

Dated June 23, 2023

kneat.com, inc.

as Parent

Kneat Solutions Limited

as Borrower and Company

The Original Guarantors

and

IPF FUND III SCA, SICAV-FIAR managed by IPF Management SA

as Original Lender

FACILITIES AGREEMENT

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THIS AGREEMENT is dated June 23, 2023 and made between:

- (1) **KNEAT.COM, INC.**, a company incorporated in Canada with corporation number 872438-5 and registered address at 3000-77 King Street West, TD Centre North Tower, Toronto, Ontario, Canada, M5K 1G8 as the Parent (the **Parent**);
- (2) **KNEAT SOLUTIONS LIMITED** a company incorporated in Ireland with registration number 381335 and registered address at Kneat Solutions, Hawthorn House, Plassey Business Campus, Castletroy, Limerick, V94 5F68, Ireland as the company and the borrower (the **Company** and the **Borrower**);
- (3) **THE SUBSIDIARIES** of the Parent listed in Part 1 of Schedule 1 (the **Original Guarantors**); and
- (4) **IPF FUND III SCA, SICAV-FIAR** managed by **IPF Management SA** and listed in Part 2 of Schedule 1 (the **Original Lender**).

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

Acceptable Bank means:

- (a) a bank or financial institution which has a rating for its long-term unsecured and non-credit-enhanced debt obligations of A- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or A3 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency;
- (b) Bank of Ireland;
- (c) Royal Bank of Canada;
- (d) Allied Irish Banks, p.l.c.; and
- (e) any other bank or financial institution approved by the Lender;

Accession Deed means a document substantially in the form set out in Schedule 4 (*Form of Accession Deed*);

Accounting Principles means the generally accepted accounting principles which are in effect from time to time approved by the Canadian Accounting Standards Board or any successor thereto, as applicable, which are currently the International Financial Reporting Standards as adopted by the Chartered Professional Accountants of Canada;

Accounting Reference Date means 31 December;

Additional Guarantor means a company, which becomes an Additional Guarantor in accordance with clause 26.2 (*Additional Guarantors*);

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 and, in relation to the Lender, any fund or company managed or owned by IPF Management S.A. or a subsidiary thereof or an entity controlled by or operating for it (excluding any portfolio or investee companies thereof);

Annual Financial Statements means the annual financial statements delivered pursuant to clause 21.1.1 (*Financial statements*);

Annual Recurring Revenue means:

- (a) the number of SaaS licenses delivered to customers at a point in time (last day of the month/quarter/year) which have not been terminated, multiplied by the full agreed annual SaaS license subscription, plus
- (b) the number of licenses under maintenance agreement multiplied by the annual maintenance fee.

Where customer contracts are in currencies other than the Canadian dollar, the Canadian dollar equivalent is calculated using the related period end exchange rate multiplied by the contracted currency amount;

Anti-Money Laundering Laws means the anti-corruption laws of all jurisdictions (including all United Kingdom, Canada and United States anti-money laundering laws), the rule and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental or regulatory agency;

Anti-Terrorism Laws means any requirement of law related to money laundering or financing terrorism including the USA Patriot Act, The Currency and Foreign Transactions Reporting Act (31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959) (also known as the **Bank Secrecy Act**), the Money Laundering Control Act of 1986 (18 U.S.C. §§ 1956 et seq.), the Trading With the Enemy Act (50 U.S.C. § 1 et seq.) and Executive Order 13224 (effective September 24, 2001) and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)*;

Assignment Agreement means an agreement substantially in the form set out in Schedule 7 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee;

Auditors means the auditors of the Parent, being KPMG LLP at the date of this Agreement, or any other firm appointed by the Parent to act as its statutory auditors;

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

Availability Period means:

- (a) in relation to Facility A, the period from and including the date of this Agreement to and including the date that is fifteen (15) Business Days after the date of this Agreement;
- (b) in relation to the Facility B, subject to compliance with clause 4.2.3 (*Further Conditions Precedent*), the period from (but excluding) the Utilisation Date of Facility A to and including 31 December 2023; and
- (c) in relation to Facility C, subject to compliance with clause 4.2.4 (*Further Conditions Precedent*), the period from (but excluding) the Utilisation Date of Facility B to and including 30 June 2024;

Base Case Model means the financial model including profit and loss, balance sheet and cashflow projections in agreed form relating to the Group together with Management Discussion and Analysis, Annual Information Form publicly disclosed by the Company, each prepared by or on behalf of the Group and delivered to the Lender pursuant to clause 4.1 (*Initial Conditions Precedent*);

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

- (a) the interest which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in

respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period

exceeds:

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

Budget means:

- (a) in relation to the period beginning on the date of this Agreement and ending on 31 December 2023, the Base Case Model in agreed form and delivered to the Lender pursuant to clause 4.1 (*Initial Conditions Precedent*); and
- (b) in relation to any other period, any budget delivered by the Company to the Lender in respect of that period pursuant to clause 21.4 (*Budget*);

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in Luxembourg, Dublin, Toronto and any TARGET Day;

Canadian Defined Benefit Pension Plan shall mean any Canadian Pension Plan which contains a “defined benefit provision”, as defined in subsection 147.1(1) of the *Income Tax Act* (Canada);

Canadian Insolvency Laws means the Bankruptcy and Insolvency Act (Canada), the Companies’ Creditors Arrangement Act (Canada), Winding-Up and Restructuring Act (Canada) and any applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt, and any successor statute, and all regulations from time to time promulgated thereunder;

Canadian Obligor means any Canadian Person that is an Obligor;

Canadian Pension Legislation means the *Income Tax Act* (Canada), the *Pension Benefits Act* (Ontario) and/or any other provincial or Canadian federal pension benefits standards legislation, as applicable;

Canadian Pension Plan means each plan, program or arrangement whether existing on the Closing Date or assumed or adopted thereafter, that is a pension plan that is required to be registered under Canadian Pension Legislation and that is maintained or contributed to, or to which there is or may be an obligation to contribute to, by Parent, the Borrower or any of their respective Affiliates, in respect of any Person’s employment with Parent, the Borrower or any of their respective Affiliates, including, without limitation, any Canadian Defined Benefit Pension Plan, but excluding (i) the Canada Pension Plan as maintained by the Government of Canada; (ii) any similar plan maintained, from time to time, by any government or agency or instrumentality thereof of Canada or any province thereof; (iii) plans administered pursuant to applicable health tax, workplace safety, insurance and employment insurance legislation; or (iv) any group retirement savings plan that is not subject to any Canadian provincial or federal pension benefits standards legislation or the registered pension plan provisions of the *Income Tax Act* (Canada);

Canadian Person means any person that is incorporated or organized under the laws of Canada or any province or territory thereof;

Cash means, at any time, cash denominated in sterling, euros, Canadian dollars (or such other currency as the Lender may agree) and dollars in hand or at bank credited to an account in the name of an Obligor with an Acceptable Bank and to which an Obligor is alone (or together with other Obligors) beneficially entitled and for so long as:

- (a) that cash is repayable within 30 days after the relevant date of calculation;

- (b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of any member of the Group or of any other person whatsoever or on the satisfaction of any other condition;
- (c) there is no Security over that cash except for Transaction Security or any Permitted Security constituted by a netting or set-off arrangement entered into by members of the Group in the ordinary course of their banking arrangements; and
- (d) the cash is freely and (except as mentioned in paragraph (a) above and for any required corporate action (if any) or regulatory obligation) immediately available to be applied in repayment or prepayment of the Facilities;

Cash Equivalent Investments means at any time:

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

in each case, denominated in sterling, euros, Canadian dollars and dollars and to which an Obligor is alone (or together with another Obligor) beneficially entitled at that time and which is not issued or guaranteed by any member of the Group or subject to any Security (other than Security arising under the Transaction Security Documents or Permitted Security);

Cash Interest has the meaning given to that term in clause 10.1 (*Cash Interest*);

Cash Margin means:

- (a) in relation to any Facility A Loan, 7 per cent. per annum;
- (b) in relation to any Facility B Loan, 7 per cent. per annum;
- (c) in relation to any Facility C Loan, 7 per cent. per annum;
- (d) in relation to any Unpaid Sum relating or referable to a Facility, the rate per annum specified above for that Facility;
- (e) in relation to any other Unpaid Sum, the rate specified above; and

in the case of paragraphs (a) to (c) above, in each case adjusted at such time (as the case may be) per the provisions of clause 10.5 (*ESG Cash Margin adjustment*);

CEO means the chief executive officer of the Parent for the time being (which at the date of this Agreement is Eddie Ryan);

CFO means the chief financial officer of the Parent for the time being (which at the date of this Agreement is Hugh Kavanagh);

Change of Control means any person or group of persons acting in concert gains direct or indirect control of the Company or the Parent. For the purposes of this definition:

- (a) **control** of the Company or the Parent means:
 - (i) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (A) cast, or control the casting of, more than 50.1% of votes that might be cast at a general meeting of the Company or the Parent;
 - (B) appoint or remove all, or the majority, of the directors or other equivalent officers of the Company or the Parent;
 - (C) give directions with respect to the operating and financial policies of the Company or the Parent with which the directors or other equivalent officers of the Company or the Parent are obliged to comply; or
 - (ii) the holding beneficially of more than 50.1% of the issued share capital of the Company or the Parent (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital); and
- (b) **acting in concert** means, a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition directly or indirectly of shares in the Company or the Parent by any of them, either directly or indirectly, to obtain or consolidate control of the Company or the Parent;

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

Closing Date means the Utilisation Date for Facility A;

Code means the US Internal Revenue Code of 1986;

Commitment means the Facility A Commitment, the Facility B Commitment and/or the Facility C Commitment;

Commodity Exchange Act means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*) as amended from time to time, and any successor statute;

Companies Act means the Companies Act 2014, of Ireland;

Compliance Certificate means a certificate substantially in the form set out Schedule 5 (*Form of Compliance Certificate*);

Confidential Information means all information relating to the Group, the Finance Documents or a Facility of which the Lender (in its capacity as Lender) becomes aware under the Finance Documents or a Facility from any member of the Group or any of its advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (a) is or becomes public information other than as a direct or indirect result of any breach by the Lender of Clause 35 (*Confidentiality*); or
- (b) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
- (c) is known by the Lender before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Lender after that date, from a source which is, as far as that Lender is aware, unconnected with the Group, and which, in either case, as far as that Lender is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality;

Confidentiality Undertaking means a confidentiality undertaking substantially in a recommended form of the LMA from time to time or in any other form agreed between the Company and the Lender;

Default means an Event of Default or any event or circumstance specified in Clause 24 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default;

Deferred Consideration means in respect of any acquisition or disposal, any obligation of any member of the Group in respect of any consideration or other payment that is deferred and payable after the closing date of the relevant acquisition or disposal, including any Earn-Out (or other similar contingent consideration arrangements), any deferred purchase price and any adjustment relating to debt or working capital;

Delegate means any delegate, agent, attorney, custodian, nominee or co-trustee appointed by the Lender;

Designated Person means a person or entity:

- (a) listed in the annex to, or otherwise targeted by the provisions of, the Executive Order;
- (b) named as a Specially Designated National and Blocked Person on the most current list published by OFAC at its official website or any replacement website or other replacement official publication of such list; or
- (c) to the best of each Obligor's knowledge, with which the Lender are prohibited from dealing or otherwise engaging in any transaction by any Economic Sanctions Laws;

Disposal has the meaning given to that term in clause 8.2 (*Disposal and Insurance Proceeds*);

Disruption Event means either or both of:

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

Earn-Out means any deferred purchase price payable (or any similar price component) in connection with the acquisition of a company, shares or other equity or a business in respect of a Permitted Acquisition under paragraph **Error! Reference source not found.** of that definition and the payment of which is not quantifiable or determined and which is solely contingent on the satisfaction of future performance-based metrics;

EBITDA means in respect of any 12 Month period, the consolidated operating profit of the Group:

- (a) **before any deduction** on account of Tax for such period;
- (b) **before deducting** any interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments whether paid, payable or capitalised by any member of the Group (calculated on a consolidated basis) in respect of such period;
- (c) **not including** any accrued interest owing to any member of the Group;
- (d) **after adding back** any amount attributable to the amortisation, depreciation or impairment of assets of members of the Group (and taking no account of the reversal of any previous impairment charge made in that period);
- (e) **before taking into account any** Exceptional Items;
- (f) **after deducting** the amount of any profit (or adding back the amount of any loss) of any member of the Group which is attributable to minority interests;
- (g) **before taking into account** any unrealised gains or losses on any financial instrument (other than any derivative instrument which is accounted for on a hedge accounting basis);
- (h) **before taking into account** any gain arising from an upward or downward revaluation of any other asset at any time after 31 December 2021;
- (i) **before taking into account** fees, costs and expenses incurred by the Group in connection with (i) any Permitted Acquisition or other investment permitted under this agreement; (ii) disposals not in the ordinary course of business; (iii) issuance or repayment of Borrowings; (iv) issuance of shares; or (v) refinancing transaction or amendment or modification of any debt instrument;
- (j) **before deducting** any management, monitoring, consultancy or advisory fees and expenses and holding company costs;
- (k) **before taking into account** any Pension Items;
- (l) **excluding** the charge to profit represented by the expensing of stock options;

(m) **plus** any amounts paid under loss of profit, business interruption or equivalent insurance,

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

Economic Sanctions Laws means the Executive Order, the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 et seq.), the Trading with the Enemy Act (50 U.S.C. App. §§ 1 et seq.), any other law or regulation promulgated thereunder from time to time and administered by OFAC, the US State Department, the US Department of Commerce or the US Department of the Treasury, and any similar law enacted in the United States after the date of this Agreement;

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

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

Environmental Claim means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law;

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

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

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

ERISA means the US Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder;

ERISA Affiliate means any person that for purposes of Title I or Title IV of ERISA or section 412 of the Code would be deemed at any relevant time to be a single employer or otherwise aggregated with any Obligor or a Subsidiary of an Obligor under section 414(b), (c), (m) or (o) of the Code or section 4001 of ERISA;

ERISA Event shall mean any one or more of the following:

- (a) any reportable event, as defined in section 4043 of ERISA, with respect to a Plan, as to which the PBGC has not waived the requirement of section 4043(a) of ERISA that it be notified of such event;
- (b) the filing of a notice of intent to terminate any Plan, if such termination would require material additional contributions in order to be considered a standard termination within the meaning of section 4041(b) of ERISA, the filing under section 4041(c) of ERISA of a notice of intent to terminate any Plan or the termination of any Plan under section 4041(c) of ERISA;

- (c) the institution of proceedings, or the occurrence of an event or condition which would reasonably be expected to constitute grounds for the institution of proceedings by the PBGC under section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan;
- (d) the failure to make a required contribution to any Plan that would result in the imposition of a lien or other encumbrance or the provision of security under section 430 of the Code or section 303 or 4068 of ERISA, or the arising of such a lien or encumbrance; the failure to satisfy the minimum funding standard under section 412 of the Code or section 302 of ERISA, whether or not waived; or the filing of any request for or receipt of a minimum funding waiver under section 412 of the Code with respect to any Plan or Multiemployer Plan, or that such filing may be made; or a determination that any Plan is, or is expected to be, considered an at risk plan within the meaning of section 430 of the Code or section 303 of ERISA;
- (e) engaging in a non exempt prohibited transaction within the meaning of section 4975 of the Code or section 406 of ERISA;
- (f) the complete or partial withdrawal of any Obligor, Subsidiary of an Obligor or any ERISA Affiliate from a Multiemployer Plan, the insolvency under Title IV of ERISA of any Multiemployer Plan; or the receipt by any Obligor, any Subsidiary of an Obligor or any ERISA Affiliate, of any notice, or the receipt by any Multiemployer Plan from any Obligor, Subsidiary of an Obligor or any ERISA Affiliate of any notice, that a Multiemployer Plan is in endangered or critical status under section 305 of ERISA; or
- (g) an Obligor, a Subsidiary of an Obligor or an ERISA Affiliate incurring any liability under Title IV of ERISA with respect to any Plan (other than premiums due and not delinquent under section 4007 of ERISA);

Escrow Agent means NCC Group Escrow Limited, a company registered in England whose registered office is at XYZ Building, 2 Hardman Boulevard, Spinningfields, Manchester, M3 3AQ, England (CRN: 3081952);

Escrow Agreement means collectively

- (a) the master depositor escrow service agreement entered by the Company as depositor and NCC Group Escrow Limited and dated on or about the date hereof in relation to the depositor's source code; and
- (b) beneficiary enrolment form entered into by the Company as depositor, NCC Group Escrow Limited as escrow agent and the Lender as beneficiary and dated on or about the date of this Agreement;

ESG Compliance Certificate means a compliance certificate relating to the ESG Criteria substantially in the form set out in Schedule 9 (*Form of ESG Compliance Certificate*);

ESG Criteria means the environmental, social and governance criteria to be agreed between the Company and the Lender in accordance with the provisions of clauses 21.14.1 and 21.14.2 (ESG);

ESG Linked Adjustment has the meaning given to it in clause 10.5 (*ESG Cash Margin adjustment*);

ESG Questionnaire means each questionnaire relating to the Group's environmental, social and governance policy addressed by the Borrower to the Lenders, such questionnaire to be in form and substance agreed with the Lenders in accordance with clause 21.14 (ESG);

EURIBOR means, in relation to any Loan:

- (a) the applicable Screen Rate as of the Specified Time on a Quotation Day for euro and for a period equal in length to the relevant Interest Period of that Loan; or

(b) as otherwise determined pursuant to clause 12.1 (*Unavailability of Screen Rate*),

and in either case, if that rate is less than zero per cent. per annum, EURIBOR shall be deemed to be zero per cent. per annum;

Event of Default means any event or circumstance specified as such in clause 24 (*Events of Default*);

Examiner means an examiner appointed under Section 509 of the Companies Act;

Exceptional Items means any exceptional, one off, non-recurring or extraordinary items including but not limited to those arising on:

- (a) the restructuring of the activities of an entity and reversals of any provisions for the cost of restructuring;
- (b) disposals, revaluations, write downs or impairment of non-current assets or any reversal of any write down or impairment;
- (c) disposals of assets associated with discontinued operations;
- (d) compensation payments to departing directors or employees;
- (e) redundancy costs;
- (f) one-off recruitment costs in relation to new senior executives or replacement senior executives including costs incurred in relation to dual roles undertaken by outgoing and incoming senior executives; and
- (g) one-off performance based discretionary bonus payments made to directors or employees;

Excluded Swap Obligation means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof). If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such guarantee or security interest is or becomes illegal;

Facility means Facility A, Facility B or Facility C;

Facility A means the term loan facility made available under this Agreement as described in clause 2.2.1 (*The Facilities*);

Facility A Commitment means:

- (a) in relation to the Original Lender, €5,000,000 (five million euro); and
- (b) in relation to any other Lender, the amount of any Facility A Commitment transferred to it under this Agreement,

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

Facility A Loan means a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan;

Facility A Repayment Date means each date set out in clause 6.1 (*Repayment*);

Facility B means the term loan facility made available under this Agreement as described in clause 2.1.2 (*The Facilities*);

Facility B Commitment means:

- (a) in relation to the Original Lender, €5,000,000 (five million euro); and
- (b) in relation to any other Lender, the amount of any Facility B Commitment transferred to it under this Agreement,

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

Facility B Loan means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan;

Facility B Repayment Date means each date set out in clause 6.2 (*Repayment*);

Facility C means the term loan facility made available under this Agreement as described in clause 2.1.3 (*The Facilities*);

Facility C Commitment means:

- (a) in relation to the Original Lender, €5,000,000 (five million euro); and
- (b) in relation to any other Lender, the amount of any Facility C Commitment transferred to it under this Agreement,

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

Facility C Loan means a loan made or to be made under Facility C or the principal amount outstanding for the time being of that loan;

Facility C Repayment Date means each date set out in clause 6.3 (*Repayment*);

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

FATCA means:

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

FATCA Deduction means a deduction or withholding from a payment under a Finance Document required by FATCA;

FATCA Exempt Party means a Party that is entitled to receive payments free from any FATCA Deduction;

Finance Document means this Agreement, the Subordination Agreement, any Accession Deed, any Compliance Certificate, any ESG Compliance Certificate, any Transaction Security Document, any Utilisation Request and any other document designated as a Finance Document by the Lender and the Company;

Finance Lease means any lease or hire purchase contract a liability under which would, in accordance with the Accounting Principles, be treated as a balance sheet liability (other than a lease or hire purchase contract which would, in accordance with Accounting Principles in force prior to 1 January 2019, have been treated as an operating lease);

Financial Indebtedness means, without double counting, any indebtedness of a member of the Group for or in respect of:

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any amount raised by acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds (but not trade instruments), notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any Finance Lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability (but not, in any case, trade instruments) which liability would fall within one of the other paragraphs of this definition;
- (h) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before the latest Termination Date or are otherwise classified as borrowings under the Accounting Principles;
- (i) any amount of any liability under an advance, credit or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 90 days after the date of supply;
- (j) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles; and
- (k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above;

Financial Quarter means the period commencing on the day after one Quarter Date and ending on the next Quarter Date;

Financial Year means the annual accounting period of the Group ending on or about 31 December in each year;

Group means the Parent and each of its Subsidiaries for the time being;

Group Structure Chart means the group structure chart delivered to the Lender pursuant to 4.1 (*Initial conditions precedent*);

Guarantor means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with clause 26 (*Changes to the Obligors*);

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

Ireland means the Republic of Ireland, exclusive of Northern Ireland;

IFRS means the international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements;

Intellectual Property means:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, algorithms, proprietary software, confidential information, knowhow and other intellectual property rights and interests (which may subsist on or after the date of this Agreement), whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets of each member of the Group (which may subsist on or after the date of this Agreement);

Interest Payment Date means, in respect of each Facility, 31 March, 30 June, 30 September and 31 December in each year, with the first Interest Payment Date applicable to Facility A being 30 September 2023. If, however, any such day is not a Business Day, the Interest Payment Date will instead be the next Business Day;

Interest Period means, in relation to a Loan, each period determined in accordance with clause 10.1 (*Cash Interest*) and in relation to an Unpaid Sum, each period determined in accordance with clause 10.2 (*Default Interest*);

Interpolated Screen Rate means, in relation to any Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of the Specified Time;

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

Legal Opinion means any legal opinion delivered to the Lender under Part 1 and Part 2 of Schedule 2 (*Conditions Precedent*);

Legal Reservations means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;

- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty may be void and defences of set-off or counterclaim;
- (c) the principle that in certain circumstances Security granted by way of fixed charge may be recharacterised as a floating charge or that Security purported to be constituted as an assignment may be recharacterised as a charge;
- (d) the principle that additional or default 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 the creation of Security or purported creation of Security over any contract or agreement which is subject to a prohibition on transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach of the contract or agreement over which Security has purportedly been created;
- (f) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and
- (g) any other matters which are set out as qualifications or reservations as to matters of law of general application in the Legal Opinions;

Lender means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party as a Lender in accordance with clause 25 (*Changes to the Lenders*),

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

Limitation Acts means the Statute of Limitations Act 1957 to 2000;

LMA means the Loan Market Association;

Loan means the Facility A Loan, the Facility B Loan and/or the Facility C Loan;

Material Adverse Effect means a material adverse effect on:

- (a) the business, property, operations, condition (financial or otherwise) of the Group (taken as a whole); or
- (b) the ability of an Obligor to perform its material obligations (including its payment obligations) under the Finance Documents to which it is a party; or
- (c) subject to the Legal Reservations and the Perfection Requirements, the validity or enforceability of, or the effectiveness or ranking of any Security granted (or purported to be granted) pursuant to any of, the Finance Documents or the rights or remedies of the Lender under any of the Finance Documents;

Material Company means, at any time:

- (a) kneat solutions, inc.;
- (b) an Obligor;
- (c) a member of the Group that holds shares in an Obligor; or

- (d) a Subsidiary of the Company which has (i) earnings before interest, tax, depreciation and amortisation (calculated on the same basis as **EBITDA**) (ii) gross assets (excluding goodwill), (iii) Annual Recurring Revenue (excluding intra-group items), or (iv) Revenue (excluding intra-group items) representing 5 per cent. or more of EBITDA, gross assets (excluding goodwill), Annual Recurring Revenue (excluding intra-group items) or Revenue (excluding intra-group items) of the Group, calculated on a consolidated basis;

Compliance with the conditions set out in paragraph (d) above shall be determined by reference to the most recent Compliance Certificate supplied by the Parent and the latest Annual Financial Statements (or applicable Monthly Financial Statements in respect of March, June, September or December) of the Group. However, if a Subsidiary has been acquired since the date as at which the latest audited consolidated financial statements of the Group were prepared, the financial statements shall be deemed to be adjusted in order to take into account the acquisition of that Subsidiary (that adjustment being certified by a director of the Company as representing an accurate reflection of the revised gross assets or turnover of the Group *pro forma* for that acquisition);

In the event of a dispute between any member of the Group and the Lender in determining whether or not a Subsidiary is a Material Company, the determination of the Lender shall be conclusive and binding on all Parties;

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

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

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

Monthly will be construed accordingly;

Monthly Financial Statements means the monthly management accounts delivered pursuant to clause 21.1.2 (*Financial statements*);

Multiemployer Plan means any multiemployer plan as defined in section 4001(a)(3) of ERISA, which is contributed to by (or to which there is an obligation to contribute of) an Obligor, a Subsidiary of an Obligor or an ERISA Affiliate, and each such plan for the five year period immediately following the latest date on which an Obligor, a Subsidiary of an Obligor or an ERISA Affiliate contributed to or had an obligation to contribute to such plan;

New Lender has the meaning given to that term in clause 25.1 (*Assignments and Transfers by the Lender*);

Obligor means the Borrower or a Guarantor;

Obligors' Agent means the Company, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to clause 2.2 (*Obligors' Agent*);

Original Financial Statements means in relation to the Parent:

- (i) its consolidated audited financial statements for its Financial Year ended 31 December 2022; and
- (ii) its management accounts for the period ended 30 April 2023;

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

Original Obligor means the Company or an Original Guarantor;

Participating Member State means any member state of the European Union that adopts or has adopted (and in each case continues to adopt) the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union;

Party means a party to this Agreement;

Perfection Requirements means the making or the procuring of the appropriate registrations, filing, endorsements, notarisation, stampings (including the payment of stamp duty) and/or notifications of the Transaction Security Documents and/or the Security created thereunder as required to be made in the relevant jurisdiction under the relevant Transaction Security Document;

PBGC means the US Pension Benefit Guaranty Corporation;

Pension Items means any income or charge attributable to a post-employment benefit scheme other than the current service costs and any past service costs and curtailments and settlements attributable to the scheme;

Permitted Acquisition means:

[REDACTED: Private Information]

Permitted Disposal means any sale, lease, licence, transfer or other disposal which, except in the case of paragraph (b), is on arm's length terms:

- (a) of trading stock or cash made by any member of the Group in the ordinary course of trading of the disposing entity;
- (b) of any asset by a member of the Group (the **Disposing Company**) to another member of the Group (the **Acquiring Company**), but if:
 - (i) the Disposing Company is an Obligor, the Acquiring Company must also be an Obligor;
 - (ii) the Disposing Company had given Transaction Security over the asset, the Acquiring Company must give equivalent Transaction Security over that asset; and
 - (iii) the Disposing Company is a Guarantor, the Acquiring Company must be a Guarantor guaranteeing at all times an amount no less than that guaranteed by the Disposing Company;
- (c) of assets (other than shares, businesses or Intellectual Property) in exchange for other assets comparable or superior as to type, value and quality;
- (d) of obsolete or redundant vehicles, plant and equipment;
- (e) of Cash Equivalent Investments for cash or in exchange for other Cash Equivalent Investments;

- (f) constituted by a licence of intellectual property rights permitted by clause 20.25 (*Intellectual Property*) and any other non-exclusive licence of intellectual property rights in the ordinary course of trade to the extent not otherwise restricted by clause 20.25 (*Intellectual Property*);
- (g) arising as a result of any Permitted Security;
- (h) arising as a result of any termination or close out of a Treasury Transaction; and
- (i) of assets (other than shares, businesses or Intellectual Property) for cash where the net consideration receivable (when aggregated with the net consideration receivable for any other sale, lease, licence, transfer or other disposal not allowed under the preceding paragraphs or as a Permitted Transaction) does not exceed €300,000 (or its equivalent in other currencies) during the term of this Agreement and does not exceed €150,000 (or its equivalent in other currencies) in any Financial Year of the Company;

Permitted Financial Indebtedness means Financial Indebtedness:

- (a) arising under any of the Finance Documents;
- (b) arising under a foreign exchange transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency rates where that foreign exchange exposure arises in the ordinary course of trade or in connection with the Finance Documents, but, in each case, not a foreign exchange transaction for investment or speculative purposes;
- (c) arising under a Permitted Loan, a Permitted Transaction or a Permitted Guarantee or as permitted by clause 23.29 (*Treasury Transactions*);
- (d) under Finance Leases entered into by a member of the Group *provided that* the aggregate capital value of all such leased items does not exceed €200,000 (or its equivalent in other currencies) at any time;
- (e) arising under Permitted Subordinated Debt (as entered into in accordance with, and subject to the terms and conditions of, this Agreement and the Subordination Agreement) or which is Subordinated Debt made available to the Borrower in connection with the exercise of a cure right under clause 22.3 (*Cure Rights*);
- (f) arising in respect of corporate credit card and overdraft facilities used by members of the Group in the ordinary course of business provided that the aggregate liability under the terms of such credit card and overdraft facilities does not exceed €100,000 at any time;
- (g) an electronic funds transfer facility made available to the Borrower by The Governor and Company of the Bank of Ireland provided that the aggregate liability under the terms of such electronic funds transfer facility does not exceed €1,500,000 at any time; and
- (h) not permitted by the preceding paragraphs or as a Permitted Transaction and the outstanding principal amount of which does not exceed €200,000 (or its equivalent in other currencies) in aggregate for the Group at any time (when aggregated with the amount of any indebtedness in respect of which Security has been granted under paragraph (j) of the definition of **Permitted Security** and without double counting) (*provided that* no such Financial Indebtedness may be owed to a Holding Company or shareholder of the Parent);

Permitted Guarantee means:

- (a) the endorsement of negotiable instruments in the ordinary course of trade;

- (b) any performance or similar bond guaranteeing performance by a member of the Group under any contract entered into in the ordinary course of trade or an indemnity in relation to such bond granted by a financial institution;
- (c) any guarantee permitted under clause 23.21 (*Financial Indebtedness*) except under paragraph (b) the definition of **Permitted Financial Indebtedness**;
- (d) any guarantee given in respect of the netting, set-off or cash pooling arrangements permitted pursuant to paragraph (b) of the definition of **Permitted Security**;
- (e) any guarantee not falling within the preceding paragraphs where the aggregate liability (whether present or future, actual or contingent) of members of the Group under all such guarantees does not exceed €200,000 (or its equivalent in other currencies) in aggregate at any time;

Permitted Loan means:

- (a) any trade credit extended, or advance payment made, by any member of the Group to its customers or suppliers on normal commercial terms and in the ordinary course of its trading activities;
- (b) Financial Indebtedness which is referred to in the definition of, or otherwise constitutes Permitted Financial Indebtedness (except under paragraph (c) of that definition) or arising on a Permitted Disposal;
- (c) a loan made by an Obligor to another Obligor, or made by a member of the Group which is not an Obligor to another member of the Group which is not an Obligor;
- (d) any cash credit balance at an Acceptable Bank;
- (e) any loans to directors, employees or officer provided that the aggregate outstanding amount of such loans does not exceed €10,000 at any time;
- (f) any loan (other than pursuant to paragraphs (a) to (d) (inclusive) above and other than by the Company) so long as the aggregate amount of the Financial Indebtedness under any such loans does not exceed €200,000 (or its equivalent in other currencies) at any time;

Permitted Security means:

- (a) any lien or right to set-off arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by any member of the Group;
- (b) Security or Quasi-Security over bank accounts, any cash pooling, netting or setoff arrangement granted by or entered into by any member of the Group with an Acceptable Bank in the ordinary course of its banking arrangements (including any cash pooling arrangements in place at the relevant time) for the purpose of netting debit and credit balances of members of the Group *provided that* (i) such arrangement does not permit credit balances of Obligors to be pooled, netted or set-off arrangement against the balances of members of the Group which are not Obligors, and (ii) such arrangement does not give rise to other Security over the assets of Obligors in support of liabilities of members of the Group which are not Obligors;
- (c) any payment or close out netting or set-off arrangement pursuant to any Treasury Transaction or foreign exchange transaction entered into by a member of the Group which constitutes Permitted Financial Indebtedness, excluding any Security or Quasi-Security under a credit support arrangement;
- (d) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a member of the

Group in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any member of the Group;

- (e) any Quasi-Security arising as a result of a disposal which is a Permitted Disposal;
- (f) any Security or Quasi-Security arising as a consequence of any Finance Lease permitted pursuant to paragraph (d) of the definition of **Permitted Financial Indebtedness**;
- (g) any Security or Quasi-Security arising under the Finance Documents;
- (h) any Security or Quasi-Security in favour of a bank or financial institution in respect of a bank account and in accordance with the standard terms and conditions of such bank or financial institution or arising pursuant to applicable law;
- (i) any Security or Quasi-Security over or affecting any asset acquired by a member of the Group after the Closing Date if:
 - (i) the Security or Quasi-Security was not created in contemplation of the acquisition of that asset by a member of the Group;
 - (ii) the principal amount secured has not been increased in contemplation of or since the acquisition of that asset by a member of the Group; and
 - (iii) the Security or Quasi-Security is removed or discharged within 45 days of the date of acquisition of such asset;
- (j) any Security or Quasi-Security arising as a consequence of any Financial Indebtedness permitted pursuant to paragraphs (f) and (g) of the definition of **Permitted Financial Indebtedness**;
- (k) any Security securing Financial Indebtedness (other than any Financial Indebtedness owing to a shareholder or a Holding Company of the Company) the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other indebtedness which has the benefit of Security given by any member of the Group Permitted any permitted under the preceding paragraphs and when aggregated with any Financial Indebtedness under paragraph (e) of the definition of **Permitted Financial Indebtedness** and without double counting) does not exceed €200,000 (or its equivalent in other currencies) at any time;

Permitted Share Issue means an issue of shares by:

- (a) the Parent after the Closing Date to any person where such issue does not lead to a Change of Control; or
- (b) an Obligor, provided the newly issued shares are subject to the Transaction Security;

Permitted Subordinated Debt means any Financial Indebtedness outstanding, incurred or to be incurred by the Company on or after the Closing Date:

- (a) which is contractually subordinated to the Facilities pursuant to the Subordination Agreement as Subordinated Debt (as defined therein) or otherwise subordinated to the satisfaction of the Lender (acting reasonably); and
- (b) in respect of which:
 - (i) any accrued interest capitalises or is paid pursuant to the terms of the Subordination Agreement;

- (ii) no principal, interest or other amount is required to be paid in cash prior to the final Termination Date;
- (iii) the final maturity date is a date no earlier than the final Termination Date; and
- (iv) no member of the Group has granted a guarantee, Security or other credit support;

Permitted Transaction means:

- (a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the Finance Documents;
- (b) transactions (other than (i) any sale, lease, licence, transfer or other disposal and (ii) the granting or creation of Security, Quasi-Security or the incurring or permitting to subsist of Financial Indebtedness) conducted in the ordinary course of trading on arm's length terms *provided that* such transaction (including any payment thereof) does not otherwise breach the terms of the Subordination Agreement;
- (c) any occupational leases of premises in the ordinary course of business;
- (d) the solvent liquidation or reorganisation of a member of the Group which is not an Obligor so long as any payments or assets distributed as a result of that liquidation or reorganisation are distributed to other Obligors; and
- (e) any conversion of any Permitted Subordinated Debt into distributable reserves or share capital of the Company (provided such share capital is subject to Transaction Security) or any capitalization, waiver or release of such indebtedness;

PIK Interest means the interest to be paid in kind, calculated for any Interest Period and payable on the outstanding principal of a Loan;

PIK Margin means 2.00 per cent. per annum;

Plan means an "employee benefit plan" as defined in section 3 of ERISA (other than a Multiemployer Plan) maintained or contributed to by an Obligor, a Subsidiary of an Obligor or any ERISA Affiliate or to which an Obligor, a Subsidiary of an Obligor or an ERISA Affiliate has an obligation to contribute, and such plan for the five year period immediately following the latest date on which an Obligor, a Subsidiary of an Obligor or an ERISA Affiliate maintained, contributed to or had an obligation to contribute to (or is deemed under section 4069 of ERISA to have maintained or contributed to or to have had an obligation to contribute to, or otherwise to have liability with respect to) such plan;

PPSA shall mean the Personal Property Security Act as the same may from time to time be in effect in the Province of Ontario or the Personal Property Security Act (or Quebec Civil Code) as the same may from time to time be in effect of another Canadian jurisdiction, in each case, to the extent it may be required to apply to any item or items of collateral of an Obligor, including the regulations and orders promulgated thereunder. References to sections of the PPSA shall be construed to also refer to any successor sections;

Qualified ECP Guarantor means, in respect of any Swap Obligation, any entity that has total assets exceeding \$10,000,000 at the time the relevant guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an "eligible contract participant" at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act;

Qualifying Lender has the meaning given to that term in clause 14 (*Tax gross-up and indemnities*);

Quarter Date means the each of 31 March, 30 June, 30 September and 31 December;

Quasi-Security has the meaning given to that term in clause 23.13 (*Negative Pledge*);

Quotation Day means, in relation to any period for which an interest rate is to be determined, two TARGET Days before the **first** day of that period, unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Day for that currency will be determined by the Lender in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days);

Readjustment Event has the meaning given to it in clause 6 (*Repayment*);

Receiver means a receiver, interim receiver, manager or receiver and manager, administrative receiver or similar official of the whole or any part of the Charged Property;

Related Entity in relation to an entity (the **first entity**), means an entity which is managed or advised by the same investment manager or investment adviser as the first entity (or its Affiliates) or, if it is managed by a different investment manager or investment adviser, an entity whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first entity (or its Affiliates), or an investor or limited partner in any such entity (or their Affiliates);

Relevant Interbank Market means, the European interbank market and, in relation to any other currency, the London interbank market;

Relevant Jurisdiction means, in relation to an Obligor:

- (a) its Original Jurisdiction;
- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) where used in the context of Transaction Security, the jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it;

Relevant Period has the meaning given to that term in clause **Error! Reference source not found.** (*Financial Definitions*);

Repayment Instalment means any instalment for repayment specified under the columns titled Repayment Instalment in clause 6 (*Repayment*);

Repeating Representations means each of the representations set out in clause 20.2 (*Status*) to clause 20.7 (*Governing Law and Enforcement*) (inclusive), clause 20.8.3 (*Insolvency*), clause 20.10 (*No Default*), clause 20.13.5 (*No Misleading Information*), clause 20.14 (*Original Financial Statements*), clause 20.21 (*Ranking*) to clause 20.23 (*Legal and Beneficial Ownership*) (inclusive), clause 20.24 (*Shares*), clause 20.25 (*Intellectual Property*), clause 20.29 (*Centre of Main Interests and Establishments*) to clause 20.36 (*Investment Company Act*);

Representative means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian;

Restricted Person means a person that is:

- (a) listed on, or owned or controlled by a person listed on any Sanctions List (or a person acting on behalf of such person);
- (b) located in, incorporated or organised under the laws of, or owned or controlled by, or acting on behalf of, a person located in or organised under the laws of a country or territory that is the subject of country-wide Sanctions (or a person who is owned or controlled by, or acting on behalf of, such person); or
- (c) otherwise a subject of Sanctions;

Revenue means the revenue as set out in the financial statements of the Parent;

Sanctions means any trade, financial or economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by a Sanctions Authority;

Sanctions Authorities means:

- (a) the US;
- (b) the Security Council of the United Nations;
- (c) the European Union;
- (d) the Irish Revenue Commissioners;
- (e) the sanctions local competent authority in the United Kingdom and the Republic of Ireland;
- (f) Canada; and
- (g) the respective governmental institutions and agencies of any of the foregoing, including OFAC, the US Department of State and His Majesty's Treasury;

Sanctions List means the Specially Designated Nationals and Blocked Persons list issued by OFAC, the Consolidated List of Financial Sanctions Targets issued by His Majesty's Treasury or any similar list issued or maintained or made public from time to time by any of the Sanctions Authorities (each as amended, supplemented or substituted from time to time);

Screen Rate means in relation to EURIBOR, the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed (before any correction, recalculation or republication by the administrator) on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate), or, on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Lender may specify another page or service displaying the relevant rate after consultation with the Company;

Secured Liabilities means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to any Secured Party under each Finance Document;

Secured Parties means the Lender and any Receiver or Delegate;

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

Security Property means:

- (a) the Transaction Security expressed to be granted in favour of the Lender and all proceeds of that Transaction Security; and
- (b) all obligations expressed to be undertaken by an Obligor to pay amounts in respect of the Secured Liabilities to the Lender and secured by the Transaction Security together with all representations and warranties expressed to be given by an Obligor or any other person in favour of the Lender;

Senior Management means the CEO and the CFO;

Solvent and Solvency mean, with respect to any US Obligor on a particular date, that on such date (a) such Person is able to pay its debts and other liabilities, contingent obligations and other commitments as they mature in the ordinary course of business, (b) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature, (c) such Person is not engaged in a business or a transaction, and is not about to engage in a business or transaction, for which such Person's property would constitute unreasonably small capital, (d) the fair value of such Person's property is greater than the total amount of liabilities, including contingent liabilities, of such Person, and (e) the present fair saleable value of such Person's assets is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured. The amount of contingent and unliquidated liabilities at any time shall be computed as the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability;

Specified Time means approximately 11.00am Brussels time;

Subordination Agreement means the subordination agreement dated on or about the date of this Agreement and entered into between, *inter alia*, the Obligors as subordinated lenders and subordinated borrowers and the Senior Lender;

Subsidiary means:

- (a) a subsidiary within the meaning of section 7 of the Companies Act;
- (b) an entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent. of the voting capital or similar right or ownership and control for this purpose means the power to direct the management and the policies of the entity whether through the ownership or voting capital, by contract or otherwise; or
- (c) an entity treated as subsidiary in the financial statements of any person pursuant to the Accounting Principles;

Swap Obligation means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act;

TARGET Day means any day on which TARGET2 is open for the settlement of payments in euro;

TARGET2 means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007;

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

Tax Deduction has the meaning given to it in clause 14.1 (*Tax Gross up and Indemnities*);

TCA means the Taxes Consolidation Act 1997;

Termination Date means in relation to:

- (a) Facility A, the date falling on the 18th Interest Payment Date applicable to the Facility A Loan;
- (b) Facility B, the date falling on the 18th Interest Payment Date applicable to the Facility B Loan; and
- (c) Facility C, the date falling on the 18th Interest Payment Date applicable to the Facility C Loan;

Total Commitments means the aggregate of the Facility A Commitment, the Facility B Commitment and the Facility C Commitment, being €15,000,000 (fifteen million euros) at the date of this Agreement;

Total Purchase Price means in respect of a Permitted Acquisition under paragraph **Error! Reference source not found.** of that definition, the aggregate consideration payable in respect of such acquisition including any Deferred Consideration and Earn-Outs provided that, the amount of any Earn-Out is based on the Company's estimate calculated in good faith and using reasonable indicators; plus (i) any Financial Indebtedness remaining in the Acquired Business on the completion date of the acquisition; and (ii) any fees, costs, expenses or Taxes;

Transaction Security means the Security created or expressed to be created in favour of the Lender pursuant to the Transaction Security Documents;

Transaction Security Documents means each of the documents listed as being a Transaction Security Document in paragraph 2 of Part 1 of Schedule 2 (Conditions Precedent), and any document required to be delivered to the Lender under paragraph 13 of Part 2 Schedule 2 (Conditions Precedent) together with any other document entered into by any Obligor creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents;

Transfer Certificate means a certificate substantially in the form set out in Schedule 6 (Form of Transfer Certificate) or any other form agreement between the Lender and the Company;

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

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

US Bankruptcy Code means Title 11 of The United States Code (entitled "*Bankruptcy*"), as amended from time to time and as now or hereafter in effect, or any successor thereto;

US Obligor means any Obligor that is incorporated or organised under the laws of the United States of America, any state or territory thereof or the District of Columbia;

Utilisation means a Loan;

Utilisation Date means the date of a Utilisation, being the date on which the relevant Loan is to be made;

Utilisation Request means a notice substantially in the relevant form set out in Schedule 3 (Requests and Notices);

VAT means:

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

- (c) any other tax of a similar nature, wherever and whenever imposed in substitution for, or levied in addition to, such tax referred to in paragraphs (a) or (b) above, or imposed elsewhere; and

VAT Act means the Value Added Tax Consolidation Act 2010.

1.2 Construction

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

- (a) the **Lender**, any **Obligor**, any **Party**, any **Secured Party** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;
- (b) a document in **agreed form** is a document which is previously agreed in writing by or on behalf of the Borrower and the Lender or, if not so agreed, is in the form specified by the Lender;
- (c) **assets** includes present and future properties, revenues and rights of every description;
- (d) a **Finance Document** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended, restated and/or replaced from time to time (however fundamentally);
- (e) **guarantee** means (other than in clause 19 (*Guarantee and Indemnity*)) any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- (f) **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;
- (g) a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (h) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which persons to who it is directed are expected and accustomed to comply with) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- (i) **including** means including without limitation and **includes** and **included** shall be construed accordingly;
- (j) a provision of law is a reference to that provision as amended or re-enacted; and
- (k) a time of day is a reference to Dublin time.

1.2.2 Section, clause and Schedule headings are for ease of reference only.

1.2.3 Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

1.2.4 A Default (other than an Event of Default) is **continuing** if it has not been remedied or waived in accordance with this Agreement and an Event of Default is **continuing** if it has not been waived in writing by the Lender or remedied.

1.2.5 Any reference in this Agreement or any other Finance Document to a merger, consolidation, amalgamation, conveyance, disposal, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, corporation or partnership, or an allocation of assets to a series of or one or more limited liability companies, partnerships or corporations, or the unwinding of such a division or allocation, as if it were a merger, consolidation, amalgamation conveyance, disposal, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate person. Any division of a limited liability company, corporation or partnership shall be deemed to constitute the formation of a separate person, and any such division shall constitute a separate person hereunder and under the other Finance Documents (and each division of any limited liability company, corporation or partnership that is a subsidiary, joint venture or any other like term shall also constitute such a person or entity).

1.3 **Currency Symbols and Definitions**

\$, USD and **dollars** denote the lawful currency of the United States of America; **£, GBP** and **sterling** denote the lawful currency of the United Kingdom; **CAD** or **Canadian dollar** denotes the lawful currency of Canada; and **€, EUR** and **euro** denote the single currency of the Participating Member States.

1.4 **Provision of Information by Directors**

If any provision of a Finance Document requires Senior Management, a director, secretary or other authorised officer of any member of the Group to provide any information, certify any matter or to make any presentation, any such provision, certification or presentation shall (*provided that* it is made in good faith) be made without personal liability on the part of such director, secretary or other authorised officer (other than in the case of fraud, wilful default or gross negligence).

2 THE FACILITIES

2.1 The Facilities

Subject to the terms of this Agreement, the Lender makes available to the Borrower:

- 2.1.1 a term loan facility equal to the Facility A Commitment;
- 2.1.2 a term loan facility equal to the Facility B Commitment; and
- 2.1.3 a term loan facility equal to the Facility C Commitment.

2.2 Obligors' Agent

2.2.1 Each Obligor (other than the Company) by its execution of this Agreement or an Accession Deed irrevocably appoints the Company (acting through one or more authorised signatories) to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:

- (a) the Company on its behalf to supply all information concerning itself contemplated by this Agreement to the Lender and to give all notices and instructions, to execute on its behalf any Accession Deed (or other agreement or deed), to make such agreements and to effect the relevant amendments, supplements and variations in each case, however fundamental, capable of being given, made or effected by any Obligor notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and
- (b) the Lender to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Company,

and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

2.2.2 Every act, omission, agreement, deed, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligors' Agent or given to the Obligors' Agent under any Finance Document on behalf of another Obligor or in connection with any Finance Document (whether or not known to any other Obligor and whether occurring before or after such other Obligor became an Obligor under any Finance Document) shall be binding for all purposes on that Obligor as if that Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Obligors' Agent and any other Obligor, those of the Obligors' Agent shall prevail.

3 PURPOSE

3.1 Purpose

The Borrower shall apply all amounts borrowed by it under Facilities towards:

- 3.1.1 the general corporate purposes of the Group;
- 3.1.2 costs and expenses incurred in relation to or in connection with the developing and broadening of the technology platform, developing and implementing the Group's "go to market" strategy, funding of working capital, and related general and administrative purposes and costs; and
- 3.1.3 the payment of all amounts payable by the Company pursuant to clause 13 (*Fees*).

3.2 **Monitoring**

The Lender is not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4 **CONDITIONS OF UTILISATION**

4.1 **Initial Conditions Precedent**

Subject to clause 4.2 (*Further Conditions Precedent*) below, the Lender will only be obliged to fund a Utilisation if on or before the Utilisation Date for that Utilisation, the Lender has received or has waived the requirement to receive all of the documents and other evidence listed in Part 1 of Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Lender.

4.2 **Further Conditions Precedent**

The Lender will only be obliged to fund a Utilisation, if on the date of the Utilisation Request and on the proposed Utilisation Date:

- 4.2.1 no Default is continuing or would result from the proposed Utilisation;
- 4.2.2 in relation to any Utilisation on the date of this Agreement, all the representations and warranties in clause 20 (*Representations*) or, in relation to any other Utilisation, the Repeating Representations to be made by each Obligor are true in all material respects;
- 4.2.3 in the case of any Utilisation under Facility B, the Borrower has provided evidence in the form of Monthly Financial Statements, Annual Financial Statements or otherwise in a form satisfactory to the Lender, to be delivered to the Lender, on the proposed Utilisation Date for Facility B, the Annual Recurring Revenue for the Group is at least CAD 26,000,000 (twenty-six million Canadian dollars);
- 4.2.4 in the case of any Utilisation under Facility C, the Borrower has provided evidence in form of Monthly Financial Statements, Annual Financial Statements or otherwise in a form satisfactory to the Lender, to be delivered to the Lender that, on the proposed Utilisation Date for Facility C, the Annual Recurring Revenue for the Group is at least CAD 30,000,000 (thirty million Canadian dollars);
- 4.2.5 on or five (5) Business Days prior to the relevant Utilisation Date for Facility B and Facility C (respectively), the Borrower has delivered to the Lender a certified copy of the Group Structure Chart setting out its subsidiaries and any Material Company; and
- 4.2.6 payment of any agreed fee will be made in accordance with the terms of this Agreement.

4.3 **Maximum Number of Utilisations**

- 4.3.1 The Company may not deliver a Utilisation Request if as a result of the proposed Utilisation:
 - (a) more than one Facility A Loan would be outstanding;
 - (b) more than one Facility B Loan would be outstanding; or
 - (c) more than one Facility C Loan would be outstanding.
- 4.3.2 The Company may not request that a Loan be divided.

5 UTILISATION

5.1 Delivery of a Utilisation Request

The Company may utilise a Facility by delivery to the Lender of a duly completed Utilisation Request not later than 9:30am Dublin time 12 Business Days prior to the intended Utilisation Date of that Facility, or such later time as the Lender approves.

5.2 Completion of a Utilisation Request for Loans

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

- 5.2.1 it identifies the Facility to be utilised;
- 5.2.2 the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;
- 5.2.3 the amount of the Utilisation comply with clause 5.3 (*Amount*); and
- 5.2.4 the proposed Interest Period complies with clause 11 (*Interest Periods*).

5.3 Amount

- 5.3.1 The amount of the proposed Utilisation must be:
 - (a) in relation to Facility A in an amount equal to the Facility A Commitment;
 - (b) in relation to Facility B in an amount equal to the Facility B Commitment; or
 - (c) in relation to Facility C in an amount equal to the Facility C Commitment.

5.4 Limitations on Utilisations

- 5.4.1 Facility B shall not be utilised unless Facility A has been utilised in full.
- 5.4.2 Facility C shall not be utilised unless Facility B has been utilised in full.

5.5 Cancellation of Commitment

- 5.5.1 The Facility A Commitment, if unutilised at that time, shall be immediately cancelled at the end of the Availability Period for Facility A.
- 5.5.2 The Facility B Commitment, if unutilised at that time, shall be immediately cancelled at the end of the Availability Period for Facility B.
- 5.5.3 The Facility C Commitment, if unutilised at that time, shall be immediately cancelled at the end of the Availability Period for Facility C.

6 REPAYMENT

- 6.1 At any time prior to the occurrence of an Event of Default which is continuing, the Borrower shall repay the Facility A Loan in instalments by repaying on each Facility A Repayment Date an amount which reduces the outstanding Facility A Loan by the amount set out opposite that Facility A Repayment Date below:

Facility A Repayment Date	Repayment Instalment
1 st Interest Payment Date after the Utilisation Date of Facility A	N/A
2 nd Interest Payment Date after the Utilisation Date of Facility A	N/A
3 rd Interest Payment Date after the Utilisation Date of Facility A	N/A
4 th Interest Payment Date after the Utilisation Date of Facility A	N/A
5 th Interest Payment Date after the Utilisation Date of Facility A	N/A
6 th Interest Payment Date after the Utilisation Date of Facility A	N/A
7 th Interest Payment Date after the Utilisation Date of Facility A	€250,000
8 th Interest Payment Date after the Utilisation Date of Facility A	€250,000
9 th Interest Payment Date after the Utilisation Date of Facility A	€250,000
10 th Interest Payment Date after the Utilisation Date of Facility A	€250,000
11 th Interest Payment Date after the Utilisation Date of Facility A	€400,000
12 th Interest Payment Date after the Utilisation Date of Facility A	€400,000
13 th Interest Payment Date after the Utilisation Date of Facility A	€400,000
14 th Interest Payment Date after the Utilisation Date of Facility A	€400,000
15 th Interest Payment Date after the Utilisation Date of Facility A	€600,000
16 th Interest Payment Date after the Utilisation Date of Facility A	€600,000
17 th Interest Payment Date after the Utilisation Date of Facility A	€600,000
18 th Interest Payment Date after the Utilisation Date of Facility A	€600,000

- 6.2 At any time prior to the occurrence of an Event of Default which is continuing, the Borrower shall repay the Facility B Loan in instalments by repaying on each Facility B Repayment Date an amount which reduces the outstanding Facility B Loan by the amount set out opposite that Facility B Repayment Date below:

Facility B Repayment Date	Repayment Instalment
1 st Interest Payment Date after the Utilisation Date of Facility B	N/A
2 nd Interest Payment Date after the Utilisation Date of Facility B	N/A

3 rd Interest Payment Date after the Utilisation Date of Facility B	N/A
4 th Interest Payment Date after the Utilisation Date of Facility B	N/A
5 th Interest Payment Date after the Utilisation Date of Facility B	N/A
6 th Interest Payment Date after the Utilisation Date of Facility B	N/A
7 th Interest Payment Date after the Utilisation Date of Facility B	€250,000
8 th Interest Payment Date after the Utilisation Date of Facility B	€250,000
9 th Interest Payment Date after the Utilisation Date of Facility B	€250,000
10 th Interest Payment Date after the Utilisation Date of Facility B	€250,000
11 th Interest Payment Date after the Utilisation Date of Facility B	€400,000
12 th Interest Payment Date after the Utilisation Date of Facility B	€400,000
13 th Interest Payment Date after the Utilisation Date of Facility B	€400,000
14 th Interest Payment Date after the Utilisation Date of Facility B	€400,000
15 th Interest Payment Date after the Utilisation Date of Facility B	€600,000
16 th Interest Payment Date after the Utilisation Date of Facility B	€600,000
17 th Interest Payment Date after the Utilisation Date of Facility B	€600,000
18 th Interest Payment Date after the Utilisation Date of Facility B	€600,000

- 6.3 At any time prior to the occurrence of an Event of Default which is continuing, the Borrower shall repay the Facility C Loan in instalments by repaying on each Facility C Repayment Date an amount which reduces the outstanding Facility C Loan by the amount set out opposite that Facility C Repayment Date below:

Facility C Repayment Date	Repayment Instalment
1 st Interest Payment Date after the Utilisation Date of Facility C	N/A
2 nd Interest Payment Date after the Utilisation Date of Facility C	N/A

3 rd Interest Payment Date after the Utilisation Date of Facility C	N/A
4 th Interest Payment Date after the Utilisation Date of Facility C	N/A
5 th Interest Payment Date after the Utilisation Date of Facility C	N/A
6 th Interest Payment Date after the Utilisation Date of Facility C	N/A
7 th Interest Payment Date after the Utilisation Date of Facility C	€250,000
8 th Interest Payment Date after the Utilisation Date of Facility C	€250,000
9 th Interest Payment Date after the Utilisation Date of Facility C	€250,000
10 th Interest Payment Date after the Utilisation Date of Facility C	€250,000
11 th Interest Payment Date after the Utilisation Date of Facility C	€400,000
12 th Interest Payment Date after the Utilisation Date of Facility C	€400,000
13 th Interest Payment Date after the Utilisation Date of Facility C	€400,000
14 th Interest Payment Date after the Utilisation Date of Facility C	€400,000
15 th Interest Payment Date after the Utilisation Date of Facility C	€600,000
16 th Interest Payment Date after the Utilisation Date of Facility C	€600,000
17 th Interest Payment Date after the Utilisation Date of Facility C	€600,000
18 th Interest Payment Date after the Utilisation Date of Facility C	€600,000

- 6.4 Upon the occurrence of an Event of Default which is continuing, without prejudice to any other rights of the Lender under any of the Finance Documents (including pursuant to clause 24.21 (*Acceleration*)), the Borrower shall repay the Facility A Loan, the Facility B Loan and the Facility C Loan (including any capitalised PIK Interest) in equal monthly instalments on a pro-rata basis by repaying on the last Business Day of each month.
- 6.5 The Lender shall provide to the Borrower, at least three (3) Business Days prior to each Interest Payment Date, a statement or invoice setting out the full amount of all principal and interest repayments due on the Interest Payment Date.

7 ILLEGALITY, VOLUNTARY PREPAYMENT AND CANCELLATION

7.1 Illegality

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

- 7.1.1 the Lender shall promptly notify the Company; upon becoming aware of that event; and
- 7.1.2 the Facilities will be cancelled and all outstanding Utilisations, together with accrued interest, and all other amounts accrued under the Finance Documents, shall become immediately due, upon which the Company shall repay the outstanding Utilisations on the last day of the Interest Period for each Utilisation occurring after the Lender has notified the Company or, if earlier, the date specified by the Lender in the notice sent to the Company (being no earlier than the last day of any applicable grace period permitted by law).

7.2 Voluntary Cancellation

The Company may, if it gives the Lender not less than 12 days' prior notice (or such shorter period as the Lender may agree), cancel the whole of the Facility B Commitment and/or Facility C Commitment.

7.3 Voluntary Prepayment of Loans

- 7.3.1 Subject to any amounts payable pursuant to clauses 9.7 (*Prepayment Premium*) and 9.8 (*Exit Fee*), the Company may, if it gives the Lender not less than 12 Business Days' (or such shorter period as the Lender may agree) prior notice, prepay the whole or any part of a Loan on an Interest Payment Date (but, if in part, being an amount that reduces the Loan by a minimum amount of €2,000,000).
- 7.3.2 Any prepayment shall be applied in prepayment of the Loans (on a *pro-rata* basis calculated on the original amount of each Loan and subject to the restrictions in clause 9 (*Restrictions*)).
- 7.3.3 Any prepayment of a Loan pursuant to this clause 7.3 shall reduce each remaining Repayment Instalment for that Loan on a *pro rata* basis.

8 MANDATORY PREPAYMENT AND CANCELLATION

8.1 Exit

Upon the occurrence of:

- 8.1.1 a Change of Control;
- 8.1.2 the Parent ceasing to be listed on the Toronto Stock Exchange;
- 8.1.3 the sale or transfer of all or substantially all of the assets of the Group (including the shares of the Borrower or any other Group member) whether in a single transaction or a series of related transactions (a **Trade Sale**),

the Facilities will be cancelled and all outstanding Utilisations, together with accrued interest and any fees payable pursuant this Agreement (including any fee payable pursuant to clause 9.7 (*Prepayment Premium*)), and all other amounts accrued under the Finance Documents, shall become immediately due and payable.

8.2 Disposal and Insurance Proceeds

8.2.1 For the purposes of this clause 8.2 and clause 8.3 (*Application of Mandatory Prepayments*):

Disposal means a sale, lease, licence, transfer, loan or other disposal by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions);

Disposal Proceeds means the consideration receivable by any member of the Group (including any amount receivable in repayment of intercompany debt) for any Disposal made by any member of the Group in each case in excess of €100,000 in respect of an individual Disposal and €200,000 (or its equivalent in other currencies) in aggregate for all Disposals in any Financial Year except for Excluded Disposal Proceeds and after deducting:

- (a) any reasonable expenses which are incurred by any member of the Group with respect to that Disposal to persons who are not members of the Group; and
- (b) any Tax incurred and required to be paid (or which is reserved for in accordance with the Accounting Principles) by the seller in connection with that Disposal (as reasonably determined by the seller, on the basis of existing rates and taking account of any available credit, deduction or allowance);

Excluded Disposal Proceeds means any proceeds recovered by a member of the Group in respect of a Permitted Disposal or which are applied within 12 Months of receipt in or towards reinvestment in similar or replacement assets;

Excluded Insurance Proceeds means any proceeds of an insurance claim which are applied within 12 Months of receipt:

- (i) to meet a third party claim (including claims on public liability or director and officer policies);
- (ii) to cover operating losses or business interruption costs or losses in respect of which the relevant insurance claim (including an insurance claim made in connection with a cyber-security attack network extortion, digital asset loss and/or to meet a cyber extortion demand); or
- (iii) in the replacement, reinstatement and/or repair of the assets or otherwise in amelioration of the loss in respect of which the relevant insurance claim was made; and

Insurance Proceeds means the proceeds of any insurance claim under any insurance maintained by any member of the Group in each case in excess of €100,000 (or its equivalent in other currencies) in respect of an individual claim of €200,000 (or its equivalent in other currencies) in aggregate for all claims in one Financial Year except for Excluded Insurance Proceeds and after deducting:

- (a) any reasonable expenses in relation to that claim which are incurred by any member of the Group to persons who are not members of the Group; and
- (b) any Tax incurred and required to be paid (or reserved for in accordance with the Accounting Principles) by a member of the Group in connection with that claim (as reasonably determined by the relevant member of the Group, on the basis of existing rates and taking account of any available credit, deduction or allowance).

8.2.2 Subject to clause 9.7 (*Prepayment Premium*) below, the Borrower shall prepay Loans in amounts equal to the following amounts at the times and in the order of application contemplated by clause 8.3 (*Application of Mandatory Prepayments*):

- (a) the amount of any Disposal Proceeds; and
- (b) the amount of any Insurance Proceeds.

8.3 Application of Mandatory Prepayments

8.3.1 Any prepayment of Utilisations made under clause 8.2 (*Disposal and Insurance Proceeds*) shall be applied in prepayment of the Facility A Loan, the Facility B Loan and the Facility C Loan (on a *pro-rata* basis calculated on the original amount of each Loan) and shall reduce Repayment Instalments for each Loan on a pro rata basis.

8.3.2 In the case of any prepayment relating to the amounts of Disposal Proceeds or Insurance Proceeds, the Company shall prepay Loans promptly upon the later of (A) receipt of those proceeds and (B) such proceeds ceasing to be Excluded Disposal Proceeds or Excluded Insurance Proceeds (as the case may be).

8.3.3 The Company shall give five Business Days' notice to the Lender of any required mandatory prepayment under clause 8.2 (*Disposal and Insurance Proceeds*).

9 RESTRICTIONS

9.1 Notices of Cancellation or Prepayment

Any notice of cancellation, prepayment, authorisation or other election given by any Party under clause 7 (*Illegality, Voluntary Prepayment and Cancellation*), shall (subject to the terms of that clause) be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

9.2 Dates, Interest and Other Amounts

9.2.1 Any prepayment under this Agreement (other than a voluntary prepayment pursuant to clause 7.3 (*Voluntary prepayment of loans*) which may only be made on an Interest Payment Date or the Termination Date applicable to the Facility being prepaid) shall be made together with accrued and unpaid interest on the amount prepaid and:

- (a) save as otherwise provided in clause 9.7 (*Prepayment Premium*) and clause 9.8 (*Exit Fee*); and
- (b) subject to any Break Costs,
without premium or penalty.

9.3 No Re-borrowing of Facilities

No Borrower may re-borrow any part of a Facility which is repaid or prepaid.

9.4 Prepayment in Accordance with Agreement

No Borrower shall repay or prepay all or any part of the Utilisations or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

9.5 **No Reinstatement of Commitments**

No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

9.6 **Lender's Receipt of Notices**

The Lender may elect to waive all or a specified share of a prepayment under clause 8.2 (*Disposal and Insurance Proceeds*) and, if any mandatory prepayment is waived, the Borrower's obligation to prepay such amount at that time shall be waived and such amount shall, for the avoidance of doubt, remain outstanding and repayable in accordance with clause 6 (*Repayment*).

9.7 **Prepayment Premium**

9.7.1 Subject to clauses 9.7.2 and 9.7.3 below, if, prior to the date of the 12th Interest Payment Date after the Utilisation Date for the relevant Loan, all or any part of a Loan is repaid or prepaid by the Borrower (or otherwise discharged by or on behalf of the Borrower) for whatever reason (the **Relevant Prepayment**), the Company shall repay to the Lender all Interest (including PIK Interest) accrued and unpaid and all other amounts that, but for the Relevant Prepayment, would have accrued on or would have become payable on the amount of the Relevant Prepayment during the period (the **Make Whole Period**) from and including the date on which the Relevant Prepayment is made (the **Repayment Date**) until (and including) the 12th Interest Payment Date after the Utilisation Date for that Loan, calculated in accordance with clause 10 (*Interest*) except that, for the purpose of calculating interest that would have become payable pursuant to this definition:

- (a) any references to the outstanding principal of the Loans in clause 10 (*Interest*) shall instead be construed as references to the amount of the Relevant Prepayment;
- (b) the applicable Interest Period is a period equal to the period between the relevant Repayment Date and the last Business Day of the Make Whole Period and EURIBOR shall be deemed to be:
 - (i) the EURIBOR Screen Rate for a period of three (3) months as of the Repayment Date; or
 - (ii) where the rate in paragraph (i) above is not available as of the Repayment Date, the applicable EURIBOR shall be the Interpolated Screen Rate for a three (3) month period, and if that rate is zero or less than zero per. cent (0%) per annum, EURIBOR shall be deemed to be zero (0); and
- (c) in calculating such interest, account shall be taken of all scheduled amortisation within the Make Whole Period required pursuant to clause 6 (*Repayment*).

9.7.2 The calculations and records of the Lender in determining the Prepayment Premium shall, in the absence of manifest error, be conclusive evidence of such amounts pursuant to clause 31.2 (*Certificates and Determinations*) but the Lender shall, promptly following the Company's request, provide copies of such calculations to the Company.

9.7.3 No Prepayment Premium shall be applicable and payable pursuant to this clause 9.7 in relation to:

- (a) a scheduled repayment to be made pursuant to clause 6 (*Repayment*) or in respect of any prepayment made on or after the 12th Interest Payment Date after the relevant Utilisation Date for that Facility; and/or
- (b) any prepayments made pursuant to clause 7.1 (*Illegality*).

9.8 **Exit Fee**

9.8.1 The Company shall pay to the Lender an exit fee (the **Exit Fee**) equal to six per cent. (6%) of the Commitment in respect of each Facility on either of:

- (a) the applicable Termination Date for that Facility; or
- (b) in the case of any prepayment made in accordance with the terms of this Agreement (including under Clause 24.21 (*Acceleration*)), on the date such prepayment results in a repayment of the relevant Facility in full.

9.8.2 For the avoidance of doubt, any Exit Fee payable pursuant to Clause 9.8.1 (b) above shall be payable in addition to any prepayment premium as set out in clause 9.7 (*Prepayment Premium*) above which may also be payable in accordance with the terms of this Agreement.

9.8.3 No Exit Fee shall be payable in respect of:

- (a) Any Facility which is unutilised following the expiry of the applicable Availability Period for that Facility; and
- (b) any prepayment arising in respect of Clause 7.1 (*Illegality*) of this Agreement.

10 **INTEREST**

10.1 **Cash Interest**

10.1.1 Subject to clause 10.5 (*ESG Cash Margin Adjustment*), the rate of cash interest (**Cash Interest**) on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

- (a) Cash Margin; and
- (b) EURIBOR.

10.1.2 In relation to each Loan, an Interest Period is each period beginning on (and including) the relevant Utilisation Date or any Interest Payment Date and ending on (but excluding) the next Interest Payment Date and the last Interest Period shall end on the relevant Termination Date.

10.1.3 The Borrower shall pay accrued Cash Interest on the Loans on each Interest Payment Date.

10.2 **Default Interest**

10.2.1 If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is 4 per cent. per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Lender (acting reasonably). Any interest accruing under this clause 10.2.1 shall be immediately payable by the Obligor on demand by the Lender.

10.2.2 If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:

- (a) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and

- (b) the rate of interest applying to the overdue amount during that first Interest Period shall be 4 per cent. per annum higher than the rate which would have applied if the overdue amount had not become due.

10.2.3 Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

10.3 **PIK Interest**

10.3.1 The Loans shall bear PIK Interest for each Interest Period at a rate equal to the PIK Margin.

10.3.2 PIK Interest will accrue quarterly in arrears on each Loan from and shall be calculated on the basis of the actual number of days elapsed and a year of 360 days.

10.3.3 Subject to paragraph 10.3.4 below, on the last day of each Interest Period, the accrued interest shall be capitalised in full and be added to the outstanding principal of the relevant Loan and shall be repaid in accordance with clause 6 (*Repayment*).

10.3.4 PIK Interest accruing during an Interest Period but not yet compounded in accordance with paragraph 10.3.3 above shall become immediately due and payable in cash upon repayment or prepayment of a Loan in respect of which such PIK Interest has accrued either:

- (a) on the applicable Termination Date for that Facility; or
- (b) upon the sums accrued in respect of the relevant Loan being declared immediately due and payable pursuant to clause 8 (*Mandatory Prepayment and Cancellation*) or clause 24.1923.21 (*Acceleration*).

10.4 **Notification of Rates of Interest**

The Lender shall promptly notify the Company of the determination of a rate of interest under this Agreement.

10.5 **ESG Cash Margin Adjustment**

10.5.1 If the most recent ESG Compliance Certificate received by the Lenders confirms and evidences that:

- (a) three (3) ESG Criteria are met, then the applicable Cash Margin (disregarding any previous adjustment of the Cash Margin in application of this paragraph (a)) will be decreased by a percentage per annum equal to zero point ten (0.10) per cent;
- (b) two (2) ESG Criteria are met, then the applicable Cash Margin (disregarding any previous adjustment of the Cash Margin in application of this paragraph (a)) will be decreased by a percentage per annum equal to zero point zero six (0.06) per cent; and
- (c) one (1) ESG Criterion is met, then the applicable Cash Margin (disregarding any previous adjustment of the Cash Margin in application of this paragraph (a)) will be decreased by a percentage per annum equal to zero point zero three (0.03) per cent,

(any such decrease being referred to as an **ESG Linked Adjustment**)

10.5.2 Any ESG Linked Adjustment shall take effect from the first Interest Payment Date following the date on which the Lenders have received the relevant ESG Compliance Certificate pursuant to clause 21.14.3(b) (*ESG*) until and including the fourth Interest Period thereafter.

- 10.5.3 If an ESG Compliance Certificate is not delivered by the time specified in clause 21.14.3(b) (*ESG*), then any ESG Linked Adjustment (if any) shall automatically cease to apply as from the date of failure to deliver that subsequent ESG Compliance Certificate and the Cash Margin shall revert back to the original rate as set out in the definition of Cash Margin.

10.6 Interest Act (Canada) and Criminal Code (Canada)

- 10.6.1 For the purposes of the Interest Act (Canada), the yearly rate of interest to which any rate calculated on the basis of a period of time different from the actual number of days in the year (360 days, for example) is equivalent is the stated rate multiplied by the actual number of days in the year (365 or 366, as applicable) and divided by the number of days in the shorter period (360 days, in the example), and the parties hereto acknowledge that there is a material distinction between the nominal and effective rates of interest and that they are capable of making the calculations necessary to compare such rates and that the calculations herein are to be made using the nominal rate method and not on any basis that gives effect to the principle of deemed reinvestment of interest.
- 10.6.2 Any provision of this Agreement that would oblige a Canadian Obligor to pay any fine, penalty or rate of interest on any arrears of principal or interest secured by a mortgage on real property or hypothec on immovable that has the effect of increasing the charge on arrears beyond the rate of interest payable on principal money not in arrears shall not apply to such Canadian Obligor, which shall be required to pay interest on money in arrears at the same rate of interest payable on principal money not in arrears.
- 10.6.3 If any provision of this Agreement or of any of the other Finance Documents would obligate the Borrower or any other Obligor to make any payment of interest or other amount payable to the Lender in an amount or calculated at a rate which would be prohibited by applicable law or would result in a receipt by the Lender of interest at a criminal rate (as such terms are construed under the Criminal Code (Canada)) then, notwithstanding such provisions, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by applicable law or so result in a receipt by the Lender of interest at a criminal rate, such adjustment to be effected, to the extent necessary, as follows: firstly, by reducing the amount or rate of interest required to be paid to the Lender and thereafter, by reducing any fees, commissions, premiums and other amounts required to be paid to the Lender which would constitute "interest" for purposes of Section 347 of the Criminal Code (Canada).

11 INTEREST PERIODS

11.1 Interest Periods

- 11.1.1 Subject to clause 11.1.2 below, for any period when an Event of Default is not continuing, each Interest Period will be three Months, save that the initial Interest Period for each Loan shall be shortened or extended to end on the next Interest Payment Date.
- 11.1.2 For any period when an Event of Default has occurred and is continuing, each Interest Period will be one Month.
- 11.1.3 An Interest Period shall not extend beyond the Termination Date applicable to its Facility.

11.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day.

12 CHANGES TO THE CALCULATION OF INTEREST

12.1 Unavailability of Screen Rate

12.1.1 *Interpolated Screen Rate*

If no Screen Rate is available for EURIBOR for the Interest Period of a Loan, the applicable EURIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan.

12.1.2 *Cost of Funds*

If no Screen Rate is available for EURIBOR and it is not possible to calculate the Interpolated Screen Rate, there shall be no EURIBOR for that Loan and clause 12.2 (*Cost of Funds*) shall apply to that Loan for that Interest Period.

12.2 Cost of Funds

12.2.1 If this clause 12.2 applies, the rate of interest on each Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:

(a) the Cash Margin;

(b) the PIK Margin; and

(c) the rate notified by the Lender to the Parent as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to the Lender of funding the Loan from whatever source it may reasonably select.

12.2.2 If this clause 12.2 applies and the Lender or the Company so requires, the Lender and the Parent shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest.

12.2.3 Any alternative basis agreed pursuant to paragraph 12.2.1 above shall, with the prior consent of the Lender and the Parent, be binding on all Parties.

12.3 Break Costs

12.3.1 The Borrower shall, within three Business Days of demand by the Lender, pay to the Lender its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by the Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.

12.3.2 The Lender shall, as soon as reasonably practicable after a demand by the Borrower, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

13 FEES

13.1 The Company shall pay to the Lender (for its own account) a non-refundable structuring fee of 1 per cent of the principal amount of a Facility upon Utilisation of that Facility. The arrangement fee shall be paid by the Company as follows:

13.1.1 €50,000, being an amount equal to 1 per cent. of Facility A, on the Closing Date (the **Facility A Structuring Fee**);

- 13.1.2 subject to paragraph 13.2 below, €50,000, being an amount equal to 1 per cent. of Facility B, payable on the first Utilisation Date for Facility B (the **Facility B Structuring Fee**); and
- 13.1.3 subject to paragraph 13.2 below, €50,000, being an amount equal to 1 per cent. of Facility C, payable on the first Utilisation Date for Facility C (the **Facility C Structuring Fee**).

13.2 The Facility B Structuring Fee is only payable if Facility B is utilised.

13.3 The Facility C Structuring Fee is only payable if Facility C is utilised.

13.4 The Company confirms that the Lender may deduct from:

13.4.1 the proceeds of the Facility A Loan, the Facility A Structuring Fee;

13.4.2 the proceeds of the Facility B Loan, the Facility B Structuring Fee; and

13.4.3 the proceeds of the Facility C Loan, the Facility C Structuring Fee.

14 TAX GROSS UP AND INDEMNITIES

14.1 Definitions

In this Agreement:

Protected Party means a Lender which is or will be subject to any liability or required to make any payment for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

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

- (a) which is a bank (within the meaning of section 246 of the TCA) carrying on a bona fide banking business in Ireland (for the purposes of section 246(3) of the TCA); or
- (b) which is a company (within the meaning of section 246 of the TCA);
 - (i) which, by virtue of the law of a Relevant Territory is resident in the Relevant Territory (residence for these purposes to be determined in accordance with the laws of the Relevant Territory of which the Lender claims to be resident) for the purposes of tax and that jurisdiction imposes a tax that generally applies to interest receivable in that jurisdiction by companies from sources outside that jurisdiction; or
 - (ii) in receipt of interest under a Finance Document which:
 - (A) is exempted from the charge to Irish income tax pursuant to the terms of a double taxation treaty entered into between Ireland and the jurisdiction in which the Lender is resident for tax purposes that is in force on the date the relevant interest is paid; or
 - (B) would be exempted from the charge to Irish income tax pursuant to the terms of a double taxation treaty entered into between Ireland and the jurisdiction in which the Lender is resident for tax purposes signed on or before the date on which the relevant interest is paid but not in force on that date, assuming that treaty had the force of law by virtue of section 826(1) of the TCA on that date;

provided that, in the case of both (b)(i) and (b)(ii) above, such company does not provide its commitment in connection with a trade or business which is carried on in Ireland through a branch or agency in Ireland; or

- (c) which is a United States (“**US**”) company that is incorporated in the US and is subject to US Federal income tax on its worldwide income provided that such US corporation does not provide its commitment in connection with a trade or business which is carried on in Ireland through a branch or agency in Ireland; or
- (d) which is a US Limited Liability Company (**LLC**), where the ultimate recipients of the interest payable to that LLC satisfy the requirements set out in (b)(i), (b)(ii) or (c) above and the business conducted through the LLC is so structured for non-tax commercial reasons and not for tax avoidance purposes, provided that such LLC does not provide its commitment in connection with a trade or business which is carried on by it in Ireland through a branch or agency in Ireland; or
- (e) which is a company (within the meaning of section 246 of the TCA);
 - (i) which advances money in the ordinary course of a trade which includes the lending of money;
 - (ii) in whose hands any interest payable in respect of money so advanced is taken into account in computing the trading income of that company; and
 - (iii) which has complied with the notification requirements set out in section 246(5)(a) of the TCA;
or
- (f) which is a qualifying company (within the meaning of section 110 of the TCA); or
- (g) which is an investment undertaking (within the meaning of section 739B of the TCA); or
- (h) which is an exempt approved scheme within the meaning of section 774 of the TCA; or
- (i) which is a Treaty Lender.

Relevant Territory means:

- (a) a member state of the European Communities (other than Ireland); or
- (b) to the extent not a member state of the European Communities, a jurisdiction with which Ireland has entered into a double taxation treaty that has the force of law by virtue of section 826(1) of the TCA;
or
- (c) not being a territory referred to in (a) or (b) of this definition, a territory which Ireland has signed a double taxation treaty which will have the force of law on completion of the procedures set out in section 826(1) of the TCA.

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

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

Tax Payment means either the increase in a payment made by an Obligor to a Lender under clause 14.2 (*Tax Gross-Up*) or a payment under clause 14.2.4 (*Tax Indemnity*).

Treaty Lender means a Lender other than a Lender falling within paragraph (b), (c) or (d) of the definition of Qualifying Lender set out above, which (subject to the completion of procedural formalities):

- (a) is treated as a resident of a Treaty State for the purposes of the Treaty;
- (b) does not carry on a business in Ireland through a permanent establishment (as defined in the relevant Treaty) with which that Lender's participation in the Loan is effectively connected; and
- (c) meets all conditions in the Treaty which must be fulfilled under the Treaty by residents of the relevant Treaty State for such residents to obtain a full exemption from Tax on payments of interest imposed by Ireland.

Treaty State means a jurisdiction having a double taxation agreement (a **Treaty**) with Ireland which makes provision for full exemption from tax imposed by Ireland on payments of interest.

Unless a contrary indication appears, in this clause 14 a reference to **determines** or **determined** means a determination made in the absolute discretion of the person making the determination.

14.2 Tax Gross-Up

- 14.2.1 Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
- 14.2.2 The Parent shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Lender(s) accordingly. Similarly, a Lender shall promptly notify the Parent on becoming so aware in respect of a payment payable to that Lender.
- 14.2.3 If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- 14.2.4 A payment shall not be increased under paragraph 14.2.3 above by reason of a Tax Deduction on account of Tax imposed by Ireland on a payment of interest by the Borrower, if on the date on which the payment falls due:
 - (a) the payment could have been made to the relevant Lender without a Tax Deduction if the Lender had been a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or Treaty or any published practice or published concession of any relevant taxing authority; or
 - (b) the relevant Lender is a Treaty Lender and the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under paragraph **Error! Reference source not found.** below.
- 14.2.5 If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- 14.2.6 Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Lender entitled to the payment evidence reasonably satisfactory to that Lender that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
- 14.2.7 A Treaty Lender and each Obligor which makes a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain

authorisation to make that payment without a Tax Deduction. In this regard, any New Lender which is a Treaty Lender will provide the Borrower, on request, with any written confirmations necessary to complete such procedural formalities.

14.2.8 A Lender shall provide to the Parent and the Borrower all information reasonably requested and necessary to enable the Borrower to comply with its obligations under sections 891A, 891E, 891F and 891G of the TCA and all regulation regulations made pursuant to those sections.

14.3 Tax Indemnity

14.3.1 The Company shall (within five Business Days of demand by a Protected Party) pay to such Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.

14.3.2 Paragraph 14.3.1 above shall not apply with respect to any Tax assessed on the Lender:

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

(b) under the law of the jurisdiction in which that Lender's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

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

(c) to the extent a loss, liability or cost:

(i) is compensated for by an increased payment under clause 14.2 (*Tax Gross-Up*);

(ii) would have been compensated for by an increased payment under clause 14.2 (*Tax Gross-Up*) but was not so compensated solely because one of the exclusions in paragraph 14.2.4 of clause 14.2 (*Tax Gross-Up*) applied; or

(iii) relates to a FATCA Deduction required to be made by a Party.

14.3.3 A Protected Party making, or intending to make a claim under paragraph 14.3.1 above shall promptly notify the Company of the event which will give, or has given, rise to the claim.

14.3.4 A Protected Party shall, on receiving a payment from an Obligor under this clause 14.2.4, notify the relevant Lender.

14.4 Tax Credit

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

14.4.1 a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and

14.4.2 that Lender has obtained and utilised that Tax Credit,

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

14.5 Lender Status Confirmation

- 14.5.1 The Original Lender confirms that, on the date of this Agreement, it is a Qualifying Lender, falling within paragraph (b)(ii) of the definition of Qualifying Lender.
- 14.5.2 Each Lender which is not an Original Lender shall indicate, in the documentation which it executes on becoming a Party as a Lender, without liability to any Obligor, which of the following categories it falls in:
- (a) not a Qualifying Lender;
 - (b) a Qualifying Lender (other than a Treaty Lender); or
 - (c) a Treaty Lender.
- 14.5.3 If such New Lender fails to indicate its status in accordance with clause 14.5.2 then that New Lender shall be treated for the purposes of this Agreement (including by each Obligor) as if it is not a Qualifying Lender until such time as it notifies the Company which category applies. For the avoidance of doubt, the documentation which a New Lender executes on becoming a Party as a Lender shall not be invalidated by any failure of a New Lender to comply with this clause 14.5.2.

14.6 Stamp Taxes

The Company shall pay and, within five Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document, except those payable on or by reference to or in consequence of the transfer, assignment or sub-participation of the whole or any part of the rights of a Lender under a Finance Document other than a transfer made pursuant to clause 17 (*Mitigation by the Lender*).

14.7 VAT

- 14.7.1 All amounts expressed to be payable under a Finance Document by any Party to a Lender which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, if VAT is or becomes chargeable on any supply made by a Lender to any Party under a Finance Document and such Lender is required to account to the relevant tax authority for the VAT, that Party must pay to such Lender (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Lender must promptly provide an appropriate VAT invoice to that Party).
- 14.7.2 If VAT is or becomes chargeable on any supply made by any Lender (the **Supplier**) to any other Lender (the **Recipient**) under a Finance Document, and any Party other than the Recipient (the **Relevant Party**) is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
- (a) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (a) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (b) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient

reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.

- 14.7.3 Where a Finance Document requires any Party to reimburse or indemnify a Lender for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Lender for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Lender reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- 14.7.4 Any reference in this clause 14.7 to any Party shall, at any time when such Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to a representative member of such group at such time (the term representative member to have the same meaning in Ireland, as the group member notified by the Revenue Commissioners in accordance with Section 15(1)(a) of the VAT Act 2010 as being the member responsible for complying with the provisions of that Act in respect of the group) and/or the person who is treated at that time as making the supply, or (as appropriate) receiving the supply, under the grouping rules (provided for in Article 11 of Council Directive 2006/112/EC, as implemented by the relevant member state of the European Union, or as provided for in equivalent legislation in other jurisdictions).
- 14.7.5 In relation to any supply made by a Lender to any Party under a Finance Document, if reasonably requested by the Lender, that Party must promptly provide such Lender with details of that Party's VAT registration and such other information as is reasonably requested in connection with that Lender's VAT reporting requirements in relation to such supply.

14.8 **FATCA Information**

- 14.8.1 Subject to paragraph 14.8.3 below, each Party shall, within 10 Business Days of a reasonable request by another Party:
- (a) confirm to that other Party whether it is:
 - (i) a FATCA Exempt Party; or
 - (ii) not a FATCA Exempt Party;
 - (b) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
 - (c) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- 14.8.2 If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- 14.8.3 Paragraph 14.8.1 above shall not oblige any Lender to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
- (a) any law or regulation;
 - (b) any fiduciary duty; or

(c) any duty of confidentiality.

14.8.4 If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph 14.8.3 above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

14.9 **FATCA Deduction**

14.9.1 Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.

14.9.2 Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and all Lenders (to the extent not already notified).

15 **INCREASED COSTS**

15.1 **Increased Costs**

15.1.1 Subject to clause 15.3 (*Exceptions*) the Company shall, within five Business Days of written demand by the Lender made in accordance with clause 15.2 (*Increased Cost Claims*), pay the Lender the amount of any Increased Costs incurred by the Lender or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or (ii) as a result of compliance with any law or regulation made after the date of this Agreement.

15.1.2 In this Agreement:

Increased Costs means:

- (i) a reduction in the rate of return from a Facility or on the Lender's (or its Affiliate's) overall capital;
- (ii) an additional or increased cost; or
- (iii) a reduction of any amount due and payable under any Finance Document,

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

15.2 **Increased Cost Claims**

If the Lender intends to make a claim pursuant to clause 0 (*Increased Costs*) it shall promptly notify the Company of the event giving rise to the claim by delivery of a certificate of the Lender setting forth the amount of such Increased Costs and including in reasonable detail the basis for such Increased Costs.

15.3 **Exceptions**

15.3.1 Clause 0 (*Increased costs*) does not apply to the extent any Increased Cost is:

- (a) attributable to a Tax Deduction required by law to be made by an Obligor;
- (b) compensated for by clause 14.2.4 (*Tax Indemnity*) (or would have been compensated for under clause 14.2.4 (*Tax Indemnity*) but was not so compensated solely because any of the exclusions in paragraph 14.3.2 of clause 14.2.4 (*Tax Indemnity*) applied);
- (c) attributable to a FATCA Deduction required to be made by a Party; or
- (d) attributable to the wilful breach by the relevant Lender or its Affiliates of any law or regulation.

15.3.2 In this clause 15.3 a **Tax Deduction** has the same meaning given to the term in clause 14.1 (*Definitions*).

16 OTHER INDEMNITIES

16.1 Currency indemnity

16.1.1 If any sum due from an Obligor under the Finance Documents (a **Sum**), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the **First Currency**) in which that Sum is payable into another currency (the **Second Currency**) for the purpose of:

- (a) making or filing a claim or proof against that Obligor; or
- (b) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

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

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

16.2 Other Indemnities

16.2.1 The Company shall (or shall procure that an Obligor will), within five Business Days of demand, indemnify each Secured Party against any cost, loss or liability incurred by it as a result of:

- (a) the occurrence of any Event of Default;
- (b) a failure by an Obligor to pay any amount due under a Finance Document on its due date;
- (c) funding, or making arrangements to fund, its participation in a Utilisation requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by the Lender alone); or
- (d) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Company.

16.3 Indemnity to the Lender

The Company shall promptly and, in any event, within five Business Days of demand, indemnify the Lender against:

- 16.3.1 any cost, loss or liability incurred by the Lender (acting reasonably) as a result of:
- (a) investigating any event which it reasonably believes is a Default acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
 - (b) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement and, unless a Default has occurred and is continuing, the Lender shall consult with the Company for a period of no more than three (3) Business Days (for the avoidance of doubt, without the need to obtain the Company's consent) before incurring reasonable legal fees, costs and expenses relating to any Finance Document proposed to be executed after the date of this Agreement in an amount exceeding €50,000;
 - (c) any reasonable cost, loss or liability incurred by the Lender (otherwise than by reason of the Lender's gross negligence or wilful misconduct);
 - (d) any failure by the Company to comply with its obligations under clause 18 (*Costs and Expenses*);
 - (e) the taking, holding, protection or enforcement of the Transaction Security;
 - (f) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Secured Parties by the Finance Documents or by law;
 - (g) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents and which in the opinion of the Lender (acting reasonably), are material; and
 - (h) acting as a Secured Party under the Finance Documents or which otherwise relates to any of the Security Property (otherwise, in each case, than by reason of that Secured Party's gross negligence or wilful misconduct).
- 16.3.2 The Lender and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Assets in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause 16.3 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.

17 MITIGATION BY THE LENDER

17.1 Mitigation

- 17.1.1 The Lender shall, in consultation with the Company, take all reasonable steps to mitigate any circumstances which arise and which would result in any Facility ceasing to be available or any amount becoming payable under or pursuant to, or cancelled pursuant to, any of clause 7.1 (*Illegality*), clause 14 (*Tax Gross Up and Indemnities*) or clause 0 (*Increased Costs*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.
- 17.1.2 Paragraph 17.1.1 above does not in any way limit the obligations of any Obligor under the Finance Documents.

17.2 **Limitation of Liability**

17.2.1 The Company shall promptly (and in any event within five Business Days) indemnify the Lender for all costs and expenses reasonably incurred by the Lender as a result of steps taken by it under clause 17.1 (*Mitigation*).

17.2.2 The Lender is not obliged to take any steps under clause 17.1 (*Mitigation*) if, in its opinion (acting reasonably), to do so might be prejudicial to it.

18 **COSTS AND EXPENSES**

18.1 **Transaction Expenses**

The Company shall (or procure that another Obligor will), promptly (and in any event within five Business Days) of demand, pay the Lender the amount of all previously agreed costs and expenses (including pre-agreed legal fees) reasonably incurred by it and by any Receiver or Delegate in connection with the negotiation, preparation, printing, execution and perfection of:

18.1.1 this Agreement and any other documents referred to in this Agreement and the Transaction Security (subject to an agreed cap); and

18.1.2 any other Finance Documents executed after the date of this Agreement.

18.2 **Amendment Costs**

If an Obligor requests an amendment, waiver, release or consent in relation to the Finance Documents, the Company shall, within five (5) Business Days of demand, reimburse the Lender for the amount of all previously agreed costs and expenses (including legal fees) reasonably incurred by the Lender (and by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

18.3 **Enforcement and Preservation Costs**

The Company shall, within three (3) Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the exercise or enforcement of or the preservation of any rights under any Finance Document and the Transaction Security and any proceedings instituted by or against the Lender as a consequence of taking or holding the Transaction Security or enforcing these rights.

19 **GUARANTEE AND INDEMNITY**

19.1 **Guarantee and Indemnity**

Each Guarantor irrevocably and unconditionally jointly and severally:

- 19.1.1 guarantees to the Lender punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents (other than any Excluded Swap Obligations) including without limitation:
- (a) obligations which, but for the automatic stay under section 362(a) of the US Bankruptcy Code, would become due; and
 - (b) any interest accruing after the commencement of any bankruptcy, insolvency, receivership or similar proceeding at the rate provided for in this Agreement, whether or not such interest is an allowed claim in any such proceeding;
- 19.1.2 undertakes with the Lender that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- 19.1.3 agrees with the Lender that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Lender immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this clause 19 if the amount claimed had been recoverable on the basis of a guarantee.

19.2 **Continuing Guarantee**

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

19.3 **Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by the Lender in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, bankruptcy, dissolution, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this clause 19 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

19.4 **Waiver of Defences**

The obligations of each Guarantor under this clause 19 will not be affected by an act, omission, matter or thing which, but for this clause 19, would reduce, release or prejudice any of its obligations under this clause 19 (without limitation and whether or not known to it or the Lender) including:

- 19.4.1 any time, waiver or consent granted to, or composition with, any Obligor or other person;
- 19.4.2 the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- 19.4.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or

any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

- 19.4.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- 19.4.5 any amendment, novation, supplement, extension restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- 19.4.6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security;
- 19.4.7 any insolvency, bankruptcy, dissolution or similar proceedings; or
- 19.4.8 any other circumstance which might otherwise constitute a defence available to, or a legal or equitable discharge of, any Obligor, any surety or any guarantor.

19.5 **Guarantor Intent**

Without prejudice to the generality of clause 19.4 (*Waiver of Defences*), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental and of whatsoever nature and whether or not more onerous) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business or other acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

19.6 **Immediate Recourse**

Each Guarantor waives any right it may have of first requiring the Lender (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this clause 19. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

19.7 **Appropriations**

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

- 19.7.1 refrain from applying or enforcing any other moneys, security or rights held or received by the Lender (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and
- 19.7.2 hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under this clause 19.

19.8 **Deferral of Guarantors' Rights**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Lender otherwise directs, no Guarantor will

exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this clause 19:

- 19.8.1 to be indemnified by an Obligor;
- 19.8.2 to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
- 19.8.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by the Lender;
- 19.8.4 to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under clause 19.1 (*Guarantee and Indemnity*);
- 19.8.5 to exercise any right of set-off against any Obligor;
- 19.8.6 and/or to claim or prove as a creditor of any Obligor in competition with the Lender.

If a Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Lender by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Lender and shall promptly pay or transfer the same to the Lender or as the Lender may direct for application in accordance with clause 28 (*Payment Mechanics*).

19.9 **Release of Guarantor's Right of Contribution**

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

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

19.10 **Additional Security**

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

19.11 **Guarantee Limitations**

This guarantee does not apply to any liability to the extent that it would result in this guarantee constituting unlawful financial assistance within the meaning of section 82 of the Companies Act (or any equivalent and applicable provisions under the laws of the Original Jurisdiction of the relevant Guarantor) and, with respect to any Additional Guarantor, is subject to any limitations set out in the Accession Deed applicable to such Additional Guarantor.

19.12 **US Guarantee Limitations**

19.12.1 Each US Obligor and each Finance Party (by its acceptance of the benefits of the guarantee under this Clause 24) hereby confirms that it is its intention that the guarantee under this Clause 24 shall not constitute a fraudulent transfer or conveyance for purposes of any bankruptcy, insolvency or similar law, the Uniform Fraudulent Conveyance Act or any similar federal, state or foreign law. To effectuate the foregoing intention, each US Obligor and each Finance Party (by its acceptance of the benefits of the guarantee under this Clause 24) hereby irrevocably agrees that the maximum aggregate amount of the obligations for which such US Obligor shall be liable under such guarantee shall be limited to the maximum amount as will, after giving effect to such maximum amount and all other (contingent or otherwise) liabilities of such US Obligor that are relevant under such laws, and after giving effect to any rights to contribution pursuant to any agreement providing for equitable contribution among such US Obligor and the other Obligors, result in such obligations of such US Obligor not constituting a fraudulent transfer or conveyance.

19.13 **No Waiver; Remedies; No Duty**

In addition to, and not in limitation of any other rights of the Lender set forth in this guarantee, no failure on the part of the Lender to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided in this guarantee are cumulative and not exclusive of any remedies provided by law. The Lender has no duty or responsibility to provide any Guarantor with any credit or other information concerning any Obligors' affairs, financial condition or business which may come into the possession of the Lender.

20 REPRESENTATIONS

20.1 General

20.1.1 The Company and each other Obligor (unless otherwise stated) makes the representations and warranties set out in this clause 20 to the Lender.

20.1.2 In relation to the representations and warranties made on the date of this Agreement and any other date on or before the Closing Date, it is assumed that the Company or its Senior Management have knowledge thereof.

20.2 Status

20.2.1 It and each of its Subsidiaries is a limited liability corporation, duly incorporated or organised and validly existing under the law of its Original Jurisdiction.

20.2.2 It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.

20.3 Binding Obligations

Subject to the Legal Reservations and Perfection Requirements:

20.3.1 the obligations expressed to be assumed by it in each Finance Document to which it is a party are legal, valid, binding and enforceable obligations; and

20.3.2 (without limiting the generality of clause 20.3.1 above), each Transaction Security Document to which it is a party creates (or will, upon its execution and delivery, create) the security interests which that Transaction Security Document purports to create and those security interests are valid and effective.

20.4 Non-Conflict with Other Obligations

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

20.4.1 any law or regulation applicable to it;

20.4.2 the constitutional documents of any member of the Group; or

20.4.3 any agreement or instrument binding upon it or any member of the Group or any of its or any member of the Group's assets or constitute a default or termination event (however described) under any such agreement or instrument, to the extent such conflict has or would have a Material Adverse Effect.

20.5 Power and Authority

20.5.1 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is or will be a party and the transactions contemplated by those Finance Documents.

20.5.2 No limit on its powers will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by the Finance Documents to which it is a party.

20.6 **Validity and Admissibility in Evidence**

20.6.1 Subject to the Legal Reservations and Perfection Requirements, all Authorisations required:

- (a) to enable it and any of its Subsidiaries lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party;
- (b) to make Finance Documents to which it or any of its Subsidiaries is a party admissible in evidence in its Relevant Jurisdictions; and
- (c) to enable it to create the Transaction Security purported to be created by it or any of its Subsidiaries pursuant to the Transaction Security Documents and to ensure that such Transaction Security has the priority and ranking it is expressed to have,

have been obtained or effected and are in full force and effect.

20.6.2 All Authorisations necessary for the conduct of the business, trade and ordinary activities of members of the Group have been obtained or effected and are in full force and effect if failure to obtain or effect those Authorisations has or is reasonably likely to have a Material Adverse Effect.

20.7 **Governing Law and Enforcement**

Subject to the Legal Reservations and Perfection Requirements:

20.7.1 The choice of governing law of the Finance Documents will be recognised and enforced in its Relevant Jurisdictions; and

20.7.2 Any judgment obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in its Relevant Jurisdictions.

20.8 **Insolvency**

20.8.1 No:

- (a) corporate action, legal proceeding or other procedure or step described in paragraph 24.7.1 of clause 24.7 (*Insolvency Proceedings*); or
- (b) creditors' process described in clause 24.8 (*Creditors' Process*),

has been taken or, to the knowledge of the Company, threatened in writing in relation to a member of the Group, and none of the circumstances described in clause 24.6 (*Insolvency*) applies to a member of the Group.

20.8.2 Each US Obligor is Solvent.

20.9 **No Filing or Stamp Taxes**

Under the laws of its Relevant Jurisdiction it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except for registration of particulars of the Transaction Security Documents entered into by any Obligor incorporated in Ireland at the Companies Registration Office in Ireland under section 409 of the Companies Act, which registrations will be made promptly after the date of the relevant Finance Document and payment of associated fees and filing of financing statements under the PPSA in all applicable Canadian jurisdictions.

20.10 Deduction of Tax

It is not required to make a Tax Deduction from any payment it may make under any Finance Document to a Lender which is a Qualifying Lender, provided that where such a Lender is a Qualifying Lender on account of being a Treaty Lender, the relevant procedural formalities have been completed.

20.11 No Default

20.11.1 No Event of Default and, on the date of this Agreement and on the Closing Date, no Default is continuing or is reasonably likely to result from the making of any Utilisation or the entry into, the performance of, or any transaction contemplated by, any Finance Document.

20.11.2 no other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (however described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which has or is reasonably likely to have a Material Adverse Effect.

20.12 Pari Passu Ranking

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law.

20.13 No Misleading Information

Save as expressly disclosed in writing to the Lender prior to the date of this Agreement:

20.13.1 any written factual information contained in the Base Case Model and the Budget were true and accurate in all material respects as at the date of the relevant report or document containing the information or (as the case may be) as at the date the information is expressed to be given;

20.13.2 the Base Case Model has been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements, and the financial projections or forecasts contained in the Base Case Model have been prepared on the basis of recent historical information, are fair and based on reasonable assumptions and have been approved by the board of directors of the Company after careful consideration as at the date provided (provided that the Lender acknowledges that any such projections and forecasts are subject to uncertainties and contingencies and may not be realised);

20.13.3 the expressions of opinion or intention provided by or on behalf of an Obligor for the purposes of the Base Case Model were made after careful consideration and (as at the date of the relevant report or document containing the expression of opinion or intention) were fair and based on reasonable grounds as at the date provided (provided that the Lender acknowledges that any such projections and forecasts are subject to contingencies and may not be realised);

20.13.4 as at the date of provision of the Base Case Model, no event or circumstance has occurred or arisen and no information has been omitted from the Base Case Model and no information has been given or withheld that results in the information, opinions, intentions, forecasts or projections contained in the Base Case Model being untrue or misleading in any material respect as at the date provided;

20.13.5 all material information provided to the Lender by or on behalf of the Company in connection with the Group on or before the date of this Agreement and not superseded before that date (whether or not contained in the Base Case Model) was accurate as at the date it was provided or as at any date at which it was stated to be given and not misleading in any material respect and all

projections provided to Lender on or before the date of this Agreement have been prepared in good faith on the basis of assumptions which were reasonable at the time at which they were prepared and supplied provided that the Lender acknowledges that any such projections and forecasts are subject to uncertainties and contingencies and may not be realised);

20.13.6 all other written factual information provided by any member of the Group (including its advisers) to the Lender was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any material respect as at such date; and

20.13.7 the representations and warranties made with respect to the Base Case Model and the Budget are made by each Obligor in this clause 20.13 only so far as it is aware (after making due and careful enquiries).

20.14 **Original Financial Statements**

20.14.1 The Original Financial Statements:

(a) were prepared in accordance with the Accounting Principles consistently applied;

(b) if audited, give a true and fair view of the consolidated financial condition of the Group for the relevant Financial Year; and

(c) if unaudited, fairly represent its financial condition and its results of operations for the relevant period.

20.14.2 There has been no material adverse change in its assets, business or financial condition (or the assets, business or consolidated financial condition of the Group, in the case of the Parent) since the date of the Original Financial Statements.

20.14.3 Its most recent financial statements delivered pursuant to clause 21.1 (*Financial Statements*):

(a) have been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements and the Base Case Model and Budget; and

(b) give a true and fair view of (if audited) or fairly represent (if unaudited) its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.

20.14.4 The budgets and forecasts supplied under this Agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were reasonable as at the date they were prepared and supplied (provided that the Lender acknowledges that any such projections and forecasts are subject to uncertainties and contingencies and may not be realised).

20.14.5 Since the date of the most recent financial statements delivered pursuant to clause 21.1 (*Financial Statements*) there has been no material adverse change in the business, assets or financial condition of the Group.

20.15 **No Proceedings Pending or Threatened**

20.15.1 No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined are reasonably likely to have a Material Adverse Effect have (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened against it or any of its Subsidiaries.

20.15.2 No judgment or order of a court, arbitral body or agency which is reasonably likely to have a Material Adverse Effect has (to the best of its knowledge and belief (having made due and careful enquiry)) been made against it or any of its Subsidiaries.

20.16 **No Breach of Laws**

20.16.1 It has not (and none of its Subsidiaries has) breached any law or regulation binding on it in a manner which has or would be reasonably likely to have a Material Adverse Effect.

20.16.2 No labour disputes are current or, to the best of its knowledge and belief (having made due and careful enquiry), threatened against any member of the Group which have or would be reasonably likely to have a Material Adverse Effect.

20.17 **Environmental Laws**

20.17.1 Each member of the Group is in compliance with clause 23.3 (*Environmental Compliance*) and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or would be reasonably likely to have a Material Adverse Effect,

20.17.2 No Environmental Claim has been commenced or (to the best of its knowledge and belief (having made due and careful enquiry)) is threatened in writing against any member of the Group where that claim has or would be reasonably likely to, if determined against that member of the Group, have a Material Adverse Effect.

20.18 **Taxation**

20.18.1 It is not (and none of its Subsidiaries is) materially overdue in the filing of any Tax returns and it is not (and none of its Subsidiaries is) overdue in the payment of any material amount in respect of Tax, except those which are being contested in good faith and for which it (or any of its Subsidiaries) has made appropriate reserves.

20.18.2 Insofar as the Company is aware, no claims or investigations are being made or conducted against it (or any of its Subsidiaries) with respect to Taxes such that a liability of, or claim against it, or any member of the Group which would have (or has) a Material Adverse Effect).

20.18.3 It is resident for Tax purposes only in its Original Jurisdiction.

20.19 **Anti-corruption and Anti-Money Laundering Laws**

20.19.1 Each member of the Group has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

20.19.2 No action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving any member of the Group with respect to Anti-Money Laundering Laws is pending or, to the best of the knowledge of the Company, threatened in writing.

20.20 **Security and Financial Indebtedness**

20.20.1 No Security or Quasi-Security exists over all or any of the present or future assets of any member of the Group other than as permitted by this Agreement.

20.20.2 No member of the Group has any Financial Indebtedness outstanding other than as permitted by this Agreement.

20.21 **Ranking**

The Transaction Security has or will have the ranking in priority which it is expressed to have in the Transaction Security Documents and it is not subject to any prior ranking or *pari passu* ranking Security except in each case for any Permitted Security.

20.22 **Good Title to Assets**

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

20.23 **Legal and Beneficial Ownership**

It and each of its Subsidiaries is the sole legal and beneficial owner of the respective assets over which it purports to grant Security pursuant to the Transaction Security Documents.

20.24 **Shares**

20.24.1 The shares of any member of the Group which are subject to the Transaction Security are fully paid and not subject to any option to purchase or similar rights.

20.24.2 There are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of any member of the Group which are subject to the Transaction Security (including any option or right of pre-emption or conversion);

20.24.3 The constitutional documents of companies whose shares are subject to the Transaction Security do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security.

20.25 **Intellectual Property**

It and each of its Subsidiaries:

20.25.1 is the sole legal and beneficial owner of or has licensed to it on normal commercial terms all the Intellectual Property which is material in the context of its business and which is required by it in order to carry on its business as it is being conducted;

20.25.2 does not (nor does any of its Subsidiaries), in carrying on its businesses, infringe any Intellectual Property of any third party in any respect which has or is reasonably likely to have a Material Adverse Effect; and

20.25.3 has taken all formal or procedural actions (including payment of fees) required to maintain any material Intellectual Property owned by it.

20.26 **Group Structure**

20.26.1 The Group Structure Chart is true, complete and accurate in all material respects.

20.26.2 The Parent owns the entire issued share capital of its Subsidiaries and has no other Subsidiaries.

20.27 **Obligors**

20.27.1 Each Material Company is or will be an Obligor within 30 days of the Closing Date.

20.27.2 Each Obligor represents that (i) the earnings before interest, tax, depreciation and amortisation (calculated on the same basis as **EBITDA**), (ii) the gross assets (excluding goodwill), (iii) the Annual Recurring Revenue (excluding intra-group items), and (iv) the Revenue (excluding intra-group items) of the Guarantors on the date falling 60 days after the Closing Date equal or exceeds ninety (90) per cent. of EBITDA, the gross assets (excluding goodwill), the Annual Recurring Revenue (excluding intra-group items) and the Revenue (excluding intra-group items) of the Group (calculated on a consolidated basis).

20.28 **Accounting Reference Date**

The Accounting Reference Date of each member of the Group is 31 December.

20.29 **Centre of Main Interests and Establishments**

For the purposes of the Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the **Regulation**), the centre of main interest (as that term is used in Article 3(1) of the Regulation) of each Obligor is situated in its Original Jurisdiction and it has no establishment (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction.

20.30 **Pensions**

20.30.1 All pension schemes operated by members of the Group are operated or provided on a defined contribution basis and no member of the Group maintains a Canadian Defined Benefit Pension Plan or a "multi-employer pension plan" as defined in the Pension Benefits Act (Ontario) or an equivalent plan under the pension standards legislation of any other applicable jurisdiction in Canada.

20.30.2 It does not have any liability in respect of any pension scheme claim made by an employee and it is not aware (having made due and careful enquiry) of circumstances which would give rise to such a claim.

20.30.3 It is in compliance in all material respects will all applicable laws and contracts relating to and governing provisions of the pension scheme maintained by or for the Group and/or any of its employees.

20.31 **Sanctions**

No member of the Group (or any director, officer or employee of any member of the Group):

20.31.1 is listed as, or is owned or controlled (directly or indirectly) by, any Restricted Person;

20.31.2 is located, organised or resident in any country which is the subject of Sanctions;

20.31.3 has engaged in any transaction, activity or conduct that could reasonably be expected to result in it being designated a Restricted Person or breaching any Sanctions;

20.31.4 is engaging or has engaged in any transaction that evades or avoids (or has the purpose of evading or avoiding) or breaches (or attempts to breach) directly or indirectly any Sanctions applicable to it; or

20.31.5 has engaged or is engaging, directly or indirectly, in any trade, business or other activities with or for the benefit of any Restricted Person.

20.32 **US Anti-Terrorism Laws**

It, and to the best of its knowledge, each of its Subsidiaries:

- 20.32.1 has taken reasonable measures to ensure compliance with applicable Economic Sanctions Laws and Anti-Terrorism Laws;
- 20.32.2 is not a Designated Person; and
- 20.32.3 will not use any part of the proceeds from any Facility on behalf of any Designated Person or will otherwise use, directly by it or indirectly through any Subsidiary, such proceeds in connection with any investment in, or any transactions or dealings with, any Designated Person.

20.33 Relevant external companies

No Obligor is a relevant external company, as that term is defined in section 1301 of the Companies Act.

20.34 Compliance with ERISA

- 20.34.1 Each Plan is in compliance in form and operation with its terms and with ERISA and the Code (including without limitation the Code provisions compliance with which is necessary for any intended favourable tax treatment) and all other applicable laws and regulations, except where any failure to comply could not reasonably be expected to have a Material Adverse Effect. Each Plan (and each related trust, if any) which is intended to be qualified under section 401(a) of the Code has received a favourable determination letter from the IRS to the effect that it meets the requirements of sections 401(a) and 501(a) of the Code covering all applicable tax law changes or is comprised of a master or prototype plan that has received a favourable opinion letter from the IRS, and, nothing has occurred since the date of such determination that would adversely affect such determination (or, in the case of a Plan with no determination, nothing has occurred that would materially adversely affect the issuance of a favourable determination letter or otherwise materially adversely affect such qualification). No ERISA Event has occurred other than as would not, individually or in the aggregate, have a Material Adverse Effect.
- 20.34.2 There exists no Unfunded Pension Liability with respect to any Plan, except as would not have a Material Adverse Effect.
- 20.34.3 No Obligor, no Subsidiary of any Obligor and no ERISA Affiliate is making or accruing an obligation to make contributions, or has within any of the five calendar years immediately preceding the date this assurance is given or deemed given, made or accrued an obligation to make contributions to any Multiemployer Plan.
- 20.34.4 There are no actions, suits or claims pending against or involving a Plan (other than routine claims for benefits) or, to the knowledge of any Obligor, any Subsidiary of an Obligor or any ERISA Affiliate, threatened, which would reasonably be expected to be asserted successfully against any Plan and, if so asserted successfully, would reasonably be expected either singly or in the aggregate to have a Material Adverse Effect.
- 20.34.5 Each Obligor, each Subsidiary of an Obligor and each ERISA Affiliate have made all material contributions to or under each Plan and Multiemployer Plan required by law within the applicable time limits prescribed thereby, the terms of such Plan or Multiemployer Plan, respectively, or any contract or agreement requiring contributions to a Plan or Multiemployer Plan save where any failure to comply, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.
- 20.34.6 No Plan which is subject to section 412 of the Code or section 302 of ERISA has applied for or received an extension of any amortisation period, within the meaning of section 412 of the Code or section 302 or 304 of ERISA. Each Obligor, each Subsidiary of an Obligor, and each ERISA Affiliate have not ceased operations at a facility so as to become subject to the provisions of section 4062(e) of ERISA, withdrawn as a substantial employer so as to become subject to the provisions

of section 4063 of ERISA or ceased making contributions to any Plan subject to section 4064(a) of ERISA to which it made contributions. No Obligor, no Subsidiary of any Obligor and no ERISA Affiliate has incurred or reasonably expects to incur any liability to PBGC save for any liability for premiums due in the ordinary course or other liability which would not reasonably be expected to have a Material Adverse Effect, and no lien imposed under the Code or ERISA on the assets of any Obligor, any Subsidiary of an Obligor or any ERISA Affiliate exists or is likely to arise on account of any Plan. No Obligor, no Subsidiary of any Obligor and no ERISA Affiliate has any liability under section 4069 or 4212(c) of ERISA.

20.35 **Margin Stock**

No proceeds of any Utilisation will be used to purchase or carry any Margin Stock (as defined in US Regulation U of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof) or to extend credit for the purpose of purchasing or carrying any Margin Stock. Neither the making of any Utilisation nor the use of the proceeds of it will violate or be inconsistent with the provisions of US Regulation T, U or X of the Board of Governors of the Federal Reserve System from time to time in effect or any successor to all or a portion thereof.

20.36 **Investment Company Act**

No US Obligor, nor any of its Subsidiaries, is an “investment company”, or is “controlled” by an “investment company”, within the meaning of the US Investment Company Act of 1940, as amended. Neither the making of any Utilisation nor the application of the proceeds or repayment thereof by any Obligor, nor the consummation of the other transactions contemplated hereby, will violate any provision of such Act or any rule, regulation or order of the US Securities and Exchange Commission thereunder.

20.37 **Times When Representations Made**

- 20.37.1 All the representations and warranties in this clause 20 are made by each Original Obligor on the date of this Agreement and on the Closing Date.
- 20.37.2 The Repeating Representations are deemed to be made by each Obligor on the date of each Utilisation Request, on each Utilisation Date and on the first day of each Interest Period (except that those contained in sub-clauses 20.14.1 and 20.14.2 (*Original Financial Statements*) will cease to be so made once subsequent financial statements have been delivered under this Agreement).
- 20.37.3 The Repeating Representations, together with the representations and warranties in clause 20.8 (*Insolvency*) are deemed to be made by each Additional Guarantor on the day on which it becomes (or it is proposed that it becomes) an Additional Guarantor (in respect of itself and its Subsidiaries only).
- 20.37.4 The Repeating Representations, together with the representations and warranties in clause 20.8 (*Insolvency*) and clause 20.24 (*Shares*), are deemed to be made on the date of each Transaction Security Document by the member of the Group party to that document (in respect of itself, that Transaction Security Document and the asset(s) subject to that Transaction Security Document only).
- 20.37.5 Each representation or warranty deemed to be made after the date of this Agreement shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

21 INFORMATION UNDERTAKINGS

The undertakings in this clause 21 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

21.1 Financial Statements

The Parent shall supply to the Lender:

- 21.1.1 as soon as they are available, but in any event within 180 days after the end of each of its Financial Years, the audited consolidated financial statements for that Financial Year (commencing with the Financial Year ending 31 December 2022);
- 21.1.2 as soon as they are available, but in any event within 30 days after the end of each month its financial statements on a consolidated basis for that month (to include cumulative monthly financial statements for the Financial Year to date) (commencing with the month ending 30 June 2023); and
- 21.1.3 if requested by the Lender, the audited financial statements of any other Material Company for each Financial Year.

21.2 Provision and Contents of Compliance Certificate

- 21.2.1 The Parent shall supply a Compliance Certificate to the Lender with each set of Annual Financial Statements and with each Monthly Financial Statement for March, June, September and December in every year delivered in accordance with clause 21.1 above (with the first Compliance Certificate to be delivered with the Monthly Financial Statements relating to the Month ending 30 September 2023).
- 21.2.2 Each Compliance Certificate shall, amongst other things, set out (in reasonable detail) computations as to compliance with clause 0 (*Financial Covenants*).
- 21.2.3 Each Compliance Certificate required to be delivered with the Monthly Financial Statements in accordance with clause 21.2.1 above shall also:
 - (a) confirm which members of the Group are Material Companies and confirm compliance with clause 23.34 (*Guarantors*) as of the date of such Compliance Certificate; and
 - (b) confirm any new bank accounts opened since the last Compliance Certificate, the bank details (including the relevant relationship manager at the bank) and account balance of such bank accounts.
- 21.2.4 Each Compliance Certificate shall be signed by (i) two directors of the Parent, (ii) Senior Management, or (iii) one director and the CFO) and, if required to be delivered with the consolidated Annual Financial Statements of the Parent, shall be reported on by the Auditors in the form agreed by the Parent and the Lender.

21.3 Requirements as to Financial Statements

- 21.3.1 The Parent shall procure that each set of Annual Financial Statements and Monthly Financial Statements includes a balance sheet, profit and loss account, the Annual Recurring Revenue and cashflow statement. In addition the Parent shall procure that:
 - (a) each set of Annual Financial Statements shall be audited by the Auditors; and
 - (b) each set of Monthly Financial Statements is accompanied by a statement by (i) the directors of the Parent, or (ii) Senior Management commenting on the performance of the Group for the

month to which the financial statements relate and the Financial Year to date and any material developments or proposals affecting the Group or its business.

21.3.2 Each set of financial statements delivered pursuant to clause 21.1 (*Financial Statements*):

- (a) shall be certified by a director of the relevant company or the CFO as giving a true and fair view of (in the case of Annual Financial Statements for any Financial Year), or fairly presenting (in other cases), its financial condition and operations of the Group as at the date as at which those financial statements were drawn up and, in the case of the Annual Financial Statements, shall (unless firms of auditors of international repute have adopted a general policy of not providing such reports) be accompanied by any letter addressed to the management of the relevant company by the Auditors and accompanying those Annual Financial Statements;
- (b) in the case of consolidated financial statements of the Group, shall be accompanied by a statement by a director of the Parent or the CFO comparing actual performance (referring specifically to the balance sheet, profit and loss account, Annual Recurring Revenue and cashflow statements) for the period to which the financial statements relate to:
 - (i) the projected performance for that period set out in the Budget; and
 - (ii) the actual performance for the corresponding period in the preceding Financial Year of the Group; and
- (c) shall be prepared in accordance with the Accounting Principles, accounting practices and financial periods consistent with those applied in the Base Case Model; unless in relation to any set of financial statements, the Company notifies the Lender that there has been a change in the Accounting Principles or the accounting practices and delivers to the Lender (in form and substance satisfactory to the Lender):
 - (i) a description of any change necessary for those financial statements to reflect the Accounting Principles or accounting practices upon which the Base Case Model or, as the case may be, that Obligor's Original Financial Statements were prepared; and
 - (ii) sufficient information, in form and substance as may be reasonably required by the Lender to enable the Lender to determine whether clause 0 (*Financial Covenants*) has been complied with and to make an accurate comparison between the financial position indicated in those financial statements and the Base Case Model (in the case of the Company) or that Obligor's Original Financial Statements (in the case of an Obligor); and
- (d) any reference in this Agreement to any financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Base Case Model or, as the case may be, the Original Financial Statements were prepared.

21.3.3 If the Lender wishes to discuss the financial position of any member of the Group with the Auditors, the Lender may notify the Parent, stating the questions or issues which the Lender wishes to discuss with the Auditors. Upon receipt of such notice, the Parent shall procure that the Auditors are authorised by it:

- (a) to discuss the financial position of the relevant member of the Group with the Lender on request from the Lender; and
- (b) to disclose to the Lender any information which the Lender may reasonably request,

in each case, at the expense of the Parent.

21.4 Budget

21.4.1 The Parent shall supply to the Lender, as soon as the same become available but in any event no later than the earlier to occur of:

- (a) 60 days after the start of each of its Financial Years; and
- (b) 30 days after the approval of such Budget by the board of directors of the Parent,
an annual Budget for that financial year.

21.4.2 The Parent shall ensure that each Budget and any material amendments or updates to the Budget:

- (a) is in a form reasonably acceptable to the Lender (acting reasonably) and includes a projected consolidated profit and loss, balance sheet and cashflow statement for the Group and projected financial covenant calculations;
- (b) is/are prepared in accordance with the Accounting Principles and the accounting practices and financial reference periods applied to financial statements under clause 21.1 (*Financial Statements*); and
- (c) has/(ve) been approved by the board of directors of the Company.

21.4.3 If the Parent or the Company makes any updates or changes to the Budget, it shall promptly deliver to the Lender such updated or changed Budget together with a written explanation of the main changes in that Budget.

21.4.4 For the purposes of calculating compliance with the covenants set out in clause 0 (*Financial Covenants*) below, any changes to the Budget shall be subject to the provisions of clause **Error! Reference source not found.**

21.5 Group Companies

The Parent shall, at the request of the Lender, supply to the Lender a report stating which of its Subsidiaries are Material Companies and confirming that the aggregate gross assets (excluding goodwill), EBITDA (calculated on an unconsolidated basis), Annual Recurring Revenue (excluding intra-group items) and Revenue of the Guarantors (calculated on an unconsolidated basis and excluding all intra-Group items) equals or exceeds ninety (90) per cent. of the gross assets, EBITDA, Annual Recurring Revenue and Revenue of the Group (calculated on a consolidated basis).

21.6 Presentations

If requested by the Lender, once in every Financial Year (or more frequently if requested to do so by the Lender if the Lender reasonably suspects a Default has occurred, is continuing or may occur) at least one director of the Parent and the CFO or Senior Management must meet with and give a presentation to the Lender about the on-going business and financial performance of the Group.

21.7 Year-End

The Parent shall not change its Accounting Reference Date.

21.8 Information - Miscellaneous

The Parent shall supply to the Lender:

- 21.8.1 at the same time as they are dispatched, copies of all documents dispatched by the Parent to its shareholders generally (or any class of them) or dispatched by the Parent or any Obligor to its creditors generally (or any class of them);
- 21.8.2 promptly and in any event within three (3) Business Days of becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Group, and which, if adversely determined, are reasonably likely to have a Material Adverse Effect;
- 21.8.3 promptly and in any event within three (3) Business Days of becoming aware of the relevant claim the details of any disposal or insurance claim which will, in each case, require a prepayment under clause 8.2 (*Disposal and Insurance Proceeds*);
- 21.8.4 promptly and in any event within three (3) Business Days of becoming aware of them, the details of any judgment or order of a court, arbitral body or agency which is made against any member of the Group and which is reasonably likely to have a Material Adverse Effect;
- 21.8.5 promptly and in any event within three (3) Business Days, such information as the Lender may reasonably require about the Charged Property and compliance of the Obligor with the terms of any Transaction Security Documents;
- 21.8.6 promptly and in any event within three (3) Business Days, any changes to Senior Management; and
- 21.8.7 promptly and in any event within three (3) Business Days of request, such further information regarding the financial condition, assets and operations of the Group and/or any member of the Group (including any requested amplification or explanation of any item in the financial statements, budgets or other material provided by any Obligor under this Agreement and an up to date copy of the Parent's shareholders register) as the Lender may reasonably request.

21.9 **Notification of Default**

- 21.9.1 Each Obligor shall notify the Lender of any Default (and the steps, if any, being taken to remedy it) within one (1) Business Day of becoming aware of its occurrence.
- 21.9.2 promptly and in any event within three (3) Business Days of a request by the Lender, the Parent shall supply to the Lender a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

21.10 **ERISA**

The Parent shall supply to the Lender:

- (a) promptly and in any event within 15 days after any Obligor, any Subsidiary of an Obligor or any ERISA Affiliate files a Schedule SB (or such other schedule as contains actuarial information) to IRS Form 5500 in respect of a Plan with Unfunded Pension Liabilities, a copy of such IRS Form 5500 (including the Schedule SB);
- (b) promptly and in any event within 30 days after any Obligor, any Subsidiary of an Obligor or any ERISA Affiliate knows or has reason to know that any ERISA Event has occurred, a certificate of the chief financial officer of the Parent describing such ERISA Event and the action, if any, proposed to be taken with respect to such ERISA Event and a copy of any notice filed with the PBGC or the IRS pertaining to such ERISA Event and any notices received by such Obligor, Subsidiary of an Obligor, or ERISA Affiliate from the PBGC or any other governmental agency with respect thereto; provided that, in the case of ERISA Events under

paragraph (d) of the definition thereof, the 30 day period set forth above shall be a 10 day period, and, in the case of ERISA Events under paragraph (b) of the definition thereof, in no event shall notice be given later than the occurrence of the ERISA Event; and

- (c) promptly, and in any event within 30 days, after becoming aware that there has been (i) a material increase in Unfunded Pension Liabilities (taking into account only Plans with positive Unfunded Pension Liabilities) since the date the representations hereunder are given or deemed given, or from any prior notice, as applicable; (ii) the existence of potential withdrawal liability under section 4201 of ERISA, if each Obligor, each Subsidiary of an Obligor and the ERISA Affiliates were to withdraw completely from any and all Multiemployer Plans, (iii) the adoption of, or the commencement of contributions to, any Plan subject to section 412 of the Code by an Obligor, any Subsidiary of an Obligor or any ERISA Affiliate or (iv) the adoption of any amendment to a Plan subject to section 412 of the Code which results in a material increase in contribution obligations of an Obligor, any Subsidiary of an Obligor or any ERISA Affiliate, a detailed written description thereof from the chief financial officer of the Parent.

21.11 Know Your Customer Checks

21.11.1 If:

- (a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement; or
- (b) any change in the status of an Obligor or the composition of the shareholders of an Obligor after the date of this Agreement; or
- (c) a proposed assignment or transfer by the Lender of any of its rights and/or obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

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

21.11.2 The Parent shall, by not less than 10 Business Days' prior written notice to the Lender, notify the Lender of its intention to request that one of its Subsidiaries becomes an Additional Guarantor pursuant to clause 26.2 (*Additional Guarantors*).

21.11.3 Following the giving of any notice pursuant to paragraph 21.11.2 above, if the accession of such Additional Guarantor obliges the Lender to comply with know your customer or similar identification procedures in circumstances where the necessary information is not already available to it, the Parent shall promptly upon the request of the Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Lender (for itself or on behalf of any prospective new Lender) in order for the Lender or any prospective new Lender to carry out and be satisfied it has complied with all necessary know your customer or other similar checks under all applicable laws and regulations pursuant to the accession of such Subsidiary to this Agreement as an Additional Guarantor.

21.12 Board Observer

- 21.12.1 Prior to the occurrence of an Event of Default which is continuing, the Parent shall provide to the Lender copies of all information and documents provided to the board of directors of the Parent and the Company (including, for the avoidance of doubt, meeting agenda, board papers, copies of the minutes of any board meetings, copies of any proposed or signed written resolutions) at the same time and in the same manner as such information and documents are provided to such boards of directors.
- 21.12.2 Upon the occurrence of an Event of Default which is continuing for so long as any amount is outstanding under the Finance Documents or any Commitment is in force and without prejudice to any other rights of the Lender under this Agreement (including pursuant to clause 24.21 (*Acceleration*)), the Lender shall have the right to appoint a representative to attend, as an observer, all meetings of the directors of the Parent and the Company (a **Board Observer**), whether in person or by telephone, and the Parent shall:
- (a) provide the Board Observer with advance notice of the date, time and place of, and agenda for, each meeting (both regular and special) together with an agenda of the business to be transacted at such meeting (and, copies of all papers to be circulated or presented at that meeting) in each case at the same time as such information is provided to the board of directors (or similar body);
 - (b) invite the Board Observer to attend (including in the case of telephone meetings) all such meetings;
 - (c) provide copies of the minutes of all such meetings;
 - (d) where any action is proposed to be taken by the board of directors and/or any such committees of the Parent or the Company by written resolution instead of a physical meeting, ensure that the Board Observer receives:
 - (i) written notice to the Board Observer at the same time as the written resolution is delivered in final form to the relevant board members (and provide a copy of the proposed written resolution); and
 - (ii) a signed copy of such written resolution as soon as reasonably practicable following the passing of such resolution; and
 - (e) supply all notices, information and reports which are provided to the members of any of such boards and/or committees at the same time and in the same manner as the same is provided to such members.
- 21.12.3 The Lender shall notify the Parent of the identity or (if applicable) change of identity of the Board Observer.
- 21.12.4 The Board Observer will attend meetings as an observer only, and shall have no rights or liabilities with regard to the direction and/or conduct of the management of the Group by virtue of it being entitled to attend, and attending, board meetings as an observer.
- 21.12.5 The Board Observer may participate in any discussion and will be entitled to speak at board meetings, but will not have a vote at board meetings and will not be counted in the quorum for any board meeting.
- 21.12.6 The Company shall indemnify and reimburse the Lender for any out of pocket costs and expenses reasonably incurred in connection with the attendance of the Board Observer at the meetings of

the board of directors (including travel costs) and in relation to any work undertaken by him in relation to such meetings.

21.13 Senior Management Phone Calls

Upon the Lender's request, the Parent shall facilitate quarterly update calls between the Lender and Senior Management (and any other member of management reasonably requested by the Lender) to discuss past performance, business activities and other strategic matters of the Group.

21.14 ESG

21.14.1 The Borrower and the Lenders shall enter into negotiations in good faith with a view to agreeing the ESG Criteria:

- (a) for the Financial Year ending 31 December 2023, within 3 Months of the Closing Date; and
- (b) for each subsequent Financial Year by 30 January in that Financial Year.

21.14.2 Promptly and in any event within thirty (30) Business Days after agreeing the ESG Criteria with the Lenders in accordance with paragraph 21.14.1 above, the Borrower shall establish an ESG committee which:

- (a) shall meet at least once in every Financial Year in order to discuss compliance with the ESG Criteria (and any other ESG matters); and
- (b) following each meeting referred to in (a) above, shall report on compliance with the ESG Criteria (and any ESG issues) to the Borrower's board of directors with such reporting to be made available to the Lenders promptly thereafter.

21.14.3 The Borrower shall supply to the Lenders as soon as possible, but in any event within thirty days from the end of each Financial Year:

- (a) and, for the first time, no later than 31 July 2023 the ESG Questionnaire, duly completed to the extent the relevant information is available within the Group; and
- (b) commencing with the Financial Year ending 31 December 2023, a duly completed ESG Compliance Certificate.

21.15 Escrow Agreement

The Borrower shall promptly and in any event within three (3) Business Days notify the Lender if a deposit or deposit update under the Escrow Agreement has been accepted by the Escrow Agent.

22 FINANCIAL COVENANTS

[REDACTED: Private Information]

23 GENERAL UNDERTAKINGS

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

Authorisations and compliance with laws

23.1 Authorisations

Each Obligor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect any Authorisation required under any law or regulation of a Relevant Jurisdiction to:

- 23.1.1 enable it to perform its obligations under the Finance Documents;
- 23.1.2 ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document; and
- 23.1.3 carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.

23.2 Compliance with Laws

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

23.3 Environmental Compliance

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

- 23.3.1 comply with all Environmental Law to which it is subject;
- 23.3.2 obtain, maintain and ensure compliance with all requisite Environmental Permits; and
- 23.3.3 implement procedures to monitor compliance with and to prevent liability under any Environmental Law,

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

23.4 Environmental Claims

Each Obligor shall (through the Parent), promptly upon becoming aware of the same, inform the Lender in writing of:

- 23.4.1 any Environmental Claim against any member of the Group which is current, pending or threatened; and
- 23.4.2 any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group,

where the claim, if determined against that member of the Group, has or is reasonably likely to have a Material Adverse Effect.

23.5 **Anti-Corruption Law**

23.5.1 No Obligor shall (and the Parent shall ensure that no other member of the Group will) directly or indirectly use the proceeds of the Facilities for any purpose which would breach the Prevention of Corruption Acts 1889 to 2010, the *Corruption of Foreign Public Officials Act* (Canada) or other similar legislation in any Relevant Jurisdiction.

23.5.2 Each Obligor shall (and the Parent shall ensure that each other member of the Group will):

- (a) conduct its businesses in compliance with all applicable anti-corruption laws and Anti-Money Laundering Laws; and
- (b) maintain policies and procedures designed to promote and achieve compliance with such laws.

23.6 **Taxation**

23.6.1 Each Obligor shall (and the Parent shall ensure that each member of the Group will) pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:

- (a) such payment is being contested in good faith;
- (b) adequate reserves are being maintained for those Taxes and the costs required to contest them;
- (c) such payment can be lawfully withheld; and
- (d) failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.

23.6.2 No member of the Group may change its residence for Tax purposes without the consent of the Lender (such consent not to be unreasonably withheld or delayed).

Restrictions on business focus

23.7 **Merger**

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

23.8 **Change of Business**

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

23.9 **Acquisitions**

23.9.1 Except as permitted under paragraph 23.9.2 below, no Obligor shall (and the Parent shall ensure that no other member of the Group will):

- (a) acquire any company or any shares in or any securities or a business or undertaking (or, in each case, any interest in any of them); or
- (b) incorporate a company.

23.9.2 Clause 23.9.1 above does not apply to an acquisition of a company, of shares, securities or a business or undertaking (or, in each case, any interest in any of them) or the incorporation of a company which is a Permitted Acquisition or a Permitted Transaction.

23.10 **Joint Ventures**

No Obligor shall (and the Parent shall ensure that no other member of the Group will):

23.10.1 enter into, invest in or acquire (or agree to acquire) any shares, stocks, securities or other interest in any Joint Venture; or

23.10.2 transfer any assets or lend to or guarantee or give an indemnity for or give Security for the obligations of a Joint Venture or maintain the solvency of or provide working capital to any Joint Venture (or agree to do any of the foregoing),

save where such transaction is a Permitted Acquisition, a Permitted Disposal, a Permitted Guarantee, a Permitted Loan a Permitted Security or a Permitted Transaction.

Restrictions on dealing with assets and Security

23.11 **Preservation of Assets**

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

23.12 **Pari Passu Ranking**

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

23.13 **Negative Pledge**

In this clause 23.13, **Quasi-Security** means an arrangement or transaction described in clause 23.13.2 below.

Except as permitted under Clause 23.13.3 below:

23.13.1 No Obligor shall (and the Parent shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets.

23.13.2 No Obligor shall (and the Parent shall ensure that no other member of the Group will):

(a) sell, transfer or otherwise dispose of any of its assets (including, for the avoidance of doubt, any Intellectual Property) on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group;

(b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;

(c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

- (d) enter into any other preferential arrangement having a similar effect, in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

23.13.3 Clauses 23.13.1 and 23.13.2 above do not apply to any Security or (as the case may be) Quasi-Security, which is:

- (a) Permitted Security; or
- (b) a Permitted Transaction.

23.14 **Source code**

The Parent shall ensure that a source code in relation to the Security over the Group's assets shall be held in escrow by an escrow agent to be appointed by the Parties,

23.15 **Disposals**

23.15.1 Except as permitted under clause 23.15.1 below, no Obligor shall (and the Parent shall ensure that no other member of the Group will) enter into a Disposal.

23.15.2 Clause 23.15.1 above does not apply to any Disposal which is:

- (a) a Permitted Disposal; or
- (b) a Permitted Transaction.

23.16 **Arm's Length Basis**

23.16.1 Except as permitted by clause 23.16.2 below, no Obligor shall (and the Parent shall ensure that no other member of the Group will) enter into any transaction with any person except on arm's length terms and for full market value.

23.16.2 The following transactions shall not be a breach of this clause 23.16:

- (a) intra-Group loans permitted under clause 23.17 (*Loans or Credit*);
- (b) fees, costs and expenses payable under the Finance Documents;
- (c) any Permitted Transaction; and
- (d) transactions with employees, directors or consultants of members of the Group in relation to staff discounts, loans, bonuses, incentive schemes, accommodation or the payment of reasonable costs and expenses;

Restrictions on Movement of Cash - Cash Out

23.17 **Loans or Credit**

23.17.1 Except as permitted under clause 23.17.2 below, no Obligor shall (and the Parent shall ensure that no other member of the Group will) be a creditor in respect of any Financial Indebtedness.

23.17.2 Clause 23.17.1 above does not apply to:

- (a) a Permitted Loan;

(b) a Permitted Guarantee; or

(c) a Permitted Transaction.

23.18 **No Guarantees or Indemnities**

23.18.1 Except as permitted under clause 23.18.2 below, no Obligor shall (and the Parent shall ensure that no other member of the Group will) incur or allow to remain outstanding any guarantee in respect of any obligation of any person.

23.18.2 Clause 23.18.1 above does not apply to a guarantee which is:

(a) a Permitted Guarantee; or

(b) a Permitted Transaction.

23.19 **Dividends and Share Redemption**

23.19.1 Except as permitted under clause 23.19.2, the Parent shall not (and will ensure that no other member of the Group will):

(a) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);

(b) repay or distribute any dividend or share premium reserve;

(c) pay or allow any member of the Group to pay any management, advisory or other fee or bonus to or to the order of any of the direct or indirect shareholders of the Company (in their capacity as such); or

(d) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.

23.19.2 The payment of a dividend by the Borrower or by any of its wholly owned Subsidiaries shall be permitted.

23.20 **Permitted Subordinated Debt**

23.20.1 Except as permitted under clause 23.20.2 below, no Obligor shall (and the Parent shall ensure that no other member of the Group will):

(a) repay or prepay any principal amount (or capitalised interest) outstanding under any Permitted Subordinated Debt;

(b) pay any interest, fee, charge or any other amounts payable in connection with any Permitted Subordinated Debt; or

(c) purchase, redeem, defease or discharge (including by way of set-off) any amount outstanding with respect to any Permitted Subordinated Debt.

23.20.2 Clause 23.20.1 does not apply to a payment, repayment, prepayment, purchase, redemption, defeasance or discharge which is permitted under the terms of the Subordination Agreement.

Restrictions on Movement of Cash - Cash In

23.21 Financial Indebtedness

23.21.1 Except as permitted under clause 23.21.1 below, no Obligor shall (and the Parent shall ensure that no other member of the Group will) incur or allow to remain outstanding any Financial Indebtedness.

23.21.2 Clause 23.21.1 above does not apply to Financial Indebtedness which is:

- (a) Permitted Financial Indebtedness; or
- (b) a Permitted Transaction.

23.22 Share Capital

No Obligor shall (and the Parent shall ensure that no other member of the Group will) issue any shares except pursuant to a Permitted Transaction or a Permitted Share Issue.

Miscellaneous

23.23 Insurance

23.23.1 Each Obligor shall (and the Parent shall ensure that each other member of the Group will) maintain insurances on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.

23.23.2 All insurances must be with reputable independent insurance companies or underwriters.

23.24 Pensions

The Company shall ensure that all pension schemes operated by or maintained for the benefit of members of the Group and/or any of their employees are fully funded.

23.25 Access

Each Obligor shall, and the Parent shall ensure that each member of the Group will, (not more than once in every Financial Year unless the Lender reasonably suspects an Event of Default has occurred and is continuing) permit the Lender and/or accountants or other professional advisers and contractors of the Lender free access at all reasonable times and on reasonable notice at the risk of the Obligor or Company and the expense of the Lender to:

23.25.1 inspect the premises, assets, books, accounts and records of each member of the Group; and/or

23.25.2 meet and discuss matters with Senior Management,

provided that, in the event access has been obtained pursuant to this clause and following the relevant investigation, the Lender determines that an Event of Default has occurred, any costs and expenses incurred by the Lender in respect of such actions shall be borne by the Company.

23.26 Intellectual Property

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

23.26.1 preserve and maintain the subsistence and validity of the Intellectual Property necessary for the business of the relevant Group member (the **Material Intellectual Property**);

- 23.26.2 use reasonable endeavours to prevent any infringement in any material respect of the Material Intellectual Property;
- 23.26.3 make registrations and pay all registration fees and taxes necessary to maintain the Material Intellectual Property in full force and effect and record its interest in that Material Intellectual Property;
- 23.26.4 not use or permit the Material Intellectual Property to be used in a way or take any step or omit to take any step in respect of that Material Intellectual Property which may materially and adversely affect the existence or value of the Material Intellectual Property or imperil the right of any member of the Group to use such property; and
- 23.26.5 not discontinue the use of the Material Intellectual Property,

where failure to do so, in respect of clauses 23.26.1, 23.26.2 and 23.26.3 above or, in the case of clauses 23.26.4 and 23.26.5 above, such use, permission to use, omission or discontinuation, would or is reasonably likely to have a Material Adverse Effect

23.27 Amendments

- 23.27.1 No Obligor shall (and the Parent shall ensure that no other member of the Group will) amend, vary, novate, supplement, supersede, waive or terminate any term of a Finance Document or any other document delivered to the Lender pursuant to clause 4.1 (*Initial Conditions Precedent*) except in writing:
 - (a) in accordance with clause 34 (*Amendments and Waivers*) in the case of the Finance Documents;
 - (b) prior to the Closing Date, with the prior written consent of the Lender; or
 - (c) after the Closing Date, in a way which, in the opinion of the Lender (acting reasonably), could not be expected to materially and adversely affect the interests of the Lender under the Finance Documents.
- 23.27.2 The Parent shall promptly supply to the Lender a copy of any document relating to any of the matters referred to in clause 23.27.1 above within 5 Business Days.

23.28 Financial Assistance

Each Obligor shall (and the Parent shall procure that each other member of the Group will) comply in all respects with section 82 of the Companies Act to the extent applicable to it and any equivalent legislation in other jurisdictions including in relation to the execution of the Transaction Security Documents and payment of amounts due under this Agreement.

23.29 Group Bank Accounts

- 23.29.1 The Parent shall ensure that all bank accounts of the Group shall be subject to valid Security under the Transaction Security Documents.
- 23.29.2 No Obligor shall open a bank account without consent of the Lender.

23.30 Treasury Transactions

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

- 23.30.1 spot and forward delivery foreign exchange contracts entered into in the ordinary course of trading and not for speculative purposes; and
- 23.30.2 any Treasury Transaction entered into for the hedging of actual or projected real exposures arising in the ordinary course of trading activities of a member of the Group for a period of not more than 24 months and not for speculative purposes including in respect of the Facilities.

23.31 Sanctions

- 23.31.1 Each Obligor shall (and the Parent shall ensure that each other member of the Group will) conduct its business in compliance with Sanctions.
- 23.31.2 No member of the Group may:
- (a) use, lend, contribute or otherwise make available any part of the proceeds of any Utilisation or other transaction contemplated by this Agreement directly or indirectly for the purpose of financing any trade, business or other activities involving, or for the benefit of, any Restricted Person or in any other manner that would reasonably be expected to result in any person being in breach of any Sanctions or becoming a Restricted Person;
 - (b) engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or breaches or attempts to breach, directly or indirectly, any Sanctions applicable to it; or
 - (c) fund all or part of any payment in connection with a Finance Document out of proceeds derived from business or transactions with a Restricted Person, or from any action which is in breach of any Sanctions.
- 23.31.3 Each member of the Group must ensure that appropriate controls and safeguards are in place designed to prevent any action being taken that would be contrary to paragraph 23.31.1 above.

23.32 US Anti-Terrorism Laws

- 23.32.1 No Obligor shall engage in any transaction that violates any of the prohibitions set forth in any Economic Sanctions Law or Anti-Money Laundering Law applicable to such Obligor.
- 23.32.2 None of the funds or assets of such Obligor or its Subsidiaries that are used to repay the Facilities shall constitute property of, or shall be beneficially owned by, any Designated Person or be the direct proceeds derived from any transactions that violate the prohibitions set forth in any Economic Sanctions Law applicable to any Obligor hereto, and no Designated Person shall have any direct or indirect interest in such Obligor insofar as such interest would violate any Economic Sanctions Laws applicable to such Obligor.

23.33 Centre of main interests and establishments

No Obligor incorporated in a member of the European Union shall knowingly take or allow to be taken any action which may result in its centre of main interest (as that term is used in the Regulation) not being its Original Jurisdiction where that change would be reasonably likely to be materially adverse to the interests of the Lender under the Finance Documents.

23.34 Guarantors

- 23.34.1 The Parent shall procure that each member of the Group carries out any action to protect, perfect or give priority to the Transaction Security by the date specified in the relevant Transaction Security Document.

- 23.34.2 Subject to clauses 23.34.3 and **Error! Reference source not found.** below, the Parent shall ensure that:
- (a) on the date falling 30 days after the Closing Date (the **Guarantor Test Date**), the (i) earnings before interest, tax, depreciation and amortisation (calculated on the same basis as **EBITDA**) (ii) aggregate gross assets (excluding goodwill) (iii) Annual Recurring Revenue or (iv) Revenue (excluding intra-group items) equals or exceeds 90 per cent. of the earnings before interest, tax, depreciation and amortisation, the consolidated gross assets (excluding goodwill), the Annual Recurring Revenue and Revenue (as applicable) of the Group, in each case by reference to the Original Financial Statements; and
 - (b) on each Quarter Date, the (i) earnings before interest, tax, depreciation and amortisation (calculated on the same basis as **EBITDA**) (ii) aggregate gross assets (excluding goodwill), (iii) Annual Recurring Revenue and (iv) Revenue of the Guarantors equals or exceeds 90 per cent. of the EBITDA, the consolidated gross assets (excluding goodwill), the Annual Recurring Revenue (excluding intra-group items) and the Revenue (excluding intra-group items) (as applicable) of the Group, in each case tested by reference to the most recent Monthly Financial Statements or (prior to delivery of the first Monthly Financial Statements under this Agreement), the Original Financial Statements.
- 23.34.3 The Guarantor coverage requirement in clause 23.34.2 above will be tested on the Guarantor Test Date (the period of time from the Closing Date until the Guarantor Test Date being the **Accession Period**) and, thereafter, tested on each date on which a Compliance Certificate is delivered under clause 21.2 (*Provision and Contents of Compliance Certificate*). During the Accession Period and prior to the accession of the relevant Material Companies as security providers or Guarantors, all Material Companies shall be treated as Obligors for the purposes of the relevant restrictions and permissions under this Agreement.
- 23.34.4 Each Obligor must use all reasonable endeavours to mitigate the effect of any such limitations and restrictions (including any personal liability for that person's officers or management) which arise pursuant to applicable law or regulation. This includes agreeing to a limit on the amount guaranteed.
- 23.34.5 The Parent shall ensure that sufficient members of the Group become Additional Guarantors in accordance with this Agreement to ensure that paragraph 23.34.2 above is complied with and grant such Security as the Lender may reasonably require as soon as reasonably practicable but in any event within 20 days (in the case of any members of the Group incorporated in Ireland, Canada and the United States of America) or 45 days (in the case of any members of the Group incorporated outside of Ireland, Canada and the United States of America) after the delivery of a Compliance Certificate that first shows that the requirements under clause 23.34.2 above are not being complied with.

23.35 Escrow Agreement

- 23.35.1 The Borrower shall not (and shall procure that no member of the Group shall):
- (a) replace or remove (or permit the replacement or removal of) the Deposit Material (as defined in the Escrow Agreement);
 - (b) terminate or permit the termination of the Escrow Agreement; and
 - (c) instruct the Escrow Agent to cease to hold and protect the Deposit Material in physical or electronic vaults,
- without the prior written consent of the Lender.

23.35.2 Upon the occurrence of an Event of Default which is continuing for so long as any amount is outstanding under the Finance Documents or any Commitment is in force and without prejudice to any other rights of the Lender under this Agreement (including pursuant to clause 24.21 (*Acceleration*) or any rights of the Lender under the Escrow Agreement, the Lender shall have the right to request the Escrow Agent release the Deposit Material (as defined in the Escrow Agreement) to the Lender and the Company shall authorise the Escrow Agent to release the Deposit Material.

23.36 Further Assurance

23.36.1 Subject to the Legal Reservations, each Obligor shall (and the Parent shall procure that each other member of the Group will) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Lender may reasonably specify (and in such form as the Lender may reasonably require in favour of the Lender or its nominee(s)):

- (a) to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Lender provided by or pursuant to the Finance Documents or by law;
- (b) to confer on the Transaction Security over any property and assets of that Obligor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents; and/or
- (c) save as otherwise provided in the Transaction Security Documents, to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.

23.36.2 Each Obligor shall (and the Parent shall procure that each other member of the Group will) take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Lender by or pursuant to the Finance Documents.

24 EVENTS OF DEFAULT

Each of the events or circumstances set out in this clause 24 is an Event of Default (save for clause 24.20 (*US Bankruptcy of Obligors*) and 24.19 (*Acceleration*)).

24.1 Non-Payment

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

- (a) administrative or technical error; or
- (b) a Disruption Event; and

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

24.2 Financial Covenants and Other Obligations

24.2.1 Any requirement of clause 0 (*Financial Covenants*) is not satisfied.

24.2.2 No Event of Default under clause 24.2.1 will occur if the failure to comply is cured in accordance with clause 22.3 (*Cure Rights*).

24.2.3 An Obligor does not comply with any provision of clause 21.1 (*Financial Statements*) or clause 21.2 (*Provision and Contents of Compliance Certificate*).

24.2.4 An Obligor does not comply with any provision of clauses 23.34 (*Guarantors*).

24.3 Other Obligations

24.3.1 An Obligor does not comply with any provision of the Finance Documents (other than those referred to in clause 24.1 (*Non-Payment*) and clause 24.2 (*Financial Covenants and Other Obligations*)).

24.3.2 No Event of Default under paragraph 24.3.1 above will occur if the failure to comply is capable of remedy and is remedied within 10 Business Days of the earlier of (i) the Lender giving notice to the Company or relevant Obligor and (ii) the Company or an Obligor becoming aware of the failure to comply.

24.4 Misrepresentation

24.4.1 Any representation or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been materially incorrect or misleading when made or deemed to be made.

24.4.2 No Event of Default under paragraph 24.4.1 above will occur if the facts and circumstances giving rise to such misrepresentation are capable of remedy and is remedied within 10 Business Days of the earlier of (i) the Lender giving notice to the Company or relevant Obligor and (ii) the Company or an Obligor becoming aware of such misrepresentation.

24.5 Cross Default

24.5.1 Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.

24.5.2 Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

24.5.3 Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).

24.5.4 Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).

24.5.5 No Event of Default will occur under this clause 24.5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within clauses 24.5.1 to 24.5.4 above is less than €300,000 (or its equivalent in other currencies).

24.6 Insolvency

24.6.1 A member of the Group:

(a) is unable or admits inability to pay its debts as they fall due;

(b) is deemed to, or is declared to, be unable to pay its debts under applicable law;

- (c) suspends or threatens to suspend making payments on any of its debts; or
- (d) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding the Lender in its capacity as such) with a view to rescheduling any of its indebtedness.

24.6.2 The value of the assets of any member of the Group is less than its liabilities (taking into account contingent and prospective liabilities) or, in the case of a US Obligor, such US Obligor is not Solvent.

24.6.3 A moratorium is declared in respect of any indebtedness of any member of the Group. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

24.7 **Insolvency Proceedings**

24.7.1 Any corporate action, legal proceedings or other procedure or step (including, without limitation, under Canadian Insolvency Law or any other applicable bankruptcy, insolvency or similar law now or hereafter in effect) is taken in relation to:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, examinership, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any member of the Group;
- (b) a composition, compromise, assignment or arrangement with any creditor of any member of the Group (other than the Lender);
- (c) the appointment of a liquidator, receiver, administrative receiver, administrator, Examiner, Receiver, compulsory manager or other similar officer in respect of any member of the Group or any of its assets;
- (d) enforcement of any Security over any assets of any member of the Group, or any analogous procedure or step is taken in any jurisdiction.

24.7.2 Clause 24.7.1 above shall not apply to (i) any winding up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement, or (ii) a Permitted Transaction (other than a transaction described in paragraph (b) of that definition).

24.8 **Creditors' Process**

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of a member of the Group having an aggregate value in excess of €100,000 and is not discharged within 21 days.

24.9 **Unlawfulness and Invalidity**

24.9.1 It becomes unlawful for an Obligor or any other member of the Group that is a party to the Subordination Agreement to perform any of its obligations under the Finance Documents or any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective or any subordination [created under the Subordination Agreement] is or becomes unlawful.

24.9.2 Any obligation or obligations of any Obligor under any Finance Documents or any other member of the Group under the Subordination Agreement are not (subject to the Legal Reservations) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lender under the Finance Documents.

24.9.3 Any Finance Document ceases to be in full force and effect or any Transaction Security or any subordination created under the Subordination Agreement ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than the Lender) to be ineffective.

24.10 Subordination Agreement

24.10.1 Any party to the Subordination Agreement (other than the Lender) fails to comply with the provisions of, or does not perform its obligations under, the Subordination Agreement; or

24.10.2 a representation or warranty given by that party in the Subordination Agreement is materially incorrect in any respect,

and, if the non-compliance, non-performance or circumstances giving rise to the misrepresentation are capable of remedy, it is not remedied within 15 Business Days of the earlier of (i) the Lender giving notice to the Company and (ii) the Company becoming aware of the non-compliance or misrepresentation.

24.11 Cessation of Business

Any member of the Group suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business except as a result of a Permitted Disposal or pursuant to limb (a) of the definition of Permitted Transaction.

24.12 Change of Ownership

24.12.1 After the Closing Date, an Obligor (other than the Parent) ceases to be a wholly owned Subsidiary of the Parent; or

24.12.2 An Obligor ceases to own at least the same percentage of shares in a Material Company as on the Closing Date.

24.13 Audit Qualification

The Auditors qualify the audited annual consolidated financial statements of the Company.

24.14 Expropriation

The authority or ability of any Material Company to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to any Material Company or any of its assets.

24.15 Repudiation and Rescission of Agreements

24.15.1 An Obligor (or any other relevant party) rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or any of the Transaction Security or evidences an intention to rescind or repudiate a Finance Document or any Transaction Security.

24.15.2 Any party (other than the Lender) to the Subordination Agreement rescinds or purports to rescind or repudiates or purports to repudiate any of those agreements or instruments in whole or in part where to do so has or is likely to have a material adverse effect on the interests of the Lender.

24.16 Litigation

Any litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency are started or threatened, or any judgment or order of a court, arbitral body or agency is made, in relation to the Finance Documents or the transactions contemplated in the Finance Documents or against

any member of the Group or its assets which have, or has, or are, or is, reasonably likely to have a Material Adverse Effect.

24.17 Pensions

A pension scheme operated by a member of the Group is not operated or provided on a defined contribution basis.

24.18 Material Adverse Change

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

24.19 ERISA

24.19.1 Any ERISA Event occurs;

(a) there is or arises an Unfunded Pension Liability (taking into account only Plans with positive Unfunded Pension Liability); or

(b) (there is or arises any potential withdrawal liability under section 4201 of ERISA, if any Obligor, any Subsidiary of an Obligor or any ERISA Affiliate were to withdraw completely from any and all Multiemployer Plans;

24.19.2 there shall result from any such event or events described in paragraph (a) above the imposition of an encumbrance, the granting of a security interest, or a liability or a material risk of incurring a liability; and

24.19.3 any encumbrance, security interest or liability referred to in paragraph (b) above, either individually or in the aggregate, has had or would be reasonably expected to have, a Material Adverse Effect.

24.20 US Bankruptcy of Obligors

Notwithstanding clause 24.21 (*Acceleration*), if any Obligor commences a voluntary case concerning itself under the US Bankruptcy Code, or an involuntary case is commenced under the US Bankruptcy Code against any Obligor and the petition is not controverted within 10 days, or is not dismissed within 45 days after commencement of the case, or a custodian (as defined in the US Bankruptcy Code) is appointed for, or takes charge of, all or substantially all of the property of any Obligor, or any order of relief or other order approving any such case or proceeding is entered, the Facilities shall cease to be available to such Obligor, all obligations of such Obligor under clause 19 (*Guarantee and Indemnity*) or any other provision of this Agreement or any other Finance Document to which such Obligor is a party shall become immediately due and payable automatically and without any further action by any Party.

24.21 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Lender may by notice to the Company:

24.21.1 cancel the Total Commitments at which time they shall immediately be cancelled;

24.21.2 declare that all or part of the Utilisations, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, at which time they shall become immediately due and payable;

24.21.3 declare that all or part of the Utilisations be payable on demand, at which time they shall immediately become payable on demand; and

24.21.4 exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

25 CHANGES TO THE LENDER

25.1 Assignments and Transfers by the Lender

25.1.1 Subject to this clause 25, the Lender (the **Existing Lender**) may:

- (a) assign any of its rights; or
- (b) transfer by novation any of its rights and obligations,

under any Finance Document to any of its Affiliates or Related Entities (the **New Lender**).

25.1.2 An Existing Lender must consult with the Borrower for not less than five (5) Business Days before it may make an assignment or transfer in accordance with clause 25.1 (*Assignments and Transfers by the Lender*) unless the assignment or transfer is:

- (a) to another Lender or an Affiliate of any Lender; or
- (b) made at a time when an Event of Default is continuing.

25.2 Conditions of Assignment or Transfer

If:

25.2.1 the Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its jurisdiction in which it is resident for tax purposes or changes its Facility Office; and

25.2.2 as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender under clause 14 (*Tax Gross Up and Indemnities*),

then the New Lender is only entitled to receive payment under that clause to the same extent as the existing Lender would have been if the assignment, transfer or change had not occurred.

25.3 Limitation of Responsibility of Existing Lenders

Nothing in any Finance Document obliges an Existing Lender to:

25.3.1 accept a re-transfer or a re-assignment from a New Lender of any of the rights and obligations assigned or assigned and transferred by assumption of contract under this clause 25; or

25.3.2 support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

25.4 Procedure for Transfer

25.4.1 Subject to the conditions set out in clause 25.2 (*Conditions of Assignment and Transfer*) an assignment or transfer will only be effective in accordance with clause 25.4.2 below when the Existing Lender executes an otherwise duly completed Transfer Certificate delivered to it by the New Lender. The Existing Lender shall, subject to clause 25.4.2 below execute that Transfer Certificate.

25.4.2 On the Transfer Date:

- (a) to the extent that in the Transfer Certificate the Existing Lender seeks to assign and transfer its rights and obligations under the Finance Documents each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be lost (being the **Terminated Rights and Obligations**);
- (b) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Terminated Rights and Obligations only insofar as that Obligor and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;
- (c) the New Lender and the other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer or assignment and to that extent the Existing Lender shall be released from further obligations under the Finance Documents; and
- (d) the New Lender shall become a Party as a **Lender**.

25.5 **Procedure for Assignment**

25.5.1 Subject to the conditions set out in clause **Error! Reference source not found.** (*Conditions of Assignment or Transfer*) an assignment may be effected in accordance with clause 25.5.3(c) below when the Obligors' Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Obligors' Agent shall, subject to clause 25.5.2 below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.

25.5.2 The Obligors' Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.

25.5.3 On the Transfer Date:

- (a) the Existing Lender will assign absolutely to the New Lender the rights under the Finance Documents expressed to be the subject of the assignment in the Assignment Agreement;
- (b) the Existing Lender will be released by each Obligor and the other Lenders from the obligations owed by it (the **Relevant Obligations**) and expressed to be the subject of the release in the Assignment Agreement; and
- (c) the New Lender shall become a Party as a **Lender** and will be bound by obligations equivalent to the Relevant Obligations.

25.5.4 Lenders may utilise procedures other than those set out in this clause **Error! Reference source not found.** to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with clause **Error! Reference source not found.** (*Procedure for Transfer*), to obtain a release by that Obligor from the obligations owed to that Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender) provided that they comply with the conditions set out in clause **Error! Reference source not found.** (*Conditions of Assignment or Transfer*).

25.6 **Copy of Transfer Certificate or Assignment Agreement to company**

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

26 **CHANGES TO THE OBLIGORS**

26.1 **Assignment and Transfers by Obligors**

No Obligor or any other member of the Group may assign any of its rights or transfer any of its rights or obligations under the Finance Documents (including as a result of a reorganisation, merger, amalgamation or otherwise).

26.2 **Additional Guarantors**

26.2.1 The Parent shall procure that any member of the Group which is a Material Company shall, as soon as possible after becoming a Material Company, become an Additional Guarantor and grant Security in accordance with the provisions of this Agreement.

26.2.2 Subject to compliance with the provisions of clauses 21.11.2 and 21.11.3 (*Know Your Customer Checks*), the Company may request that any of its Subsidiaries become a Guarantor.

26.2.3 A member of the Group shall become an Additional Guarantor if:

- (a) the Company and the proposed Additional Guarantor deliver to the Lender a duly completed and executed Accession Deed; and
- (b) the Lender has received all of the documents and other evidence listed in Part 2 of Schedule 2 (*Conditions Precedent*) in relation to that Additional Guarantor, each in form and substance satisfactory to the Lender.

26.2.4 The Lender shall notify the Company promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part 2 of Schedule 2 (*Conditions Precedent*).

26.3 **Repetition of Representations**

Delivery of an Accession Deed constitutes confirmation by the relevant Subsidiary that the representations and warranties referred to in clause 20.37.5 (*Times When Representations Made*) are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

27 **ROLE OF THE LENDER**

27.1 **No Fiduciary Duties**

Nothing in any Finance Document constitutes the Lender as an agent, trustee or fiduciary of any other person or Obligor.

27.2 **Rights and Discretions**

27.2.1 The Lender may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.

27.2.2 The Lender may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Lender or by any other Party).

27.3 Insurance by the Lender

27.3.1 The Lender shall not be obliged:

- (a) to insure any of the Charged Assets;
- (b) to require any other person to maintain any insurance; or
- (c) to verify any obligation to arrange or maintain insurance contained in any Finance Document, and the Lender shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.

27.3.2 Where the Lender is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of 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.

27.4 Delegation by the Lender

27.4.1 The Lender, 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 right, power, authority or discretion vested in it in its capacity as such.

27.4.2 That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions the Lender, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties.

27.4.3 The Lender, any Receiver or Delegate shall not be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

28 PAYMENT MECHANICS

28.1 Payments to the Lender

28.1.1 On each date on which an Obligor is required to make a payment under a Finance Document that Obligor shall make the same available to the Lender (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Lender as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

28.1.2 Any such payment to the Lender shall be made to such account and with such bank in Luxembourg (or in a principal financial centre in such Participating Member State) in each case, as the Lender notifies the Company.

28.2 Partial Payments

28.2.1 If the Lender receives a payment for application against amounts due in respect of any Finance Documents that is insufficient to discharge all the amounts then due and payable by an Obligor under those Finance Documents, the Lender shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:

- (a) **first**, in or towards payment *pro rata* of any unpaid amount owing to any Receiver or any Delegate under the Finance Documents;

- (b) **secondly**, in or towards payment *pro rata* of any accrued interest, fee or commission due but unpaid under those Finance Documents;
- (c) **thirdly**, in or towards payment *pro rata* of any principal due but unpaid under those Finance Documents and any amount due but unpaid under clause 14 (*Tax Gross Up and Indemnities*); and
- (d) **fourthly**, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.

28.2.2 The Lender may vary the order set out in paragraphs 28.2.1 to 28.2.1 above.

28.2.3 Paragraphs 28.2.1 and 28.2.2 above will override any appropriation made by an Obligor.

28.3 **Set-Off by Obligors**

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

28.4 **Business Days**

28.4.1 Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day.

28.4.2 During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

28.5 **Currency of Account**

28.5.1 Subject to clause 28.5.2 below, euro is the currency of account and payment for any sum due from an Obligor under any Finance Document.

28.5.2 Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

28.5.3 Any amount expressed to be payable in a currency other than euro shall be paid in that other currency.

29 **SET-OFF**

At any time following the occurrence of an Event of Default which is continuing but without prejudice to any rights of set-off arising as a matter of law, the Lender may set off any matured obligation due from an Obligor under the Finance Documents against any matured obligation owed by the Lender to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

30 **NOTICES**

30.1 **Communications in Writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, shall be made by email as set out in clause 30.2 below. Any communication to be made under or in connection with the Finance Documents may be made by letter provided that, any communication to be made to the Lender shall also be made by e-mail.

30.2 Addresses

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

30.2.1 in the case of the Lender, that identified with its name below:

The Lender

Address: [REDACTED: Private Information]

Email: [REDACTED: Private Information]

Attention: [REDACTED: Private Information]

30.2.2 in the case of each Original Obligor, that identified on the signing pages; and

30.2.3 in the case of any other Obligor, that notified in writing to the Lender on or prior to the date on which it becomes a Party,

or any substitute address, e-mail address or department or officer as the Party may notify to the Lender (or the Lender may notify to the other Parties, if a change is made by the Lender) by not less than five Business Days' notice.

30.3 Delivery

30.3.1 Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(a) if by way of e-mail, when received in readable form; or

(b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under clause 30.2 (*Addresses*), if addressed to that department or officer.

30.3.2 Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with the Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).

30.3.3 Any communication or document made or delivered to the Company in accordance with this clause 30.3 will be deemed to have been made or delivered to each of the Obligors.

30.3.4 Any communication or document which becomes effective, in accordance with paragraphs 30.3.1 to 30.3.3 above, after 5:00pm in the place of receipt shall be deemed only to become effective on the following day.

30.4 Notification of Address and E-Mail Address

Promptly upon receipt of notification of an address or e-mail address or change of address or e-mail address pursuant to clause 30.2 (*Addresses*) or changing its own address or e-mail address, the Lender shall notify the other Parties.

30.5 **Electronic Communication**

- 30.5.1 Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including by way of posting to a secure website) if those two Parties:
- (a) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
 - (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- 30.5.2 Any such electronic communication as specified in paragraph 30.5.1 above to be made between an Obligor and the Lender may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- 30.5.3 Any such electronic communication as specified in paragraph 30.5.1 above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Lender only if it is addressed in such a manner as the Lender shall specify for this purpose.
- 30.5.4 Any electronic communication which becomes effective, in accordance with paragraph 30.5.2 above, after 5:00pm in the place in which the Party whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- 30.5.5 Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this clause 30.5.

30.6 **English Language**

- 30.6.1 Any notice given under or in connection with any Finance Document must be in English.
- 30.6.2 All other documents provided under or in connection with any Finance Document must be:
- (a) in English; or
 - (b) if not in English, and if so required by the Lender, 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.

31 **CALCULATIONS AND CERTIFICATES**

31.1 **Accounts**

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

31.2 **Certificates and Determinations**

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

31.3 **Day Count Convention**

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

32 **PARTIAL INVALIDITY**

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

33 **REMEDIES AND WAIVERS**

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

34 **AMENDMENTS AND WAIVERS**

34.1 **Required consents**

34.1.1 Any term of the Finance Documents may be amended or waived by the Lender and the Company and any such amendment or waiver will be binding on all Parties.

34.1.2 Each Obligor agrees to any such amendment or waiver permitted by this clause 34 which is agreed to by the Company. This includes any amendment or waiver which would, but for this clause 34.1.2, require the consent of all of the Guarantors.

35 **CONFIDENTIALITY**

35.1 **Confidential Information**

The Lender agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by clause 35.2 (*Disclosure of Confidential Information*) and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

35.2 **Disclosure of Confidential Information**

35.2.1 The Lender may disclose:

- (a) to any of its Affiliates and Related Entities, any person it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (including any investor or sub-participant or participant), and any of their or their officers, directors, employees, professional advisers, auditors, partners (including actual or potential limited partners or investors, whether direct or indirect, in the Lender or a Related Entity of the Lender) and Representatives such Confidential Information as the Lender shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that

there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

- (b) to any person:
 - (i) whom the Lender is required to disclose such Confidential Information to pursuant to its obligations and rights under or in connection with the Finance Documents (including but not limited to any numbering service provider);
 - (ii) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
 - (iii) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes; and
 - (iv) with the consent of the Company; and
- (c) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

35.2.2 It is understood, acknowledged, and agreed by the Parties that the Parent is required to publish a redacted version of this Agreement on the System for Electronic Document Analysis Retrieval (**SEDAR**) in compliance with its continuous disclosure obligations as a reporting issuer in all Provinces of Canada other than Quebec. The Lender consents to the issuance by the Parent of any future press release or other public disclosure describing the transactions under this Agreement and the Finance Documents as required under applicable law and regulations. The Parent will furnish the Lender, in advance of transmission thereof, copies of such press release or disclosure.

35.2.3 The Lender is aware, and will advise its Affiliates, Related Entities, representatives and any other person who is informed as to the matters which are the subject of this Agreement, that the United States and/or Canadian securities laws may prohibit any person in possession of any material non-public information regarding an issuer from purchasing or selling securities of such issuer or from communicating such information to any other person in breach of a duty or under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such securities. The Lender acknowledges its familiarity with such laws and the obligation to comply with such laws as applicable.

35.2.4 The Lender, its Affiliates, Related Entities and representatives agree that:

- (a) the Lender, its Affiliates, Related Entities and representatives will not use any of the Confidential Information that the Lender has received to transact in the securities of the Parent or other related securities or financial instruments;
- (b) the Lender, its Affiliates, Related Entities and representatives will not convey any of the Confidential Information that it has received to any other person (except pursuant to clause 35.2), and will not enlist or encourage any other person to transact in the securities of the

Parent or other related securities or financial instruments, either on their own behalf or on behalf of the Lender or any other person; and

- (c) the Lender will fully comply with all applicable laws, rules and regulations with regard to its receipt of the Confidential Information (including, without limitation, all applicable securities laws).

35.3 **Entire Agreement**

This clause 35 constitutes the entire agreement between the Parties in relation to the obligations of the Lender under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

35.4 **Continuing Obligations**

The obligations in this clause 35 are continuing and, in particular, shall survive and remain binding on the Lender for a period of 12 months from the date on which all amounts payable by the Obligors under or in connection with the Finance Documents have been paid or transferred in full and all Commitments of the Lender have been cancelled or otherwise cease to be available.

36 **COUNTERPARTS**

Each Finance Document 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 the Finance Document.

37 **ELECTRONIC EXECUTION**

Each Party consents to the execution of this Agreement by way of electronic signature and agrees that the electronic signature of such other Party is the legal equivalent of their manual signature on this Agreement and is conclusive evidence of such Party's intention to be bound by this Agreement.

38 **GOVERNING LAW**

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

39 **ENFORCEMENT**

39.1 **Jurisdiction of Irish Courts**

39.1.1 The courts of Ireland 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**).

39.1.2 The Parties agree that the courts of Ireland are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

39.1.3 This clause 39.1 is for the benefit of the Lender and Secured Parties only. As a result, the Lender or Secured Party shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender and Secured Parties may take concurrent proceedings in any number of jurisdictions.

39.2 Service of Process

39.2.1 Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in Ireland):

(a) irrevocably appoints the Company as its agent for service of process in relation to any proceedings before the Irish courts in connection with any Finance Document (and the Company by its execution of this Agreement, accepts that appointment); and

(b) agrees that failure by an agent for service of process to notify the relevant Obligor of the process will not invalidate the proceedings concerned.

39.2.2 If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Company (on behalf of all the Obligors) must immediately (and in any event within 10 days of such event taking place) appoint another agent on terms acceptable to the Lender. Failing this, the Lender may appoint another agent for this purpose.

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

SCHEDULE 1

THE ORIGINAL PARTIES

Part 1 The Original Guarantors

Name of Original Guarantor	Registration number (or equivalent, if any) Original Jurisdiction
kneat.com, inc.	872438-5, Canada
Kneat Solutions Limited	381335, Ireland
Kneat Solutions, Inc.	0004254691, The State of Pennsylvania

Part 2 The Original Lender

Name of Original Lender
IPF FUND III SCA, SICAV-FIAR managed by IPF Management SA

SCHEDULE 2

CONDITIONS PRECEDENT

Part 1 Conditions Precedent to Signing and First Utilisation

1 OBLIGORS

- 1.1 A copy of the constitutional documents of each Original Obligor (including, for each Original Obligor that is a US Obligor, certified charters and good standing certificates (or equivalent) issued by the Secretary of State of its jurisdiction of incorporation, each dated as of a recent date).
- 1.2 A copy of a resolution of the board of directors of each Original Obligor:
- 1.2.1 approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party;
- 1.2.2 authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;
- 1.2.3 authorising a specified person or persons, on its behalf, to sign and/or dispatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
- 1.2.4 in the case of an Obligor other than the Company, authorising the Company to act as its agent in connection with the Finance Documents.
- 1.3 A specimen of the signature of each person authorised by the resolution referred to in paragraph 1.2 above in relation to the Finance Documents and related documents.
- 1.4 A certificate of each Original Obligor (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guaranteeing, securing or similar limit binding on any Original Obligor to be exceeded.
- 1.5 A certificate of an authorised signatory of the Company and each other Original Obligor certifying that each copy document relating to it specified in this Part 1 of Schedule 2 (*Conditions Precedent*) is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement.
- 1.6 A copy of a resolution signed by all the holders of the issued shares in the Borrower.

2 FINANCE DOCUMENTS

- 2.1 The Subordination Agreement executed by the parties thereto.
- 2.2 This Agreement executed by the members of the Group party to this Agreement.
- 2.3 The following Transaction Security Documents executed by the Original Obligors specified below opposite the relevant Transaction Security Document:

Name of Original Obligor	Transaction Security Document
Company	Irish law all asset debenture including fixed and floating charges

Company	New York law governed share pledge from Company over shares held in Kneat Solutions, Inc.
Parent	Irish law share charge over shares held in the Company
Parent	Canadian law general security agreement charging all assets.
Kneat Solutions, Inc.	New York law governed security agreement over substantially all assets of Kneat Solutions, Inc.

- 2.4 A copy of all notices required to be sent under the Transaction Security Documents executed by the relevant Original Obligors.
- 2.5 A copy of all share certificates, transfers, stock transfer forms or equivalent, dividend mandate and irrevocable proxies, letters of resignation of directors and secretary duly executed by the relevant Obligor (in blank, in the case of the stock transfer forms) in relation to the assets subject to or expressed to be subject to the Transaction Security and other documents of title to be provided under the Transaction Security Documents.
- 2.6 A certified copy of the register of members of each Obligor incorporated in Ireland whose shares are subject to Transaction Security.

3 LEGAL OPINIONS

- 3.1 A legal opinion of **[REDACTED: Private Information]**, legal advisors to the Lender:
- 3.1.1 **[REDACTED: Private Information]**; and
- 3.1.2 **[REDACTED: Private Information]**.
- 3.2 A legal opinion of **[REDACTED: Private Information]** the legal advisers to the Company and the Parent in Canada as to Canadian law.
- 3.3 A legal opinion of **[REDACTED: Private Information]** the legal advisers to the Company in Pennsylvania as to capacity of the US Obligor and perfection of security interests under the US Security Agreement in form and substance satisfactory to the Original Lender

4 OTHER DOCUMENTS AND EVIDENCE

- 4.1 Satisfactory searches in respect of the Company at public registries in Ireland.
- 4.2 Satisfactory UCC lien searches in respect of the Company and the US Obligor.
- 4.3 Satisfactory evidence that each document required by the Finance Documents or under law or reasonably requested by the Lender to be filed, registered or recorded in order to create in favour of the Lender, a perfected first priority lien on the collateral described therein, prior and superior in right to any other person (other than with respect to liens expressly permitted under this Agreement), is in proper form for filing, registration and recording.
- 4.4 A copy of the Base Case Model.
- 4.5 Group Structure Chart.

- 4.6 The ESG Questionnaire.
- 4.7 The Original Financial Statements.
- 4.8 Any evidence requested by the Lender for the purposes of satisfying applicable know your customer requirements.
- 4.9 Evidence that the fees, costs and expenses then due from the Company pursuant to the Finance Documents have been paid or will be paid from the proceeds of the first Utilisation Date provided that reference to payment of such fees in the Utilisation Request shall be deemed to be evidence that this condition precedent is satisfactory to the Lender.
- 4.10 A copy of any other Authorisation or other document, opinion or assurance which the Lender considers to be necessary or desirable (if it has notified the Parent accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.
- 4.11 Evidence in form and substance satisfactory to the Lender that all Financial Indebtedness or Security incurred or granted by a member of the Group which is not permitted under this Agreement has been discharged or released (as applicable) or will be discharged and released simultaneously with the drawdown of Facility A.

Part 2 Conditions Precedent Required to be Delivered by an Additional Guarantor

- 1 An Accession Deed executed by the Additional Guarantor and the Company.
- 2 A copy of the constitutional documents of the Additional Guarantor.
- 3 A copy of a resolution of the board of directors of the Additional Guarantor:
 - 3.1 approving the terms of, and the transactions contemplated by, the Accession Deed and the Finance Documents and resolving that it execute, deliver and perform the Accession Deed and any other Finance Document to which it is party;
 - 3.2 authorising a specified person or persons to execute the Accession Deed and other Finance Documents on its behalf;
 - 3.3 authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
 - 3.4 authorising the Company to act as its agent in connection with the Finance Documents.
- 4 A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.
- 5 A copy of the board resolution and the resolution signed by all the holders of the issued shares of the Additional Guarantor (as applicable), approving the terms and the execution of, and the transactions contemplated by, the Finance Documents to which the Additional Guarantor is a party.
- 6 A certificate of the Additional Guarantor (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guaranteeing, securing or similar limit binding on it to be exceeded.
- 7 A certificate of an authorised signatory of the Additional Guarantor certifying that each copy document listed in this Part 2 of Schedule 2 (*Conditions Precedent*) is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Deed.
- 8 A certificate of an authorised signatory of the Additional Guarantor certifying its centre of main interests (as that term is used the Regulation) and confirming that it has no establishment (as that term is used in Article 2(10) of the Regulation) or any other jurisdiction.
- 9 A copy of any other Authorisation or other document, opinion or assurance which the Lender considers to be necessary or desirable in connection with the entry into and performance of the transactions contemplated by the Accession Deed or for the validity and enforceability of any Finance Document.
- 10 If available, copies of the latest audited financial statements of the Additional Guarantor.
- 11 The following legal opinions, each addressed to the Lender:
 - 11.1 A legal opinion of the legal advisers to the Lender in Ireland, as to Irish law in the form distributed to the Lender prior to signing the Accession Deed.
 - 11.2 If the Additional Guarantor is incorporated in or has its centre of main interest or establishment (as referred to in clause 20.29 (*Centre of Main Interests and Establishments*)) in a jurisdiction other than Ireland or is executing a Finance Document which is governed by a law other than Irish law, a legal opinion of the legal advisers to the Company or the Lender, applicable, in the jurisdiction of its incorporation, centre of main interest or establishment (as applicable) or, as the case may be, the jurisdiction of the governing law of that

Finance Document (the **Applicable Jurisdiction**) as to the law of the Applicable Jurisdiction and in the form distributed to the Lender prior to signing the Accession Deed.

- 12 If the proposed Additional Guarantor is incorporated in a jurisdiction other than Ireland, evidence that the process agent specified in clause 39.2 (*Service of Process*), if not an Obligor, has accepted its appointment in relation to the proposed Additional Guarantor.
- 13 Any security document and guarantees which are required by the Lender to be executed by the proposed Additional Guarantor.
- 14 Any notices or documents required to be given or executed under the terms of those security documents.
- 15 A certified copy of the register of members of each member of the Group, the shares of which are subject to or expressed to be subject to the relevant security document.
- 16 Completion of all anti-money laundering and know your customer requirements of the Lender.
- 17 An accession deed to the Subordination Agreement duly executed by the Company and the Additional Guarantor.
- 18 Any other document or item required by the Lender (acting reasonably).

SCHEDULE 3

REQUESTS AND NOTICES

Part 1 Utilisation Request

From: Kneat Solutions Limited

To: [Lender]

Dated: [•]

Dear Sirs

**Kneat Solutions Limited — €15,000,000 Facilities Agreement
dated [•] 2023 (the Facilities Agreement)**

- 1 We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
- 2 We wish to borrow a Loan on the following terms:
 - 2.1 Proposed Utilisation Date: [•] (or, if that is not a Business Day, the next Business Day)
 - 2.2 Facility to be utilised: [Facility A]/[Facility B]/[Facility C]
 - 2.3 Amount: [•]
 - 2.4 Interest Period: three months
- 3 We confirm that each relevant condition specified in clause 4.2 (*Further Conditions Precedent*) is satisfied on the date of this Utilisation Request or will be satisfied on the proposed Utilisation Date.
- 4 We confirm to the Lender that each of the Repeating Representations is true and correct as at the date hereof as if made by reference to the facts and circumstances existing on the date hereof.
- 5 The proceeds of this Loan should be credited to [account].
- 6 This Utilisation Request is irrevocable.

Yours faithfully

authorised signatory for
Kneat Solutions Limited

[•]

SCHEDULE 4

FORM OF ACCESSION DEED

To: [•] as Lender

From: [*Subsidiary*] and Kneat Solutions Limited

Dated: [•]

Dear Sirs

Kneat Solutions Limited — €15,000,000 Facilities Agreement dated [•] (the Facilities Agreement)

- 1 We refer to the Facilities Agreement. This deed (the **Accession Deed**) shall take effect as an Accession Deed for the purposes of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in paragraphs 1-3 of this Accession Deed unless given a different meaning in this Accession Deed.
- 2 [*Subsidiary*] agrees to become an Additional Guarantor and to be bound by the terms of the Facilities Agreement and the other Finance Documents as an Additional Guarantor pursuant to clause 26.2 (*Additional Guarantors*) of the Facilities Agreement. [*Subsidiary*] is a company duly incorporated or organised under the laws of [name of relevant jurisdiction] and is a limited liability company and registered number [•].
- 3 [*Subsidiary's*] administrative details for the purposes of the Facilities Agreement are as follows:

Address:

E-mail address:

Attention:

This Accession Deed has been signed on behalf of the Lender (for the purposes of paragraph 3 above only), signed on behalf of the Company and executed as a deed by [*Subsidiary*] and is delivered on the date stated above.

[Subsidiary execution block - Deed]

The Company
Kneat Solutions Limited

By:

The Lender
[Lender]

By:

Date:

SCHEDULE 5

FORM OF COMPLIANCE CERTIFICATE

[REDACTED: Private Information]

**SCHEDULE 6
FORM OF TRANSFER CERTIFICATE**

To: [•] as Agent

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

Dated:

**Kneat Solutions Limited — €15,000,000 Facilities Agreement
dated [•] 2023 (the Agreement)**

- 1 We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.
- 2 We refer to clause 25.4 (*Procedure for Transfer*) of the Agreement:
 - 2.1 The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation, and in accordance with clause 25.4 (*Procedure for Transfer*) of the Agreement, all of the Existing Lender's rights and obligations under the Agreement and other Finance Documents which relate to that portion of the Existing Lender's Commitment(s) and participations in Loans under the Agreement as specified in the Schedule;
 - 2.2 The proposed Transfer Date is [•].
 - 2.3 The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of clause 30.2 (*Addresses*) of the Agreement are set out in the Schedule.
- 3 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in clause 25.3 (*Limitation of responsibility of Existing Lenders*) of the Agreement.
- 4 The New Lender confirms, for the benefit of the Lender and without liability to any Obligor, that it is:
 - 4.1 [a Qualifying Lender (other than solely by virtue of being a Treaty Lender);]
 - 4.2 [a Treaty Lender;]
 - 4.3 [not a Qualifying Lender].
- 5 [5/6]. This Transfer Certificate 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 Transfer Certificate.
- 6 [6/7]. This Transfer Certificate [and any non-contractual obligations arising out of or in connection with it] [is/are] governed by Irish law.
- 7 [7/8]. This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

SCHEDULE 7

FORM OF ASSIGNMENT AGREEMENT

To: [•] as Obligors' Agent and [•] as Company, for and on behalf of each Obligor

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

Dated: [•]

Kneat Solutions Limited — €15,000,000 Facilities Agreement dated [•] 2023 (the Agreement)

- 1 We refer to the Agreement. This is an Assignment Agreement. Terms defined in the Agreement have the same meaning in this Assignment Agreement unless given a different meaning in this Assignment Agreement.
- 2 We refer to clause **Error! Reference source not found.** (*Procedure for Assignment*):
 - 2.1 The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitment and participations in Loans under the Agreement as specified in the schedule.
 - 2.2 The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitment and participations in Loans under the Agreement specified in the schedule.
 - 2.3 The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph 2.1 above.
- 3 The proposed Transfer Date is [•].
- 4 On the Transfer Date the New Lender becomes Party to the Finance Documents as a Lender.
- 5 The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of clause **Error! Reference source not found.** (*Addresses*) are set out in the schedule.
- 6 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in clause **Error! Reference source not found.** (*Limitation of responsibility of Existing Lenders*).
- 7 The New Lender confirms, for the benefit of the Obligors' Agent and without liability to any Obligor, that it is:
 - 7.1 [a Qualifying Lender (other than a Treaty Lender);]
 - 7.2 [a Treaty Lender;]
 - 7.3 [not a Qualifying Lender].

[10/11] This Assignment Agreement acts as notice to the Obligors' Agent (on behalf the Lender) and to the Company (on behalf of each Obligor) of the assignment referred to in this Assignment Agreement.

[11/12]. This Assignment 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 Assignment Agreement.

[12/13] This Assignment Agreement [and any non-contractual obligations arising out of or in connection with it] [is/are] governed by Irish law.

[13/14] This Assignment Agreement has been entered into on the date stated at the beginning of this Assignment Agreement.

THE SCHEDULE

COMMITMENT/RIGHTS AND OBLIGATIONS TO BE TRANSFERRED

[Insert relevant details]

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

[Existing Lender]

By:

[New Lender]

By:

This Transfer Certificate is accepted by the Lender and the Transfer Date is confirmed as [•].

[Agent]

By:

SCHEDULE 8

FORM OF ESG COMPLIANCE CERTIFICATE

From: [•] [as Borrower]

To: [•] [as Lender]

Dated: [•]

Dear Sir or Madam

Kneat Solutions Limited — €15,000,000 Facilities Agreement dated [•] 2023 (the Agreement)

1. We refer to the Facilities Agreement. This is an ESG Compliance Certificate. Terms defined in the Facilities Agreement have the same meaning in this ESG Compliance Certificate unless given a different meaning in this ESG Compliance Certificate.
2. This ESG Compliance Certificate is delivered with respect to the Financial Year ending on [•].
3. We confirm that, as at [•], the ESG Criteria were satisfied.
4. Attached in the schedule hereto are the details evidencing the satisfaction of the ESG Criteria.
5. We confirm that no Event of Default is continuing.

Yours faithfully

authorised signatory for [•]

SIGNATURES

The Parent

kneat.com, inc.

/s/ "Eddie Ryan" _____

By: Edmund Ryan, President and Chief Executive Officer

E-mail: eddie.ryan@kneat.com

The Original Guarantors

kneat.com, inc.

/s/ "Eddie Ryan"

By: Eddie Ryan, President and Chief Executive Officer

E-mail: eddie.ryan@kneat.com

For and on behalf of **Kneat Solutions Limited**

/s/ "Eddie Ryan"

By: Edmund Ryan, Director

E-mail: eddie.ryan@kneat.com

Kneat Solutions, Inc.

/s/ "Eddie Ryan"

By: Edmund Ryan, President

E-mail: eddie.ryan@kneat.com

The Lender

IPF FUND III SCA, SICAV-FIAR managed by IPF Management SA managed by **IPF Management SA**

/s/ "Edouard Guillet"_____

By: Edouard Guillet

Email: Edouard.guillet@ipfpartners.com

/s/ "Claire Lorenzi"_____

By: Claire Lorenzi

Email: claire.lorenzi@ipfpartners.com