parallel Debt (Covenant to pay Facility D Security Agent)*) nor the applicability of the other provisions of this Schedule with respect to any Facility D Continuing Security Document which is expressed to be or is construed to be governed by any law other than English law or any other law from time to time designated by the Facility D Security Agent and a facility D Continuing Obligor or any Group Security Property arising under any such Facility D Security Document.

3 Defects in Security

The Facility D Security Agent shall not be liable for any failure or omission to perfect, or defect in perfecting, the Security created pursuant to any Facility D Security Document, including:

3.1 failure to obtain any authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration for the execution, validity, enforceability or admissibility in evidence of any Facility D Continuing Security Document; or

3.2 failure to effect or procure registration of or otherwise protect or perfect any of the Security created by the Facility D Continuing Security Documents under any laws in any territory.

4 No Enquiry

The Facility D Security Agent may accept without enquiry, requisition, objection or investigation such title as any Facility D Continuing Obligor may have to any Charged Property.

5 Retention of Documents

The Facility D Security Agent may hold title deeds and other documents relating to any of the Charged Property in such manner as it sees fit (including allowing any Facility D Continuing Obligor to retain them).

6 Indemnity out of Group Security Property

The Facility D Security Agent and every receiver, delegate, attorney, agent or other similar person appointed under any Facility D Continuing Security Document may indemnify itself out of the Group Security Property against any cost, loss or liability incurred by it in that capacity (otherwise than by reason of its own gross negligence, wilful misconduct or fraud).

7 ***[Intentionally left blank]***

8 Basis of Distribution

To enable it to make any distribution, the Facility D Security Agent may fix a date as at which the amount of the Facility D Liabilities is to be calculated and may require, and rely on, a certificate from any Party giving details of:

8.1 any sums due or owing to any Party as at that date; and

8.2 such other matters as it thinks fit.

9 Rights of Facility D Security Agent

The Facility D Security Agent shall have all the rights, privileges and immunities which gratuitous trustees have or may have in England, even though it is entitled to remuneration.

10 No Duty to Collect Payments

Except as otherwise stated in this Agreement, the Facility D Security Agent shall not have any duty:

10.1 to ensure that any payment or other financial benefit in respect of any of the Charged Property or any Facility D Liabilities is duly and punctually paid, received or collected; or

10.2 to ensure the taking up of any (or any offer of any) stocks, shares, rights, moneys or other property accruing or offered at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise in respect of any of the Charged Property or any Facility D Liabilities.

11 ***[Intentionally left blank]***

12 Appropriation

12.1 Each Party irrevocably waives any right to appropriate any payment to, or other sum received, recovered or held by, the Facility D Security Agent in or towards payment of any particular part of the Facility D Liabilities and agrees that the Facility D Security Agent shall have the exclusive right to do so.

12.2 Paragraph 12.1 of this Schedule will override any application made or purported to be made by any other person.

13 Investments

All money received or held by the Facility D Security Agent pursuant to the trusts in this Agreement may, in the name of, or under the control of, the Facility D Security Agent:

13.1 be invested in any investment it may select; or

13.2 be deposited at such bank or institution (including itself, any other Facility D Creditor or any Affiliate of any Facility D Creditor) as it thinks fit.

14 Suspense Account

Subject to paragraph 15 (*Timing of Distributions*) of this Schedule, the Facility D Security Agent may:

14.1 hold in an interest bearing suspense account any moneys received by it from any Party; and

14.2 invest an amount equal to the balance from time to time standing to the credit of that suspense account in any of the investments authorised by paragraph 13 (*Investments*) of this Schedule.

15 Timing of Distributions

Distributions by the Facility D Security Agent shall be made as and when determined by it.

16 Delegation

16.1 The Facility D Security Agent may:

16.1.1 employ and pay an agent selected by it to transact or conduct any business and to do all acts required to be done by it (including the receipt and payment of money);

16.1.2 delegate to any person on any terms (including power to sub-delegate) all or any of its functions; and

16.1.3 with the prior consent of the Facility D Agent under the Facility D Agreement, appoint, on such terms as it may determine, or remove, any person to act either as separate or joint security trustee or agent with those rights and obligations vested in the Facility D Security Agent by this Agreement or any Facility D Continuing Security Document.

16.2 The Facility D Security Agent will not be:

16.2.1 responsible to anyone for any misconduct or omission by any agent, delegate or security trustee or security agent appointed by it pursuant to paragraph 16.1 of this Schedule; or

16.2.2 bound to supervise the proceedings or acts of any such agent, delegate or security trustee or security agent,

provided that it exercises reasonable care in selecting that agent, delegate or security trustee or security agent.

17 Unwinding

Any appropriation or distribution which later transpires to have been or is agreed by the Facility D Security Agent to have been invalid or which has to be refunded shall be refunded and shall be deemed never to have been made.

18 Party

The Facility D Security Agent shall be entitled to assume that a Party is acting in a particular capacity stated in this Agreement or an accession deed or undertaking with respect hereto unless notified to the contrary.

SIGNATORIES

HOLDCO

EXECUTED as a DEED by KCA DEUTAG ALPHA II LIMITED

By: [redacted]

Name: Lynne Thomson

Title: SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynn Murray

Address of Witness: c/o Minto Dr

Occupation of Witness: Office Assistant

FACILITY D BORROWERS

EXECUTED as a DEED by ABBOT GROUP LIMITED

By: [redacted]

Name: LYNNE THOMSON

Title: SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: LYNN MUTCH

Address of Witness: c/o Minto Dr

Occupation of Witness: CoSec Assistant

EXECUTED as a DEED by KCA DEUTAG HOLDINGS NORGE AS

By: [redacted]

Name: Lynne Thomson

Title: SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynn Munro

Address of Witness: c/o Minto Dr

Occupation of Witness: Co Sec Assistant

EXECUTED as a DEED by ABBOT HOLDINGS NORGE AS

By: [redacted]

Name: Lynne Thomson

Title: SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynn Mottram

Address of Witness: 9a Minto Dr

Occupation of Witness: CoSec Assistant

EXECUTED as a DEED by KCA DEUTAG OFFSHORE AS

By: [redacted]

Name: LYNNE THOMSON

Title: SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: LYNN MUTCH

Address of Witness: c/o Minto Drive

Occupation of Witness: Exec Assistant

SENIOR AGENT

SIGNED on behalf of **THE ROYAL BANK OF SCOTLAND PLC**

[redacted]

By: .....

Name: PAUL FLETCHER

Title: DIRECTOR

Address:

Telephone:

Attention:

Email:

Fax:

Syndicated Loans Agency
The Royal Bank of Scotland plc
2 1/2 Devonshire Square
London
EC2M 4BA

(Signature Page to Amendment and Restatement Deed)

SECURITY AGENT

SIGNED on behalf of **THE ROYAL BANK OF SCOTLAND PLC**

[redacted]

By: .....

Name: PAUL FLETCHER

Title: DIRECTOR

Address:

Telephone:

Attention:

Email:

Fax:

Syndicated Loans Agency
The Royal Bank of Scotland plc
2 1/2 Devonshire Square
London
EC2M 4BA

PARENT

EXECUTED as a DEED by KCA DEUTAG ALPHA LIMITED

By: .....[redacted]

Name: .....Lynne Thomson.....

Title: .....SVP- HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....[redacted]

.....c/o Minto Dr.....

.....

.....

Occupation of Witness: ...Co Sec Assistant.....

ORIGINAL INTRA-GROUP LENDERS

EXECUTED as a DEED by KCA DEUTAG ALPHA LIMITED

By: .....[redacted].....

Name: .....LYNNE THOMSON.....

Title: .....SVP - HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....LYNN MUNRO.....

Address of Witness: .....C/o Minto Dr.....

.....

.....

.....

Occupation of Witness: ...Co Sec Assistant.....

EXECUTED as a DEED by KCA DEUTAG UK FINANCE PLC

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP - HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....C/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Co Sec Assistant.....

EXECUTED as a DEED by ABBOT GROUP LIMITED

By:	[redacted]
Name:	Lynne Thomson
Title:	SVP - HR
Address:	Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland
Telephone:	+44 (0) 1224 299730
Attention:	Alastair MacLennan
Email:	alastair.maclennan@kcadeutag.com
Fax:	+44 (0) 1224 230411
Signature of Witness:	[redacted]
Name of Witness:	Leann Mowat
Address of Witness:	c/o Minto Dr
Occupation of Witness:	Cosec Assistant

EXECUTED as a DEED by ABBOT HOLDINGS LIMITED

By: .....[redacted].....

Name: .....Lynne Thomson

Title: .....SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: .....[redacted].....

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....46 Minto Dr.....

.....

.....

.....

Occupation of Witness: .....CoSec Assistant.....

EXECUTED as a DEED by KCA DEUTAG DRILLING GROUP LIMITED

By: .....[redacted].....

Name: .....LYNNE THOMSON.....

Title: .....SVP - HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: .[redacted]

Name of Witness: .....LYNN MUTCH.....

Address of Witness: .....C/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .....CoSec Assistant.....

EXECUTED as a DEED by ABBOT INVESTMENTS (NORTH AFRICA) LIMITED

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP-HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: ..[redacted]..

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Exec Assistant.....

EXECUTED as a **DEED** by **KCA DEUTAG CASPIAN LIMITED**

By:	[redacted]
Name:	LYNNE THOMSON
Title:	SVP - HR
Address:	Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland
Telephone:	+44 (0) 1224 299730
Attention:	Alastair MacLennan
Email:	alastair.maclennan@kcadeutag.com
Fax:	+44 (0) 1224 230411
Signature of Witness:	[redacted]
Name of Witness:	LYNN MOTUM
Address of Witness:	c/o Minto Dr
Occupation of Witness:	Cosec Assistant

EXECUTED as a DEED by KCA EUROPEAN HOLDINGS LIMITED

By: [redacted]

Name: LYNNE THOMSON

Title: SVP-HK

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: LYNN MUTCH

Address of Witness: c/o Minto Dr

Occupation of Witness: Cost Assistant

EXECUTED as a DEED by KCA DEUTAG DRILLING LIMITED

By: ..... [redacted] .....

Name: .....LYNNE THOMSON

Title: .....SVP - HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Hann Morch.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: ...Exec Assistant.....

EXECUTED as a DEED by KCA DEUTAG TECHNICAL SUPPORT LIMITED

By:	[redacted]
Name:	LYNNE THOMSON
Title:	SUP - HR
Address:	Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland
Telephone:	+44 (0) 1224 299730
Attention:	Alastair MacLennan
Email:	alastair.maclennan@kcadeutag.com
Fax:	+44 (0) 1224 230411
Signature of Witness:	[redacted]
Name of Witness:	LYNN MORRISON
Address of Witness:	
Occupation of Witness:	Confec Assistant

EXECUTED as a DEED by BENTEC GMBH DRILLING AND OILFIELD SYSTEMS

By: [redacted]

Name: Lynne Thomson

Title: SVP - HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynn Mutch

Address of Witness: c/o Minto Dr

Occupation of Witness: Co Sec Assistant

EXECUTED as a **DEED** by **KCA DEUTAG DRILLING GMBH**

By: .....[redacted].....

Name: .....LYNNE THOMSON.....

Title: .....SVP - HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: ..[redacted]

Name of Witness: .....LYNN MUTCH.....

Address of Witness: .....6 Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Exec Assistant.....

EXECUTED as a DEED by ABBOT VERWALTUNGSGESELLSCHAFT MBH

By: [redacted]

Name: Lynne Thomson

Title: SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynne T Tuttle

Address of Witness: 6 Minto Dr

Occupation of Witness: Co Sec Assistant

EXECUTED as a DEED by KCA DEUTAG TIEFBOHRGESELLSCHAFT MBH

By: [redacted]

Name: LYNNE THOMSON

Title: SVP - HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: LYNN MUTCH

Address of Witness: c/o Minto Dr

Occupation of Witness: Co Sec Assistant

EXECUTED as a DEED by KCA DEUTAG HOLDINGS NORGE AS

By:	[redacted]
Name:	Lynne Thomson
Title:	SVP - HR
Address:	Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland
Telephone:	+44 (0) 1224 299730
Attention:	Alastair MacLennan
Email:	alastair.maclennan@kcadeutag.com
Fax:	+44 (0) 1224 230411
Signature of Witness:	[redacted]
Name of Witness:	LYNN MOTCH
Address of Witness:	c/o Minto A
Occupation of Witness:	Cabin Assistant

EXECUTED as a DEED by ABBOT HOLDINGS NORGE AS

By: .....[redacted].....

Name: .....Lynne Thomson

Title: .....SVP - UK

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Mottu.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Co Sec Assistant.....

EXECUTED as a **DEED** by **KCA DEUTAG DRILLING NORGE AS**

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP - HK.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Cofec Assistant.....

EXECUTED as a DEED by KCA DEUTAG MODULAR RIGS AS

By: [redacted]

Name: Wayne Thomson

Title: SVP - HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynn Morch

Address of Witness: c/o Minto Dr

Occupation of Witness: Cost Assistant

EXECUTED as a DEED by KCA DEUTAG OFFSHORE AS

By: [redacted]

Name: LYNNE THOMSON

Title: SVP - HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: LYNN MUTCH

Address of Witness: c/o Minto Drive

Occupation of Witness: Exec Assistant

EXECUTED as a DEED by KCA DEUTAG DRILLING (BEN RINNES) AS

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP-HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Co Sec Assistant.....

EXECUTED as a **DEED** by **KCA DEUTAG ALPHA LIMITED** as **OBLIGOR'S AGENT** on behalf of **KCA DEUTAG PTE. LTD**

By: .....[redacted].....

Name: .....Lynn Thomson.....

Title: .....SVP-HR.....

Signature of Witness: .[redacted]

Name of Witness: .....Lynn Murray.....

Address of Witness: .....% Minto Drive...

.....

.....

.....

Occupation of Witness: ....Co Sec Assistant.....

EXECUTED as a DEED by KCA DEUTAG ALPHA LIMITED as OBLIGOR'S AGENT on behalf of KCA DEUTAG OVERSEAS LIMITED

By: [redacted]

Name: Lynne Thomson

Title: SVP - HR

Signature of Witness: [redacted]

Name of Witness: Lynn Moffat

Address of Witness: c/o Minto Dr

Occupation of Witness: Exec Assistant

EXECUTED as a DEED by KCA DEUTAG ALPHA LIMITED as OBLIGOR'S AGENT on behalf of KCA DEUTAG (CYPRUS) LIMITED

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title. .....SVP - HR.....

Signature of Witness: .....[redacted].....

Name of Witness: .....Lyann Mutch.....

Address of Witness: .....c/o Aberdeen Dr.....

.....

.....

.....

Occupation of Witness: ....Co Sec. Assistant.....

EXECUTED as a DEED by KCA DEUTAG EUROPE BV

By: [redacted]

Name: Lynne Thomson

Title: SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynn Mutch

Address of Witness: c/o Minto Dr

Occupation of Witness: Corp. Assistant

EXECUTED as a **DEED** by **KCA DEUTAG NEDERLAND BV**

By:	[redacted]
Name:	Lynne Thomson
Title:	SVP - HR
Address:	Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland
Telephone:	+44 (0) 1224 299730
Attention:	Alastair MacLennan
Email:	alastair.maclennan@kcadeutag.com
Fax:	+44 (0) 1224 230411
Signature of Witness:	[redacted]
Name of Witness:	Lynn Mottram
Address of Witness:	c/o Minto Dr
Occupation of Witness:	Exec Assistant

EXECUTED as a DEED by KCA DEUTAG INVESTMENTS BV

By: [redacted]

Name: LYNNE THOMSON

Title: SVP - HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: LYNN MORRIS

Address of Witness: c/o Minto Dr

Occupation of Witness: Office Assistant

EXECUTED as a DEED by KCA DEUTAG ALPHA LIMITED as OBLIGOR'S AGENT on behalf of KCA DEUTAG INVESTMENTS LIMITED

By: [redacted]

Name: Lynne Thomson

Title: SVP-HR

Signature of Witness: [redacted]

Name of Witness: Lynn Murray

Address of Witness: c/o Minto Dr

Occupation of Witness: Office Assistant

ORIGINAL SHAREHOLDER CREDITORS

EXECUTED as a DEED by KCAD HOLDINGS II LIMITED

By: [redacted]

Name: Lynne Thomson

Title: SVP-HR

Signature of Witness: [redacted]

Name of Witness: Lynn Mutch

Address of Witness: 40 Minto Dr

Occupation of Witness: Co-Op Assistant

EXECUTED as a DEED by KCA DEUTAG ALPHA II LIMITED

By: [redacted]

Name: Lynne Thomson

Title: SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynne Mutch

Address of Witness: c/o Minto Dr

Occupation of Witness: Corporate Assistant

ORIGINAL DEBTORS

EXECUTED as a DEED by KCA DEUTAG ALPHA LIMITED

By: .....[redacted].....

Name: .....LYNNE THOMSON.....

Title: .....SVP-HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....LYNN MOTION.....

Address of Witness: .....6 Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Cost Assistant.....

EXECUTED as a DEED by KCA DEUTAG UK FINANCE PLC

By: .....[redacted].....

Name: .....Lynne Thomson...

Title: .....SVP-HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Morgan.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .Office Assistant.....

EXECUTED as a DEED by **ABBOT GROUP LIMITED**

By: [redacted]

Name: Lynne Thomson

Title: SVP - HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynn Mustol

Address of Witness: c/o Minto Dr

Occupation of Witness: Cosec Assistant

EXECUTED as a DEED by ABBOT HOLDINGS LIMITED

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP-HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Munro.....

Address of Witness: .....6a Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Sec Assistant.....

EXECUTED as a DEED by KCA DEUTAG DRILLING GROUP LIMITED

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP-HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Colec Assistant.....

EXECUTED as a **DEED** by **ABBOT INVESETMENTS (NORTH AFRICA) LIMITED**

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP-HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: .....[redacted].....

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Office Assistant.....

EXECUTED as a DEED by KCA DEUTAG CASPIAN LIMITED

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: .....[redacted].....

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Cofec Assistant.....

EXECUTED as a DEED by KCA EUROPEAN HOLDINGS LIMITED

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP-HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynne Mustel.....

Address of Witness: .....Co. Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Office Assistant.....

EXECUTED as a DEED by KCA DEUTAG DRILLING LIMITED

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP - HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Office Assistant.....

EXECUTED as a **DEED** by **KCA DEUTAG TECHNICAL SUPPORT LIMITED**

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP-HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witnes[redacted]

Name of Witness: .....Lynn Muted.....

Address of Witness: .....6 Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Office Assistant.....

EXECUTED as a **DEED** by **KCA RIG DESIGN SERVICES LIMITED**

By: [redacted]

Name: Lynne Thomson

Title: SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynn Muntel

Address of Witness: 6 Minto Drive

Occupation of Witness: Cosec Assistant

EXECUTED as a DEED by KCA DEUTAG GMBH

By: .....[redacted].....

Name: .....Lynn Thomson.....

Title: .....SVP-HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....9a Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Office Assistant.....

EXECUTED as a DEED by KCA DEUTAG DRILLING GMBH

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP-HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Nuttall.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: ..Co Sec Assistant..

EXECUTED as a DEED by ABBOT VERWALTUNGSGESELLSCHAFT MBH

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP - HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: ..Cooks Assistant.....

EXECUTED as a DEED by KCA DEUTAG TIEFBOHRGESELLSCHAFT MBH

By: [redacted]

Name: Lynne Thomson

Title: SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynn Mutch

Address of Witness: C/o Minto Dr

Occupation of Witness: CoSec Assistant

EXECUTED as a DEED by BENTEC GMBH DRILLING AND OILFIELD SYSTEMS

By:	[redacted]
Name:	Lynne Thomson
Title:	SVP - HR
Address:	Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland
Telephone:	+44 (0) 1224 299730
Attention:	Alastair MacLennan
Email:	alastair.maclennan@kcadeutag.com
Fax:	+44 (0) 1224 230411
Signature of Witness:	[redacted]
Name of Witness:	Lynn Muntch
Address of Witness:	9a Minto Dr
Occupation of Witness:	Office Assistant

EXECUTED as a **DEED** by **KCA DEUTAG HOLDINGS NORGE AS**

By: .....[redacted].....

Name: .....Lynn Thomson.....

Title: .....SVP - HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: .[redacted].

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....C/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Career Assistant.....

EXECUTED as a DEED by ABBOT HOLDINGS NORGE AS

By: .....[redacted].....

Name: .....Lynne Thomson....

Title: .....SVP - HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: ....Co Sec Assistant....

EXECUTED as a DEED by KCA DEUTAG OFFSHORE AS

By: [redacted]

Name: Lynne Thomson

Title: SVP-UK

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynn Mutch

Address of Witness: 6 Minto Dr

Occupation of Witness: Office Assistant

EXECUTED as a **DEED** by **KCA DEUTAG DRILLING (BEN RINNES) AS**

By: [redacted]

Name: Lynne Thomson

Title: SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynn Mutch

Address of Witness: c/o Minto Dr

Occupation of Witness: Co Sec Assistant

EXECUTED as a **DEED** by **KCA DEUTAG DRILLING NORGE AS**

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP-HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Cost Assistant...

EXECUTED as a DEED by KCA DEUTAG MODULAR RIGS AS

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP-UK.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

In the presence of:

Signature of Witness: .....[redacted].....

Name of Witness: .....Lynn Murdoch.....

Address of Witness: .....6a Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Legal Assistant.....

EXECUTED as a **DEED** by **KCA DEUTAG US FINANCE LLC**

By: .....[redacted].....

Name: .....Lynn Thurston.....

Title: .....SVP - HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....6a Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Co Sec Assistant.....

EXECUTED as a DEED by KCA DEUTAG EUROPE BV

By: [redacted]

Name: Lynne Thomson

Title: SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: [redacted]

Name of Witness: Lynn Mutch

Address of Witness: 6 Minto Dr

Occupation of Witness: Co Sec Assistant

EXECUTED as a DEED by KCA DEUTAG NEDERLAND BV

By: .....[redacted].....

Name: .....Lynne Thomson.....

Title: .....SVP - HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

[redacted]

Signature of Witness: .....

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: .....Cofa Assistant.....

ORIGINAL THIRD PARTY CHARGOR

EXECUTED as a **DEED** by **KCA DEUTAG ALPHA II LIMITED**

By: .....[redacted].....

Name: .....Lynne Thorson.....

Title: .....SVP HR.....

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

Signature of Witness: .[redacted].

Name of Witness: .....Lynn Mutch.....

Address of Witness: .....c/o Minto Dr.....

.....

.....

.....

Occupation of Witness: ...Cofec Assistant.....

ACCEDING SENIOR SECURED NOTES ISSUER

EXECUTED as a DEED by KCA DEUTAG UK FINANCE PLC

By: [redacted]

Name: Lynne Thomson

Title: SVP-HR

Address: Minto Drive, Altens Industrial Estate, Aberdeen AB12 3LW, Scotland

Telephone: +44 (0) 1224 299730

Attention: Alastair MacLennan

Email: alastair.maclennan@kcadeutag.com

Fax: +44 (0) 1224 230411

[redacted]

Signature of Witness:

Name of Witness: Lynn Mutch

Address of Witness: c/o Minto Dr

Occupation of Witness: Cabin Assistant

ACCEDING SENIOR SECURED NOTES TRUSTEE

SIGNED on behalf of **DEUTSCHE TRUSTEE COMPANY LIMITED**

[redacted]

By:

Name: S Ferguson Associate Director ..... Miriam Keeler Associate Director

Title: .....

Address: Winchester House, 1 Great Winchester Street, London EC2N 2DB

Telephone: +44 207 547 6657

Attention: Manager Director – D&A Team

Email: paul.yetton@db.com

Fax: +44 207 427 6149

ACCEDING ARRANGERS

SIGNED on behalf of **GOLDMAN SACHS INTERNATIONAL**

By:	[redacted]
Name:	Uday Malhotra
Title:	Managing Director
Address:	133 Fleet Street, London EC4A 2BB
Telephone:	+44 20 7051 8087
Attention:	Sile Neylon
Email:	loandocumentation@LN.email.gs.com
Fax:	+44 20 7552 7070

SIGNED on behalf of **J.P. MORGAN SECURITIES LLC**

By: [redacted]

Name: CHRIS MUNRO

Title: MD

Address: 500 Stanton Christiana Road, Newark, DE, 19713-2107, United States

Telephone: 302-634-1542

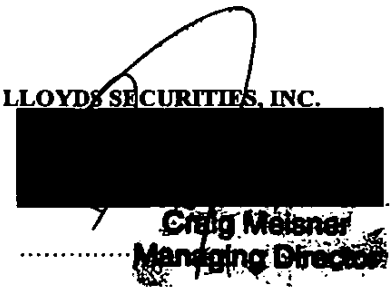
Attention: Keith Richardson

Email: keith.v.richardson@jpmorgan.com

SIGNED on behalf of **HSBC BANK PLC**

By:	[redacted]
Name:	SINEAD MURPHY
Title:	DIRECTOR
Address:	141 Bothwell Street, Glasgow G2 7EQ
Telephone:	+44 8455 856 084
Attention:	Scott McClurg
Email:	scott.mcclurg@hsbc.com

SIGNED on behalf of **LLOYDS SECURITIES, INC.**



By: .....

Name: .....

Title: .....

Address: 1095 Avenue of the Americas, New York, NY 10036

Telephone: 212 209 2472

Attention: Craig Meisner

Email: craig.meisner@lbusa.com

Fax: 212 930 5098

FACILITY D LENDER

SIGNED on behalf of **GLOBE LUXEMBOURG SCA** acting by its general partner Globe Luxembourg S.à r.l.

[redacted]

By:

Name: JOOST TUCKENS VLADIMIR HOLLAND

Title: MANAGER MANAGER

Address: 13-15, avenue de la Liberte, L-1931 Luxembourg

Attention: Managers of Globe Luxembourg

Fax: +352 26 44 99 80

ACCEDING ADMINISTRATIVE AGENT

SIGNED on behalf of **GOLDMAN SACHS LENDING PARTNERS LLC**

By:	[redacted]
Name:	Nicola Dewar
Title:	Authorised Signatory
Address:	200 West Street, New York, NY 10282-2198
Telephone:	212 934-3921
Attention:	Michelle Latzoni
Email:	gsd.link@gs.com
Fax:	646-769-7700

ACCEDING RCF AGENT

SIGNED on behalf of **LLOYDS BANK PLC**

By: [redacted]

Name: ANDREW MORRIS

Title: ASSOCIATE DIRECTOR

Address: 25 Gresham St, London EC2V 7HN

Telephone: +44 207 574 8628

Attention: Peter Irvine

Email: peter.irvine@lloydsbanking.com

Fax: 0207 158 3198

ACCEDING SECURITY AGENT

SIGNED on behalf of **LLOYDS BANK PLC**

By: [redacted]

Name: ANDREW MOORE

Title: ASSOCIATE DIRECTOR

Address: 25 Gresham St, London EC2V 7HN

Telephone: +44 207 574 8628

Attention: Peter Irvine

Email: peter.irvine@lloydsbanking.com

Fax: 0207 158 3198