DATED 01 NOVEMBER 2024

(1) HELIOS FAIRFAX PARTNERS CORPORATION

(AS BORROWER)

(2) FIRSTRAND BANK LIMITED (ACTING THROUGH ITS RAND MERCHANT BANK DIVISION)

(AS MANDATED LEAD ARRANGER)

(3) FIRSTRAND BANK LIMITED (ACTING THROUGH ITS RAND MERCHANT BANK DIVISION)

(AS AGENT AND ORIGINAL LENDER)

(4) FIRSTRAND BANK LIMITED (ACTING THROUGH ITS RAND MERCHANT BANK DIVISION)

(AS SECURITY AGENT)

ORIGINAL/COUNTERPART

AMENDMENT AND RESTATEMENT AGREEMENT

EXECUTION VERSION

REFERENCE NUMBER: CM/OCL/769033.00033

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CLAUSE

THIS AMENDMENT AND RESTATEMENT AGREEMENT (this "**Agreement**") is dated 01 November 2024, and entered into between:

BETWEEN:

(1) **HELIOS FAIRFAX PARTNERS CORPORATION** (formerly known as Fairfax Africa Holdings Corporation) (*[private company information has been redacted]*), a corporation registered in accordance with the federal laws of Canada and having its registered office address at Royal Bank Plaza, South Tower, 200 Bay St. Suite 1301, Toronto, ON M5J 2J2, Canada, as borrower (the "**Borrower**");

(2) **FIRSTRAND BANK LIMITED** (acting through its Rand Merchant Bank division) (Registration No. *[private company information has been redacted]*), a limited liability company duly registered and incorporated in accordance with the laws of South Africa, as original lender (the "**Original Lender**");

(3) **FIRSTRAND BANK LIMITED** (acting through its Rand Merchant Bank division) (Registration No. *[private company information has been redacted]*), a limited liability company duly registered and incorporated in accordance with the laws of South Africa, as mandated lead arranger (in this capacity, the "**Arranger**");

(4) **FIRSTRAND BANK LIMITED** (acting through its Rand Merchant Bank division) (Registration No. *[private company information has been redacted]*), a limited liability company duly registered and incorporated in accordance with the laws of South Africa, as agent (in this capacity, the "**Agent**"); and

(5) **FIRSTRAND BANK LIMITED** (acting through its Rand Merchant Bank division) (Registration No. *[private company information has been redacted]*), a limited liability company duly registered and incorporated in accordance with the laws of South Africa, as security agent (in this capacity, the "**Security Agent**" and together with the Borrower, the Original Lender, the Arranger and the Agent, the "**Parties**" and each a "**Party**" as the context may require).

RECITALS

(A) By way of a senior secured revolving credit facility agreement entered into on or about 3 March 2022 (and as amended pursuant to an amendment agreement dated 19 September 2022) between the Parties, the Original Lender agreed to make a USD denominated revolving credit facility available to the Borrower, all on the terms and conditions contained therein (the "**Facility Agreement**").

(B) The Parties now wish to amend the Facility Agreement, all on the terms and conditions contained herein.

WHEREAS FOR GOOD AND VALUABLE CONSIDERATION ACKNOWLEDGED AND RECEIVED THE PARTIES AGREE AS FOLLOWS:

1 INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires, capitalised terms and expressions not otherwise defined shall bear the meanings ascribed thereto in the Facility Agreement and for the purpose of this Agreement "**Effective Date**" means the date of the signature of the Party last signing this Agreement in time.

1.2 The provisions of clause 1.3 (*Construction)* and 1.4 (*Third Party Rights*) of the Facility Agreement apply to this Agreement as though they were set out in full in this Agreement, except that references in those clauses to the Facility Agreement are to be construed as being references to this Agreement.

2 AMENDMENT AND RESTATEMENT OF THE FACILITY AGREEMENT

2.1 With effect from the Effective Date, the Facility Agreement shall be amended and restated so that it shall be read and be construed for all purposes as set out in Schedule 1 (*Amended and Restated Facility Agreement*).

2.2 The rights and obligations of the parties to Facility Agreement shall, on and from the Effective Date, be governed by and construed in accordance with the provisions of the Facility Agreement as amended and restated by this Agreement.

3 **ACKNOWLEDGEMENT BY THE BORROWER**

The Borrower, by its signature hereto, hereby:

3.1 confirms that it accepts the terms of the Facility Agreement (as such agreement is amended by this Agreement);

3.2 agrees that it remains bound as Borrower under the Facility Agreement (as such agreement is amended by this Agreement) and the other Finance Documents to which it is a party (in its relevant capacity under such Finance Documents); and

3.3 confirms that all Finance Documents to which it is a party and all security interests and all other forms of credit support (including, without limitation, suretyships, guarantees and indemnities and any subordination arrangements) given by it under or in connection with the Finance Documents to which it is a party, shall remain of full force and effect in accordance with their respective terms notwithstanding the amendments to the Facility Agreement made under and in accordance with this Agreement.

4 **REPRESENTATIONS AND WARRANTIES**

The Repeating Representations are made and repeated by the Borrower on the Effective Date, in each case by reference to the facts and circumstances then existing.

5 **RETENTION**

Save as expressly contemplated in this Agreement, each Finance Document shall remain unamended and, subject to its terms, of full force and effect.

6 **NOTICES**

All documents in legal proceedings and notices in connection with this Agreement shall be served in accordance with clause 30 (*Notices*) of the Facility Agreement, which clause is incorporated by reference in this Agreement as if repeated in this Agreement in full (except that references in that clause to the Facility Agreement are to be construed as references to this Agreement).

7 **EXECUTION IN COUNTERPARTS**

This Agreement may be executed in one or more counterparts all of which, when read together, shall comprise one and the same instrument. A scanned copy of this Agreement shall comprise a valid counterpart for the purpose of this provision.

8 **WHOLE AGREEMENT**

This Agreement comprises a written amendment to the Facility Agreement within the contemplation of the applicable amendment provisions thereof. This Agreement constitutes the whole agreement between the Parties relating to the subject matter hereof.

9 **FINANCE DOCUMENT**

The Agent and the Borrower hereby designate this Agreement as a Finance Document in terms of clause 1.1.59 of the Facility Agreement.

10 **GOVERNING LAW**

This Agreement, and all non-contractual obligations arising out of or in connection with it, will be governed by and construed in accordance with the laws of England and Wales.

11 INCORPORATION BY REFERENCE

Clauses 16 (Costs and expenses), 32 (*Partial invalidity*), 33 (*Remedies and Waivers*), 34 (*Amendments and Waivers*), 35 (*Confidential Information*), 36 (*Confidentiality of Funding Rates*), 37 (*Counterparts*) and 39 (*Enforcement*) apply to this Agreement as though they were set out in full in this Agreement, provided that any reference in those clauses to the Facility Agreement and/or the Finance Documents shall include reference to this Agreement.

This Agreement is entered into by the Parties on the date first above written.

SCHEDULE 1– AMENDED AND RESTATED FACILITY AGREEMENT

DATED 3 MARCH 2022 AS AMENDED PURSUANT TO AN AMENDMENT AGREEMENT DATED 19 SEPTEMBER 2022 AND AS FURTHER AMENDED AND RESTATED ON THE EFFECTIVE DATE

(1) HELIOS FAIRFAX PARTNERS CORPORATION
(AS BORROWER)

(2) FIRSTRAND BANK LIMITED (ACTING THROUGH ITS RAND MERCHANT BANK DIVISION)
(AS MANDATED LEAD ARRANGER)

(3) THE FINANCIAL INSTITUTION SET OUT AT PART II OF SCHEDULE 1
(AS ORIGINAL LENDER)

(4) FIRSTRAND BANK LIMITED (ACTING THROUGH ITS RAND MERCHANT BANK DIVISION)
(AS AGENT)

(5) FIRSTRAND BANK LIMITED (ACTING THROUGH ITS RAND MERCHANT BANK DIVISION)
(AS SECURITY AGENT)

ORIGINAL/COUNTERPART

FACILITY AGREEMENT

EXECUTION VERSION

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SCHEDULE

THIS SENIOR SECURED REVOLVING CREDIT FACILITY AGREEMENT (this "**Agreement**") is dated 3 March 2022 as amended pursuant to an amendment agreement dated 19 September 2022 and as further amended and restated on the Effective Date and made between:

(1) **HELIOS FAIRFAX PARTNERS CORPORATION** (formerly known as Fairfax Africa Holdings Corporation) (*[private company information has been redacted]*), a corporation registered in accordance with the federal laws of Canada and having its registered office address at 95 Wellington Street West Suite 800 Toronto, ON M5J 2N7, Canada, as borrower (the "**Borrower**");

(2) **THE FINANCIAL INSTITUTION SET OUT AT PART II OF SCHEDULE 1** (*Original Parties*), as original lender (the "**Original Lender**");

(3) **FIRSTRAND BANK LIMITED** (acting through its Rand Merchant Bank division) (Registration No. *[private company information has been redacted]*), a limited liability company duly registered and incorporated in accordance with the laws of South Africa, as mandated lead arranger (in this capacity, the "**Arranger**");

(4) **FIRSTRAND BANK LIMITED** (acting through its Rand Merchant Bank division) (Registration No. *[private company information has been redacted]*), a limited liability company duly registered and incorporated in accordance with the laws of South Africa, as agent (in this capacity, the "**Agent**"); and

(5) **FIRSTRAND BANK LIMITED** (acting through its Rand Merchant Bank division) (Registration No. *[private company information has been redacted]*), a limited liability company duly registered and incorporated in accordance with the laws of South Africa, as security agent (in this capacity, the "**Security Agent**").

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

1.1.1 **"3-Month Treasury Bill Rate"** means, at any time, the United States 3-month Treasury bill rate, with a United States Treasury Bill being a zero coupon debt instrument issued at a discount and representing a claim on the federal government of the United States of America, as available on Bloomberg ticker USGG3M <Index> (or any replacement Bloomberg page which displays that rate) or, if such information is no longer available from Bloomberg, as available from a comparable internationally recognised source.

1.1.2 **"Acceptable Bank**" means:

1.1.2.1 the Original Lender;

1.1.2.2 a bank or financial institution (other than a bank or financial institution incorporated in Mauritius or South Africa) 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 an equivalent rating or a comparable rating from an internationally recognised credit rating agency;

1.1.2.3 Mauritius Commercial Bank, State Bank of Mauritius, AfrAsia Bank Limited, HSBC Mauritius and Absa Bank Limited (Mauritius);

1.1.2.4 Absa Bank Limited, Nedbank Limited, Investec Bank Limited and the Standard Bank of South Africa Limited; or

1.1.2.5 any other bank or financial institution approved by the Agent in writing.

1.1.3 "**Accounting Principles**" means, in the case of the Borrower, generally accepted accounting principles in effect from time to time in Canada (including, without limitation, the accounting recommendations published in the CPA Canada Handbook) and, in the case of any other person, generally accepted accounting principles (including IFRS where applicable) in effect from time to time in the applicable jurisdiction, in each case as applied in a consistent manner.

1.1.4 "**Accounting Reference Date**" means 31 December of each year.

1.1.5 "**Acting in Concert**" means, in respect of any entity, 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 that entity by any of them, either directly or indirectly, to obtain or consolidate Control of that entity.

1.1.6 "**Administrative Party**" means the Arranger, the Security Agent or the Agent, and, collectively, the "**Administrative Parties**".

1.1.7 "**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 provided that, in relation to any member of the Group, the term "Affiliate" shall not include Fairfax Financial Holdings.

1.1.8 "**Amendment and Restatement Agreement**" means the amendment and restatement agreement dated on or about the Effective Date and made between, amongst others, the Borrower and the Agent.

1.1.9 "**Assignment Agreement**" means an agreement substantially in the form set out in **Schedule 5** (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee.

1.1.10 "**Auditors**" means PwC, EY, KPMG or Deloitte (or any other audit firm appointed with the prior written approval of the Agent).

1.1.11 "**Authorisation**" means an authorisation, consent, approval, resolution, permit, licence, exemption, filing, notarisation or registration.

1.1.12 "**Availability Period**" means the period from (and including) the Closing Date and terminating on (and including) the date which falls 3 (three) months prior to the Final Repayment Date.

1.1.13 "**Available Commitment**" means a Lender's Commitment, *minus*:

1.1.13.1 the amount of its participation in any outstanding Utilisation; and

1.1.13.2 in relation to any proposed Utilisation, the amount of its participation in any Utilisations that are due to be made on or before the proposed Utilisation Date,

provided that that Lender's participation in any Utilisations that are due to be repaid or prepaid on or before the proposed Utilisation Date shall not be deducted.

1.1.14 "**Available Facility**" means the aggregate for the time being of each Lender's Available Commitment.

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

1.1.15.1 the interest (excluding the Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in the relevant 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:

1.1.15.2 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 in the Relevant Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

1.1.16 **"Break Gains"** means the amount (if any) by which the amount referred to in paragraph 1.1.15.2 of the definition of "Break Costs" exceeds the interest referred to in paragraph 1.1.15.1 of the definition of "Break Costs".

1.1.17 "**Bridge Investment**" means that portion of any Investment held by the Borrower for a maximum period of 12 (twelve) months to facilitate the introduction of co-investors and which has been designated as such by the Borrower and notified in writing to the Lenders.

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

1.1.18.1 (only as regards to the making of a US Dollar payment), New York; and

1.1.18.2 (in relation the fixing of an interest rate) which is a US Government Securities Business Day.

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

1.1.20 "**Closing Date**" means the date of the notice given by the Agent pursuant to clause 4.1 (*Initial conditions precedent*).

1.1.21 "**Code**" means the US Internal Revenue Code of 1986.

1.1.22 "**Commitmen**t" means:

1.1.22.1 in relation to the Original Lender, the amount set out opposite its name in Part II of **Schedule 1** (*Original Parties*) and the amount of any other Commitment transferred to it under this Agreement; and

1.1.22.2 in relation to any other Lender, the amount of any Commitment transferred to it under this Agreement,

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

1.1.23 "**Compliance Certificate**" means a certificate substantially in the form set out in **Schedule 6** (*Form of Compliance Certificate*), with any amendments the Agent and the Borrower may agree in writing.

1.1.24 "**Confidential Information**" means all information relating to the Borrower or the Group, the Finance Documents or the Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or the Facility from either:

1.1.24.1 the Borrower or any member of the Group or any of its advisers; or

1.1.24.2 another Finance Party, if the information was obtained by that Finance Party directly or indirectly from the Borrower, 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:

1.1.24.3 information that:

1.1.24.3.1 is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of clause 35 (*Confidential Information);*

1.1.24.3.2 is identified in writing at the time of delivery as non-confidential by the Borrower or member of the Group or any of its advisers; or

1.1.24.3.3 is known by that Finance Party before the date the information is disclosed to it in accordance with clauses 1.1.24.1 or 1.1.24.2 above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Borrower or the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and

1.1.24.4 any Funding Rate.

1.1.25 "**Confidentiality Undertaking**" means, at any time, a confidentiality undertaking substantially in the then current recommended form of the Loan Market Association or in any other form agreed between the Borrower and the Agent in writing.

1.1.26 "**Control**" means, in respect of:

1.1.26.1 any entity (other than the Borrower or any direct Subsidiary of the Borrower):

1.1.26.1.1 the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

1.1.26.1.1.1 cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of that entity;

1.1.26.1.1.2 appoint or remove all, or the majority, of the directors or other equivalent officers of that entity; or

1.1.26.1.1.3 give directions with respect to the operating and financial policies of that entity with which the directors or other equivalent officers of that entity are obliged to comply; and/or

1.1.26.1.2 the holding beneficially of more than 50% (fifty percent) of the issued share capital of that entity (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

1.1.26.2 the Portfolio Advisor, the holding beneficially of more than 50% (fifty percent) of the aggregate limited partner interests designated as Class A and Class B interests;

1.1.26.3 the Borrower and each direct Subsidiary of the Borrower, the power to appoint the majority of the members of the board of directors of the Borrower or that Subsidiary, directly or indirectly, whether through ownership of securities, by contract or otherwise, it being understood, however, that where the power to manage such company or corporation has been, entirely or substantially, removed from its board of directors through a unanimous shareholders' agreement or otherwise or when such company or corporation does not have a board of directors, then it shall mean the power to direct the management and policies of such company or corporation, directly or indirectly,

1.1.26.4 provided that, in each case, any appointment or removal of members from the board of directors that are representatives of Helios or Fairfax Financial Holdings (or any of its Affiliates) in any company shall not constitute a change in Control to the extent that the aggregate number of members on the board of directors attributable to Helios and Fairfax Financial Holdings (or any of its Affiliates) in that company remain the same.

1.1.27 "**Debentures**" means the unsecured debentures issued by the Borrower to Fairfax Financial Holdings under and in accordance with the terms of the Subscription Agreement.

1.1.28 "**Debt Purchase Transaction**" means, in relation to a person, a transaction where such person:

1.1.28.1 purchases by way of assignment or transfer;

1.1.28.2 enters into any sub-participation in respect of; or

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

any Commitment or amount outstanding under this Agreement.

1.1.29 "**Default**" means:

1.1.29.1 an Event of Default; or

1.1.29.2 an event or circumstance specified in clause 21 (*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 them) be an Event of Default.

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

1.1.31 "**Delisting Event**" means, at any time:

1.1.31.1 (a) the trading of any of the Borrower's ordinary shares on the Toronto Stock Exchange (the "**Listed Shares**") is suspended, and/or (b) any action is taken in accordance with the rules of the Toronto Stock Exchange relating to such suspension, and/or (c) the Toronto Stock Exchange notifies the Borrower that the trading of the Listed Shares will be suspended (in each case, other than any suspension in trading which affects the trading of some or all of the shares on the Toronto Stock Exchange generally); and/or

1.1.31.2 the Borrower is delisted from the Toronto Stock Exchange for any reason (other than voluntarily with the prior written consent of the Agent),

and, in each case, such circumstances persists for a period of 5 (five) Business Days.

1.1.32 "**Disclosure Schedule**" means Schedule 9 (*Disclosure Schedule*).

1.1.33 "**Distribution**" means any payment by way of interest, principal, dividend, fee, royalty or other distribution of whatsoever nature and howsoever described (including share buy backs, a distribution or payment upon or in connection with a reduction of capital, an issue of shares or other securities credited as fully or partly paid up by way of a capitalisation of profits or reserves and the payment (or repayment) of any amount on loan account) by or on behalf of a company to or for the account of any member or shareholder of that company (or any of their Affiliates), in each case whether paid or payable and whether paid or payable in cash or *in specie*.

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

1.1.34.1 a material disruption to the payment or communications systems or to the financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out), provided that the disruption is not caused by, and is beyond the control of, any of the Parties; or

1.1.34.2 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:

1.1.34.2.1 from performing its payment obligations under the Finance Documents; or

1.1.34.2.2 from communicating with other Parties in accordance with the terms of the Finance Documents,

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

1.1.35 "**Economic Failure**" means the occurrence of an event, circumstance or condition (whether of a financial, political or economic nature) in the London, Toronto, New York, Johannesburg or international banking or capital markets at any time which, in the opinion of the Lenders, has adversely affected or is likely to adversely affect the international or domestic syndicated bank or capital market(s) and which renders it unlawful, uneconomical or impossible for the Lenders to participate in any Utilisation.

1.1.36 "**Effective Date**" has the meaning given to the term "Effective Date" in the Amendment and Restatement Agreement.

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

1.1.37.1 air (including, without limitation, air within natural or man-made structures, whether above or below ground);

1.1.37.2 water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and

1.1.37.3 land (including, without limitation, land under water).

1.1.38 "**Environmental Claim**" means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.

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

1.1.39.1 the pollution or protection of the Environment;

1.1.39.2 the conditions of the workplace; or

1.1.39.3 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.

1.1.40 "**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.

1.1.41 "**Event of Default**" means any event or circumstance specified as such in clause 21 (*Events of Default*).

1.1.42 "**Excluded Taxes**" means any of the following Taxes imposed on or with respect to a Finance Party or required to be withheld or deducted from a payment to a Finance Party, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Finance Party being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or

Commitment (other than pursuant to an assignment request by the Borrower) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to clause 12 *(Tax Gross Up and Indemnifies)*, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Finance Party's failure to comply with clause 12.9 (*Tax Gross Up and Indemnifies – Other Information)*, (d) any withholding Taxes imposed under FATCA and (e) any Canadian Tax that would not have been imposed but for the Finance Party (i) not dealing at arm's length with the Borrower or (ii) being a "specified shareholder" (as defined in subsection 18(5) of the Tax Act) of the Borrower or not dealing at arm's length with such a specified shareholder for purposes of the Tax Act.

1.1.43 "**Exit Event**" means the occurrence of any of the following events or circumstances:

1.1.43.1 Fairfax Financial Holdings at any time exercises (or purports to exercise) the rights afforded to it under the Debenture and the Subscription Agreement in respect of an early redemption of the Debentures;

1.1.43.2 any person or group of persons Acting in Concert gains direct or indirect Control of the Sub-Advisor;

1.1.43.3 the Borrower disposes, in a single or a series of transactions (whether related or unrelated), of the Whole or Greater Part of its assets or business or undertaking;

1.1.43.4 any person or group of persons Acting in Concert gains direct or indirect control of the General Partner;

1.1.43.5 any ordinary shares in the issued share capital of the General Partner cease to be legally and beneficially held by those persons who hold same as at the Signature Date, provided that in the case of any investment professional no longer being a legal or beneficial owner of its shares in the General Partner (an "**Investment Professional Event**"), such Exit Event shall not apply unless such Investment Professional Event is continuing for a period of 6 (six) months and such shares have not been transferred to a replacement investment professional (and an Investment Professional Event shall be deemed to no longer be continuing when such shares have been transferred to a replacement investment professional within such 6 (six) month period);

1.1.43.6 the appointment of the Sub-Advisor and/or Portfolio Advisor as investment advisor to members of the Group in terms of any management, advisory or like agreement entered into by the Sub-Advisor and/or the Portfolio Advisor with members of the Group is for any reason terminated;

1.1.43.7 the General Partner ceases for any reason to be the general partner of the Portfolio Advisor unless such cessation is notified to the Lenders at least 20 (twenty) Business Days prior to the date of such cessation and a replacement general partner is appointed thereafter;

1.1.43.8 any person or group of persons Acting in Concert gains direct or indirect Control of the Borrower and/or any other member of the Material Group;

1.1.43.9 the Borrower ceases to Control the Portfolio Advisor;

1.1.43.10 any person or group of persons Acting in Concert gains direct or indirect Control of HFP Investment Holdings;

1.1.43.11 any Delisting Event occurs;

1.1.43.12 HFP Investment Holdings disposes (in a single transaction or a series of transactions (whether related or unrelated)) of any of its shares in the Borrower and as a result of such disposal HFP Investment Holdings ceases to hold legally and beneficially at least 40% (forty percent) or more of the shares in issued share capital of the Borrower which relate to both voting and beneficial ownership; and/or

1.1.43.13 a person or group of persons Acting in Concert makes an investment in the Borrower through share subscriptions, the acquisition of securities or hybrid debt instruments which are convertible into shares in the Borrower which results in HFP Investment Holdings ceasing to hold legally and beneficially at least 30% (thirty percent) or more of the ordinary shares in the issued share capital of the Borrower,

provided that, in the case of clauses 1.1.43.12 and 1.1.43.13, to the extent that any disposal, share subscription, acquisition or convertible instruments are made or issued in respect of any employees of HFP Investment Holdings, no Exit Event shall be deemed to have occurred where:

1.1.43.14 the Borrower and the Finance Parties have agreed a lower ownership threshold in relation to HP Investment Holdings in respect of clause 1.1.43.13; or

1.1.43.15 such disposal or any of the foregoing actions result in a transfer of ownership (directly or indirectly) to such employees up to a maximum of 10% (ten percent) of the entire issued share capital of the Borrower and/or 4.25% (four point two five percent) of the entire issued share capital of HFP Investment Holdings (each such disposal or any such foregoing action being an "**Employee Share Transfer**").

1.1.44 "**Facility**" means the senior secured revolving credit facility described in clause 2 (*The Facility*) and made available under this Agreement.

1.1.45 "**Facility Outstandings**" means, at any time, the aggregate of all amounts of loan principal, accrued interest, prepayment fees, other fees and all other amounts owing by the Borrower to the Finance Parties under the Finance Documents.

1.1.46 "**Fairfax Financial Holdings**" means Fairfax Financial Holdings Limited (Corporation No. *[private company information has been redacted]*), a company existing under the federal laws of Canada.

1.1.47 "**Fallback Interest Period**" means one Month.

1.1.48 "**FATCA**" means:

1.1.48.1 sections 1471 to 1474 of the Code or any associated regulations;

1.1.48.2 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 clause 1.1.48.1 above; or

1.1.48.3 any agreement pursuant to the implementation of any treaty, law or regulation referred to in clause 1.1.48.1 or 1.1.48.2 above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

1.1.49 "**FATCA Application Date**" means 1 January 2019 or such other date from which a payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the Signature Date.

1.1.50 "**FATCA Deduction**" means a deduction or withholding from a payment under a Finance Document required by FATCA.

1.1.51 "**FATCA Exempt Party**" means a Party that is entitled to receive payments free from any FATCA Deduction.

1.1.52 "**Facility Office**" means:

1.1.52.1 in respect of a Lender, the office or offices notified by that Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than 5 (five) Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement; or

1.1.52.2 in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes.

1.1.53 "**Fee Letter**" means any letter entered into by reference to this Agreement between one or more Administrative Parties and the Borrower setting out the amount of any fees referred to in this Agreement.

1.1.54 "**FFH Guarantee**" means the agreement titled "Guarantee" dated 8 December 2020 and entered into by Fairfax Financial Holdings (as guarantor) in favour of the Borrower (as guaranteed party).

1.1.55 "**FFH Guarantee Payment**" means any Relevant Payment that is guaranteed by Fairfax Financial Holdings under and in terms of the FFH Guarantee.

1.1.56 "**Final Repayment Date**" means the date which falls 5 (five) years from (and including) the Closing Date.

1.1.57 "**Finance Document**" means:

1.1.57.1 this Agreement;

1.1.57.2 the Transaction Security Documents;

1.1.57.3 each Utilisation Request;

1.1.57.4 each Accession Deed;

1.1.57.5 each Fee Letter;

1.1.57.6 each Compliance Certificate;

1.1.57.7 any Intercreditor Agreement;

1.1.57.8 the Right to Quote Letter;

1.1.57.9 each Assignment Agreement and Transfer Certificate;

1.1.57.10 the Amendment and Restatement Agreement; or

1.1.57.11 any other document designated as such by the Agent and the Borrower in writing,

and, collectively, the "**Finance Documents**".

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

1.1.59 "**Finance Lease Obligations**" means, in respect of any person, the obligations of such person to pay rent or other amounts under any Finance Lease of (or other arrangement conveying the right to use) movable or immovable (real or personal) property, or a combination thereof.

1.1.60 "**Finance Party**" means a Lender or an Administrative Party.

1.1.61 "**Financial Indebtedness**" means any indebtedness for or in respect of:

1.1.61.1 moneys borrowed and debit balances at banks or other financial institutions;

1.1.61.2 any acceptance under any acceptance credit facility (including any dematerialised equivalent);

1.1.61.3 any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

1.1.61.4 any redeemable preference share;

1.1.61.5 any Finance Lease;

1.1.61.6 receivables sold or discounted (other than any receivables to the extent they are sold or discounted on a non-recourse basis);

1.1.61.7 any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative 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 derivative transaction, that amount) will be taken into account);

1.1.61.8 any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;

1.1.61.9 the acquisition cost of any asset or service to the extent payable after its acquisition or possession by the party liable where the advance or deferred payment:

1.1.61.9.1 is arranged primarily as a method of raising finance or of financing the acquisition or the construction of that asset or service; or

1.1.61.9.2 is due to be made more than 90 (ninety) days after the date of acquisition or supply;

1.1.61.10 any other transaction of a type not referred to in any other clause of this definition having the commercial effect of a borrowing; or

1.1.61.11 any guarantee, indemnity or similar assurance against financial loss of any person in respect of any item referred to in clauses 1.1.61.1 to 1.1.61.10 above.

1.1.62 "**Funding Rate**" means any individual rate notified by a Lender to the Agent pursuant to paragraph 10.3.1.2 of clause 10.3 (*Cost of funds*).

1.1.63 "**General Partner**" means HFA General Partner (Guernsey) Limited (Company No. *[private company information has been redacted]*), a company incorporated in accordance with the laws of Guernsey and having its registered address at De Catapan House, Grange Road, St Peter Port, GY1 2QG, Guernsey.

1.1.64 "**Group**" means the Borrower and each of its Subsidiaries for the time being.

1.1.65 "**Group Structure Chart**" means the group structure chart for the Material Group in the agreed form to be delivered by the Borrower to the Agent in terms of clause 4.1 (*Initial conditions precedent*) (as read with Schedule 2 (*Conditions Precedent*)).

1.1.66 "**Guaranteed Investments**" means each of the Investments described in the annual report of the Borrower as a related party receivable of USD20 000 000 (twenty million United States Dollars) from Fairfax Financial Holdings and the Atlas Mara Facility.

1.1.67 "**Helios**" means HFP Investment Holdings or any of its Affiliates.

1.1.68 "**Helios IV**" means Helios Investors IV, L.P., an exempted limited partnership established in the Cayman Islands.

1.1.69 "**Helios Seven Rivers**" means Helios Seven Rivers Fund Ltd, a limited liability company duly registered and incorporated in accordance with the laws of the Cayman Island.

1.1.70 "**HFP Investment Holdings**" means HFP Investment Holdings SARL (Company No. *[private company information has been redacted]*), a limited company established under the laws of Luxembourg.

1.1.71 "**HFP Investments**" means HFP Investments Limited, a private company limited by shares incorporated in accordance with the laws of Mauritius under company number *[private company information has been redacted]* and having its registered office at Ebene Esplanade, 24 Bank Street, Cybercity Ebene, Mauritius.

1.1.72 "**HFP South Africa Investments**" means HFP South Africa Investments Proprietary Limited (Registration No. *[private company information has been redacted]*), a limited liability company duly registered and incorporated in accordance with the laws of South Africa.

1.1.73 "**HFP US**" means HSEH US Investments Inc. (formerly known as HFP US Investments, Inc.), a company incorporated in Delaware with incorporation number: *[private company information has been redacted]*.

1.1.74 "**Historic Term SOFR**" means, in relation to any Loan, the most recent applicable Term SOFR for a period equal in length to the Interest Period of that Loan and which is as of a day which is no more than 3 (three) US Government Securities Business Days before the Quotation Day.

1.1.75 "**Holding Company**" means, in relation to a person, any other person in respect of which it is a Subsidiary, provided that, in relation to any member of the Group, the term "Holding Company" shall not include Fairfax Financial Holdings.

1.1.76 "**IFRS**" means the International Financial Reporting Standards (IFRS), as set by the International Accounting Standards Board (IASB) and adopted by the Canadian Accounting Standards Board (AcSB), published by CPA Canada.

1.1.77 "**Increased Costs**" has the meaning given to it in clause 13 *(Increased Costs)*.

1.1.78 "**Indemnified Taxes**" means Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrower under any Finance Document.

1.1.79 "**Intellectual Property**" means:

1.1.79.1 any patents, trademarks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and

1.1.79.2 the benefit of all applications and rights to use such assets of the Borrower described under clause 1.1.79.1 (which may now or in the future subsist).

1.1.80 "**Intercreditor Agreement**" means any intercreditor agreement between the Lenders in relation to this Agreement;

1.1.81 "**Interest Payment Date**" means each Quarter Date.

1.1.82 "**Interest Period**" means each period determined under this Agreement by reference to which interest on a Loan or an Unpaid Sum is calculated.

1.1.83 "**Interpolated Historic Term SOFR**" means, in relation to any Loan, the rate (rounded to the same number of decimal places as Term SOFR) which results from interpolating on a linear basis between:

1.1.83.1 either:

1.1.83.1.1 the most recent applicable Term SOFR (as of a day which is not more than 5 (five) US Government Securities Business Days before the Quotation Day) for the longest period (for which Term SOFR is available) which is less than the Interest Period of that Loan; or

1.1.83.1.2 if no such Term SOFR is available for a period which is less than the Interest Period of that Loan, SOFR for a day which is no more than 5 (five) US Government Securities Business Days (and no less than 2 (two) US Government Securities Business Days) before the Quotation Day; and

1.1.83.2 the most recent applicable Term SOFR (as of a day which is not more than 5 (five) days before the Quotation Day) for the shortest period (for which Term SOFR is available) which exceeds the Interest Period of that Loan.

1.1.84 "**Interpolated Term SOFR**" means, in relation to any Loan, the rate (rounded to the same number of decimal places as Term SOFR) which results from interpolating on a linear basis between:

1.1.84.1 either:

1.1.84.1.1 the applicable Term SOFR (as of 11.00 am London time on the Quotation Day) for the longest period (for which Term SOFR is available) which is less than the Interest Period of that Loan; or

1.1.84.1.2 if no such Term SOFR is available for a period which is less than the Interest Period of that Loan, SOFR for the day which is 2(two) US Government Securities Business Days before the Quotation Day; and

1.1.84.2 the applicable Term SOFR (as of 11.00 am London time on the Quotation Day) for the shortest period (for which Term SOFR is available) which exceeds the Interest Period of that Loan.

1.1.85 "**Investment**" means each direct or indirect investment made by the Borrower (whether by way of the subscription for securities, the making of loans or otherwise) as at the Signature Date or which is to be made by the Borrower following the Signature Date in accordance with its investment strategy, investment selection criteria and investment restrictions reflected in its annual information form (as may be amended from time to time) and filed with applicable securities regulatory authorities in Canada as such strategy, criteria and restrictions may be modified or amended from time to time.

1.1.86 "**Investment Proceeds**" means:

1.1.86.1 the net proceeds (after paying (or providing for the payment of) (a) any Taxes as reasonably determined by the relevant member of the Group on the basis of existing rates and taking into account any available credit, deduction or allowance; and (b) properly evidenced costs and expenses reasonably incurred) realised by a member of the Material Group in connection with the disposal by a member of the Material Group of any of its Investments but excluding any Investment which is a Reference Investment;

1.1.86.2 the net proceeds of all Distributions received by a member of the Material Group;

1.1.86.3 the proceeds of all loan repayments received by, or returns of deposit made to, the Borrower including any payments actually received by the Borrower from Fairfax Financial Holdings under and in terms of the FFH Guarantee; and

1.1.86.4 the proceeds of all limited partner interests in the Portfolio Advisor designated as Class A and Class B interests paid by the Portfolio Advisor to a member of the Material Group.

1.1.87 "**Joint Venture**" means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity.

1.1.88 "**Lenders**" means, collectively:

1.1.88.1 the Original Lender; and

1.1.88.2 any bank, financial institution, trust, fund or other entity which becomes a Party as a Lender after the Signature Date in accordance with clause 22 (*Changes to the Lenders*),

in each case, which has not ceased to be a Party in accordance with the terms of this Agreement (and "**Lender**", as the context requires, means any of them).

1.1.89 "**Loan**" means a loan made or to be made under the Facility or the principal amount outstanding for the time being of that loan.

1.1.90 "**Majority Lenders**" means, at any time, a Lender or Lenders:

1.1.90.1 whose participation in the outstanding Loans then aggregate $66^2/_3$% (sixty six and two thirds percent) or more of the aggregate of all the outstanding Loans of all the Lenders;

1.1.90.2 if there is no Loan then outstanding, whose Commitment then equals $66^2/_3$% (sixty six and two thirds percent) or more of the Total Commitments; or

1.1.90.3 if there is no Loan then outstanding and the Total Commitments have been reduced to zero, whose Commitment equalled $66^2/_3$% (sixty six and two thirds percent) or more of the Total Commitments immediately before the reduction.

1.1.91 "**Margin**" means *[interest rate information has been redacted]*, provided that such rate of interest shall increase by *[interest rate information has been redacted]* for so long as any Default has occurred and is continuing.

1.1.92 "**Market Disruption Rate**" means the percentage rate per annum which is the aggregate of the Reference Rate.

1.1.93 "**Material Adverse Effect**" means a material adverse effect on:

1.1.93.1 the business, operations, property or financial or other condition of the Borrower and/or any Security Provider which affects the ability of the Borrower and the Security Providers (taken as a whole) to perform its obligations under any Finance Document;

1.1.93.2 the validity or enforceability of, or the effectiveness or ranking of any Security Interest granted or purported to be granted pursuant to, any Finance Document; or

1.1.93.3 any right or remedy of a Finance Party in respect of a Finance Document.

1.1.94 "**Material Agreements**" means, collectively:

1.1.94.1 the FFH Guarantee;

1.1.94.2 the Subscription Agreement;

1.1.94.3 the Portfolio Advisor LPA;

1.1.94.4 the Advisor Agreement; and

1.1.94.5 the Sub-Advisor Agreement,

1.1.94.6 and each a "**Material Agreement**" as the context may require.

1.1.95 "**Material Group**" means:

1.1.95.1 the Borrower;

1.1.95.2 HFP Investments;

1.1.95.3 HFP South Africa Investments;

1.1.95.4 HFP US;

1.1.95.5 the Portfolio Advisor;

1.1.95.6 each other Subsidiary or other Investment of the Borrower which, in each case, is directly held and Controlled by the Borrower and formed or acquired after the date hereof which comprises an intermediate holding company or interest in a partnership or unincorporated joint venture for the purposes of the Borrower holding investments in Portfolio Companies, but specifically excluding:

1.1.95.6.1 any such Portfolio Company;

1.1.95.6.2 any Immaterial Subsidiary; and

1.1.95.6.3 any Dormant Subsidiary.

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

1.1.96.1 (subject to paragraph 1.1.96.3 (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;

1.1.96.2 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

1.1.96.3 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.

1.1.97 "**New Lender**" has the meaning given to it in clause 22 (*Changes to the Lenders*).

1.1.98 "**New Shareholder Injections**" means subscription proceeds payable by any person (other than a member of the Group) for securities in the Borrower, but excluding (a) any primary equity issuance, (b) subordinated loan notes or other subordinated debt instruments (which have been subordinated to the payment of the claims of the Finance Parties under the Finance Documents, all on terms acceptable to the Agent) issued for the purposes of funding the acquisition or making of any Investment, and (c) any other securities, subordinated loan notes or other subordinated loan instruments expressly excluded with the prior written consent of the Agent.

1.1.99 "**Nova Pioneer**" means Ascendant Learning Limited (Company No. *[private company information has been redacted]*), a company incorporated in accordance with the laws of Mauritius.

1.1.100 "**Original Financial Statements**" means the Borrower's audited consolidated financial statements for its financial year ended 31 December 2020.

1.1.101 "**Original Jurisdiction**" means the jurisdiction under whose laws each member of the Material Group is incorporated as at the Signature Date.

1.1.102 "**Other Connection Taxes**" means, with respect to any Finance Party, Taxes imposed as a result of a present or former connection between such Finance Party and the jurisdiction imposing such Tax (other than connections arising from such Finance Party having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Finance Document, or sold or assigned an interest in any Loan or Finance Document).

1.1.103 "**Other Taxes**" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Finance Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment.

1.1.104 "**Participating Member State**" means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

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

1.1.106 "**Permitted Acquisition**" means:

1.1.106.1 the acquisition by any member of the Group ("**Acquirer**") of (a) a company or any shares or securities or a business or undertaking; or (b) a loan claim in the case of an investment made by way of loan (in each case, an "**Acquisition**") on an arm's length basis and where the following requirements are satisfied –

1.1.106.1.1 no Default has occurred and is continuing or would result from the making of such Acquisition;

1.1.106.1.2 the Acquisition is consistent with the investment strategy, investment selection criteria and investment restrictions reflected in the Borrower's annual information form as amended from time to time and filed with applicable securities regulatory authorities in Canada; and

1.1.106.1.3 if the target of the Acquisition will be a member of the Material Group (or, in the case of the making of an investment made by way of a loan, the ultimate borrower of such loan is or will be a member of the Material Group (an "**Indirect Acquisition**")), the Acquirer has:

(a) created first ranking Security over:

(b) where such Acquirer is directly making an investment, the relevant shares, securities, business or undertaking so acquired within 30 (thirty) days of such Acquisition, or

(c) where such Acquirer is making an Indirect Acquisition, the Acquirer's loan claim in respect of the borrower (the "**Intra-Group Receivables Security**"), and, where the investment itself shall be a member of the Material Group, the relevant shares, securities, business or undertaking so acquired by the borrower using the proceeds of such loan (the "**Asset Security**") and such Intra-Group Receivables Security (and if applicable, Asset Security) shall be granted within 30 (thirty) days from the date that the borrower acquires the relevant shares, securities, business or undertaking,

(d) in each case in favour of the Security Agent and in form and substance acceptable to the Security Agent;

1.1.106.1.4 provided to the Agent, in form and substance acceptable to the Agent, all legal opinions, corporate and other authorisations which may be required in connection with such Acquisition; and

1.1.106.1.5 fulfilled all other requirements of the Finance Parties in connection with such Acquisition; or

1.1.106.2 any other Acquisition made by the Borrower or any other member of the Group with the prior written consent of the Agent.

1.1.107 "**Permitted Disposal**" means any disposal, sale, lease, licence, transfer or other disposal (a "**Disposal**") by any member of the Material Group of any Investment which is on arm's length terms and where the proceeds of such Disposal are offered to be applied in discharge of the Facility Outstandings such member of the Material Group in accordance with the provisions of clause 7.4 (*Mandatory prepayment – Investment Proceeds and New Shareholder Injections*).

1.1.108 "**Permitted Financial Indebtedness**" means Financial Indebtedness:

1.1.108.1 arising under the Finance Documents;

1.1.108.2 incurred by a member of the Material Group in connection with a New Shareholder Injection;

1.1.108.3 any Financial Indebtedness incurred by any member of the Material Group as at the Signature Date and which have been disclosed to the Agent in the Disclosure Schedule, provided that the principal amount of such Financial Indebtedness so incurred by such member of the Group shall not be increased without the prior written consent of the Agent;

1.1.108.4 which constitutes Finance Lease Obligations incurred by any member of the Material Group or is otherwise incurred by any member of the Material Group to finance the purchase, repair or improvement of fixed or capital assets (including any extension, renewal or refinancing of any such Financial Indebtedness if the amount thereof outstanding on the date of such extension, renewal or refinancing is not increased), provided that (a) such Financial Indebtedness is not incurred under a transaction which would otherwise constitute Quasi-Security, and (b) all such Financial Indebtedness owing in aggregate by members of the Material Group at any time shall not exceed USD5 000 000 (five million US Dollars) (or its equivalent in any other currency);

1.1.108.5 arising under a Permitted Loan or a Permitted Guarantee or as permitted by clause 20.24 (*Treasury Transactions*);

1.1.108.6 any other Financial Indebtedness incurred by any member of the Material Group with the prior written consent of the Agent.

1.1.109 "**Permitted Guarantee**" means:

1.1.109.1 the avalisation of negotiable instruments in the ordinary course of trade;

1.1.109.2 any guarantee or indemnity issued by any member of the Material Group either (a) in respect of any Investment or future Investment, or (b) in respect of any other purpose and existing as at the Signature Date and which has been disclosed to the Agent in the Disclosure Schedule;

1.1.109.3 any performance or similar bond guaranteeing performance by a member of the Material Group under any contract by such member of the Material Group entered into in the ordinary course of trade or in relation to an Investment;

1.1.109.4 any guarantee which constitutes a Permitted Transaction;

1.1.109.5 any guarantee which constitutes "*Permitted Financial Indebtedness*" (except under clause 1.1.108.5 of that definition) or any guarantee which is issued by any member of the Material Group to guarantee "*Permitted Financial Indebtedness*"; or

1.1.109.6 any other guarantee or indemnity given by any member of the Group with the prior written consent of the Agent.

1.1.110 "**Permitted Loan**" means:

1.1.110.1 any trade credit extended by any member of the Material Group to its customers on normal commercial terms and in the ordinary course of its trading activities;

1.1.110.2 any loan made by any member of the Material Group as at the Signature Date and which has been disclosed to the Agent in the Disclosure Schedule;

1.1.110.3 Financial Indebtedness which is referred to in the definition of, or otherwise constitutes, "*Permitted Financial Indebtedness*" when a member of the Material Group is the creditor (except under clause 1.1.108.5 of that definition) and the claim and proceeds of such Financial Indebtedness have been secured to the Security Agent in form and substance acceptable to it, and provided further that no such claim against the debtor may be subordinated to the claims of any person without the prior written consent of the Agent;

1.1.110.4 any loan which is Permitted Acquisition;

1.1.110.5 a loan made by a Security Provider to another Security Provider; or

1.1.110.6 any other loan made by a member of the Group with the prior written consent of the Agent.

1.1.111 "**Permitted Security**" means:

1.1.111.1 any Security or Quasi-Security arising under the Finance Documents;

1.1.111.2 any Security or Quasi-Security provided by any member of the Material Group or Security Provider as at the Signature Date and which has been disclosed to the Agent in the Disclosure Schedule;

1.1.111.3 any lien 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 Material Group or any Security Provider;

1.1.111.4 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 Material Group or Security Provider which constitutes Permitted Financial Indebtedness, excluding any Security or Quasi-Security under a credit support arrangement, provided that the aggregate notional value of all such Treasury Transactions and foreign exchange transactions does not exceed USD50 000 000 (or its equivalent in any other currency) at any time, or any higher amount as may be agreed in writing between the Borrower and the Finance Parties from time to time;

1.1.111.5 any Security or Quasi-Security over or affecting any asset acquired by a member of the Material Group or Security Provider after the Closing Date if:

(a) the Security or Quasi-Security was not created in contemplation of the acquisition of that asset by a member of the Material Group or Security Provider;

(b) the principal amount secured has not been increased in contemplation of or since the acquisition of that asset by a member of the Material Group or Security Provider; and

(c) the Security or Quasi-Security is removed or discharged within 3 (three) months of the date of acquisition of such asset, unless the Borrower is required to create Security over that asset in terms of clause 1.1.106.1.3, in which event the Security or Quasi-Security must be removed or discharged by no later than the date on which the Security contemplated in clause 1.1.106.1.3 is required to be created;

1.1.111.6 any Security or Quasi-Security over or affecting any asset of any company which becomes a member of the Material Group after the Closing Date, where the Security or Quasi-Security is created prior to the date on which that company becomes a member of the Material Group if:

(a) the Security or Quasi-Security was not created in contemplation of the acquisition of that company;

(b) the principal amount secured has not increased in contemplation of or since the acquisition of that company; and

(c) the Security or Quasi-Security is removed or discharged within 3 (three) months of that company becoming a member of the Material Group;

1.1.111.7 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 Material Group or a Security Provider 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 Material Group or that Security Provider;

1.1.111.8 any Quasi-Security arising as a result of a disposal which is a Permitted Disposal;

1.1.111.9 reservations, limitations, provisos and conditions expressed in any original grant from the Crown or other grants of real or immovable property, or interests therein, that do not materially affect the use of the affected land for the purpose for which it is used by a member of the Material Group or a Security Provider;

1.1.111.10 liens for Taxes, rates, assessments or other governmental charges or levies not yet due, or for which instalments have been paid based on reasonable estimates pending final assessments, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by a member of the Material Group or a Security Provider; or

1.1.111.11 any Security or Quasi-Security established with the prior written consent of the Agent.

1.1.112 "**Permitted Transaction**" means:

1.1.112.1 any New Shareholder Injection; or

1.1.112.2 any intra-Group loans, provided that, in the case of any intra-Group loan advanced to any Security Provider, such loan has been advanced by its Holding Company;

1.1.112.3 any transaction entered into by any other member of the Material Group with the prior written consent of the Agent.

1.1.113 "**Permitted Transferee**" means any bank, financial, trust, fund or other person listed in **Schedule 10** (*Permitted Transferees*).

1.1.114 "**Portfolio Advisor**" means HFA Topco, L.P. (Registration No. *[private company information has been redacted]*), a limited partnership established in accordance with the laws of Guernsey.

1.1.115 "**Portfolio Advisor LPA**" means the amended and restated agreement of limited partnership relating to the Portfolio Advisor, entered into between HFA GP (Guernsey) Limited (as general partner) and the Limited Partner (as such term is defined therein), dated 8 December 2020 (as amended, restated, supplemented, waived or otherwise modified from time to time).

1.1.116 "**Portfolio Company**" means any investment of the Borrower (held either directly or indirectly through a member of the Material Group), including but not limited to: (i) shares, debentures, warrants, options and other securities of, or relating to, a body-corporate or other entity; (ii) loans (whether secured or unsecured and whether or not subordinated) made to any person or undertaking; and (iii) interests in or commitments to a limited partnership or trust.

1.1.117 "**Pro Rata Share**" means, at any time:

1.1.117.1 for the purpose of determining a Lender's participation in a Utilisation, the proportion which its Available Commitment then bears to the Available Facility; and

1.1.117.2 for any other purpose:

1.1.117.2.1 the proportion which a Lender's participation in the Loans then bears to all the Loans;

1.1.117.2.2 if there is no Loan then outstanding, the proportion which its Commitment then bears to the Total Commitments; or

1.1.117.2.3 if there is no Loan then outstanding and the Total Commitments have been reduced to zero, the proportion which its Commitment bore to the Total Commitments immediately before the reduction.

1.1.118 "**Quarter**" means a period which commences on the day immediately succeeding each Quarter Date and ending on the immediately following Quarter Date.

1.1.119 "**Quarter Date**" means 31 March, 30 June, 30 September and 31 December of each year.

1.1.120 "**Quasi-Security**" shall bear the meaning ascribed thereto in clause 20.17.1 (*Negative pledge*).

1.1.121 "**Quotation Day**" means, in relation to any period for which an interest rate is to be determined, two US Government Securities Business Days before the first day of that period (unless market practice differs in the relevant syndicated loan market, in which case the Quotation Day will be determined by the Agent in accordance with that market practice (and if quotations would normally be given on more than one day, the Quotation Day will be the last of those days)).

1.1.122 "**Receiver**" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Transaction Security.

1.1.123 "**Reference Investments**" shall bear the meaning ascribed thereto in the Subscription Agreement.

1.1.124 "**Reference Rate**" means, in relation to any Loan:

1.1.124.1 the applicable Term SOFR as of the Specified Time and for a period equal in length to the Interest Period of that Loan; or

1.1.124.2 as otherwise determined pursuant to clause 10.1 (*Unavailability of Term SOFR*),

and if, in either case, that rate is less than zero, the Reference Rate shall be deemed to be zero.

1.1.125 "**Refinancing**" means any arrangement pursuant to which the Borrower repays the Facility Outstandings out of the proceeds of:

1.1.125.1 any new Financial Indebtedness directly or indirectly incurred by any member of the Group from any third party (including, without limitation (i) a third party financial institution, or (ii) an Affiliate or shareholder of the Borrower, or any loan directly or indirectly advanced to the Borrower by any such third party); and/or

1.1.125.2 any New Shareholder Injection (save for any New Shareholder Injection made by way of the subscription of shares in the capital of the Borrower),

in each case for the purpose of repaying the Facility Outstandings, and "**Refinance**" shall bear the corresponding meaning.

1.1.126 "**Related Fund**" in relation to a fund (the "**first fund**"), means:

1.1.126.1 a fund which is managed or advised by the same investment manager or investment adviser as the first fund; or

1.1.126.2 if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

1.1.127 "**Release and Cancellation Letter**" means the release and cancellation letter entered into on or about the Signature Date between the Borrower, HFP South Africa Investments and HSBC Bank Canada, pursuant to which the parties, *inter alia*, record the release and cancellation of (i) the shareholder cession and pledge agreement dated on or about 20 December 2019 pursuant to which the Borrower, as cedent, *inter alia,* pledged and ceded *in securitatem debiti* the issued ordinary shares held by the Borrower in the share capital of HFP South Africa Investments from time to time in favour of the Finance Parties (as defined therein) and (ii) the limited guarantee provided by HFP South Africa Investments to the Finance Parties (as defined therein) pursuant to a limited guarantee agreement dated 20 December 2019.

1.1.128 "**Release Guarantee Agreement**" means the release guarantee agreement entered into on or about the Signature Date between HFP Investments and HSBC Bank Canada, pursuant to which the parties thereto agree to release and cancel a guarantee provided by HFP Investments in favour of HSBC Bank Canada pursuant to a guarantee agreement dated 20 December 2019.

1.1.129 "**Release Share Pledge Agreement**" means the release share pledge agreement entered into on or about the Signature Date between HFP Investments, the Borrower and HSBC Bank Canada, pursuant to which the parties thereto agree to release the security held by HSBC Bank Canada over the shares in HFP Investments created pursuant to a share pledge agreement dated 20 December 2019.

1.1.130 "**Relevant Jurisdiction**" means, in relation to each member of the Material Group:

1.1.130.1 its Original Jurisdiction;

1.1.130.2 any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;

1.1.130.3 any jurisdiction where it conducts its business; and

1.1.130.4 the jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it.

1.1.131 "**Relevant Market**" means the market for overnight cash borrowing collateralised by US Government securities.

1.1.132 "**Repayment Date**" has the meaning given to that term in paragraph (a) of clause 6 (*Repayment*).

1.1.133 "**Repeating Representations**" means each of the representations set out in clause 17.2 (*Status*) to clause 17.7 (*Governing law and enforcement*), clause 17.10 (*No default*), clause 17.11.5 (*No misleading information*), clause 17.12 (*Financial Statements*), clause 17.15 (*Environmental Laws*) to clause 17.20 (*Legal and beneficial ownership*), clause 17.27 (*No immunity*) and clause 17.29 (*Anti-corruption laws and sanctions*).

1.1.134 "**Representative**" means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

1.1.135 "**Right to Quote Letter**" means the right to quote letter entered into on or about the date hereof in terms of which the Borrower provides the Original Lender with the right to quote in respect of certain hedging transactions which may be concluded by the Borrower, any Security Provider, any member of the Material Group or any Portfolio Company.

1.1.136 "**Sanctioned Entity**" means:

1.1.136.1 a person, country or territory which is listed on a Sanctions List or is subject to Sanctions;

1.1.136.2 a person which is ordinarily resident in a country or territory which is listed on a Sanctions List or is subject to Sanctions;

1.1.136.3 persons owned or controlled by a person listed on, or acting on behalf of a person listed on a Sanctions List;

1.1.136.4 persons incorporated under the laws of, or owned or (directly or indirectly) controlled by, or acting on behalf of, a person located in or organised under the laws of a country or territory that is the target of country-wide or territory-wide Sanctions; or

1.1.136.5 any person, country or territory that is otherwise a target of Sanctions (target of Sanctions signifying a person with whom a US person or other national of a Sanctions Authority would be prohibited or restricted by law from engaging in trade, business or other activities).

1.1.137 "**Sanctioned Transaction**" means the use of the proceeds of the Facility for the purpose of financing or providing any credit, directly or indirectly, to:

1.1.137.1 a Sanctioned Entity; or

1.1.137.2 any other person or entity, if any Security Provider has actual knowledge that the person or entity proposes to use the proceeds of the financing or credit for the purpose of financing or providing any credit, directly or indirectly, to a Sanctioned Entity,

in each case to the extent that to do so is prohibited by, or would cause any breach of, Sanctions.

1.1.138 "**Sanctions**" means trade, economic or financial sanctions, laws, regulations, embargoes or restrictive measures imposed, administered or enforced from time to time by any Sanctions Authority.

1.1.139 "**Sanctions Authority**" means:

1.1.139.1 the United Nations;

1.1.139.2 the European Union;

1.1.139.3 the Council of Europe (founded under the Treaty of London, 1946);

1.1.139.4 the government of the United States of America;

1.1.139.5 the government of the United Kingdom;

1.1.139.6 the government of Switzerland; and

1.1.139.7 the government of Australia,

and any of their governmental authorities, including, without limitation, the Office of Foreign Assets Control for the US Department of Treasury (OFAC), the US Department of Commerce, the US State Department or the US Department of the Treasury, His Majesty's Treasury (HMT) and the French Ministry of Finance (MINEFI).

1.1.140 "**Sanctions List**" means:

1.1.140.1 the Specially Designated Nationals and Blocked Persons List maintained and published by OFAC;

1.1.140.2 the Consolidated List of Financial Sanctions Targets and the Investments Ban List maintained and published by HMT; and

1.1.140.3 and any similar list maintained and published, or a public announcement of a Sanctions designation made, by any Sanctions Authority, in each case as amended, supplemented or substituted from time to time.

1.1.141 "**Security Interest**" or "**Security**" means a mortgage, charge, pledge, lien, assignment by way of security, hypothecation or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

1.1.142 "**Security Providers**" means, collectively, the Borrower, HFP Investments and any person required to create Security in terms of clause 1.1.106.1.3 (*Permitted Acquisition*), and each a "**Security Provider**" as the context may require.

1.1.143 "**Securityholders Agreement**" means the securityholders agreement made between the Borrower and Fairfax Financial Holdings Limited, amongst others, dated 8 December 2020.

1.1.144 "**Signature Date**" means 3 March 2022.

1.1.145 "**SOFR**" means the secured overnight financing rate (SOFR) administered by the Federal Reserve Bank of New York (or any other person which takes over the administration of that rate) published (before any correction, recalculation or republication by the administrator) by the Federal Reserve Bank of New York (or any other person which takes over the publication of that rate).

1.1.146 "**Specified Time**" means a day or time determined in accordance with Schedule 7 (*Timetables*).

1.1.147 "**Sub-Advisor**" means Helios Investment Partners LLP (Company No. *[private company information has been redacted]*), a limited liability partnership established in accordance with the laws of England and having its registered office address at 2nd Floor, 12 Charles 11 Street, St James's, London, SW1Y 4QU.

1.1.148 "**Subscription Agreement**" means the agreement titled "*Subscription Agreement*" dated 31 March 2021 and entered into between the Borrower (as issuer) and Fairfax Financial Holdings (as subscriber).

1.1.149 "**Subsidiary**" means, in relation to any company or corporation, a company or corporation:

1.1.149.1 which is Controlled, directly or indirectly, by the first mentioned company or corporation;

1.1.149.2 more than half the issued equity share capital of which is beneficially owned by the first mentioned company or corporation; or

1.1.149.3 which is a Subsidiary of another Subsidiary of such company or corporation.

1.1.150 "**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 them).

1.1.151 "**Tax Act**" means the Income Tax Act (Canada).

1.1.152 "**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.

1.1.153 "**Tax Payment**" means either an increase in a payment made by the Borrower to a Finance Party under clause 12.2 (*Tax gross-up*) or a payment under clause 12.3 (*Tax indemnity*).

1.1.154 "**Term SOFR**" means the term SOFR reference rate administered by CME Group Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant period published (before any correction, recalculation or republication by the administrator) by CME Group Benchmark Administration Limited (or any other person which takes over the publication of that rate).

1.1.155 "**Third Parties Act**" means the Contracts (Rights of Third Parties) Act 1999.

1.1.156 "**Total Commitments**" means the aggregate of the Commitments, being USD70 000 000 (seventy million US Dollars) as at the Signature Date.

1.1.157 "**Transaction Security**" means the Security created or expressed to be created in favour of the Security Agent or any Finance Party pursuant to the Transaction Security Documents.

1.1.158 "**Transaction Security Documents**" means each of the documents listed as being a Transaction Security Document in **Schedule 8** (*Transaction Security Documents*), together with any other document entered into by either Security Provider creating or expressed to create any Security over all or any part of its assets in respect of the obligations of the Borrower under any of the Finance Documents.

1.1.159 "**Transfer Certificate**" means a certificate substantially in the form set out in **Schedule 4** (*Form of Transfer Certificate*), with any amendments the Agent may approve or require, or any other form agreed between the Agent and the Borrower.

1.1.160 "**Transfer Date**" means, in relation to an assignment or a transfer, the later of:

1.1.160.1 the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and

1.1.160.2 the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.

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

1.1.162 "**Unpaid Sum**" means any sum due and payable but unpaid by a Security Provider under the Finance Documents.

1.1.163 "**US**" means the United States of America.

1.1.164 "**USD**" or "**US Dollars**" means United States Dollars, the lawful currency of the United States of America.

1.1.165 "**US Government Securities Business Day**" means any day other than:

1.1.165.1 a Saturday or a Sunday; and

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

1.1.166 "**Utilisation**" means a utilisation of the Facility.

1.1.167 "**Utilisation Date**" means the date of a Utilisation, being the date on which the relevant Loan is, or is to be, made.

1.1.168 "**Utilisation Request**" means a notice substantially in the form set out in **Schedule 3** (*Form of Utilisation Request*).

1.1.169 "**Whole or Greater Part**" means 25% (twenty five percent) or more of the total investment value of all Investments held by the Group as determined per the most recent set of financial statements delivered by the Borrower to the Agent in terms of clause 18.1 hereof.

1.2 **Financial Definitions**

In this Agreement:

1.2.1 [Reserved]

1.2.2 "**Asset Cover Ratio**" means, on any date, the ratio of:

$$a : b$$

where:

a: Total Cash ***plus*** the fair value (determined in accordance with the Valuation Methodology and on a consolidated basis) of all Investments (excluding the Class A and Class B Interests and provided that if the fair value of any Investment at any time exceeds 25% (twenty five percent) of the aggregate fair value of all Investments on that date, the fair value of such Investment taken into account for the purposes of determining this ratio shall be limited to an amount which is equal to 25% (twenty five percent) of the aggregate fair value of all Investments held on that date); and **minus** the aggregate of the fair value (determined in accordance with the Valuation Methodology and on an consolidated basis) of (a) all Non-performing Investments; and either (b) each Guaranteed Investment which is an Impaired Investment; or (c) all Guaranteed Investments which are subject to the Impaired FFH Guarantee; and

b: Total Debt.

1.2.3 "**Asset Cover Ratio (Helios Seven Rivers)"** means, on any date, the ratio of:

$$a : b$$

where:

a: the fair value (determined in accordance with the Valuation Methodology) of the Borrower's Investment in Helios Seven Rivers; and

b: Total Debt.

1.2.4 "**Cash**" means an amount (denominated in US Dollars, or any other currency approved by the Agent) of cash on hand, or credit balances or amounts on deposit with an Acceptable Bank to which a member of the Material Group is alone (or together with other members of the Material Group) beneficially entitled if:

1.2.4.1 the cash is accessible and may be withdrawn in full by such member of the Material Group within 32 (thirty two) days;

1.2.4.2 such cash forms the subject matter of the Transaction Security;

1.2.4.3 access to and withdrawal of the cash is not contingent on the prior discharge of any indebtedness of any person or the satisfaction of any other condition;

1.2.4.4 no Security exists over the cash or over claims in respect thereof, save for the Transaction Security; and

1.2.4.5 the cash is freely and (except as mentioned in clause 1.2.4.1 above) immediately available to be applied in repayment or prepayment of the Facility.

1.2.5 "**Cash Equivalents**" means, at any time:

1.2.5.1 certificates of deposit maturing within 1 (one) year after the relevant date of calculation, issued by an Acceptable Bank;

1.2.5.2 such investment or other instrument forms the subject matter of the Transaction Security;

1.2.5.3 any investment in marketable debt obligations issued or guaranteed by the 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 1 (one) year after the relevant date of calculation and not convertible or exchangeable to any other security;

1.2.5.4 commercial paper not convertible or exchangeable to any other security:

1.2.5.4.1 for which a recognised trading market exists;

1.2.5.4.2 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;

1.2.5.4.3 which matures within 1 (one) year after the relevant date of calculation; and

1.2.5.4.4 which (a) (in respect of any such instrument issued other than by any entity incorporated in Mauritius or South Africa) 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 (b) (in respect of any such instrument issued by any entity incorporated in Mauritius or South Africa) has a rating for its long-term unsecured and non-credit enhanced debt obligations of BBB or higher by Standard & Poor's Ratings Services or Fitch Ratings Ltd or Baa2 or higher by Moody's Investor Services Limited, or a comparable rating from an internationally recognised credit rating agency; or (c) 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;

1.2.5.5 sterling bills of exchange eligible for rediscount at the Bank of England and accepted by an Acceptable Bank (or their dematerialised equivalent);

1.2.5.6 any investment in money market funds which:

1.2.5.6.1 has an equivalent credit rating to that contemplated in clause 1.2.5.4; and

1.2.5.6.2 invest substantially all their assets in securities of the types described in clauses 1.2.5.1 to 1.2.5.5 (inclusive),

1.2.5.7 to the extent that investment can be turned into cash on not more than 30 (thirty) days' notice; or

1.2.5.8 any other debt security approved by the Agent,

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

1.2.6 "**Class A and Class B Interests**" means the "TopCo LP Class A Limited Partnership Interest" and the "TopCo LP Class B Limited Partnership Interest" as reflected in the most recent financial statements or management accounts of the Borrower delivered to the Agent in terms of clause 18.1 (*Financial statements*).

1.2.7 "**Dormant Subsidiary**" means any Subsidiary of the Borrower which does not trade (for itself or as agent for any person) and does not own, legally or beneficially, assets (including indebtedness owed to it) which in the aggregate have a value of USD10 000 (ten thousand US Dollars) or more or its equivalent in other currencies, provided that, at any one time, no more than 6 (six) Subsidiaries may be designated as Dormant Subsidiaries.

1.2.8 "**Exceptional Items**" means any exceptional, one off, non-recurring or extraordinary items approved by the Agent in writing.

1.2.9 "**Immaterial Subsidiary**" means a Subsidiary of the Borrower which is designated by the Borrower that (a) owns no investments in Portfolio Companies; and (b) has assets with a book value of less than USD5 000 000 (five million US Dollars), provided that, at any one time, no more than 2 (two) Subsidiaries may be designated as Immaterial Subsidiaries.

1.2.10 "**Impaired FFH Guarantee**" means the FFH Guarantee if (a) any amount has demanded for payment by the Borrower thereunder but has not been paid when due; or (b) if it is cancelled or otherwise terminated for any reason whatsoever (other than pursuant to the final discharge of all obligations owing thereunder); or (c) it is amended in any material respect without the prior written consent of the Agent.

1.2.11 "**Impaired Investment**" means any Guaranteed Investment in respect of which a claim under the Guarantee is eligible to be made but has not been made for any reason whatsoever.

1.2.12 "**Listed Investment**" means any Investment which securities are listed on any internationally recognised securities exchange.

1.2.13 "**Measurement Date**" means 31 March, 30 June, 30 September and 31 December of each year.

1.2.14 "**Non-performing Investment**" means, at any time, any of the following events occur after the date hereof in relation to either (a) the Borrower's investment in Nova Pioneer; and/or (b) any other Investment in a Portfolio Company acquired by any Member of the Material Group after the date hereof:

1.2.14.1 where such Investment comprises in whole or part a loan or other claim against any person:

1.2.14.1.1 such loan or claim is overdue for payment by more than 30 (thirty) days;

1.2.14.1.2 any event or circumstance contemplated in clauses 21.6 (*Cross default*), 21.7 (*Insolvency*), 21.8 (*Insolvency proceedings*), 21.9 (Creditors' process), 21.11 (*Cessation of business*), 21.12 (*Expropriation*), 21.14 (*Litigation*), 21.16 (*Audit qualification*) occurs *mutatis mutandis* in respect of such person but excluding any applicable financial thresholds or grace periods; or

1.2.14.2 where such Investment comprises in whole or in part shares or other securities held in the capital of any person, any event or circumstance contemplated in clauses 21.6 (*Cross default*), 21.7 (*Insolvency*), 21.8 (*Insolvency proceedings*), 21.9 (*Creditors' process*), 21.11 (*Cessation of business*), 21.12 (*Expropriation*), 21.14 (*Litigation*), 21.16 (*Audit qualification*) occurs *mutatis mutandis* in respect of such person but excluding any applicable financial thresholds or grace periods.

1.2.14.3 where such Investment is listed on a publicly traded stock exchange and any event or circumstance contemplated in the definition of "Delisting Event" becomes applicable to such entity and as if references in such definition to (a) the Borrower were references to such entity; and (b) the Toronto Stock Exchange were references to the publicly traded stock exchange/s on which the shares or other securities or instruments issued by such entity are traded.

1.2.15 "**Reference Investment Differential Amount**" means, on any date, the difference between (a) the latest available valuation of the Reference Investments and (b) the outstanding obligations of the Borrower under the Debentures where (a) is less than (b).

1.2.16 "**Tangible Net Worth**" means, at any time, the net asset value of the Borrower determined on a consolidated basis as determined in accordance with the Accounting Principles.

1.2.17 "**Total Cash**" means, as at any date, the aggregate amount of Cash and Cash Equivalents of members of the Material Group determined on a consolidated basis.

1.2.18 "**Total Debt**" means, on any date, the sum of (a) all amounts outstanding under all Financial Indebtedness of the Material Group taken as a whole but excluding the outstanding obligations of the Borrower under the Debentures; plus (b) the Reference Investment Differential Amount; plus (c) without double counting to any amount included in paragraph (a) above, all amounts owing under any Permitted Guarantee contemplated in clauses 1.1.109.2 and 1.1.109.3.

1.2.19 "**Valuation Methodology**" means the valuation methodology applied by the Borrower to determine the fair market value of the Investments held by the Group in accordance with the Accounting Principles.

1.3 Construction

1.3.1 Unless this Agreement expressly provides to the contrary, any reference in this Agreement to:

1.3.1.1 the "**Agent**", the "**Arranger**", any "**Finance Party**", any "**Lender**", the "**Borrower**", any "**Party**", the "**Security Agent**" or any other person includes its successors in title, permitted assigns and permitted transferees to, or of, all or any combination of its rights and obligations under the Finance Documents;

1.3.1.2 an "**amendment**" includes a supplement, novation, extension (whether of maturity or otherwise), restatement, re-enactment or replacement (however fundamental and whether or not more onerous) and "**amended**" will be construed accordingly;

1.3.1.3 a document in "**agreed form**" is a document which is previously agreed in writing by or on behalf of the Borrower and the Agent or, if not so agreed, is in the form specified by the Agent;

1.3.1.4 "**assets**" includes present and future properties, revenues and rights of every description;

1.3.1.5 a Lender's "**cost of funds**" in relation to its participation in a Loan is a reference to the average cost (determined either on an actual or a notional basis) which that Lender would incur if it were to fund, from whatever source(s) it may reasonably select, an amount equal to the amount of that participation in that Loan for a period equal in length to the Interest Period of that Loan;

1.3.1.6 the Agent's "**cost of funds"** is a reference to the average cost (determined either on an actual or a notional basis) which the Agent would incur if it were to fund, from whatever source(s) it may reasonably select, an amount equal to the amount referred to in clause 28.4);

1.3.1.7 "**disposal**" includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and "**dispose**" will be construed accordingly;

1.3.1.8 a "**Finance Document**" or any other agreement or instrument includes (without prejudice to any restriction on amendments) any amendment to that Finance Document or other agreement or instrument, including any change in the purpose of, any extension of or any increase in the amount of a facility or any additional facility;

1.3.1.9 a "**group of Lenders**" includes all the Lenders and a "**group of Finance Parties**" includes all the Finance Parties;

1.3.1.10 "**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;

1.3.1.11 "**know your customer' checks**" is to the identification checks that a Finance Party requests to meet its obligations under any applicable law or regulation to identify a person who is (or is to become) its customer;

1.3.1.12 a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association or body (including a partnership, trust, fund, joint venture or consortium), or any other entity (whether or not having separate legal personality);

1.3.1.13 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 a person to which it applies is generally accustomed to comply) of any governmental, inter-governmental or supranational body, agency or department, or of any regulatory, self-regulatory or other authority or organisation;

1.3.1.14 "**VAT**" is a reference to value added Tax and any other Tax of a similar nature which may be imposed in any jurisdiction from time to time;

1.3.1.15 a currency is a reference to the lawful currency for the time being of the relevant country;

1.3.1.16 a provision of law is a reference to that provision as amended and includes any subordinate legislation; and

1.3.1.17 a time of day is a reference to Johannesburg time.

1.3.2 The determination of the extent to which a rate is "**for a period equal in length**" to an Interest Period will disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.

1.3.3 A clause or a Schedule is a reference to a clause of or a schedule to this Agreement.

1.3.4 The headings in this Agreement are for ease of reference only and do not affect its interpretation.

1.3.5 Unless this Agreement expressly provides to the contrary:

1.3.5.1 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;

1.3.5.2 a Default is "**continuing**" if it has not been remedied or waived and an Event of Default is "**continuing**" if it has not been waived; and

1.3.5.3 any obligation of the Borrower under the Finance Documents which is not a payment obligation remains in force for so long as any payment obligation of the Borrower is outstanding or any Commitment is in force under the Finance Documents.

1.3.6 Any reference within a clause to this clause means the entirety of that clause.

1.3.7 A reference in this Agreement to a page or screen of an information service displaying a rate shall include:

1.3.7.1 any replacement page of that information service which displays that rate; and

1.3.7.2 the appropriate page of such other information service which displays that rate from time to time in place of that information service,

and, if such page or service ceases to be available, shall include any other page or service displaying that rate specified by the Agent after consultation with the Borrower.

1.4 **Third party rights**

1.4.1 Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this Agreement.

1.4.2 Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

2 THE FACILITY

2.1 The Facility

Subject to the terms of this Agreement, the Lenders make available to the Borrower a USD denominated revolving credit facility in an aggregate amount equal to the Total Commitments.

2.2 Finance Parties' rights and obligations

2.2.1 The obligations of each Finance Party under the Finance Documents are several.

2.2.2 Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents.

2.2.3 No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

2.2.4 The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and they include the right to repayment of any debt owing to that Finance Party under the Finance Documents.

2.2.5 Any debt arising under the Finance Documents to a Finance Party is a separate and independent debt. Any part of a Loan or any other amount owed by the Borrower which relates to a Finance Party's participation in the Facility or its role under a Finance Document is a debt owing to that Finance Party by the Borrower (including if it is payable to the Agent on that Finance Party's behalf).

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

3 PURPOSE

3.1 The Borrower shall apply all amounts borrowed by it under the Facility towards (a) making Investments, and (b) paying management fees, transaction costs, fees and expenses related to any Investment and the Facility.

3.2 No Finance Party is bound to monitor or verify the application of any utilisation of the Facility.

4 CONDITIONS OF UTILISATION

4.1 Initial conditions precedent

4.1.1 No Utilisation Request may be given unless the Agent has received (or waived receipt of) all of the documents and other evidence listed in Schedule 2 (*Conditions Precedent*) (in form and substance satisfactory to the Agent). The Agent must notify the Borrower and the Lenders promptly on being so satisfied.

4.1.2 Except to the extent that the Majority Lenders notify the Agent to the contrary before the Agent gives the notification described in clause 4.1.1 above, each Lender authorises (but does not require) the Agent to give that notification. The Agent will not be liable for any cost, loss or liability whatsoever any person incurs as a result of the Agent giving any such notification.

4.2 Further conditions precedent

The Lenders will only be obliged to comply with clause 5.4 (*Lenders' participation*) if on the date of the Utilisation Request and on the proposed Utilisation Date for the relevant Loan:

4.2.1 no Default is continuing or would result from the proposed Loan;

4.2.2 no Economic Failure has occurred;

4.2.3 the Borrower has delivered a Compliance Certificate to the Agent which evidences that the Borrower is in compliance with the provisions of clause 19.2 (*Financial Condition*) and will be in compliance with such provisions immediately following the proposed Utilisation; and

4.2.4 the Repeating Representations are correct in all respects.

4.3 Waiver or deferral of conditions precedent

Each condition precedent referred to in this clause 4 is for the benefit solely of the Lenders. The Agent (acting on the instructions of all the Lenders) may, by notice to the Borrower waive or defer any condition precedent, in whole or in part, and subject to such other conditions (if any) as the Lenders may determine.

4.4 Maximum number of Loans

Except with the prior written consent of the Agent, no Utilisation Request may be given if, as a result of the proposed Utilisation more than 5 (five) Loans would be outstanding.

4.5 Failure to close

If the Closing Date has not occurred on or before 11 March 2022 (or such later date as may be agreed by the Agent in writing), the Total Commitments shall immediately, automatically and without a requirement for notice to be given to any person, be cancelled and reduced to zero. The Agent may, acting on the instructions of the Lenders, and at any time, reinstate such Total Commitments by written notice to the Borrower in whole or part following any such cancellation and reduction.

5 UTILISATION

5.1 Delivery of a Utilisation Request

The Borrower may borrow a Loan by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time.

5.2 Completion of a Utilisation Request

5.2.1 A Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

5.2.1.1 the proposed Utilisation Date is a Business Day during the Availability Period; and

5.2.1.2 the currency and amount of the Loan comply with clause 5.3 (*Currency and amount*).

5.2.2 Only one Loan may be requested in each Utilisation Request.

5.2.3 The Borrower shall only be entitled to deliver 5 (five) correctly completed Utilisation Request in each Quarter.

5.3 **Currency and amount**

5.3.1 The currency specified in a Utilisation Request must be USD.

5.3.2 The amount of the proposed Loan must be a minimum amount of USD10 000 000 (ten million US Dollars) or if less, the Available Facility.

5.4 **Lenders' participation**

5.4.1 If the conditions set out in this Agreement have been met, each applicable Lender must make its participation in a requested Loan available by the Utilisation Date through its Facility Office to the Agent.

5.4.2 The amount of each Lender's participation in a Loan will be its Pro Rata Share immediately before making the Loan.

5.4.3 No Lender is obliged to participate in a Loan under the Facility if, as a result:

5.4.3.1 its participation in the Loans under would exceed its Commitment; or

5.4.3.2 the Loans would exceed the Available Facility.

5.4.4 The Agent must notify each Lender of the details of each Loan and the amount of its participation in that Loan by the Specified Time.

5.5 **Cancellation of Commitment**

The Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period.

6 **REPAYMENT**

6.1 Subject to paragraph 6.2 below, the Borrower shall, on each date stipulated in the "Repayment Date" column below (each a "**Repayment Date**"), repay the Facility Outstandings in a sufficient amount which reduces the Facility Outstandings to the amount set out opposite that Repayment Date in the "Amounts outstanding" column.

REPAYMENT DATE	AMOUNTS OUTSTANDING
31 August 2025	USD65,000,000
31 August 2026	USD60,000,000
Final Repayment Date	Nil

6.2 At the request of the Borrower, the Agent may agree to waive the requirements to repay the Facility Outstandings on a Repayment Date.

7 PREPAYMENT AND CANCELLATION

7.1 Illegality

7.1.1 If, in any applicable jurisdiction, it becomes unlawful for a Lender to perform any of its obligations as contemplated by any Finance Document or to fund or maintain its participation in any Loan or it becomes unlawful for any Affiliate of a Lender to do so, that Lender must notify the Agent promptly on becoming aware of that event.

7.1.2 After a Lender notifies the Agent under clause 7.1.1 above:

7.1.2.1 the Agent must notify the Borrower promptly;

7.1.2.2 with immediate effect, that Lender will not be obliged to fund any Loan; and

7.1.2.3 unless that Lender's participation and Commitment have been transferred pursuant to clause 7.8 (*Right of replacement or repayment and cancellation in relation to a single Lender*), on the date specified in clause 7.1.3 below:

7.1.2.3.1 the Borrower must repay or prepay that Lender's participation in each Loan; and

7.1.2.3.2 that Lender's Commitment will be cancelled.

7.1.3 The date for repayment or prepayment of a Lender's participation in a Loan and cancellation of its corresponding Commitment will be:

7.1.3.1 the last day of the Interest Period of that Loan which is current on the date of the Agent's notice to the Borrower under clause 7.1.2 above; or

7.1.3.2 if earlier, the date specified in that Lender's notice to the Agent under clause 7.1.1 above (which must be no earlier than the last day of any applicable grace period permitted by law).

7.2 Mandatory prepayment - Sanctions

7.2.1 If any member of the Group or any direct or indirect shareholder of the Borrower:

7.2.1.1 is or becomes a Sanctioned Entity; or

7.2.1.2 participates in any manner in any Sanctioned Transaction,

the Borrower shall notify the Agent promptly upon becoming aware of that event.

7.2.2 If any event contemplated by clause 7.2.1 above occurs, the following shall apply:

7.2.2.1 upon the Agent receiving a notice from the Borrower under clause 7.2.1 above or a similar notice from any Finance Party, it shall notify the Lenders as soon as reasonably practicable;

7.2.2.2 no Lender shall be obliged to fund any Utilisation; and

7.2.2.3 if a Lender so requires, the Agent shall cancel the Commitment of that Lender and declare the participation of that Lender in all outstanding Utilisations, together with all other Facility Outstandings due to that Lender due and payable, whereupon the Commitments of that Lender will be cancelled and all such outstanding amounts will become immediately due and payable.

7.3 Mandatory prepayment: Exit

If an Exit Event occurs at any time:

7.3.1 the Borrower shall promptly notify the Agent of the same;

7.3.2 no Lender shall be obliged to fund a Utilisation; and

7.3.3 if a Lender so requires, the Agent shall cancel the Commitment of that Lender and declare the participation of that Lender in all outstanding Utilisations, together with all other Facility Outstandings due to that Lender due and payable, whereupon the Commitment of that Lender will be cancelled and all such outstanding amounts will become immediately due and payable.

7.4 **Mandatory prepayment – Investment Proceeds and New Shareholder Injections**

7.4.1 The Borrower shall (i) promptly (but in any event within 3 (three) Business Days of its occurrence) notify the Agent of (a) any Investment Proceeds; and/or (b) the proceeds of any New Shareholder Injection; and/or (c) the any proceeds arising from the Portfolio Advisor having ceased to hold 100% (one hundred percent) of the aggregate limited partner interests designated as Class A and Class B Interests, becoming payable to it, any other member of the Group or any Security Provider ("**Relevant Proceeds**") and (ii) offer to prepay (or, in the case of any member of the Group of any Relevant Proceeds, ensure that the relevant member of the Group offers to prepay Utilisations and other Facility Outstandings on behalf of the Borrower in an amount equal to those Relevant Proceeds), and the Agent shall, in accordance with the provisions of this clause 7.4, apply the Relevant Proceeds in discharge of any payments required to be made as a result of an acceptance of any such offer.

7.4.2 Once the Agent has been notified of any Relevant Proceeds pursuant to clause 7.4.1, it shall, within 5 (five) Business Day of receipt of such notification, deliver a written notice to the Lenders setting out the amount of such Relevant Proceeds.

7.4.3 Each Lender shall notify the Agent in writing whether it wishes to accept the offer of payment within 10 (ten) Business Days of being notified by the Agent as aforesaid. Such offer shall be deemed to have been accepted by each Lender (each an "**Accepting Lender**") unless that Lender has informed the Agent in writing of its rejection of the offer within the aforesaid period (the amount of Relevant Proceeds rejected, hereinafter, the "**Rejected Proceeds Amount**").

7.4.4 If any Lender does not accept the offer in accordance with the foregoing provisions (each a "**Rejecting Lender**"), the Agent shall within 1 (one) Business Day of the period referred to in clause 7.4.3, deliver a written notice to the Borrower notifying it of such Rejected Proceeds Amount and setting out the updated amount of Relevant Proceeds to be paid by the Borrower.

7.4.5 The Agent shall inform the Borrower in writing of the outcome of the offer process within 5 (five) Business Days of the completion thereof pursuant to the provisions of clauses 7.4.1 to 7.4.3.

7.4.6 The Borrower shall, within 1 (one) Business Day of receipt by it of the notification in terms of clause 7.4.5, pay (or procure the payment of) the Relevant Proceeds to the Agent to be applied in discharge of each Accepting Lender's Facility Outstandings in accordance with the following order of priority:

7.4.6.1 **first**, towards the payment of all losses and Taxes then payable to each Accepting Lender under the Finance Documents;

7.4.6.2 **second**, towards the prepayment of accrued and unpaid interest and fees owing to that Accepting Lender; and

7.4.6.3 **third**, towards the prepayment of that Accepting Lender's participation in the outstanding Utilisations and the *pro tanto* cancellation of that Accepting Lender's Commitment (other than in the case of prepayments made with Investment Proceeds in respect of any Bridge Investments, in which case that Accepting Lender shall not cancel the relevant amount of its Commitment prepaid by such Investment Proceeds).

7.5 **Voluntary cancellation**

The Borrower may, if it gives the Agent not less than 10 (ten) Business Days' (or such shorter period as the Agent may agree in writing) prior notice, cancel the whole or any part (being a minimum amount of USD5 000 000 (five million US Dollars)) of the Available Facility. Any cancellation under this clause 7.5 shall reduce the Commitments of the Lenders under the Facility rateably.

7.6 **Voluntary prepayment**

7.6.1 The Borrower may if it gives the Agent not less than 10 (ten) Business Days' (or such shorter period as the Agent may agree in writing) prior notice, prepay the whole or any part of a Loan (but, if in part, being an amount that reduces the amount of such Loan by a minimum amount of USD5 000 000 (five million US Dollars)).

7.6.2 Any voluntary prepayment made from the proceeds of a Refinancing must prepay the Loans and the other Facility Outstandings in full.

7.7 **Prepayment Fee**

7.7.1 Should the Loans be voluntarily prepaid in accordance with clause 7.6 (*Voluntary prepayment)* from the proceeds of a Refinancing, then the Borrower shall pay to the Agent (for the account of each Lender on a *pro rata* and *pari passu* basis) a fee (plus any applicable VAT thereon) equal to:

7.7.1.1 if such voluntary prepayment occurs at any time during the period commencing on the 1st (first) Utilisation Date and terminating on the 1st (first) anniversary of the 1st (first) Utilisation Date, *[interest rate information has been redacted]*of the amount prepaid;

7.7.1.2 if such voluntary prepayment occurs at any time during the period commencing on the day immediately following the 1st (first) anniversary of the 1st (first) Utilisation Date and terminating on the second anniversary of the 1st (first) Utilisation Date , *[interest rate information has been redacted]* of the amount prepaid; and

7.7.1.3 if such voluntary prepayment occurs at any time during the period commencing on the day immediately following 2nd (second) anniversary of the 1st (first) Utilisation Date and terminating on the 3rd (third) anniversary of the 1st (first) Utilisation Date, *[interest rate information has been redacted]* of the amount prepaid.

7.7.2 If any Lender participates in any such Refinancing, then the prepayment fee payable by the Borrower to that Lender in accordance with the provisions of clause 7.7.1 shall be determined by reference (and limited) to the difference between the principal amount of the Facility Outstandings of that Lender so Refinanced and the amount of such Lender's participation in such Refinancing.

7.8 **Right of replacement or repayment and cancellation in relation to a single Lender**

7.8.1 If:

7.8.1.1 any sum payable to any Lender by the Borrower is required to be increased under clause 12.2.3 (*Tax gross-up*); or

7.8.1.2 any Lender claims any amount from the Borrower under clause 12.3 (*Tax indemnity*) or clause 13 *(Increased Costs)*,

the Borrower may, while the circumstances giving rise to the requirement for that increase or payment of that amount continue, give notice to the Agent of its intention to cancel the Commitment of that Lender and repay or prepay that Lender's participation in all outstanding Loans, or of its intention to replace that Lender in accordance with clause 7.8.4 below.

7.8.2 On receipt of a notice of prepayment and cancellation under clause7.8.1 above in relation to a Lender:

7.8.2.1 the Commitment of that Lender will immediately be reduced to zero; and

7.8.2.2 the Borrower must repay or prepay that Lender's participation in each Loan on the date specified in clause 7.8.3 below.

7.8.3 The date for repayment or prepayment of a Lender's participation in a Loan will be:

7.8.3.1 the last day of the Interest Period for that Loan which is current on the date of the notice under clause 7.8.1 above; or

7.8.3.2 if earlier, the date specified in the Borrower's notice to the Agent under clause 7.8.1 above.

7.8.4 If:

7.8.4.1 any of the circumstances set out in clause 7.8.1 above apply to a Lender; or

7.8.4.2 the Borrower becomes obliged to pay an amount in accordance with clause 7.1 (*Illegality*) to a Lender,

the Borrower may, on not less than 5 (five) Business Days' notice to the Agent and that Lender, replace that Lender by requiring that Lender to (and, to the extent permitted by law, that Lender must) transfer pursuant to this Agreement all of its rights and obligations under this Agreement.

7.8.5 The transferee must be a Lender or other bank, financial institution, trust, fund or other entity selected by the Borrower and acceptable to the Lenders which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with this Agreement for a purchase price in cash payable at the time of the transfer in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Loans and all accrued interest (to the extent that the Agent has not given a notification under clause 22.8 (*Pro rata interest settlement*)) and other amounts payable in relation to it under the Finance Documents.

7.8.6 The replacement of a Lender pursuant to clause 7.8.4 above will be subject to the following conditions:

7.8.6.1 the Borrower will have no right to replace the Agent or the Security Agent;

7.8.6.2 neither the Agent nor any Lender will have any obligation to find a replacement Lender;

7.8.6.3 the Lender to be replaced will not be required to pay or surrender any of the fees received by that Lender pursuant to the Finance Documents; and

7.8.6.4 the Lender to be replaced will only be obliged to transfer its rights and obligations in accordance with clause 7.8.4 above once it is satisfied that it has complied with any "*know your customer*" checks or other similar checks required under any applicable law or regulation in relation to that transfer.

7.8.7 A Lender to be replaced must perform the checks described in clause 7.8.6.4 above as soon as reasonably practicable after delivery of a notice under clause 7.8.4 above and must notify the Agent and the Borrower promptly when it is satisfied that it has complied with those checks.

7.9 **Repayment and prepayment of Loans**

Any voluntary prepayment of a Loan may be re-borrowed.

7.10 **Miscellaneous**

7.10.1 Any notice of cancellation or prepayment under this clause 7:

7.10.1.1 is irrevocable; and

7.10.1.2 unless a contrary indication appears in this Agreement, must specify:

7.10.1.2.1 the date on which the relevant cancellation or prepayment is to be made; and

7.10.1.2.2 the amount of that cancellation or prepayment.

7.10.2 Any prepayment under this Agreement must be made together with accrued interest on the amount prepaid and, subject to the provisions of clause 7.7 (*Prepayment Fee*), without premium or penalty.

7.10.3 No prepayment or cancellation is allowed except at the times and in the manner expressly provided for in this Agreement.

7.10.4 No amount of any Commitment cancelled under this Agreement may be subsequently reinstated.

7.10.5 If the Agent receives a notice under this clause 7, it must promptly forward a copy of that notice to either the Borrower or the affected Lender(s), as appropriate.

7.10.6 If all or part of a Lender's participation in a Loan is repaid or prepaid and is not available for re-borrowing, an equivalent amount of that Lender's Commitment will be deemed to be cancelled on the date of repayment or prepayment.

8 INTEREST

8.1 Calculation of interest

The rate of interest on each Loan for any day during an Interest Period is the percentage rate per annum which is the aggregate of the applicable:

8.1.1 Margin; and

8.1.2 Reference Rate.

8.2 Payment of interest

Except where this Agreement expressly provides to the contrary, the Borrower must pay accrued interest on each Loan on each Interest Payment Date.

8.3 Default interest

8.3.1 If the Borrower 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 clause 8.3.2 below, is *[interest rate information has been redacted]* 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 and Quotation Day selected by the Agent (acting reasonably). Any interest accruing under this clause 8.3 shall be immediately payable by the Borrower on demand by the Agent.

8.3.2 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:

8.3.2.1 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

8.3.2.2 the rate of interest applying to the overdue amount during that first Interest Period shall be *[interest rate information has been redacted]* higher than the rate which would have applied if the overdue amount had not become due.

8.3.3 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.

8.4 Notification of rates of interest

8.4.1 The Agent shall promptly notify each relevant Party of the determination of a rate of interest under this Agreement.

8.4.2 The Agent shall promptly notify the Borrower of each Funding Rate relating to a Loan.

8.4.3 This clause 8.4 shall not require the Agent to make any notification to any Party on a day which is not a Business Day.

8.5 Consolidation of Loans

If 2 (two) or more Interest Periods end on the same date, the relevant Loans shall be consolidated into, and treated as, a single Loan on the last day of such Interest Periods.

9 INTEREST PERIODS

9.1 Duration of Interest Periods

Each Interest Period for each Loan shall be 3 (three) months, provided that:

9.1.1 the 1st (first) Interest of that Loan shall commence on the Utilisation Date of that Loan and shall end on (and exclude) the immediately succeeding Interest Payment Date; and

9.1.2 each subsequent Interest Period of that Loan shall commence on the day immediately following the expiration of the previous Interest Period for that Loan; and

9.1.3 the final Interest Period for that Loan shall end on the Final Repayment Date.

9.2 Non-Business Days

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

10 CHANGES TO THE CALCULATION OF INTEREST

10.1 Unavailability of Term SOFR

10.1.1 *Interpolated Term SOFR*: If no Term SOFR is available for the Interest Period of a Loan, the applicable Reference Rate shall be the Interpolated Term SOFR for a period equal in length to the Interest Period of that Loan.

10.1.2 *Shortened Interest Period*: If no Term SOFR is available for the Interest Period of a Loan and it is not possible to calculate the Interpolated Term SOFR, the Interest Period of that Loan shall (if it is longer than the applicable Fallback Interest Period) be shortened to the applicable Fallback Interest Period and the applicable Reference Rate for that shortened Interest Period shall be determined pursuant to the definition of "**Reference Rate**".

10.1.3 *Shortened Interest Period and Historic Term SOFR*: If the Interest Period of a Loan is, after giving effect to paragraph 10.1.2 above, either the applicable Fallback Interest Period or shorter than the applicable Fallback Interest Period and, in either case, no Term SOFR is available for the Interest Period of that Loan and it is not possible to calculate the Interpolated Term SOFR, the applicable Reference Rate shall be the Historic Term SOFR for that Loan.

10.1.4 *Shortened Interest Period and Interpolated Historic Term SOFR*: If paragraph 10.1.3 above applies but no Historic Term SOFR is available for the Interest Period of the Loan, the applicable Reference Rate shall be the Interpolated Historic Term SOFR for a period equal in length to the Interest Period of that Loan.

10.1.5 *3-Month Treasury Bill Rate:* If paragraph 10.1.3 above applies but no Interpolated Historic Term SOFR is available for the Interest Period of the Loan, the applicable Reference Rate shall be the 3-Month Treasury Bill Rate.

10.2 **Market disruption**

If before close of business in London on the Quotation Day for the relevant Interest Period, the Agent receives notification from a Lender or Lenders under a Loan (whose participations in that Loan exceed 40% (forty percent) of that Loan) that its cost of funds relating to its participation in that Loan would be in excess of the Market Disruption Rate, then clause 10.3 (*Cost of funds*) shall apply to that Loan for the relevant Interest Period.

10.3 **Cost of funds**

10.3.1 If this clause 10.3 (*Cost of Funds*) applies to a Loan for an Interest Period, the rate of interest on that Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:

10.3.1.1 the Margin; and

10.3.1.2 the weighted average of the rates notified to the Agent by each Lender as soon as practicable but in any event within five Business Days before the date on which interest is due to be paid in respect of that Interest Period to be that which expresses as a percentage rate per annum its cost of funds relating to its participation in that Loan.

10.3.2 If this clause 10.3 applies pursuant to clause 10.2 (*Market Disruption*) and the Agent or the Borrower so requires, the Agent and the Borrower shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.

10.3.3 Any alternative basis agreed pursuant to paragraph 10.3.2 above shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.

10.4 **Notification to Company**

If clause 10.3 applies the Agent shall, as soon as is practicable, notify the Borrower.

10.5 **Break Costs**

10.5.1 The Borrower must pay to a Finance Party its Break Costs if all or any part of a Loan or Unpaid Sum is paid on a day other than the last day of an applicable Interest Period.

10.5.2 Each Lender must, as soon as reasonably practicable after a request by the Agent or the Borrower, provide a certificate confirming the amount of any Break Costs it claims.

10.6 **Break Gains**

10.6.1 Unless a Default is then continuing or the Break Gain is realised as a consequence of a prepayment of a Facility Loan due to an Event of Default, the Lender shall, as soon as reasonably possible after demand by the Borrower, pay to the Borrower the amount of any Break Gain attributable to all or any part of a Loan being paid by the Borrower on a day other than the last day of an Interest Period.

10.6.2 Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Gains for any Interest Period in which they accrue.

11 **FEES**

11.1 **Arrangement fee**

The Borrower must pay to the Arranger (for its own account) an arrangement fee (plus any applicable VAT thereon) in the amount and manner agreed in a Fee Letter.

11.2 **Security Agent Fees**

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

11.3 **Agent Fees**

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

11.4 **Commitment Fee**

11.4.1 The Borrower shall pay to the Agent (for the account of and on behalf of each Lender) a fee (plus any applicable VAT thereon) computed at a rate equal to *[interest rate information has been redacted]* of the Margin per annum on that Lender's Available Commitment for the Availability Period.

11.4.2 The accrued commitment fee is payable on each Quarter Date, on the last day of the Availability Period and, if cancelled in full, on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.

12 **TAX GROSS UP AND INDEMNITIES**

12.1 **Definitions**

12.1.1 In this clause 12:

12.1.1.1 "**Protected Party**" means a Finance Party which incurs or will incur any liability, or is or will be 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 (other than a Transfer Certificate or Assignment Agreement).

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

12.1.2 Unless this clause 12 expressly provides to the contrary, a reference to "**determines**" or "**determined**" means a determination made in the absolute discretion of the person making the determination.

12.2 **Tax gross-up**

12.2.1 The Borrower must make all payments to be made by it under the Finance Documents without any Tax Deduction, unless a Tax Deduction is required by law (as determined in accordance with the good faith discretion of the Borrower).

12.2.2 The Borrower must, promptly on becoming aware that it must make a Tax Deduction (or that there is a change in the rate or the basis of a Tax Deduction), notify the Agent accordingly. A Lender must notify the Agent promptly on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification, it must notify the affected Parties promptly.

12.2.3 If a Tax Deduction on account of an Indemnified Tax is required by law (as determined in accordance with the good faith discretion of the Borrower) to be made by the Borrower, the amount of the payment due from the Borrower must 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.

12.2.4 If the Borrower is required to make a Tax Deduction, the Borrower must 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 (in each case as determined in accordance with the good faith discretion of the Borrower).

12.2.5 Within 30 (thirty) days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Borrower must deliver to the Agent for the Finance

Party entitled to the payment evidence satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.

12.3 **Tax indemnity**

12.3.1 Except as provided below, the Borrower must (within 10 (ten) Business Days of demand by the Agent) pay to a Protected Party an amount equal to the cost, loss or liability which that Protected Party determines has been (directly or indirectly) incurred for or on account of Tax by that Protected Party in respect of a payment received or receivable (or any payment deemed to be received or receivable) or otherwise under a Finance Document (other than an Assignment Agreement or a Transfer Certificate).

12.3.2 Clause 12.3.1 above does not apply:

12.3.2.1 with respect to any Tax assessed on a Finance Party that is an Excluded Tax; or

12.3.2.2 to the extent a cost, loss or liability:

12.3.2.2.1 is compensated for by an increased payment under clause 12.2 (*Tax gross-up*); or

12.3.2.2.2 relates to a FATCA Deduction required to be made by a Party.

12.3.2.3 A Protected Party making, or intending to make, a claim under clause 12.3.1 above must notify the Agent promptly of the event which will give, or has given, rise to the claim, following which the Agent must notify the Borrower promptly.

12.3.2.4 A Protected Party must, on receiving a payment from the Borrower under this clause 12.3 (*Tax indemnity*), notify the Agent promptly.

12.4 **Tax Credit**

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

12.4.1 a Tax Credit is attributable to:

12.4.1.1 an increased payment of which that Tax Payment forms part;

12.4.1.2 that Tax Payment; or

12.4.1.3 a Tax Deduction in consequence of which that Tax Payment was required; and

12.4.2 that Finance Party has obtained and utilised that Tax Credit,

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

12.5 **Stamp taxes**

The Borrower must pay and, within 10 (ten) Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, stamp duty land tax, registration or other similar Tax payable in respect of any Finance Document, except for any such Tax payable in connection with entering into a Transfer Certificate or Assignment Agreement.

12.6 **Value added taxes**

12.6.1 All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any taxable supply for VAT purposes are deemed to be exclusive of any applicable VAT which is chargeable on that supply, and accordingly, subject to clause 12.6.2 below, if VAT is or becomes chargeable on any taxable supply made by any Finance Party to any Party under a Finance Document, and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying the consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).

12.6.2 If VAT is or becomes chargeable on any taxable supply made by any Finance Party (the "**Supplier**") to any other Finance Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):

12.6.2.1 (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 such applicable VAT; and

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

12.6.3 Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party must reimburse and indemnify (as the case may be) that Finance Party for the full amount of such cost or expense, including that part which represents VAT, except to the extent that the Finance Party is entitled to credit or repayment from the relevant tax authority.

12.6.4 In relation to any supply made by a Finance Party to any Party under a Finance Document, if requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

12.7 **FATCA information**

12.7.1 Subject to clause 12.7.3 below, each Party must, within 10 (ten) Business Days of a reasonable request by another Party:

12.7.1.1 confirm to that other Party whether it is:

12.7.1.1.1 a FATCA Exempt Party; or

12.7.1.1.2 not a FATCA Exempt Party;

12.7.1.2 supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party requests to enable that other Party to comply with FATCA; and

12.7.1.3 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.

12.7.2 If a Party confirms to another Party pursuant to clause 12.7.1.1 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 must notify that other Party reasonably promptly.

12.7.3 No Party is obliged to do anything under clause 12.7.1 or 12.7.2 above which would or might in its reasonable opinion constitute a breach of any applicable:

12.7.3.1 law or regulation;

12.7.3.2 fiduciary duty; or

12.7.3.3 duty of confidentiality.

12.7.4 If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information relating to its status under FATCA requested in accordance with clause 12.7.1 above (including where clause 12.7.3 above applies), then that Party may be treated for the purposes of the Finance Documents (and payments made under them) as if it is not a FATCA Exempt Party until it provides the requested confirmation, forms, documentation or other information.

12.8 **FATCA Deduction**

12.8.1 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 is 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.

12.8.2 Each Party must, promptly on 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), and in any case at least 3 (three) Business Days prior to making a FATCA Deduction, notify the Party to whom it is making the payment and, on or prior to the day on which it notifies that Party, must also notify the Borrower, the Agent and the other Finance Parties.

12.9 **Other information**

12.9.1 Subject to clause 12.9.2 below, each Party must, within 10 (ten) Business Days of a reasonable request by another Party, supply to that other Party such forms, documentation and other information relating to its status as that other Party requests to enable that other Party to comply with any regulations made under section 222 of the Finance Act 2013 or any other applicable law or regulation implementing similar international arrangements for the exchange of Tax or financial information between jurisdictions.

12.9.2 No Party is obliged to do anything under clause 12.9.1 above which would or might in its reasonable opinion constitute a beach of any applicable:

12.9.2.1 law or regulation;

12.9.2.2 fiduciary duty; or

12.9.2.3 duty of confidentiality.

12.9.3 Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Agent, at the time or times reasonably requested by the Borrower or the Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. Notwithstanding anything to the contrary in the preceding sentence, the completion, execution and submission of such documentation shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

12.9.4 Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Agent in writing of its legal inability to do so.

13 INCREASED COSTS

13.1 Definitions

In this Agreement, "**Increased Costs**" means:

13.1.1 a reduction in the rate of return from the Facility or on a Finance Party's (or its Affiliate's) overall capital;

13.1.2 an additional or increased cost; or

13.1.3 a reduction of any amount due and payable under any Finance Document,

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

13.2 Increased Costs

Except as provided below in this clause, the Borrower must pay to a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:

13.2.1 the introduction of, or any change in, or any change in the interpretation, administration or application of, any law or regulation; or

13.2.2 compliance with any law or regulation made after the Signature Date.

13.3 Increased Costs claims

13.3.1 A Finance Party intending to make a claim for any Increased Costs must notify the Agent of the circumstances giving rise to and the amount of the claim, following which the Agent must promptly notify the Borrower.

13.3.2 Each Finance Party must, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

13.4 Exceptions

The Borrower shall not be required to make any payment for any Increased Costs to the extent that the Increased Cost is:

13.4.1 attributable to a Tax Deduction on account of Taxes other than Excluded Taxes required by law to be made by the Borrower;

13.4.2 attributable to a FATCA Deduction required to be made by a Party;

13.4.3 compensated for by clause 12.3 (*Tax indemnity*) (or would have been compensated for under clause 12.3 (*Tax indemnity*) but was not compensated for solely because any of the exclusions in clause 12.3.2 (*Tax indemnity*) applied); or

13.4.4 attributable to the wilful breach by the relevant Finance Party or any of its Affiliates of any law or regulation.

14 OTHER INDEMNITIES

14.1 Currency indemnity

14.1.1 The Borrower must, within 5 (five) Business Days of demand, as an independent obligation indemnify each Finance Party against any cost, loss or liability arising out of or as a result of:

14.1.1.1 that Finance Party receiving an amount in respect of the Borrower's liability under the Finance Documents; or

14.1.1.2 that liability being converted into a claim, proof, order, judgment or award,

in a currency other than the currency in which the amount is expressed to be payable under the relevant Finance Document.

14.1.2 To the extent permitted by law, the Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency other than that in which it is expressed to be payable.

14.2 **Other indemnities**

14.2.1 The Borrower must, within 5 (five) Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

14.2.1.1 the occurrence of any Default;

14.2.1.2 a failure by the Borrower to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability resulting from any distribution or redistribution of any amount among the Lenders under this Agreement;

14.2.1.3 funding, or making arrangements to fund, its participation in a Loan requested 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 gross negligence by that Finance Party alone); or

14.2.1.4 a Loan (or part of a Loan) not being prepaid in accordance with the Finance Documents.

14.2.2 The Borrower's liability in each case includes any cost, loss or liability incurred on account of funds borrowed, contracted for or utilised to fund any Loan or any other amount payable under any Finance Document.

14.3 **Indemnity to the Agent**

The Borrower must immediately on demand indemnify the Agent against:

14.3.1 any cost, loss or liability incurred by the Agent as a result of:

14.3.1.1 investigating any event which the Agent believes is a Default;

14.3.1.2 acting or relying on any notice, request or instruction which the Agent believes to be genuine, correct and appropriately authorised; or

14.3.1.3 instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement;

14.3.1.4 any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent in acting as Agent under the Finance Documents.

14.4 **Indemnity to the Security Agent**

14.4.1 The Borrower shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:

14.4.1.1 any failure by the Borrower to comply with its obligations under clause 16.3 (*Enforcement costs*);

14.4.1.2 acting or relying on any notice, request or instruction which it believes to be genuine, correct and appropriately authorised;

14.4.1.3 the taking, holding, protection or enforcement of the Transaction Security;

14.4.1.4 the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law;

14.4.1.5 any default by the Borrower or any Security Provider in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; or

14.4.1.6 acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Transaction Security (otherwise, in each case, than by reason of the Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct).

14.4.2 The Security Agent and every Receiver and Delegate may, in priority to any payment to the Finance Parties, indemnify itself out of the Transaction Security in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause 14.4 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.

14.5 Environmental Indemnity

The Borrower agrees to indemnify each Finance Party and its officers and employees (together the "**Indemnified Parties**") against any properly evidenced loss or liability (other than any consequential cost, loss or liability) suffered or incurred by that Indemnified Party (except to the extent caused by such Indemnified Party's own gross negligence or wilful default) which:

14.5.1 arises by virtue of any actual breach of any Environmental Law (as contemplated in clause 20.4 (*Environmental*)) whether by the Borrower or any other person; or

14.5.2 arises in connection with an Environmental Claim (as contemplated in clause 20.4 (*Environmental*)),

which relates to the Group, any assets of the Group or the operation of all or part of the business of the Group and which would not have arisen if the Finance Documents or any of them had not been executed by that Finance Party.

15 MITIGATION BY THE LENDERS

15.1 Mitigation

15.1.1 Each Finance Party must, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in the Facility ceasing to be available or any amount becoming payable under or pursuant to, or being cancelled pursuant to, any of clause 7.1 (*Illegality*), clause 12 (*Tax gross up and indemnity*) or clause 13 *(Increased Costs)* including without limitation transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

15.1.2 Clause 15.1.1 above does not in any way limit the obligations of the Borrower under the Finance Documents.

15.2 Limitation of liability

15.2.1 The Borrower must indemnify each Finance Party promptly for any cost, loss or liability incurred by that Finance Party as a result of steps taken by it under this clause 15.

15.2.2 A Finance Party is not obliged to take any steps under this clause 15 if, in the opinion of that Finance Party, to do so might be prejudicial to it.

16 COSTS AND EXPENSES

16.1 Transaction expenses

16.1.1 The Borrower must pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution and syndication of:

16.1.1.1 this Agreement and any other documents referred to in this Agreement or any other Finance Document; and

16.1.1.2 any other Finance Documents executed after the Signature Date (other than an Assignment Agreement or a Transfer Certificate).

16.1.2 All costs and expenses (including all legal fees and disbursements due to ENSAfrica and each other legal counsel appointed by FirstRand Bank Limited (acting through its Rand Merchant Bank division) (each a "**Legal Advisor**") as legal advisors to it under the Finance Documents (the "**Legal Fees and Expenses**")) referred to in clause 16.1.1 are incurred by FirstRand Bank Limited (acting through its Rand Merchant Bank division) for the Borrower's benefit and the Borrower undertakes that it will be liable to each Legal Advisor and any other service provider for the amount of all such costs and expenses incurred by FirstRand Bank Limited (acting through its Rand Merchant Bank division) and that it will pay such costs and expenses (including the Legal Fees and Expenses), plus any applicable VAT thereon, directly to the relevant Legal Advisor or such other service provider on presentation of a Tax invoice submitted to it by that Legal Advisor or such other service provider. Each Legal Advisor shall benefit from this clause in terms of the Third Parties Act.

16.2 **Amendment costs**

If:

16.2.1 the Borrower requests an amendment, waiver or consent in connection with a Finance Document; or

16.2.2 an amendment is required or expressly contemplated under a Finance Document,

the Borrower must reimburse each Finance Party for the amount of all costs and expenses (including legal fees) incurred by it in responding to, evaluating, negotiating or complying with that request or amendment.

16.3 **Enforcement costs**

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

16.4 **Agent's on-going costs**

If the Agent requires, any amount payable to it by any Party under any indemnity or in respect of any costs or expenses incurred by the Agent under the Finance Documents after the Signature Date will include the cost of using its management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may agree with the Borrower in writing. This is in addition to any amount in respect of fees or expenses paid or payable to the Agent under any other term of the Finance Documents.

16.5 **Security Agent's management time and additional remuneration**

16.5.1 Any amount payable to the Security Agent under clause 14.4 (*Indemnity to the Security Agent*) and this clause 16 shall include the cost of utilising the Security Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Security Agent may agree with the Borrower in writing, and is in addition to any other fee paid or payable to the Security Agent.

16.5.2 Without prejudice to clause 16.5.1 above, in the event of:

16.5.2.1 a Default;

16.5.2.2 the Security Agent being requested by the Borrower, the Agent or the Majority Lenders to undertake duties which are of an exceptional nature or outside the scope of the normal duties of the Security Agent under the Finance Documents; or

16.5.2.3 the Security Agent and the Borrower agreeing that it is otherwise appropriate in the circumstances,

the Borrower shall pay to the Security Agent any additional remuneration that may be agreed between them or determined pursuant to clause 16.5.3 below.

16.5.3 If the Security Agent and the Borrower fail to agree upon the nature of the duties or upon the additional remuneration referred to in clause 16.5.2 above or whether additional remuneration is appropriate in the circumstances, any dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Borrower or, failing approval, nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Borrower) and the determination of any investment bank shall be final and binding upon the Parties.

17 REPRESENTATIONS

17.1 Representations

The representations and warranties set out in this clause are made by the Borrower to each Finance Party on the dates set out in clause 17.29.4 *(Times for making representations)*.

17.2 Status

17.2.1 Each Member of the Material Group is duly incorporated or established and validly existing under the laws of its Original Jurisdiction.

17.2.2 Each Member of the Material Group has the power to own its assets and carry on its business as it is being conducted.

17.3 Binding obligations

17.3.1 The obligations expressed to be assumed by each Security Provider in each Finance Document to which it is a party are legal, valid, binding and enforceable obligations; and

17.3.2 (Without limiting the generality of clause 17.3.1 above), each Transaction Security Document creates the Security Interests which that Transaction Security Document purports to create and those Security Interests are valid and effective.

17.4 Non-conflict with other obligations

The entry into and performance by each Security Provider of, and the transactions contemplated by, the Finance Documents and the granting of the Transaction Security, do not and will not conflict with:

17.4.1 any law or regulation applicable to that Security Provider;

17.4.2 that Security Provider's constitutional documents; or

17.4.3 any agreement or instrument binding on that Security Provider or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

17.5 Power and authority

17.5.1 Each member of the Material Group 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.

17.5.2 No limit on either Security Provider's 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.

17.6 **Validity and admissibility in evidence**

17.6.1 All Authorisations required:

17.6.1.1 to enable each Security Provider lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and

17.6.1.2 to make the Finance Documents to which it is a party admissible in evidence in its Original Jurisdiction,

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

17.6.2 All Authorisations necessary for the conduct of the business, trade and ordinary activities of each member of the Material Group have been obtained or effected and are in full force and effect.

17.7 **Governing law and enforcement**

17.7.1 The choice of governing law of the Finance Documents will be recognised and enforced in each Security Provider's Original Jurisdiction.

17.7.2 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 each Security Provider's Original Jurisdiction.

17.8 **Insolvency**

No:

17.8.1 corporate action, legal proceeding or other procedure or step described in clause 21.7 (*Insolvency*) and clause 21.8 (*Insolvency proceedings*); or

17.8.2 creditors' process described in clause 21.9 (*Creditors' process*),

has been taken or, to its knowledge, threatened in relation to any member of the Material Group and none of the circumstances described in clause 21.6 (*Cross default*) applies to any member of the Material Group.

17.9 **No filing or stamp taxes**

Under the laws of each Security Provider's Original Jurisdiction it is not necessary that the Finance Documents be registered, filed, recorded, notarised 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 them or the transactions contemplated by them, save for:

17.9.1 any Assignment Agreement or a Transfer Certificate; and

17.9.2 applicable registrations under the Personal Property Security Act (Ontario) and similar provincial laws.

17.10 **No default**

17.10.1 No Event of Default and, on the Signature Date, the Closing Date and the Effective 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.

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

17.11 **No misleading information**

Save as disclosed in writing to the Agent prior to the Signature Date:

17.11.1 any factual information provided to any Finance Party was true and accurate in all material respects as at the date of the relevant report or document containing the information or (as the case may be) as at the date the information is expressed to be given;

17.11.2 any financial projection or forecast provided to any Finance Party has been prepared on the basis of recent historical information and on the basis of reasonable assumptions and was fair (as at the date of the relevant report or document containing the projection or forecast) and arrived at after careful consideration;

17.11.3 no event or circumstance has occurred or arisen and no information has been omitted and no information has been given or withheld that results in the information, opinions, intentions, forecasts or projections contained in any document provided to any Finance Party being untrue in any material respect or misleading in any respect;

17.11.4 all information provided to a Finance Party by or on behalf of the Borrower or any of its Affiliates on or before the Signature Date and not superseded before that date is accurate and not misleading in any respect and all projections provided to any Finance Party on or before the Signature Date have been prepared in good faith on the basis of assumptions which were reasonable at the time at which they were prepared and supplied; and

17.11.5 all other information provided by any member of the Material Group (including any of its advisers), any of its shareholders or any of its Affiliates to a Finance Party was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect.

17.12 **Financial statements**

17.12.1 The Original Financial Statements were prepared in accordance with the Accounting Principles consistently applied unless disclosed to the Agent in writing to the contrary prior to the Signature Date.

17.12.2 The Original Financial Statements give a true and fair view of the consolidated financial condition and results of operations in respect of the Material Group during the relevant financial year unless expressly disclosed to the Agent in writing to the contrary prior to the Signature Date.

17.12.3 There has been no material adverse change in the business or financial condition of the Material Group as at the Signature Date or since the date of the relevant Original Financial Statements.

17.12.4 Its audited financial statements most recently delivered to the Agent (which, at the Signature Date, are its Original Financial Statements):

17.12.4.1 were prepared in accordance with the Accounting Principles, consistently applied; and

17.12.4.2 give a true and fair view (if audited) (or fairly represent (if unaudited)) of its financial condition as at the date to which they were drawn up and operations during the relevant financial year (consolidated, if applicable).

17.12.5 Since the date of the most recent financial statements delivered pursuant to clause 18.1 (*Financial statements*) there has been no material adverse change in the assets, business or financial condition of the Material Group.

17.13 **No proceedings pending or threatened**

17.13.1 No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency have been started or threatened against any member of the Material Group.

17.13.2 No judgment or order of a court, arbitral body or agency has been made against any member of the Material Group.

17.14 **No breach of laws**

17.14.1 No member of the Material Group has breached any law or regulation which is material to the conduct of its business.

17.14.2 No labour disputes are current or threatened against any member of the Material Group.

17.15 **Environmental Laws**

17.15.1 Each member of the Material Group is in compliance with clause 20.4 (*Environmental*) and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect or result in a liability for a Finance Party.

17.15.2 No Environmental Claim has been commenced or (to the best of its knowledge) is threatened in writing against any member of the Material Group where that claim has or is reasonably likely, if determined against it, to have a Material Adverse Effect or result in a liability for a Finance Party.

17.16 **Taxation**

17.16.1 No member of the Material Group is overdue in the filing of any Tax returns and no member of the Material Group is overdue in the payment of any amount in respect of Tax, unless and only to the extent that either:

17.16.1.1 such payment is being contested in good faith and adequate reserves are being maintained for those Taxes in its Original Financial Statements and/or latest financial statements delivered to the Agent under clause 18.1 (*Financial statements*) (as applicable); or

17.16.1.2 such Taxes are not material either alone or in aggregate

17.16.2 No unresolved claims or investigations, to its knowledge (having made due and careful enquiry), have been made or conducted (or are in the process of being made or conducted) against any member of the Material Group with respect to Taxes.

17.16.3 Each member of the Material Group is resident for Tax purposes only in its Original Jurisdiction.

17.17 **Security**

No Security Interest or Quasi-Security Interest exists over all or any of the present or future assets of any member of the Material Group other than any Security Interest or Quasi-Security Interest permitted in clause 20.17.5 (*Negative pledge*).

17.18 **Ranking**

The Transaction Security has or will, following the completion of any steps required to be taken by the relevant Security Provider to perfect such Transaction Security in the manner contemplated in the Finance Documents (provided that such steps are timeously taken in accordance with the provisions of the Finance Documents), have priority set out in the applicable Transaction Security Document.

17.19 **Good title to assets**

Each member of the Material Group 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.

17.20 **Legal and beneficial ownership**

17.20.1 Each Security Provider is the sole legal and beneficial owner of the respective assets over which it purports to grant Transaction Security.

17.21 **Shares**

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

17.21.2 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.

17.21.3 Except as provided in the Subscription Agreement and the Securityholders Agreement, 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 Material Group (including any option or right of pre-emption or conversion).

17.22 **Intellectual Property**

Each member of the Material Group:

17.22.1 is the sole legal and beneficial owner of or has licensed to 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;

17.22.2 does not, in carrying on its businesses, infringe any Intellectual Property of any third party in any respect which has or is reasonably likely to have a Material Adverse Effect; and

17.22.3 has taken all formal or procedural actions (including payment of fees) required to maintain any material Intellectual Property which is material to the conduct of its business.

17.23 **Accounting Reference Date**

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

17.24 **No adverse consequences**

It is not necessary under the laws of its Original Jurisdiction:

17.24.1 in order to enable any Finance Party to enforce its rights under any Finance Document; or

17.24.2 by reason of the execution of any Finance Document or the performance by it of its obligations under any Finance Document,

that any Finance Party should be licensed, qualified or otherwise entitled to carry on business in either Security Provider's Original Jurisdiction.

17.25 **Authorised Signatories**

Any person specified as its authorised signatory under Schedule 2 (*Conditions Precedent*) or notified to the Agent in terms of clause 18.5 is authorised to sign Utilisation Requests and other notices relating to the Finance Documents on its behalf.

17.26 **Group Structure Chart**

17.26.1 The Group Structure Chart delivered to the Agent pursuant to Schedule 2 (*Conditions Precedent*) is true, complete and accurate in all material respects and shows the following information:

17.26.1.1 each member of the Material Group, including current name and company registration number, its Original Jurisdiction, its jurisdiction of incorporation and/or its jurisdiction of establishment, a list of shareholders and indicating whether a company is a Dormant Subsidiary or is not a company with limited liability; and

17.26.1.2 all minority interests in any member of the Material Group and any person in which any member of the Material Group holds shares in its issued share capital or equivalent ownership interest of such person.

17.26.2 All necessary intra-group loans, transfers, share exchanges and other steps resulting in the final Material Group structure are set out in the Group Structure Chart and have been or will be taken in compliance with all relevant laws and regulations and all requirements of relevant regulatory authorities.

17.27 **No immunity**

In any proceedings taken in its jurisdiction of incorporation in relation to the Finance Documents to which it is a party, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

17.28 **Private and commercial acts**

Its execution of the Finance Documents to which it is a party constitutes, and its exercise of its rights and performance of its obligations thereunder will constitute, private and commercial acts done and performed for private and commercial purposes.

17.29 **Anti-corruption laws and sanctions**

17.29.1 No member of the Material Group nor any of its respective directors, officers or employees nor, to its knowledge, any persons acting on its behalf:

17.29.1.1 is using nor will use the proceeds of the Facility for the purpose of financing or making funds available directly or indirectly to any person or entity which is currently a Sanctioned Entity or as part of a Sanctioned Transaction, to the extent such financing or provision of funds would currently be prohibited by Sanctions or would otherwise cause any person to be in breach of Sanctions;

17.29.1.2 is contributing nor will contribute or otherwise make available the proceeds of the Facility to any other person or entity for the purpose of financing the activities of any person or entity which is currently listed on a Sanctions List, to the extent such contribution or provision of proceeds would currently be prohibited by Sanctions or would otherwise cause any person to be in breach of Sanctions; and

17.29.1.3 to the best of its knowledge and belief:

17.29.1.3.1 has been nor is targeted under any Sanctions; or

17.29.1.3.2 has violated nor is violating any applicable Sanctions.

17.29.2 Each member of the Material 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.

17.29.3 No member of the Material Group, nor any of its Subsidiaries nor any Joint Venture, nor any of their respective directors, officers or employees, nor to its knowledge, any persons acting on any of their behalf:

17.29.3.1 is a Sanctioned Entity; or

17.29.3.2 has received notice of or is aware of any claim, action, suit, proceeding or investigation against it with respect to Sanctions by any Sanctions Authority.

17.29.4 Notwithstanding anything in this Agreement, nothing in this Agreement shall require any member of the Group nor any of its Subsidiaries or Joint Ventures, or any director, officer, employee, agent or Affiliate of any member of the Group or any of its Subsidiaries or Joint Ventures that are registered or incorporated under the laws of Canada or a province or territory thereof to commit an act or omission that contravenes the Foreign Extraterritorial Measures (United States) Order, 1992.

17.30 **Times for making representations**

17.30.1 The representations and warranties set out in this clause are made by the Borrower on the Signature Date.

17.30.2 The Repeating Representations are deemed to be made by the Borrower by reference to the facts and circumstances then existing on the Closing Date, on each Utilisation Date and the 1st (first) day of each Interest Period and until such time as all amounts owing by the Borrower to the Lenders under the Finance Documents have been fully, finally and irrevocably discharged and no Lender is under any obligation to make any Utilisation available to the Borrower or provide any other form of financial accommodation to the Borrower under the Finance Documents.

17.31 **Reliance**

The Finance Parties have entered into the Finance Documents to which each of them is a party on the strength of, and relying on, the representations and warranties, each of which shall be deemed to be a separate representation and warranty given without prejudice to any other representation or warranty and deemed to be a material representation inducing each Finance Party to enter into the Finance Documents to which it is party.

18 **INFORMATION UNDERTAKINGS**

The Borrower agrees to be bound by the undertakings set out in this clause relating to it for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

18.1 **Financial statements**

The Borrower shall supply to the Agent in sufficient copies for all the Lenders:

18.1.1 as soon as they are available, but in any event within 120 (one hundred and twenty) days after the end of each of its financial years its audited consolidated annual financial statements for that financial year; and

18.1.2 as soon as they are available, but in any event within 60 (sixty) days after the end of each Quarter of each of its financial years its unaudited consolidated interim financial statements for that Quarter.

18.2 **Compliance Certificate**

Without derogating from any other provision of this Agreement which requires the delivery of a Compliance Certificate at any time, the Borrower must supply to the Agent a duly completed Compliance Certificate with each set of its financial statements and management account delivered to the Agent under this Agreement setting out (in reasonable detail) computations as to compliance with clause 19.2 (*Financial Condition*) as at the most recent Measurement Date relative to when those financial statements or management accounts (as applicable) were drawn up A Compliance Certificate must be signed by the chief financial officer or chief executive of the Borrower.

18.3 **Requirements as to financial statements**

The Borrower must ensure that each set of financial statements and management accounts delivered by it under this Agreement:

18.3.1 includes a balance sheet, profit and loss account and cashflow statement;

18.3.2 in respect of the financial statements delivered in terms of clause 18.1.1, shall be audited by the Auditors;

18.3.3 shall be certified by the relevant director(s) (as is required under applicable law) of the Borrower as giving a true and fair view of (in the case of annual financial statements for any financial year), or fairly representing (in other cases), its financial condition and operations as at the date as at which those financial statements or management accounts were drawn up;

18.3.4 is prepared using the Accounting Principles, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements unless, in relation to any set of financial statements, it notifies the Agent that there has been a change in the Accounting Principles, the accounting practices or reference periods and its Auditors deliver to the Agent:

18.3.4.1 a full description of any change necessary for those financial statements to reflect the Accounting Principles, accounting practices and reference periods on which the Original Financial Statements were prepared; and

18.3.4.2 sufficient information, in form and substance as may be required by the Agent to enable the Finance Parties to determine if clause 18.4 has been complied with and to make a proper comparison between the financial position shown by the set of financial statements prepared on the changed basis and the Borrower's most recent audited financial statements delivered to the Agent under this Agreement.

18.3.5 Any reference in this Agreement to those financial statements will be construed as a reference to those financial statements as adjusted to reflect the basis on which the relevant Original Financial Statements were prepared.

18.4 **Year-End**

The Borrower shall not change its Accounting Reference Date without the prior written consent of the Agent.

18.5 **Information - miscellaneous**

The Borrower must supply to the Agent (where applicable, in sufficient copies for all the Lenders if the Agent so requests):

18.5.1 at the same time as they are dispatched, copies of all documents dispatched by the Borrower or any other member of the Material Group to its creditors generally (or any class of them);

18.5.2 promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened in writing or pending against any member of the Material Group, and which are reasonably likely to have a Material Adverse Effect or which would involve a liability, or a potential or alleged liability, exceeding USD1 000 000 (one million US Dollars) (or its equivalent in other currencies);

18.5.3 of any delisting proposed to be voluntarily carried out by the Borrower at least 30 (thirty) Business Days prior to the proposed delisting;

18.5.4 within 10 (ten) Business Days written notice of any Investment becoming a Non-performing Investment;

18.5.5 promptly upon 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 Material Group and which, if adversely determined, is reasonably likely to have a Material Adverse Effect or which would involve a liability, or a potential or alleged liability, exceeding USD1 000 000 (one million US Dollars) (or its equivalent in other currencies); and

18.5.6 promptly on request, such further information regarding the financial condition, assets and operations of each member of the Material Group as the Agent may request.

18.6 **Notification of Disposal of FFH Guarantee Investments**

The Borrower must notify the Agent in writing of any proposed Disposal of an Investment in respect of which the Borrower may become entitled to the payment of a FFH Guarantee Payment by Fairfax Financial Holdings under and in terms of the FFH Guarantee and such written notice must afford at least sufficient time for the Lenders to obtain all required approvals for the application of the proceeds of such Disposal in accordance with the provisions of this Agreement.

18.7 **Notification of Default**

18.7.1 The Borrower must notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly on becoming aware of its occurrence.

18.7.2 Promptly on request by the Agent, the Borrower must supply to the Agent a certificate, signed by two of its directors or senior officers on its behalf, certifying that no Default is continuing (or, if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

18.8 **Use of websites**

18.8.1 The Borrower may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the "**Website Lenders**") who accept this method of communication by posting this information onto an electronic website designated by the Borrower and the Agent (the "**Designated Website**") if:

18.8.1.1 the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;

18.8.1.2 both the Borrower and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and

18.8.1.3 the information is in a format previously agreed between the Borrower and the Agent.

If any Lender (a "**Paper Form Lender**") does not agree to the delivery of information electronically then the Agent must notify the Borrower accordingly and the Borrower must supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Borrower must supply the Agent with at least one copy in paper form of any information required to be provided by it.

18.8.2 The Agent must supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Borrower and the Agent.

18.8.3 The Borrower must promptly on becoming aware of its occurrence notify the Agent if:

18.8.3.1 the Designated Website cannot be accessed due to technical failure;

18.8.3.2 the password specifications for the Designated Website change;

18.8.3.3 any new information which is required to be provided under this Agreement is posted onto the Designated Website;

18.8.3.4 any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or

18.8.3.5 the Borrower becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

18.8.4 If the Borrower notifies the Agent under clause 18.8.3.1 or clause 18.8.3.5 above, all information to be provided by the Borrower under this Agreement after the date of that notice must be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

18.8.5 Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Borrower must comply with any such request within 10 (ten) Business Days.

18.9 **"Know your customer" checks**

18.9.1 Subject to clause 18.9.2 below, the Borrower must, promptly on request by any Finance Party, supply, or procure the supply of, any documentation or other evidence requested by that Finance Party (whether for itself, or on behalf of any other Finance Party or any prospective new Lender) to enable a Finance Party or prospective new Lender to carry out and be satisfied with the results of any "*know your customer*" checks or other similar checks required under any applicable law or regulation in connection with the transactions contemplated by the Finance Documents.

18.9.2 The Borrower is only required to supply any information under clause 18.9.1 above, if the information is not already available to the relevant Finance Party and the requirement arises as a result of:

18.9.2.1 the introduction of, or any change in (or in the interpretation, administration or application of), any law or regulation made after the Signature Date;

18.9.2.2 any change in the status of either Security Provider after the Signature Date; or

18.9.2.3 a proposed assignment or transfer by a Lender of any of its rights and/or obligations under any Finance Document to a person that is not a Lender before that assignment or transfer.

18.9.3 Each Lender must, promptly on request by the Agent supply, or procure the supply of, any documentation or other evidence reasonably requested by the Agent (for itself) to enable the Agent to carry out and be satisfied with the results of any "*know your customer*" checks or other similar checks required under any applicable law or regulation in connection with the transactions contemplated by the Finance Documents.

19 **FINANCIAL COVENANTS**

19.1 **Interpretation**

19.1.1 Except as provided to the contrary in this Agreement, an accounting term used in this clause is to be construed in accordance with the Accounting Principles applied in connection with the Original Financial Statements.

19.1.2 No item may be credited or deducted more than once in any calculation under this clause.

19.2 **Financial Condition**

The Borrower shall ensure that for so long as any amount is outstanding under the Finance Documents or any Commitment is in force that:

19.2.1 the Asset Cover Ratio is equal to or greater than 5x (five times); and

19.2.2 the Asset Cover Ratio (Helios Seven Rivers) is equal to or greater than 0.35x (zero point three five times).

19.3 **Financial testing**

The financial covenants set out in clause 19.2 (*Financial Condition*) shall be calculated in accordance with the Accounting Principles and tested on each Measurement Date and at such other times required in terms of this Agreement, by reference to the financial statements and management accounts of the Borrower delivered pursuant to clause 18.1 (*Financial statements*) and/or each Compliance Certificate delivered pursuant to clause 18.2 (*Compliance Certificate*) (as applicable).

20 **GENERAL UNDERTAKINGS**

20.1 **General**

The Borrower agrees to be bound by the undertakings set out in this clause for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

20.2 **Authorisations**

The Borrower must (and shall procure that each other member of the Material Group, as applicable, will) promptly:

20.2.1 obtain, comply with and do all that is necessary to maintain in full force and effect; and

20.2.2 supply certified copies to the Agent of any Authorisation required under any applicable law or regulation to enable it to:

20.2.2.1 perform its obligations under the Finance Documents to which it is a party;

20.2.2.2 ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document to which it is a party; and

20.2.2.3 carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.

20.3 **Compliance with laws**

The Borrower shall (and shall procure that each other member of the Material Group will) comply in all respects with all laws which is material to the conduct of its business.

20.4 **Environmental compliance**

The Borrower shall and shall procure that each other member of the Material Group will):

20.4.1 comply with all Environmental Law;

20.4.2 obtain, maintain and ensure compliance with all requisite Environmental Permits;

20.4.3 implement procedures to monitor compliance with and to prevent liability under any Environmental Law,

20.4.4 where failure to do so has or is reasonably likely to have a Material Adverse Effect or result in a liability for a Finance Party.

20.5 **Environmental Claims**

The Borrower shall (and shall procure that each other member of the Material Group will), promptly upon becoming aware of the same, inform the Agent in writing of:

20.5.1 any Environmental Claim against any member of the Group which is current, pending or threatened; and

20.5.2 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 Material Group, has or is reasonably likely to have a Material Adverse Effect or result in a liability for a Finance Party.

20.6 **Taxation**

20.6.1 The Borrower shall (and shall procure that each other member of the Material Group will) pay and discharge all material Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:

20.6.1.1 such payment is being contested in good faith; and

20.6.1.2 adequate reserves are being maintained for those Taxes in its latest financial statements delivered to the Agent under clause 18.1 (*Financial statements*); and

20.6.1.3 such payment can be lawfully withheld; and

20.6.1.4 the amount in dispute is less than USD2 500 000 (two million five hundred thousand US Dollars) (or its equivalent in any other currency).

20.6.2 The Borrower shall not (and shall procure that no other member of the Material Group will) change its residence for Tax purposes.

20.7 **Acquisitions**

20.7.1 Except as permitted under clause 20.7.2 below, the Borrower shall not (and shall procure that no other member of the Material Group will) incorporate or acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them).

20.7.2 Clause 20.7.1 above does not apply to any Permitted Acquisition.

20.8 **Preservation of assets**

The Borrower shall (and shall procure that each other member of the Material Group will) maintain in good working order and condition (ordinary wear and tear excepted) all of its assets necessary or desirable in the conduct of its business.

20.9 ***Pari passu* ranking**

The Borrower shall ensure that at all times any unsecured and unsubordinated claims of a Finance Party against it and the other Security Provider 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.

20.10 **Insurance**

The Borrower shall (and shall procure that each other member of the Material 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.

20.11 **Access**

At any time while a Default is continuing, the Borrower shall (and shall procure that each other member of the Material Group will) allow the Agent and/or the Security Agent and/or accountants or other professional advisers and contractors of the Agent or Security Agent free access at all reasonable times and on reasonable notice at the risk and cost of the Borrower or member of the Material Group to (a) the premises, assets, books, accounts and records of the Borrower or member of the Material Group, and (b) meet and discuss matters with senior management of the Material Group, in each case to the extent permitted by applicable law and regulation.

20.12 **Intellectual Property**

The Borrower shall (and shall procure that each other member of the Material Group will) not discontinue the use of the Intellectual Property which is material and necessary to the conduct of its business.

20.13 **Financial assistance**

The Borrower shall (and shall procure that no other member of the Material Group will) comply in all respects with any binding and equivalent legislation to sections 678 and 679 of the Companies Act 2006 including in relation to the execution of the Transaction Security Documents and payment of amounts due under this Agreement.

20.14 **Further assurance**

20.14.1 The Borrower shall (and shall procure that no other member of the Material Group will) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may specify (and in such form as the Security Agent may require in favour of the Security Agent or its nominee(s)):

20.14.1.1 to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law;

20.14.1.2 to confer on the Security Agent or confer on the Finance Parties Security over any property and assets of that member of the Material Group located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents; and/or

20.14.1.3 to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.

20.14.2 The Borrower shall (and shall procure that no other member of the Material 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 Security Agent or the Finance Parties by or pursuant to the Finance Documents.

20.15 **Amalgamation**

The Borrower shall not (and shall procure that no other member of the Material Group will) enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction, save for any amalgamation, demerger, merger, consolidation or corporate reconstruction approved by the Agent in writing.

20.16 **Change of Business**

The Borrower shall procure that no change is made to the general nature of any member of the Material Group's business from that carried on as at the Signature Date.

20.17 **Negative pledge**

20.17.1 In this clause 20.17 (*Negative pledge*), "**Quasi-Security Interest**" means an arrangement or transaction described in clause 20.17.3 below.

20.17.2 Except as provided below, the Borrower shall not (and shall procure that no other member of the Material Group nor Security Provider will) create or allow to exist any Security Interest over any of its assets.

20.17.3 Except as provided below, the Borrower shall not (and shall procure that no other member of the Material Group nor Security Provider will):

20.17.3.1 sell, transfer or otherwise dispose of any of its assets on terms where they are or may be leased to, re-acquired or acquired by it or that member of the Material Group;

20.17.3.2 sell, transfer or otherwise dispose of any of its receivables on recourse terms;

20.17.3.3 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

20.17.3.4 enter into any other preferential arrangement having a similar effect,

20.17.4 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.

20.17.5 Clauses 20.17.2 and 20.17.3 above do not apply to any Security Interest or Quasi-Security Interest which constitutes Permitted Security or a Permitted Transaction.

20.18 **Disposals**

20.18.1 Except as provided below, the Borrower shall not (and shall procure that no other member of the Material Group nor Security Provider will), either in a single transaction or in a series of transactions (whether related or not), dispose of all or any part of any Investment.

20.18.2 Clause 20.18.1 above does not apply to any disposal which constitutes a Permitted Disposal or a Permitted Transaction.

20.19 **Loans or Credit**

20.19.1 Except as provided below, the Borrower shall not (and shall procure that no other member of the Material Group will) be a creditor in respect of any Financial Indebtedness.

20.19.2 Clause 20.19.1 does not apply to any loan which constitutes a Permitted Loan or a Permitted Transaction.

20.20 **No Guarantees or Indemnities**

20.20.1 Except as provided below, the Borrower shall not (and shall procure that no other member of the Material Group will) incur or allow to remain outstanding any guarantee or indemnity in respect of any obligation of any persons.

20.20.2 Clause 20.20.1 does not apply to any guarantee or indemnity which constitutes a Permitted Guarantee or a Permitted Transaction.

20.21 **Distributions**

20.21.1 Except as provided below, no member of the Group shall declare, make or pay any Distribution (whether in cash or kind).

20.21.2 Clause 20.21.1 does not apply to any Distribution:

20.21.2.1 made by the Borrower (a) with the prior written consent of the Agent, or (b) where the following requirements are met -

20.21.2.1.1 no Default has then occurred and is continuing or would result from the declaration or payment of such Distribution; and

20.21.2.1.2 the Borrower has delivered a Compliance Certificate to the Agent which evidences that it is then in compliance with the provisions of clause 19.2 (*Financial Condition*) and which sets out calculations showing in reasonable detail that the Borrower will, immediately following the declaration and payment of such Distribution, remain in compliance with its obligations under clause 19.2 (*Financial Condition*);

20.21.2.2 made by a member of the Group (other than the Borrower) to its direct Holding Company or direct shareholders; and

20.21.2.3 made by a member of the Material Group for the payment of management, advisory or similar fees arising from any management agreements, advisory agreements, transitional services agreements or other operational agreements entered into from time to time.

20.22 **Share Issue**

20.22.1 Except as provided below, the Borrower may not (and shall procure that no other member of the Material Group will) issue any Shares.

20.22.2 Clause 20.22.1 does not apply to any issue of Shares made (a) pursuant to a Permitted Transaction, (b) by a member of the Material Group to any other member of the Material Group (provided that such share issue does not result in the occurrence of an Exit Event), (c) any Employee Share Transfer, or (d) with the prior written consent of the Agent.

20.23 **Financial Indebtedness**

20.23.1 Except as provided below, the Borrower shall not (and shall procure that no other member of the Material Group will) incur or permit to be outstanding any Financial Indebtedness.

20.23.2 Clause 20.23.1 above does not apply to any Financial Indebtedness which constitutes Permitted Financial Indebtedness or a Permitted Transaction.

20.24 **Treasury Transactions**

The Borrower shall not (and shall procure that no other member of the Material Group will) enter into any Treasury Transaction, other than 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 Material Group for a period of not more than 12 (twelve) months and not for speculative purposes.

20.25 **Replacement of Auditors**

The Borrower may only replace its auditors with an Auditor, or otherwise with the prior approval of the Agent. Notwithstanding any other term of this Agreement no Event of Default shall occur, or be deemed to occur, as a result of any restriction on the identity of the Auditors contained in this Agreement being prohibited, unlawful, ineffective, invalid or unenforceable pursuant to the Audit Laws. For the purposes hereof "**Audit Laws**" means the EU Regulation (537/2014) on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC and the EU Directive (2014/56/EU) amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts and any law or regulation which implements that EU Directive (2014/56/EU).

20.26 **Amendments**

The Borrower shall not (and shall procure that no other member of the Group will) amend, vary, novate, supplement, supersede, waive or terminate any term of a Finance Document, a Material Agreement or any other document delivered to the Agent pursuant to clause 4.1 (*Initial conditions precedent*) in a manner that would be materially adverse to the interests of the Lenders.

20.27 **Anti-corruption Law and sanctions**

20.27.1 The Borrower shall not (and shall procure that no other member of the Material Group will):

20.27.1.1 contravene any Sanctions;

20.27.1.2 be a party to or participate in a Sanctioned Transaction in any manner; or

20.27.1.3 directly or indirectly use the proceeds of the Facility for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.

20.27.2 The Borrower shall (and shall procure that each other member of the Material Group will):

20.27.2.1 take all steps to ensure that appropriate controls and safeguards are in place, designed to prevent it from being or becoming involved in a Sanctioned Transaction; and

20.27.2.2 conduct its businesses in compliance with applicable anti-corruption laws and maintain policies and procedures designed to promote and achieve compliance with such laws.

20.28 **FFH Guarantee**

20.28.1 The Borrower shall at all times preserve and enforce its rights, and pursue all of its claims and remedies against Fairfax Financial Holdings, under the FFH Guarantee (including, without limitation, by promptly demanding payment from Fairfax Financial Holdings of any FFH Guarantee Payments following becoming entitled to do so in terms of the FFH Guarantee.

20.28.2 The Borrower shall not amend, vary, novate, supplement, supersede, waive or terminate any term of the FFH Guarantee (including, without limitation, as to maturity and/or the Investments covered thereby) without the prior written consent of the Agent.

20.29 **Investment Proceeds**

The Borrower undertakes that all Investment Proceeds received by any member of the Material Group (other than the Borrower) shall be paid to the Borrower in full as soon as reasonably practicable after receipt of such proceeds for application in accordance with the provisions of clause 7.4. The Borrower and any member of the Material Group may transfer any amounts of Rejected Proceeds Amounts to any account that it selects and apply it to any purpose it may require.

21 **EVENTS OF DEFAULT**

21.1 **Events of Default**

Each of the events or circumstances set out in this clause is an Event of Default (other than clause 21.17 (*Acceleration*).

21.2 **Non-payment**

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

21.2.1 administrative or technical error; or

21.2.2 a Disruption Event,

and payment is made within 5 (five) Business Days of its due date.

21.3 **Financial covenants**

Any requirement of clause 19.2 (*Financial Condition*) is not complied with.

21.4 **Other obligations**

21.4.1 Either Security Provider or any other person (other than a Finance Party) does not comply with any provision of any Finance Document to which it is a party (other than those referred to in clauses 21.2 (*Non-payment*) and 21.3 (*Financial covenants*)).

21.4.2 No Event of Default under clause 21.4.1 above will occur in respect of any Finance Document if the failure to comply is capable of remedy and is remedied within 10 (ten) Business Days of the earlier of (A) the Agent giving notice to the Borrower of the failure to comply and (B) the Borrower becoming aware of the failure to comply.

21.5 **Misrepresentation**

Any representation or statement made or deemed to be made by any Security Provider in the Finance Documents or any other document delivered by or on behalf of that Security Provider under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made and, if the relevant circumstances are capable of remedy, those circumstances are not remedied within 21 (twenty one) calendar days of the of the earlier of (A) the Agent giving notice to the Security Provider in question of such Default and (B) the Security Provider in question becoming aware of the failure to comply.

21.6 **Cross default**

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

21.6.2 Any Financial Indebtedness of any member of the Material 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).

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

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

21.6.5 No Event of Default will occur under this clause 21.6 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within clauses 21.6.1 to 21.6.4 (inclusive) is less than USD5 000 000 (five million US Dollars) (or its equivalent in any other currency or currencies).

21.6.6 The Borrower fails to comply with any of its obligations under the Subscription Agreement.

21.7 **Insolvency**

21.7.1 The Borrower or any member of the Material Group:

21.7.1.1 is unable or admits inability to pay its debts as they fall due;

21.7.1.2 is deemed to, or is declared to, be unable to pay its debts under applicable law;

21.7.1.3 suspends or threatens to suspend making payments on any of its debts; or

21.7.1.4 by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Finance Party in its capacity as such) with a view to rescheduling any of its indebtedness,

in each case, only to the extent such debts are owed to any third party Creditors.

21.7.2 The value of the assets of the Borrower or any member of the Material Group is less than its liabilities (taking into account contingent and prospective liabilities).

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

21.8 Insolvency proceedings

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

21.8.1 the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, striking off, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower or any member of the Material Group;

21.8.2 a composition, compromise, assignment or arrangement with any creditor of the Borrower or any member of the Material Group;

21.8.3 the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Borrower or any member of the Material Group or any of its assets; or

21.8.4 enforcement of any Security over any asset or the assets directly held by the Borrower or any member of the Material Group (and excluding any Investments),

or any analogous procedure or step is taken in any jurisdiction.

21.9 Creditors' process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of the Borrower or any member of the Material Group where, other than in respect of any such asset or assets which are the subject matter of Transaction Security, such expropriation or any of the foregoing processes would result in a Material Adverse Effect.

21.10 Unlawfulness and invalidity

21.10.1 It is or becomes unlawful for either Security Provider 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.

21.10.2 Any obligation or obligations of either Security Provider under any Finance Documents are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lenders under the Finance Documents.

21.10.3 Any Finance Document ceases to be in full force and effect or any Transaction Security ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective.

21.11 Cessation of business

The Borrower or any member of the Material Group suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business.

21.12 Expropriation

The authority or ability of the Borrower or any member of the Material Group 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 the Borrower or member of the Material Group or any of its assets.

21.13 Repudiation and rescission of agreements

Either Security Provider (or any other relevant party (other than a Finance 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.

21.14 **Litigation**

21.14.1 Any litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency are started or threatened which, if adversely determined, may result in a liability for any member of the Material Group of USD5 000 000 (five million US Dollars) or more or is reasonably likely to result in the occurrence of a Material Adverse Effect , 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 the Borrower or any member of the Material Group or its assets.

21.14.2 The Borrower or any member of the Material Group fails to discharge in full, within any grace period applicable in law, any amount payable pursuant to a final judgement or order made or given by any court or other authority of competent jurisdiction in any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or enquiry (including any such investigations, proceedings or enquiry by any competition authority, environmental authority, tax authority or sector specific regulatory authority).

21.14.3 For the purposes of clause 21.14.2, a final judgment or order means a judgment or order:

21.14.3.1 which is not appealable or is appealable but in respect of which the period for the lodging of an appeal has lapsed and the applicable member of the Material Group has failed to institute appeal proceedings; and

21.14.3.2 which is not capable of rescission or is capable of rescission but in respect of which the period for applying for rescission has lapsed and the applicable member of the Material Group has failed to apply for rescission or has applied for rescission of such judgment or order and the application for rescission has been denied.

21.15 **Material adverse change**

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

21.16 **Audit qualification**

21.16.1 The Auditors qualify the audited consolidated annual financial statements of the Borrower.

21.16.2 The auditors of a member of the Material Group (other than the Borrower) qualify the audited annual consolidated financial statements of that entity:

21.16.2.1 on the grounds that the information supplied to those auditors or to which they had access was inadequate or unreliable;

21.16.2.2 on the grounds that those auditors are unable to prepare those financial statements on a going concern basis; or

21.16.2.3 otherwise in terms or as to issues which in the opinion of the Lender (acting reasonably) are material in the context of the Finance Documents and the transactions contemplated thereby.

21.17 **Acceleration**

On and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Lenders:

21.17.1 by notice to the Borrower:

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

21.17.1.2 declare that all or part of the Loans, together with all other Facility Outstandings be immediately due and payable, at which time they shall become immediately due and payable; and/or

21.17.1.3 declare that all or part of the Loans be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders; and/or

21.17.2 exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

22 CHANGES TO THE LENDERS

22.1 Assignments and transfers by the Lenders

Subject to the other provisions of this clause, a Lender (the "**Existing Lender**") may:

22.1.1 assign any of its rights; or

22.1.2 transfer by novation any of its rights and obligations,

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

22.2 Conditions of assignment or transfer

22.2.1 The consent of the Borrower is not required for a Transfer by an Existing Lender to a Permitted Transferee or for so long as an Event of Default has occurred and is continuing.

22.2.2 Where the consent of the Borrower is required for a Transfer, such consent shall not be unreasonably withheld or delayed and shall be deemed to have been given within 10 (ten) Business Days of receipt by the Borrower of a written request to this effect.

22.2.3 An assignment will only be effective on:

22.2.3.1 receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will, in relation to the assigned rights, assume obligations to the other Parties equivalent to those it would have been under if it had been an Original Lender;

22.2.3.2 performance by the Agent of any "*know your customer*" checks or other similar checks required under any applicable law or regulation in relation to such assignment to a New Lender, the completion of which the Agent must notify to the Existing Lender and the New Lender promptly;

22.2.3.3 the execution of Transaction Security Documents (in form and substance satisfactory to the Agent) in favour of, amongst others, the New Lender to confer the Security contemplated in **Schedule 8** (*Transaction Security Documents*) on that New Lender (together with the other Lenders or otherwise) if required.

22.2.4 A transfer will only be effective if the procedure set out in clause 22.4 (*Procedure for transfer*) is complied with.

22.2.5 If:

22.2.5.1 a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and

22.2.5.2 as a result of circumstances existing at the date the assignment, transfer or change occurs, the Borrower would be obliged to make a Tax Payment or a payment relating to Increased Costs,

then the Borrower need only make that Tax Payment or payment relating to Increased Costs to the same extent that it would have been obliged to pay if the assignment, transfer or change had not occurred. This clause will not apply in respect of an assignment or transfer made as a result of clause 15 (*Mitigation by the Lenders*).

22.2.6 Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms that:

22.2.6.1 the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or before the date on which the transfer or assignment becomes effective in accordance with this Agreement; and

22.2.6.2 it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.

22.3 **Limitation of responsibility of Existing Lenders**

22.3.1 Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

22.3.1.1 the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;

22.3.1.2 the financial condition of the Borrower;

22.3.1.3 the performance and observance by the Borrower of its obligations under the Finance Documents or any other documents; or

22.3.1.4 the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law are excluded.

22.3.2 Each New Lender confirms to the Existing Lender and the other Finance Parties that it:

22.3.2.1 has made (and must continue to make) its own independent investigation and assessment of the financial condition and affairs of the Borrower and its related entities (including the nature and extent of any recourse against any Party or its assets) in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and

22.3.2.2 will continue to make its own independent appraisal of the creditworthiness of the Borrower and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

22.3.3 Nothing in any Finance Document obliges an Existing Lender to:

22.3.3.1 accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this clause; or

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

22.4 **Procedure for transfer**

22.4.1 Subject to the conditions set out in clause 22.2 (*Conditions of assignment or transfer*), a transfer is effected in accordance with clause 22.4.4 below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender.

22.4.2 The Agent must, subject to clause 22.4.3 below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement, execute that Transfer Certificate.

22.4.3 The Agent is only obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied with the results of any "*know your customer*" checks or other similar checks required under any applicable law or regulation in relation to the transfer to such New Lender.

22.4.4 Subject to clause 22.8 (*Pro rata interest settlement*), on the Transfer Date:

22.4.4.1 to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents the Borrower and the Existing Lender will be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents will be cancelled (being the "**Discharged Rights and Obligations**");

22.4.4.2 the Borrower and the New Lender will assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as the Borrower and the New Lender have assumed and/or acquired the same in place of the Borrower and the Existing Lender;

22.4.4.3 each Administrative Party, the New Lender and other Lenders will 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 and to that extent each Administrative Party and the Existing Lender will each be released from further obligations to each other under the Finance Documents; and

22.4.4.4 the New Lender will become a Party as a Lender.

22.4.5 Each Party (other than the Existing Lender and the New Lender) irrevocably authorises the Agent to enter into and deliver any duly completed Transfer Certificate on its behalf.

22.5 Procedure for assignment

22.5.1 Subject to the conditions set out in clause 22.2 (*Conditions of assignment or transfer*), an assignment may be effected in accordance with clause 22.5.3 below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent must, subject to clause 22.5.2 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.

22.5.2 The Agent is only obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied with the results of any "*know your customer*" checks or other similar checks required under any applicable law or regulation in relation to the assignment to such New Lender.

22.5.3 Subject to clause 22.8 (*Pro rata interest settlement*), on the Transfer Date:

22.5.3.1 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;

22.5.3.2 the Existing Lender will be released by the Borrower and the other Finance Parties from the obligations owed by it (the "**Relevant Obligations**") and expressed to be the subject of the release in the Assignment Agreement;

22.5.3.3 the New Lender will become a Party as a Lender and will be bound by obligations equivalent to the Relevant Obligations;

22.5.3.4 if the assignment relates only to part of the Existing Lender's participation in the outstanding Loans that part will be separated from the Existing Lender's participation in the outstanding Loans, made an independent debt and assigned to the New Lender as a whole debt; and

22.5.3.5 the Agent's execution of the Assignment Agreement as agent for the Borrower will constitute notice to the Borrower of the assignment.

22.5.4 Each Party (other than the Existing Lender and the New Lender) irrevocably authorises the Agent to enter into and deliver any duly completed Assignment Agreement on its behalf.

22.5.5 The Lenders may utilise procedures other than those set out in this clause 22.5 to assign their rights under the Finance Documents (but not, without the consent of the Borrower or unless in accordance with clause 22.4 (*Procedure for transfer*), to obtain a release by the Borrower from the obligations owed to the Borrower by the Lenders nor the assumption of equivalent obligations by a New Lender) provided that they comply with the conditions set out in clause 22.2 (*Conditions of assignment or transfer*).

22.6 **Copy of Transfer Certificate or Assignment Agreement to Borrower**

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

22.7 **Security over Lenders' rights**

In addition to the other rights provided to Lenders under this clause, each Lender may without consulting with or obtaining consent from the Borrower, at any time charge, assign or otherwise create a Security Interest in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

22.7.1 any charge, assignment or other Security Interest to secure obligations to a federal reserve or central bank; and

22.7.2 in the case of any Lender which is a fund, any charge, assignment or other Security Interest granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security Interest will:

22.7.3 release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security Interest for the Lender as a party to any of the Finance Documents; or

22.7.4 require any payments to be made by the Borrower other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

22.8 **Pro rata interest settlement**

22.8.1 If the Agent has notified the Lenders that it is able to distribute interest payments on a *pro rata* basis to Existing Lenders and New Lenders then (in respect of any transfer pursuant to clause 22.4 (*Procedure for transfer*) or any assignment pursuant to clause 22.5 (*Procedure for assignment*) the Transfer Date of which, in each case, is after the date of that notification and is not on the last day of an Interest Period):

22.8.1.1 any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time will continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date ("**Accrued Amounts**") and will become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer than 6 (six) Months, on the next of the dates which falls at 6 (six) Monthly intervals after the first day of that Interest Period); and

22.8.1.2 the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts, so that:

22.8.1.2.1 when the Accrued Amounts become payable, those Accrued Amounts will be payable to the Existing Lender; and

22.8.1.2.2 the amount payable to the New Lender on that date will be the amount which would, but for the application of this clause 22.8 (*Pro rata interest settlement*), have been payable to it on that date, but after deduction of the Accrued Amounts.

22.8.2 In this clause 22.8 (*Pro rata interest settlement*), references to Interest Periods will be construed to include a reference to any other period for accrual of fees.

22.9 **Affiliates of Lenders**

22.9.1 Each Lender may fulfil its obligations in respect of any Loan through an Affiliate if:

22.9.1.1 the relevant Affiliate is specified in this Agreement as a Lender or becomes a Lender by means of a Transfer Certificate or Assignment Agreement in accordance with this Agreement; and

22.9.1.2 the Loan or Loans in which that Affiliate will participate are specified in this Agreement or in a notice given by that Lender to the Agent and the Borrower.

In this event, the Lender and its Affiliate will participate in such Loan or Loans in the manner provided for in the notice referred to in clause 22.9.1.2 above.

22.9.2 If clause 22.9.1 above applies, the Lender and its Affiliate will be treated as having a single Commitment and a single vote, but, for all other purposes, will be treated as separate Lenders.

22.9.3 Any Affiliate nominated under this clause 22.9 (*Affiliates of Lenders*) must be notified to the Agent.

22.10 **Debt Purchase Transactions**

The Borrower shall procure that no member of the Group nor any of its Affiliates or shareholders will enter into any Debt Purchase Transaction.

22.11 **Disenfranchisement**

Without derogating from the provisions of clause 22.10 (*Debt Purchase Transactions*), for so long as any Affiliate of the Borrower:

22.11.1 beneficially owns a Commitment; or

22.11.2 has entered into a sub-participation agreement relating to a Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated,

in ascertaining:

22.11.3 the Majority Lenders; or

22.11.4 whether:

22.11.4.1 any given percentage (including, unanimity) of the Total Commitments; or

22.11.4.2 the agreement of any specified group of Lenders,

has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents, such Commitment shall be deemed to be zero and such Affiliate or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Lender for the purposes of clauses 22.11.3 and 22.11.4 (unless in the case of a person not being an Affiliate it is a Lender by virtue otherwise than by beneficially owning the relevant Commitment).

23 CHANGES TO THE BORROWER

The Borrower may not assign any of its rights or transfer by novation any of its rights and obligations under the Finance Documents without the prior written consent of the Agent.

24 ROLE OF THE ADMINISTRATIVE PARTIES

24.1 The Agent

24.1.1 Each other Finance Party appoints the Agent to act as its agent under and in connection with the Finance Documents.

24.1.2 Each other Finance Party authorises the Agent to:

24.1.2.1 perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions; and

24.1.2.2 enter into and deliver each Finance Document expressed to be entered into by the Agent.

24.2 Instructions

24.2.1 The Agent:

24.2.1.1 must exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by:

24.2.1.1.1 all Lenders if a Finance Document stipulates the matter is an all Lender decision;

24.2.1.1.2 the relevant Finance Party or group of Finance Parties if a Finance Document stipulates the matter is a decision for that Finance Party or group of Finance Parties; and

24.2.1.1.3 in all other cases, the Majority Lenders; and

24.2.1.2 will not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with clause 24.2.1.1 above.

24.2.2 The Agent may request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates that the matter is a decision for any other Finance Party or group of Finance Parties, from that Finance Party or group of Finance Parties) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and it may refrain from acting unless and until it receives any instructions or clarification that it has requested.

24.2.3 Except in the case of decisions stipulated to be a matter for any other Finance Party or group of Finance Parties under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Agent by the Majority Lenders will override any conflicting instructions given by any other Party or Parties and will be binding on all Finance Parties save for the Security Agent.

24.2.4 Clause 24.2.1 above does not apply:

24.2.4.1 where a contrary indication appears in a Finance Document;

24.2.4.2 where a Finance Document requires the Agent to act in a specified manner or to take a specified action;

24.2.4.3 in respect of any provision which protects the Agent's own position in its personal capacity as opposed to its role of Agent including, without limitation, clause 24.5 (*No fiduciary duties*) to clause 24.10 (*Exclusion of liability*) and clause 24.13 (*Confidentiality*) to clause 24.17 (*Notice period*).

24.2.5 If giving effect to instructions given by the Majority Lenders would (in the Agent's opinion) have an effect equivalent to an amendment or waiver referred to in clause 34 (*Amendments And Waivers*), the Agent will not act in accordance with those instructions unless it obtains consent to do so from each Party whose consent would have been required in respect of that amendment or waiver.

24.2.6 The Agent may refrain from acting in accordance with the instructions of any Finance Party or group of Finance Parties until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.

24.2.7 Without prejudice to the remainder of this clause 24.2 (*Instructions*), in the absence of instructions the Agent may, if the circumstances so require, act (or refrain from taking any action) as it considers to be in the best interests of all the Finance Parties.

24.2.8 The Agent is not authorised to act on behalf of a Finance Party (without first obtaining that Finance Party's consent) in any legal or arbitration proceedings relating to any Finance Document.

24.3 **Duties of the Agent**

24.3.1 The duties, obligations and responsibilities of the Agent under the Finance Documents are solely mechanical and administrative in nature.

24.3.2 Subject to clause 24.3.3 below, the Agent must promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.

24.3.3 Without prejudice to clause 22.6 (*Copy of Transfer Certificate or Assignment Agreement to*), clause 24.3.2 above does not apply to any Transfer Certificate or Assignment Agreement.

24.3.4 Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

24.3.5 If the Agent receives notice from a Party referring to any Finance Document, describing a Default and stating that the circumstance described is a Default, it must promptly notify the other Finance Parties.

24.3.6 If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than an Administrative Party) under this Agreement, it must promptly notify the other Finance Parties.

24.3.7 The Agent has only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is a party (and no others will be implied).

24.4 **Role of the Arranger**

Except where a Finance Document specifically provides otherwise, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

24.5 **No fiduciary duties**

24.5.1 Nothing in any Finance Document makes an Administrative Party a trustee or fiduciary of any other person.

24.5.2 No Administrative Party will be bound to account to any other Finance Party for any sum or the profit element of any sum received by it for its own account.

24.6 **Business with the Group**

24.6.1 Each Administrative Party may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Borrower or their related entities.

24.6.2 If it is also a Lender, each Administrative Party has the same rights and powers under the Finance Documents as any other Lender and may exercise those rights and powers as though it were not an Administrative Party.

24.6.3 Each Administrative Party may carry on any business with the Borrower or their related entities (including acting as an agent or a trustee in connection with any other financing).

24.7 **Rights and discretions**

24.7.1 The Agent may:

24.7.1.1 rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;

24.7.1.2 assume that:

24.7.1.2.1 any instructions it receives from the Majority Lenders, any Finance Party or any group of Finance Parties are duly given in accordance with the terms of the Finance Documents; and

24.7.1.2.2 unless it has received notice of revocation, that those instructions have not been revoked; and

24.7.1.3 without prejudice to the generality of clause 24.7.1.2 above, rely on a certificate from any person:

24.7.1.3.1 as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or

24.7.1.3.2 to the effect that the person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of clause 24.7.1.3.1 above, may assume the truth and accuracy of that certificate.

24.7.2 The Agent may assume (unless it has received notice to the contrary in its capacity as Agent) that:

24.7.2.1 no Default has occurred (unless it has actual knowledge of a Default arising under clause 21.2 (*Non-payment*); and

24.7.2.2 any right, power, authority or discretion vested in any Party or any group of Finance Parties has not been exercised.

24.7.3 The Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts selected by it (including those representing a Party other than the Agent).

24.7.4 Without prejudice to the generality of clause 24.7.3 above or clause 24.7.5 below, the Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Lenders) if the Agent, in its reasonable opinion, deems this to be necessary.

24.7.5 The Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by any other Party) and will not be liable for any cost, loss or liability whatsoever any person incurs or any diminution in value arising as a result of the Agent so relying.

24.7.6 Each Administrative Party may act in relation to the Finance Documents through its officers, employees and agents.

24.7.7 Except where a Finance Document specifically provides otherwise, the Agent may disclose to any other Party any information it reasonably believes it has received as the Agent under the Finance Documents.

24.7.8 Notwithstanding any other provision of any Finance Document to the contrary:

24.7.8.1 no Administrative Party is obliged to do or omit to do anything (including disclosing any information) if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality or otherwise be actionable by any person; and

24.7.8.2 an Administrative Party may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation.

24.7.9 Notwithstanding any other provision of any Finance Document to the contrary, no Administrative Party is obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of those funds or adequate indemnity against, or security for, that risk or liability is not reasonably assured to it.

24.8 **Responsibility for documentation**

24.8.1 No Administrative Party is responsible or liable for:

24.8.1.1 the adequacy, accuracy or completeness of any statement or information (whether oral or written) made, given or supplied by any person in or in connection with any Finance Document or the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

24.8.1.2 the legality, validity, effectiveness, adequacy, completeness or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; or

24.8.1.3 any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

24.8.2 Except as provided above, the Agent has no duty:

24.8.2.1 either initially or on a continuing basis to provide any Lender with any credit or other information concerning the risks arising under or in connection with the Finance Documents (including any information relating to the financial condition or affairs of the Borrower or their related entities or the nature or extent of recourse against any Party or its assets) whether coming into its possession before, on or after the Signature Date; or

24.8.2.2 unless specifically requested to do so by a Lender in accordance with a Finance Document, to request any certificate or other document from the Borrower.

24.9 **No duty to monitor**

The Agent is not obliged to monitor or enquire as to:

24.9.1 whether a Default has occurred;

24.9.2 the performance, default or any breach by any Party of its obligations under any Finance Document; or

24.9.3 whether any other event specified in any Finance Document has occurred.

24.10 **Exclusion of liability**

24.10.1 Without limiting clause 24.10.2 below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of any Administrative Party), no Administrative Party will be liable (whether in contract, tort or otherwise) for:

24.10.1.1 any cost, loss or liability whatsoever any person incurs or any diminution in value arising as a result of the Administrative Party taking or not taking any action under or in connection with any Finance Document, unless directly caused by its gross negligence, wilful misconduct or fraud;

24.10.1.2 exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document or any other agreement, arrangement or document entered into or made under or in connection with, or executed in anticipation of, any Finance Document, other than by reason of its gross negligence, wilful misconduct or fraud; or

24.10.1.3 without prejudice to the generality of clauses 24.10.1.1 and 24.10.1.2 above, any cost, loss or liability whatsoever any person incurs or any diminution in value (whether caused by the Administrative Party's negligence, gross negligence or any other category of liability whatsoever, but not including any claim based on fraud of the Administrative Party) arising as a result of:

24.10.1.3.1 any act, event or circumstance not reasonably within its control; or

24.10.1.3.2 the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) any such cost, loss, liability or diminution in value arising as a result of:

24.10.1.3.3 nationalisation, expropriation or other governmental action;

24.10.1.3.4 any regulation, currency restriction, devaluation or fluctuation;

24.10.1.3.5 market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event);

24.10.1.3.6 breakdown, failure or malfunction of any third party transport, telecommunications, computer services or other systems;

24.10.1.3.7 any natural disaster or act of God;

24.10.1.3.8 war, terrorism, insurrection or revolution; or

24.10.1.3.9 any strike or industrial action.

24.10.2 No Party (other than the relevant Administrative Party) may take any proceedings against any officer, employee or agent of an Administrative Party in respect of any claim it might have against that Administrative Party or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document.

24.10.3 Any officer, employee or agent of an Administrative Party may enforce and enjoy the benefit of any clause which expressly confers rights on it, subject to clause 1.4.2 (*Third party rights*) and the provisions of the Third Parties Act.

24.10.4 The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if it has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by it for that purpose.

24.10.5 Nothing in this Agreement obliges any Administrative Party to:

24.10.5.1 perform any "*know your customer*" checks or other similar checks in relation to the identity of any person; or

24.10.5.2 check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Finance Party,

on behalf of any Finance Party.

24.10.6 Each Finance Party confirms to each Administrative Party that it is solely responsible for any "*know your customer*" checks or other similar checks it is required to carry out and that it may not rely on any statement in relation to those checks made by any Administrative Party.

24.10.7 Without prejudice to any other provision of any Finance Document excluding or limiting the liability of any Administrative Party, any liability of an Administrative Party arising under or in connection with any Finance Document is limited to the amount of actual loss suffered (as determined by reference to the date of that Administrative Party's default or, if later, the date on which the loss arises as a result of the default) but without reference to any special conditions or circumstances known to that Administrative Party at any time which increase the amount of that loss. In no event will an Administrative Party be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not that Administrative Party was advised of the possibility of such loss or damages.

24.11 **Lenders' indemnity to the Agent**

24.11.1 Without limiting the liability of the Borrower under the Finance Documents, each Lender must (in its Pro Rata Portion) indemnify the Agent within 3 (three) Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence, in relation to any FATCA-related liability or any other category of liability whatsoever) incurred by the Agent (other than by reason of the Agent's gross negligence, wilful misconduct or fraud) (or, in the case of any cost, loss or liability pursuant to clause 28.10 (*Disruption to payment systems*), notwithstanding the Agent's negligence, gross negligence or any other category of liability whatsoever, but not including any claim based on the fraud of the Agent) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by the Borrower pursuant to a Finance Document).

24.11.2 The Borrower must immediately on demand reimburse any Lender for any payment that Lender makes to the Agent under clause 24.11.1 above.

24.12 **Resignation of the Agent**

24.12.1 The Agent may resign and appoint one of its Affiliates as its successor by giving notice to the other Finance Parties and the Borrower.

24.12.2 Alternatively, the Agent may resign by giving 30 (thirty) days' notice to the other Finance Parties and the Borrower, in which case the Majority Lenders (after consultation with the other Finance Parties and the Borrower) may appoint a successor Agent.

24.12.3 If the Majority Lenders have not appointed a successor Agent in accordance with clause 24.12.2 above within 20 (twenty) days after notice of resignation was given, the retiring Agent (after consultation with the other Finance Parties and the Borrower) may appoint a successor Agent.

24.12.4 If the Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Agent is entitled to appoint a successor Agent under clause 24.12.3 above, the Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Agent to become a party to this Agreement or any other Finance Document as Agent) agree with the proposed successor Agent amendments to this clause and any other term of this Agreement or any other Finance Document dealing with the rights or obligations of the Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the facility agency fee payable under this Agreement which are consistent with the successor Agent's normal fee rates and those amendments will bind the Parties.

24.12.5 The retiring Agent must:

24.12.5.1 make available to the successor Agent any documents and records and provide any assistance the successor Agent may reasonably request for the purposes of performing its functions as the Agent under the Finance Documents; and

24.12.5.2 enter into and deliver to the successor Agent those documents and effect any registrations as may be reasonably required for the transfer or assignment of all of its rights and benefits under the Finance Documents to the successor Agent.

24.12.6 The Borrower must, on demand by the retiring Agent, reimburse the retiring Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.

24.12.7 The Agent's resignation will only take effect on the appointment of a successor.

24.12.8 When its resignation takes effect:

24.12.8.1 the retiring Agent will be discharged from any further obligation in respect of the Finance Documents (other than its obligations under clause 24.12.5 above) but will remain entitled to the benefit of clause 14.3 (*Indemnity to the Agent*) and this clause;

24.12.8.2 the Borrower must immediately pay to the retiring Agent any facility agency fees that have accrued for the account of the retiring Agent and no further agency fees will accrue for the account of the retiring Agent; and

24.12.8.3 any successor and each of the other Parties will have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

24.12.9 After consultation with the Borrower, the Majority Lenders may, by giving notice to the Agent, require it to resign under clause 24.12.2 above. In this event, the Agent must resign in accordance with clause 24.12.2 above but the cost referred to in clause 24.12.5 above will be for the account of the Borrower.

24.12.10 After consultation with the Borrower, the Majority Lenders may, by giving notice to the Agent and the other Parties, replace the Agent with effect on and from the date specified in the notice by appointing a successor Agent if:

24.12.10.1 the Agent fails to respond to a request under clause 12.7 (*FATCA information*) and a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

24.12.10.2 the information supplied by the Agent pursuant to clause 12.7 (*FATCA information*) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or

24.12.10.3 the Agent notifies the Borrower and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date, and, in each case, a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, and that Lender, by notice to the Agent, requires it to resign.

24.13 **Confidentiality**

24.13.1 In acting as agent for the Finance Parties, the Agent will be regarded as acting through its agency division which will be treated as a separate entity from any other of its divisions or departments.

24.13.2 If information is (in the opinion of the Agent) received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent will not be deemed to have notice of it.

24.13.3 The Agent is not obliged to disclose to any person any confidential information supplied to it by or on behalf of the Borrower solely for the purpose of evaluating whether any waiver or amendment is required in respect of any term of the Finance Documents.

24.14 **Relationship with the Lenders**

24.14.1 Subject to clause 22.8 (*Pro rata interest settlement*), the Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:

24.14.1.1 entitled to or liable for any payment due under any Finance Document on that day; and

24.14.1.2 entitled to receive and act on any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than 5 (five) Business Days' notice from that Lender to the contrary in accordance with the terms of this Agreement.

24.14.2 The Agent may at any time, and must if requested to do so by the Majority Lenders, convene a meeting of the Lenders.

24.14.3 Any Lender may, by notice to the Agent, appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents.

24.14.4 Any such notice:

24.14.4.1 must contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under this Agreement) electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made); and

24.14.4.2 will be treated as a notification of a substitute address, fax number, electronic mail address (or such other information), and department or officer, by that Lender for the purposes of the Finance Documents.

24.14.5 The Agent is entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

24.15 **Credit appraisal by the Lenders**

Without affecting the responsibility of the Borrower for information supplied by them or on its behalf in connection with any Finance Document, each Lender confirms to the Administrative Parties that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including without limitation:

24.15.1 the financial condition, status and nature of the Borrower;

24.15.2 the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

24.15.3 whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and

24.15.4 the adequacy, accuracy or completeness of any other information provided by the Agent, any other Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.

24.16 **Deduction from amounts payable by the Agent**

If any Party owes an amount to the Agent under the Finance Documents, the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party will be regarded as having received the amount so deducted.

24.17 **Notice period**

Unless expressly provided to the contrary, where this Agreement specifies a minimum period of notice to be given to the Agent, the Agent may, at its discretion, accept a shorter notice period.

25 **THE SECURITY AGENT**

25.1 **Security Agent as trustee**

25.1.1 The Security Agent declares that it holds the Transaction Security on trust for the Finance Parties on the terms contained in this Agreement.

25.1.2 Each of the Finance Parties authorises the Security Agent to:

25.1.2.1 perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions; and

25.1.2.2 enter into and deliver each Finance Document expressed to be entered into by the Security Agent.

25.2 **Parallel debt (Covenant to pay the Security Agent)**

25.2.1 Notwithstanding any other provision of this Agreement, the Borrower hereby irrevocably and unconditionally undertakes to pay to the Security Agent, as creditor in its own right and not as representative of the other Finance Parties, sums equal to and in the currency of each amount payable by the Borrower to each of the Finance Parties under each of the Finance Documents as and when that amount falls due for payment under the relevant Finance Document or would have fallen due but for any discharge resulting from failure of another Finance Party to take appropriate steps, in insolvency proceedings affecting the Borrower, to preserve its entitlement to be paid that amount.

25.2.2 The Security Agent shall have its own independent right to demand payment of the amounts payable by the Borrower under this clause 25.2 irrespective of any discharge of the Borrower's obligation to pay those amounts to the other Finance Parties resulting from failure by them to take appropriate steps, in insolvency proceedings affecting the Borrower, to preserve their entitlement to be paid those amounts.

25.2.3 Any amount due and payable by the Borrower to the Security Agent under this clause 25.2 shall be decreased to the extent that the other Finance Parties have received (and are able to retain) payment in full of the corresponding amount under the other provisions of the Finance Documents and any amount due and payable by the Borrower to the other Finance Parties under those provisions shall be decreased to the extent that the Security Agent has received (and is able to retain) payment in full of the corresponding amount under this clause 25.2.

25.3 **Instructions**

25.3.1 The Security Agent shall:

25.3.1.1 subject to clause 25.3.4 below, exercise or refrain from exercising any right, power, authority or discretion vested in it as Security Agent in accordance with any instructions given to it by the Agent; and

25.3.1.2 not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with clause 25.3.1.1 above (or, if this Agreement stipulates the matter is a decision for any Finance Party or group of Finance Parties, in accordance with instructions given to it by that Finance Party or group of Finance Parties).

25.3.2 The Security Agent shall be entitled to request instructions, or clarification of any instruction, from the Agent (or, if this Agreement stipulates the matter is a decision for any other Finance Party or group of Finance Parties, from that Finance Party or group of Finance Parties) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Security Agent may refrain from acting unless and until it receives those instructions or that clarification.

25.3.3 Save in the case of decisions stipulated to be a matter for any other Finance Party or group of Finance Parties under this Agreement and unless a contrary intention appears in this Agreement, any instructions given to the Security Agent by the Agent shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.

25.3.4 Clause 25.3.1 above shall not apply:

25.3.4.1 where a contrary indication appears in this Agreement;

25.3.4.2 where this Agreement requires the Security Agent to act in a specified manner or to take a specified action; and

25.3.4.3 in respect of any provision which protects the Security Agent's own position in its personal capacity as opposed to its role of Security Agent for the Finance Parties including, without limitation, clause 25.6 (*No duty to account*) to clause 25.11 (*Exclusion of liability*), clause 25.14 (*Confidentiality*) to clause 25.20 (*Custodians and nominees*) and clause 25.23 (*Acceptance of title*) to clause 25.26 (*Disapplication of Trustee Acts*).

25.3.5 In exercising any discretion to exercise a right, power or authority under the Finance Documents where it has not received any instructions as to the exercise of that discretion the Security Agent shall do so having regard to the interests of all the Finance Parties.

25.3.6 The Security Agent may refrain from acting in accordance with any instructions of any Finance Party or group of Finance Parties until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.

25.3.7 Without prejudice to the remainder of this clause 25.2, in the absence of instructions, the Security Agent may, if the circumstances so require, act (or refrain from acting) as it considers to be in the best interests of all the Finance Parties.

25.4 **Duties of the Security Agent**

25.4.1 The Security Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

25.4.2 The Security Agent shall promptly:

25.4.2.1 forward to the Agent a copy of any document received by the Security Agent from the Borrower under any Finance Document; and

25.4.2.2 forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party.

25.4.3 Except where a Finance Document specifically provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

25.4.4 If the Security Agent receives notice from a Party referring to any Finance Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the Agent.

25.4.5 The Security Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

25.5 **No fiduciary duties to the Borrower**

Nothing in this Agreement constitutes the Security Agent as an agent, trustee or fiduciary of the Borrower.

25.6 **No duty to account**

The Security Agent shall not be bound to account to any other Finance Party for any sum or the profit element of any sum received by it for its own account.

25.7 **Business with the Borrower**

The Security Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Borrower.

25.8 **Rights and discretions**

25.8.1 The Security Agent may:

25.8.1.1 rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;

25.8.1.2 assume that:

25.8.1.2.1 any instructions received by it from the Finance Party, any Finance Party or any group of Finance Parties are duly given in accordance with the terms of the Finance Documents;

25.8.1.2.2 unless it has received notice of revocation, that those instructions have not been revoked; and

25.8.1.2.3 if it receives any instructions to act in relation to the Transaction Security, that all applicable conditions under the Finance Documents for so acting have been satisfied; and

25.8.1.3 rely on a certificate from any person:

25.8.1.3.1 as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or

25.8.1.3.2 to the effect that such person approves of any particular dealing, transaction, step, action or thing,

25.8.1.4 as sufficient evidence that that is the case and, in the case of clause 25.8.1.2.1 above, may assume the truth and accuracy of that certificate.

25.8.2 The Security Agent may assume (unless it has received notice to the contrary in its capacity as security trustee for the Finance Parties) that:

25.8.2.1 no Default has occurred; and

25.8.2.2 any right, power, authority or discretion vested in any Party or any group of Finance Parties has not been exercised.

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

25.8.4 Without prejudice to the generality of clause 25.8.3 above or clause 25.8.5 below, the Security Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Security Agent (and so separate from any lawyers instructed by any Finance Party) if the Security Agent in its reasonable opinion deems this to be desirable.

25.8.5 The Security Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Security Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.

25.8.6 The Security Agent, any Receiver and any Delegate may act in relation to the Finance Documents and the Transaction Security through its officers, employees and agents and shall not:

25.8.6.1 be liable for any error of judgment made by any such person; or

25.8.6.2 be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,

unless such error or such loss was directly caused by the Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct.

25.8.7 Unless this Agreement expressly specifies otherwise, the Security Agent may disclose to any other Party any information it reasonably believes it has received as security trustee under this Agreement.

25.8.8 Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

25.8.9 Notwithstanding any provision of any Finance Document to the contrary, the Security Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

25.9 **Responsibility for documentation**

None of the Security Agent, any Receiver nor any Delegate is responsible or liable for:

25.9.1 the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Agent, the Borrower or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; or

25.9.2 the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security; or

25.9.3 any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

25.10 **No duty to monitor**

The Security Agent shall not be bound to enquire:

25.10.1 whether or not any Default has occurred;

25.10.2 as to the performance, default or any breach by any Party of its obligations under any Finance Document; or

25.10.3 whether any other event specified in any Finance Document has occurred.

25.11 **Exclusion of liability**

25.11.1 Without limiting clause 25.11.2 below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Security Agent, any Receiver or Delegate), none of the Security Agent, any Receiver nor any Delegate will be liable for:

25.11.1.1 any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Transaction Security unless directly caused by its gross negligence or wilful misconduct;

25.11.1.2 exercising or not exercising any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Transaction Security;

25.11.1.3 any shortfall which arises on the enforcement or realisation of the Transaction Security; or

25.11.1.4 without prejudice to the generality of clauses 25.11.1.1 to 25.11.1.3 above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:

25.11.1.4.1 any act, event or circumstance not reasonably within its control; or

25.11.1.4.2 the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

25.11.2 No Party (other than the Security Agent, that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Transaction Security and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this clause subject to clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.

25.11.3 Nothing in this Agreement shall oblige the Security Agent to carry out:

25.11.3.1 any "*know your customer*" or other checks in relation to any person; or

25.11.3.2 any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Finance Party,

on behalf of any Finance Party and each Finance Party confirms to the Security Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Agent.

25.11.4 Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Security Agent, any Receiver or Delegate, any liability of the Security Agent, any Receiver or Delegate arising under or in connection with any Finance Document or the Transaction Security shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Agent, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Agent, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Security Agent, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Agent, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

25.12 **Finance Parties' indemnity to the Security Agent**

25.12.1 Each Lender shall (in its Pro Rata Share), indemnify the Security Agent and every Receiver and every Delegate, within 3 (three) Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct) in acting as Security Agent, Receiver or Delegate under, or exercising any authority conferred under, the Finance Documents (unless the Security Agent, Receiver or Delegate has been reimbursed by the Borrower pursuant to a Finance Document).

25.12.2 Subject to clause 25.12.3 below, the Borrower shall immediately on demand reimburse any Finance Party for any payment that Finance Party makes to the Security Agent pursuant to clause 25.12.1 above.

25.12.3 Clause 25.12.2 above shall not apply to the extent that the indemnity payment in respect of which the Finance Party claims reimbursement relates to a liability of the Security Agent to the Borrower.

25.13 **Resignation of the Security Agent**

25.13.1 The Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the Finance Parties and the Borrower.

25.13.2 Alternatively the Security Agent may resign by giving 30 (thirty) days' notice to the Finance Parties and the Borrower, in which case the Majority Lenders may appoint a successor Security Agent.

25.13.3 If the Majority Lenders have not appointed a successor Security Agent in accordance with clause 25.13.2 above within 20 (twenty) days after notice of resignation was given, the retiring Security Agent (after consultation with the Agent) may appoint a successor Security Agent.

25.13.4 The retiring Security Agent shall, at its own cost, make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Finance Documents. The Borrower shall, within 3 (three) Business Days of demand, reimburse the retiring Security Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.

25.13.5 The Security Agent's resignation notice shall only take effect upon:

25.13.5.1 the appointment of a successor; and

25.13.5.2 the transfer of all the Transaction Security to that successor.

25.13.6 Upon the appointment of a successor, the retiring Security Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this clause 25 and clause 14.4 (*Indemnity to the Security Agent*) (and any Security Agent fees for the account of the retiring Security Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.

25.13.7 The Majority Lenders may, by notice to the Security Agent, require it to resign in accordance with clause 25.13.2 above. In this event, the Security Agent shall resign in accordance with clause 25.13.2 above but the cost referred to in clause 25.13.4 above shall be for the account of the Borrower.

25.14 **Confidentiality**

25.14.1 In acting as trustee for the Finance Parties, the Security Agent shall be regarded as acting through its trustee division which shall be treated as a separate entity from any other of its divisions or departments.

25.14.2 If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.

25.14.3 Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

25.15 **Information from the Finance Parties**

Each Finance Party shall supply the Security Agent with any information that the Security Agent may reasonably specify as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent.

25.16 **Credit appraisal by the Finance Parties**

Without affecting the responsibility of the Borrower for information supplied by them or on their behalf in connection with any Finance Document, each Finance Party confirms to the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

25.16.1 the financial condition, status and nature of the Borrower;

25.16.2 the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;

25.16.3 whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance

Document, the Transaction Security, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;

25.16.4 the adequacy, accuracy or completeness of any information provided by the Security Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and

25.16.5 the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

25.17 **Reliance and engagement letters**

The Security Agent may obtain and rely on any certificate or report from the Borrower's auditor and may enter into any reliance letter or engagement letter relating to that certificate or report on such terms as it may consider appropriate (including, without limitation, restrictions on the auditor's liability and the extent to which that certificate or report may be relied on or disclosed).

25.18 **No responsibility to perfect Transaction Security**

The Security Agent shall not be liable for any failure to:

25.18.1 require the deposit with it of any deed or document certifying, representing or constituting the title of the Borrower to any of the Charged Property;

25.18.2 obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Finance Document or the Transaction Security;

25.18.3 register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any law or regulation or to give notice to any person of the execution of any Finance Document or of the Transaction Security;

25.18.4 take, or to require the Borrower to take, any step to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under any law or regulation; or

25.18.5 require any further assurance in relation to any Security Document.

25.19 **Insurance by Security Agent**

25.19.1 The Security Agent shall not be obliged:

25.19.1.1 to insure any of the Charged Property;

25.19.1.2 to require any other person to maintain any insurance; or

25.19.1.3 to verify any obligation to arrange or maintain insurance contained in any Finance Document,

and the Security Agent 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.

25.19.2 Where the Security Agent 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, unless the Majority Lenders request it to do so in writing and the Security Agent fails to do so within 14 (fourteen) days after receipt of that request.

25.20 **Custodians and nominees**

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any asset of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

25.21 **Delegation by the Security Agent**

25.21.1 Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion vested in it in its capacity as such.

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

25.21.3 Neither the Security Agent, Receiver nor Delegate shall 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.

25.22 **Additional Security Agents**

25.22.1 The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it:

25.22.1.1 if it considers that appointment to be in the interests of the Finance Parties;

25.22.1.2 for the purposes of conforming to any legal requirement, restriction or condition which the Security Agent deems to be relevant; or

25.22.1.3 for obtaining or enforcing any judgment in any jurisdiction,

and the Security Agent shall give prior notice to the Borrower and the Finance Parties of that appointment.

25.22.2 Any person so appointed shall have the rights, powers, authorities and discretions (not exceeding those given to the Security Agent under or in connection with the Finance Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.

25.22.3 The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

25.23 **Acceptance of title**

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that the Borrower may have to any of the Charged Property and shall not be liable for, or bound to require the Borrower to remedy, any defect in its right or title.

25.24 **Winding up of trust**

If the Security Agent, with the approval of the Agent, determines that:

25.24.1 all of the amounts owing by the Borrower under the Finance Documents to which they are a party and all other obligations secured by the Transaction Security Documents have been fully and finally discharged; and

25.24.2 no Finance Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to the Borrower pursuant to the Finance Documents, then:

25.24.2.1 the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Transaction Security Documents; and

25.24.2.2 any Security Agent which has resigned pursuant to clause 25.13 (*Resignation of the Security Agent*) shall release, without recourse or warranty, all of its rights under each Transaction Security Document.

25.25 **Powers supplemental to Trustee Acts**

The rights, powers, authorities and discretions given to the Security Agent under or in connection with the Finance Documents shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by law or regulation or otherwise.

25.26 **Disapplication of Trustee Acts**

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent permitted by law and regulation, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act.

25.27 **Order of Application**

All amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Finance Documents, under clause 25.2 (*Parallel debt (Covenant to pay the Security Agent*)) or in connection with the realisation or enforcement of all or any part of the Transaction Security shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law, in the following order of priority:

25.27.1 in discharging any sums owing to the Security Agent (in its capacity as such) (other than pursuant to clause 25.2 (*Parallel debt (Covenant to pay the Security Agent*)), any Receiver or any Delegate;

25.27.2 in payment or distribution to the Agent, on its behalf, for application towards the discharge of all sums due and payable by the Borrower under any of the Finance Documents in accordance with clause 28.5 (*Partial payments*);

25.27.3 if the Borrower is not under any further actual or contingent liability under any Finance Document, in payment or distribution to any person to whom the Security Agent is obliged to pay or distribute in priority to the Borrower; and

25.27.4 the balance, if any, in payment or distribution to the Borrower.

25.28 **Releases**

Upon a disposal of any of the Charged Property pursuant to the enforcement of the Transaction Security by a Receiver or the Security Agent, the Security Agent is irrevocably authorised (at the cost of the Borrower) to release, without recourse or warranty, that property from the Transaction Security and to execute any release of the Transaction Security or other claim over that asset and to issue any certificates of non-crystallisation of floating charges that may be required or desirable.

25.29 **Application and consideration**

In consideration for the covenants given to the Security Agent by the Borrower in relation to clause 25.2 (*Parallel debt (Covenant to pay the Security Agent*)), the Security Agent agrees with the Borrower to apply all moneys from time to time paid by the Borrower to the Security Agent in accordance with the foregoing provisions of this clause 25.

26 CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of any Finance Document will:

26.1 interfere with the right of any Finance Party or the Security Agent to arrange its affairs (Tax or otherwise) in whatever manner it thinks fit;

26.2 oblige any Finance Party or the Security Agent to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or

26.3 subject to clause 12, oblige any Finance Party or the Security Agent to disclose any information relating to its affairs (Tax or otherwise) or any computations in respect of Tax.

27 SHARING AMONG THE FINANCE PARTIES

27.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from the Borrower other than in accordance with clause 28 (*Payment Mechanics*) and applies that amount to a payment due under a Finance Document then:

27.1.1 the Recovering Finance Party must, within 3 (three) Business Days, notify details of the receipt or recovery to the Agent;

27.1.2 the Agent must determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have received had the receipt or recovery been received or made by the Agent and distributed in accordance with clause 28 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and

27.1.3 the Recovering Finance Party must pay to the Agent an amount (the "**Sharing Payment**") equal to that receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with clause 28.5 (*Partial payments*).

27.2 Redistribution of payments

The Agent must treat the Sharing Payment as if it had been paid by the Borrower and distribute it between the Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with clause 28.5 (*Partial payments*) towards the obligations of the Borrower to the Sharing Finance Parties.

27.3 Recovering Finance Party's rights

27.3.1 On a distribution by the Agent under clause 27.2 (*Redistribution of payments*) the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in that redistribution.

27.3.2 If and to the extent that the Recovering Finance Party is not able to rely on its rights under clause 27.3.1 above, the Borrower will owe the Recovering Finance Party a debt equal to the Sharing Payment which is immediately due and payable.

27.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

27.4.1 each Sharing Finance Party must, on request of the Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the "**Redistributed Amount**");

27.4.2 at the time of the request by the Agent under clause 27.4.1 above, the Sharing Finance Party will be subrogated to the rights of the Recovering Finance Party in respect of the relevant Redistributed Amount; and

27.4.3 if and to the extent that the Sharing Finance Party is not able to rely on its rights under clause 27.4.2 above as between the Borrower and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by the Borrower.

27.5 **Exceptions**

27.5.1 This clause will not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this clause, have a valid and enforceable claim against the Borrower.

27.5.2 A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

27.5.2.1 it notified that other Finance Party of the legal or arbitration proceedings; and

27.5.2.2 that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

28 **PAYMENT MECHANICS**

28.1 **Payments to the Agent**

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

28.1.2 Unless a Finance Document specifies that payments under it are to be made in another manner, each payment must be made to such account in US Dollars and with such bank as the Agent specifies.

28.2 **Distributions by the Agent**

Each payment received by the Agent under the Finance Documents for another Party must, except as provided in this clause, be paid by the Agent to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office) as soon as reasonably practicable after receipt, to such account in US Dollars and with such bank as that Party may notify to the Agent by not less than 5 (five) Business Days' notice.

28.3 **Distributions to the Borrower**

The Agent may (with the consent of the Borrower or in accordance with clause 29 (*Set-Off*)) apply any amount received by it for the Borrower in or towards payment (as soon as reasonably practicable after receipt) of any amount due from the Borrower under the Finance Documents. For this purpose the Agent may apply the received sum in or towards the purchase of any amount of any currency to be paid.

28.4 **Clawback and pre-funding**

28.4.1 Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

28.4.2 Unless clause 28.4.3 below applies, if the Agent pays an amount to another Party and it proves to be the case that the Agent has not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent must on demand refund that amount to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

28.4.3 If the Agent is willing to make available amounts for the account of the Borrower before receiving funds from the Lenders, then if and to the extent that the Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrower:

28.4.3.1 the Borrower must on demand refund it to the Agent; and

28.4.3.2 the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower must on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

28.5 **Partial payments**

28.5.1 If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under the Finance Documents, the Agent must apply that payment towards the obligations of the Borrower under the Finance Documents in the following order:

28.5.1.1 **firstly**, in or towards payment *pro rata* of any unpaid amount owing to the Administrative Parties under the Finance Documents;

28.5.1.2 **secondly**, in or towards payment *pro rata* of any accrued interest, fees or commission due but unpaid under this Agreement;

28.5.1.3 **thirdly**, in or towards payment *pro rata* of any principal sum due but unpaid under this Agreement; and

28.5.1.4 **fourthly**, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.

28.5.2 The Agent must, if so directed by the Majority Lenders, vary the order set out in clauses 28.5.1.2 to 28.5.1.4 above.

28.5.3 Clauses 28.5.1 and 28.5.2 above will override any appropriation made by the Borrower.

28.6 **No set-off by the Borrower**

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

28.7 **Business Days**

28.7.1 Any payment under the Finance Documents which is due to be made on a day that is not a Business Day will be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

28.7.2 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.

28.8 **Currency of account**

28.8.1 Unless a Finance Document specifies otherwise, US Dollars is the currency of account and payment for any sum due from the Borrower under any Finance Document.

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

28.8.3 Any amount expressed in a Finance Document to be payable in a currency other than US Dollars will be paid in that other currency.

28.9 **Change of currency**

28.9.1 Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

28.9.1.1 any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country will be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrower); and

28.9.1.2 any translation from one currency or currency unit to another will be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent.

28.9.2 If a change in any currency of a country occurs (including where there is more than one currency or currency unit recognised at the same time as the lawful currency of a country), the Finance Documents will, to the extent the Agent (after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise reflect the change in currency.

28.10 **Disruption to payment systems**

28.10.1 If the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Borrower that a Disruption Event has occurred:

28.10.1.1 the Agent may, and must if requested to do so by the Borrower, consult with the Borrower for a period of not more than 5 (five) days with a view to agreeing with the Borrower such changes to the operation or administration of each Facility as the Agent may decide are necessary in the circumstances;

28.10.1.2 the Agent is not obliged to consult with the Borrower in relation to any changes if, in its opinion, it is not practicable to do so in the circumstances and, in any event, is not obliged to agree to any changes; and

28.10.1.3 the Agent may consult with the Finance Parties in relation to any changes but is not obliged to do so if, in its opinion, it is not practicable to do so in the circumstances.

28.10.2 Any agreement between the Agent and the Borrower will (whether or not it is finally determined that a Disruption Event has occurred) be binding on the Parties as an amendment to (or, as the case may be, a waiver of) the terms of the Finance Documents notwithstanding the provisions of clause 34 (*Amendments And Waivers*).

28.10.3 Notwithstanding any other provision of this Agreement, the Agent will not be liable (whether in contract, tort or otherwise and whether caused by the Agent's negligence, gross negligence or any other category of liability whatsoever, but not including any claim based on the fraud of the Agent) for any cost, loss or liability whatsoever any person incurs or any diminution in value arising as a result of the Agent taking or not taking any action under or in connection with this clause 28.10 (*Disruption to payment systems*).

28.10.4 The Agent must notify the Finance Parties promptly of all changes agreed pursuant to clause 28.10.2 above.

28.11 **Timing of payments**

If a Finance Document does not provide for when a particular payment is due, that payment will be due within 5 (five) Business Days of demand by the person to whom the payment is to be made (or, if that person is a Finance Party, the Agent).

29 SET-OFF

A Finance Party may set off any matured obligation due from the Borrower under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If the right of set-off is exercised by any Finance Party, the Finance Party shall promptly notify the Borrower of the set-off that has been made.

30 NOTICES

30.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents must be made in writing and, unless otherwise stated, may be made by email or letter.

30.2 Addresses

30.2.1 Except as provided below, the contact details of each Party for any communication to be made or delivered under or in connection with the Finance Documents are those notified by that Party for this purpose to the Agent on or before the date it becomes a Party.

30.2.2 The contact details of the Borrower for this purpose are:

Address: Royal Bank Plaza, South Tower, 200 Bay St. Suite 1301, Toronto, ON M5J 2J2, Canada

Email: *[contact information has been redacted]*

Attention: *[contact information has been redacted]*

30.2.3 The contact details of the Agent, Arranger and Security Agent for these purposes are:

Address: 1 Merchant Place, Cnr of Fredman Drive and Rivonia Road, Sandton, 2196, South Africa

Email: *[contact information has been redacted]*

Attention: *[contact information has been redacted]*

30.2.4 The contact details of the Original Lender for these purposes are those set out opposite its name in Part II of **Schedule 1**.

30.2.5 Any Party may change its contact details by giving 5 (five) Business Days' notice to the Agent or (in the case of the Agent) to the other Parties.

30.3 Delivery

30.3.1 Except as provided below, any communication made or delivered by one Party to another under or in connection with the Finance Documents will only be effective (i) if by way of letter, when it has been left at the relevant address or sent by registered prepaid courier, 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; and (ii) if by email, when received by the recipient in legible form.

30.3.2 Any communication to be made or delivered to the Agent or the Security Agent will be effective only when actually received by the Agent or Security Agent.

30.3.3 All communications from or to the Borrower must be sent through the Agent.

30.3.4 Any communication which would otherwise become effective on a non-working day or after business hours in the place of receipt will be deemed only to become effective on the next working day in that place.

30.4 Notification of address and email address

Promptly on receipt of notification of a Party's contact details or a change of a Party's contact details, the Agent must notify the other Parties.

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 a Finance Party are *prima facie* evidence of the matters to which they relate.

31.2 Certificates and determinations

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

31.3 Day count conventions and interest calculation

31.3.1 Any interest, commission or fee accruing under a Finance Document will accrue from day to day and the amount of any such interest, commission or fee is calculated:

31.3.1.1 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 Market differs, in accordance with that market practice); and

31.3.1.2 subject to paragraph 31.3.2 below, without rounding.

31.3.2 The aggregate amount of any accrued interest, commission or fee which is, or becomes, payable by the Borrower under a Finance Document shall be rounded to 2 decimal places.

32 PARTIAL INVALIDITY

If, at any time, any term of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, that will not affect:

32.1 the legality, validity or enforceability in that jurisdiction of any other term of any Finance Document; or

32.2 the legality, validity or enforceability in other jurisdictions of that or any other term of any Finance Document.

33 REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under a Finance Document will operate as a waiver, nor will any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law and may be waived only in writing and specifically.

34 AMENDMENTS AND WAIVERS

34.1 Required consents

34.1.1 Except as provided in this clause, any term of or any right or remedy under a Finance Document may be amended or waived only with the consent of the Borrower and the Majority Lenders and any such amendment or waiver will be binding on all the Parties.

34.1.2 The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this clause. The Agent must notify the other Parties promptly of any amendment or waiver effected by it under this clause.

34.2 Split voting

A Lender may by notice to the Agent divide any of its Loans or Commitments into separate amounts to reflect participations or similar arrangements and for the purposes solely of counting towards any decision or vote by that Lender require those separate amounts to be counted separately in that decision or vote for the purpose of this Agreement.

34.3 All Lender matters

Subject to clause 34.5 (*Changes to reference rates*), an amendment or waiver of any term of or any right or remedy under a Finance Document that has the effect of changing or which relates to:

34.3.1 the definition of "**Majority Lenders**" in clause 1.1 (*Definitions*);

34.3.2 an extension of the date of payment of any amount to or for the account of a Lender under the Finance Documents;

34.3.3 a reduction in the Margin or a reduction in the amount or change in currency of any payment of principal, interest, fee or other amount payable to or for the account of a Lender under the Finance Documents;

34.3.4 an increase in any Commitment or the Total Commitments or an extension of any Availability Period or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably under the Facility;

34.3.5 a change to the Borrower;

34.3.6 (other than as expressly permitted by the provisions of any Finance Document) the nature or scope of:

34.3.6.1 the Charged Property; or

34.3.6.2 the manner in which the proceeds of enforcement of the Transaction Security are distributed

(except in the case of clauses 34.3.6.1 and 34.3.6.2 above, insofar as it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document);

34.3.7 the release of any Transaction Security unless permitted under this Agreement or any other Finance Document or relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is permitted under this Agreement or any other Finance Document;

34.3.8 any provision of a Finance Document which expressly requires the consent of all the Lenders; and

34.3.9 clause 2.2 (Finance Parties' rights and obligations), clause 22 (Changes To The Lenders), clause 27 (Sharing Among The Finance Parties) or this clause 34,

may only be made with the prior consent of all the Lenders.

34.4 Other exceptions

34.4.1 An amendment or waiver which relates to the rights or obligations of an Administrative Party may only be made with the consent of that Administrative Party.

34.4.2 Notwithstanding clause 34.3 (*All Lender matters*), a Fee Letter may be amended or waived with the agreement of the Administrative Party that is a party to that Fee Letter and the Borrower.

34.5 **Changes to reference rates**

34.5.1 Subject to clause 34.4 (*Other exceptions*), if a Published Rate Replacement Event has occurred in relation to any Published Rate any amendment or waiver which relates to:

34.5.1.1 providing for the use of a Replacement Reference Rate; and

34.5.1.2

34.5.1.2.1 aligning any provision of any Finance Document to the use of that Replacement Reference Rate;

34.5.1.2.2 enabling that Replacement Reference Rate to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Reference Rate to be used for the purposes of this Agreement);

34.5.1.2.3 implementing market conventions applicable to that Replacement Reference Rate;

34.5.1.2.4 providing for appropriate fallback (and market disruption) provisions for that Replacement Reference Rate; or

34.5.1.2.5 adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Reference Rate (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Borrower.

34.5.2 If any Lender fails to respond to a request for an amendment or waiver described in paragraph 34.5.1 above within 15 (fifteen) Business Days (or such longer time period in relation to any request which the Borrower and the Agent may agree) of that request being made:

34.5.2.1 its Commitment(s) shall not be included for the purpose of calculating the Total Commitments under the Facility when ascertaining whether any relevant percentage of Total Commitments has been obtained to approve that request; and

34.5.2.2 its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

34.5.3 In this clause 34.5.3:

34.5.3.1 "**Published Rate**" means:

34.5.3.1.1 SOFR;

34.5.3.1.2 the Term SOFR for any Quoted Tenor; or

34.5.3.1.3 the 3-Month Treasury Bill Rate.

34.5.3.2 **"Published Rate Replacement Event**" means, in relation to a Published Rate:

34.5.3.2.1 the methodology, formula or other means of determining that Published Rate has, in the opinion of the Majority Lenders and the Borrower, materially changed;

34.5.3.2.2

(A)

(1) the administrator of that Published Rate or its supervisor publicly announces that such administrator is insolvent; or

(2) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Published Rate is insolvent,

provided that, in each case, at that time, there is no successor administrator to continue to provide that Published Rate;

(B) the administrator of that Published Rate publicly announces that it has ceased or will cease to provide that Published Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Published Rate;

(C) the supervisor of the administrator of that Published Rate publicly announces that such Published Rate has been or will be permanently or indefinitely discontinued; or

(D) the administrator of that Published Rate or its supervisor announces that that Published Rate may no longer be used; or

34.5.3.2.3 the administrator of that Published Rate (or the administrator of an interest rate which is a constituent element of that Published Rate) determines that that Published Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Borrower) temporary; or

34.5.3.2.4 in the opinion of the Majority Lenders and the Borrower, that Published Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

34.5.3.3 "**Quoted Tenor**" means, in relation to Term SOFR, any period for which that rate is customarily displayed on the relevant page or screen of an information service.

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

34.5.3.5 "**Replacement Reference Rate**" means a reference rate which is:

34.5.3.5.1 formally designated, nominated or recommended as the replacement for a Published Rate by:

(A) the administrator of that Published Rate (provided that the market or economic reality that such reference rate measures is the same as that measured by that Published Rate); or

(B) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the "Replacement Reference Rate" will be the replacement under paragraph (B) above;

34.5.3.5.2 in the opinion of the Majority Lenders and the Borrower, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to a Published Rate; or

34.5.3.5.3 in the opinion of the Majority Lenders and the Borrower, an appropriate successor to a Published Rate.

35 CONFIDENTIAL INFORMATION

35.1 Confidentiality

35.1.1 Each Finance Party must keep all Confidential Information confidential and not disclose it to any person, save to the extent permitted by clause 35.2 (*Disclosure of Confidential Information*) and clause 35.3 (*Disclosure to numbering service providers*).

35.1.2 Each Finance Party must 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

Any Finance Party may disclose:

35.2.1 to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, insurers, insurance brokers, auditors, partners and Representatives such Confidential Information as that Finance Party considers appropriate if any person to whom the Confidential Information is to be given pursuant to this clause 35.2.1 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 is 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;

35.2.2 to any person:

35.2.2.1 to (or through) whom 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 (or which may potentially succeed) it as an Administrative Party and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;

35.2.2.2 with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or the Borrower and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;

35.2.2.3 appointed by any Finance Party or by a person to whom clause 35.2.2.1 or 35.2.2.2 above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under clause 24.14.3 (*Relationship with the Lenders*));

35.2.2.4 who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in clauses 35.2.2.1 or 35.2.2.2 above;

35.2.2.5 to whom information is required or requested to be disclosed by any court or tribunal of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange, listing authority or similar body, or pursuant to any applicable law or regulation;

35.2.2.6 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;

35.2.2.7 to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security Interests (or may do so) pursuant to clause 22.7 (*Security over Lenders' rights*);

35.2.2.8 who is a Party; or

35.2.2.9 with the consent of the Borrower,

in each case, such Confidential Information as that Finance Party considers appropriate if:

35.2.2.10 in relation to clauses 35.2.2.1, 35.2.2.2 and 35.2.2.3 above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there is no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;

35.2.2.11 in relation to clause 35.2.2.4 above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;

35.2.2.12 in relation to clauses 35.2.2.5, 35.2.2.6 and 35.2.2.7 above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there is no requirement to inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances; and

35.2.3 to any person appointed by that Finance Party or by a person to whom clause 35.2.2.1 or 35.2.2.2 above applies to provide administration or settlement services in respect of one or more of the Finance Documents including, without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this clause 35.2.3 if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Finance Party; and

35.2.4 to any rating agency or direct or indirect provider of credit protection (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 Borrower 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.

35.3 **Disclosure to numbering service providers**

35.3.1 Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, a Facility and/or the Borrower the following information:

35.3.1.1 the name of the Borrower;

35.3.1.2 the country of domicile of the Borrower;

35.3.1.3 the place of incorporation of the Borrower;

35.3.1.4 the Signature Date;

35.3.1.5 the governing law of this Agreement;

35.3.1.6 the names of the Agent and the Arranger;

35.3.1.7 the date of each amendment and restatement of this Agreement;

35.3.1.8 the amount and name of each Facility (and any tranches);

35.3.1.9 the amount of the Total Commitments;

35.3.1.10 the currency of each Facility;

35.3.1.11 the type of each Facility;

35.3.1.12 the ranking of each Facility;

35.3.1.13 the Final Repayment Date;

35.3.1.14 changes to any of the information previously supplied pursuant to clauses 35.3.1.1 to 35.3.1.13 above; and

35.3.1.15 such other information agreed between such Finance Party and the Borrower,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

35.3.2 The Parties acknowledge and agree that each identification number assigned to this Agreement, each Facility and/or the Borrower by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.

35.3.3 The Borrower represents that none of the information set out in clauses 35.3.1.1 to 35.3.1.15 above is unpublished price-sensitive information.

35.3.4 The Agent must notify the Borrower and the other Finance Parties promptly of:

35.3.4.1 the name of any numbering service provider appointed by the Agent in respect of this Agreement, each Facility and/or the Borrower; and

35.3.4.2 the number or, as the case may be, numbers assigned to this Agreement, each Facility and/or the Borrower by such numbering service provider.

35.4 **Entire agreement**

This clause:

35.4.1 constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information; and

35.4.2 supersedes any previous agreement, whether express or implied, regarding Confidential Information.

35.5 **Inside information**

35.5.1 Each Finance Party acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

35.6 **Notification of disclosure**

Each Finance Party agrees (to the extent permitted by law and regulation) to inform the Borrower:

35.6.1 of the circumstances of any disclosure of Confidential Information made pursuant to clause 35.2.2.5 except where such disclosure is made to any of the persons referred to in that clause during the ordinary course of its supervisory or regulatory function; and

35.6.2 on becoming aware that Confidential Information has been disclosed in breach of this clause.

35.7 **Continuing obligations**

The obligations in this clause are continuing and, in particular, will survive and remain binding on each Finance Party for a period of 12 (twelve) months from the earlier of:

35.7.1 the date on which all amounts payable by the Borrower under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and

35.7.2 the date on which such Finance Party otherwise ceases to be a Finance Party.

36 **CONFIDENTIALITY OF FUNDING RATES**

36.1 **Confidentiality and disclosure**

36.1.1 The Agent and the Borrower agree to keep each Funding Rate confidential and not to disclose it to any person, save to the extent permitted by clauses 36.1.2 and 36.1.3 below.

36.1.2 The Agent may disclose:

36.1.2.1 any Funding Rate to the Borrower pursuant to clause 8.3); and

36.1.2.2 any Funding Rate to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Agent and the relevant Lender.

36.1.3 The Agent and the Borrower may disclose any Funding Rate to:

36.1.3.1 any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate is to be given pursuant to this clause 36.1.3.1 is informed in writing of its confidential nature and that it may be price-sensitive information except that there is no requirement to so inform the recipient if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or is otherwise bound by requirements of confidentiality in relation to it;

36.1.3.2 any person 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 if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there is no requirement to so inform the recipient if, in the opinion of the Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances;

36.1.3.3 any person 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 if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there is no requirement to so inform the recipient if, in the opinion of the Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances; and

36.1.3.4 any person with the consent of the relevant Lender.

36.2 **Related obligations**

36.2.1 The Agent and the Borrower acknowledge that each Funding Rate is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Agent and the Borrower undertake not to use any Funding Rate for any unlawful purpose.

36.2.2 The Agent and the Borrower agree (to the extent permitted by law and regulation) to inform the relevant Lender:

36.2.2.1 of the circumstances of any disclosure made pursuant to clause 36.1.3.2 except where such disclosure is made to any of the persons referred to in that clause during the ordinary course of its supervisory or regulatory function; and

36.2.2.2 on becoming aware that any information has been disclosed in breach of this clause.

36.3 **No Event of Default**

No Event of Default will occur under clause 21.4 (*Other obligations*) by reason only of the Borrower's failure to comply with this clause 36.

37 **COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

38 **GOVERNING LAW**

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

39 **ENFORCEMENT**

39.1 **Jurisdiction of English courts**

39.1.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a "**Dispute**").

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

39.1.3 Notwithstanding clause 39.1.1 above, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties 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, the Borrower:

39.2.1.1 irrevocably appoints Helios Investment Partners LLP, currently of 2nd Floor, 12 Charles II Street, St. James's, London SW1Y 4QU, United Kingdom as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and

39.2.1.2 agrees that failure by an agent for service of process to notify the Borrower 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 Borrower must immediately (and in any event within 5 (five) days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may appoint another agent for this purpose.

39.3 **Waiver of immunity**

The Borrower irrevocably and unconditionally:

39.3.1 waives all rights of immunity to which it or its assets may be entitled;

39.3.2 agrees not to claim any immunity from:

39.3.2.1 proceedings brought in any jurisdiction against it or its assets by a Finance Party in relation to a Dispute;

39.3.2.2 recognition or enforcement in any jurisdiction of any judgment or order given in relation to a Dispute; or

39.3.2.3 execution, attachment or other legal process in any jurisdiction against it or its assets in relation to a Dispute,

and, in each case, to ensure that no such claim is made on its behalf;

39.3.3 submits to the jurisdiction of any court in relation to the recognition of any judgment or order given in relation to a Dispute; and

39.3.4 consents generally to the enforcement in any jurisdiction of any judgment or order given in relation to a Dispute and the giving of any relief in any jurisdiction, whether before or after final judgment, including, without limitation:

39.3.4.1 relief by way of interim or final injunction or order for specific performance or recovery of any assets; and

39.3.4.2 execution, attachment or other legal process against any assets (irrespective of their use or intended use).

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

SCHEDULE 1
ORIGINAL PARTIES

PART I

NO.	**NAME OF BORROWER**	**JURISDICTION OF INCORPORATION**	**CORPORATION NO.**
1	Helios Fairfax Partners Corporation (formerly known as Fairfax Africa Holdings Corporation)	Canada	*[private company information has been redacted]*

PART II
THE ORIGINAL LENDER

No.	**Original Lender** ***column 2***	**Address for Purposes of clause 30 (*Notices*)** ***column 3***	**Commitment** ***column 4***
1.	FirstRand Bank Limited (acting through its Rand Merchant Bank division)	Address: 1 Merchant Place Cnr Fredman Drive and Rivonia Road Sandton 2196 South Africa Email: *[contact information has been redacted]* Attention: *[contact information has been redacted]*	USD70 000 000
			USD70 000 000

SCHEDULE 2
CONDITIONS PRECEDENT

These conditions precedent were satisfied or waived on or about the Signature Date, and are only retained here for historical reference

1 CORPORATE DOCUMENTATION

1.1 A copy of the constitutional documents of each Security Provider.

1.2 A copy of a resolution of the board of directors of each Security Provider:

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 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; and

1.2.3 authorising a specified person or persons, on its behalf, to sign and/or despatch 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.

1.3 If required under any Security Provider's constitutional documents or under applicable law, a copy of a resolution signed by all the holders of the issued shares in that Security Provider, approving the terms of, and the transactions contemplated by, the Finance Documents to which that Security Provider is a party.

1.4 A specimen of the signature of each person authorised by the resolutions referred to in paragraph 1.2 above.

1.5 A certificate of an authorised signatory of each Security Provider certifying, as at a date no earlier than the Closing Date, that:

1.5.1 borrowing, guaranteeing, securing and indemnifying the Total Commitments would not cause any borrowing, guaranteeing, security, indemnity or similar limit binding on that Security Provider to be exceeded;

1.5.2 each copy document relating to that Security Provider specified in clauses 1.1, 1.2, 1.3, and 1.4 of this Schedule 2 is correct, complete and in full force and effect;

1.5.3 no Default and/or Material Adverse Effect has occurred and is continuing nor is any Default and/or Material Adverse Effect likely to occur;

1.5.4 there has been no material deterioration in the financial position of the Borrower since the date of the Original Financial Statements and the Signature Date; and

1.5.5 the representations and warranties of that Security Provider in the Finance Documents to which it is party are true and correct.

2 FINANCE DOCUMENTS

A duly executed copy of each of the following Finance Documents duly entered into between the parties thereto and evidence to the satisfaction of the Agent that each such Finance Document has become unconditional in accordance with its terms (save for any condition contained therein which may require this Agreement to have become unconditional):

2.1 this Agreement;

2.2 each Fee Letter dated on or about the date hereof; and

2.3 each Transaction Security Document set out in **Schedule 8** (*Transaction Security Documents*).

3 SECURITY PERFECTION

3.1 Each notice required to be served on any person under any Transaction Security Document has been served, and the relevant corresponding acknowledgment of the same has been received if required by that Transaction Security Document.

3.2 In relation to the South African law governed share security referred to in clause 1 of **Schedule 8** (*Transaction Security Documents*), all documents referred to therein required for the perfection of that Transaction Security have been executed, delivered and received.

3.3 In relation to the Mauritian law governed share security referred to in clause 2 of **Schedule 8** (*Transaction Security Documents*), all documents referred to therein required for the perfection of that Transaction Security have been executed, delivered and received.

3.4 The Agent is satisfied that each Transaction Security Document affords the Security Agent or the Lenders (as applicable) a first ranking Security Interest over the assets and/or interests covered by such security.

4 LEGAL OPINIONS

The following legal opinions:

4.1 an English law legal opinion of ENSafrica, legal advisers of the Finance Parties;

4.2 a South African law legal opinion of ENSafrica, as to, *inter alia*, the legality, validity and enforceability of the South African law governed pledge and cession by the Borrower over its shares in and claims against HFP South Africa Investments Proprietary Limited;

4.3 a Canadian law legal opinion of McCarthy Tetrault, legal advisers of the Borrower as to, *inter alia*, the power, capacity and authority of the Borrower to enter into the Finance Documents to which it is party as well as the enforceability of such Finance Documents to which the Borrower is a Party and governed by Canadian Law;

4.4 a Mauritius law legal opinion of ENSafrica (Mauritius), as to, *inter alia*, the legality, validity and enforceability of the Mauritian law governed fixed and floating charges to which HFP Investments and the Borrower are party; and

4.5 a Mauritius law legal opinion of Bowmans (Mauritius), as to, *inter alia*, the power, capacity and authority of HFP Investments to enter into the Mauritian law governed fixed and floating charges to which HFP Investments is party,

each substantially in the form distributed to the Agent before signing this Agreement, and addressed to the Finance Parties at the date of that opinion.

5 OTHER DOCUMENTS AND EVIDENCE

5.1 A copy of any other Authorisation or other document, opinion or assurance which the Agent considers to be necessary or desirable (if it has notified the Borrower 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.

5.2 Such documentation and other evidence relating to the Borrower as is requested by the Lenders in order for each Lender to carry out and be satisfied it has complied with all necessary "*know your customer*" or similar identification procedures under applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

5.3 A copy of the Original Financial Statements.

5.4 Evidence that all fees, costs and expenses then due and payable from the Borrower under this Agreement have been or will be paid by the first Utilisation Date.

5.5 A copy of the Group Structure Chart.

5.6 A copy of the appointment letter for the Borrower' process agent and evidence of the fees of the process agent duly paid.

5.7 The Arranger is satisfied with the outcome of a due diligence investigation conducted by it in connection with the business and affairs of the Material Group.

5.8 The Original Lender has obtained all requisite credit committee and other internal approvals in connection with its participation in the Facility.

5.9 A duly executed copy of the Release Share Pledge Agreement pursuant to which the security held by HSBC Bank Canada over the shares in HFP Investments has been released and any related filing or noting of such security in the books of HFP Investments or in any public or other record has been removed, including delivery from HSBC of an executed payout and discharge letter governed by Ontario law.

5.10 A duly executed copy of the Release Guarantee Agreement pursuant to which the guarantee provided by HFP Investments to HSBC Bank Canada has been cancelled and released and any related filing or noting of such security in the books of HFP Investments or in any public or other record has been removed.

5.11 A duly executed copy of the Release and Cancellation Letter.

SCHEDULE 3
FORM OF UTILISATION REQUEST

To: **FirstRand Bank Limited** (acting through its Rand Merchant Bank division) as Agent

From: **Helios Fairfax Partners Corporation** (formerly known as Fairfax Africa Holdings Corporation) as Borrower

Date: [ ]

Helios Fairfax Partners Corporation – USD70 000 000 Senior Secured Revolving Credit Facility Agreement dated [ ] 2022 (the "Agreement")

1 We refer to the Agreement. This is a Utilisation Request. Terms defined in the 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 Amount: USD [ ] or, if less, the Available Facility.

3 We confirm that each condition precedent under the Agreement which is required to be satisfied on the date of this Utilisation Request is satisfied.

4 The proceeds of this Loan should be [credited to [account]].

5 This Utilisation Request is irrevocable.

By:

Helios Fairfax Partners Corporation
(formerly known as Fairfax Africa Holdings Corporation)

SCHEDULE 4
FORM OF TRANSFER CERTIFICATE

To: **FirstRand Bank Limited** (acting through its Rand Merchant Bank division) as Agent and **FirstRand Bank Limited** (acting through its Rand Merchant Bank division) as Security Agent

From: [EXISTING LENDER] (the "**Existing Lender**") and [NEW LENDER] (the "**New Lender**")

Date: [ ]

Helios Fairfax Partners Corporation – USD70 000 000 Senior Secured Revolving Credit Facility Agreement dated [ ] 2022 (the "Agreement")

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.

1 The Existing Lender transfers by novation to the New Lender the Existing Lender's rights and obligations referred to in the Schedule below in accordance with the terms of the Agreement.

2 The proposed Transfer Date is [ ].

3 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations in respect of this Transfer Certificate contained in the Agreement.

4 The administrative details of the New Lender for the purposes of the Agreement are set out in the Schedule.

5 This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

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

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

THE SCHEDULE

Rights and obligations to be transferred by novation
[insert relevant details, including applicable Commitment (or part)]

Administrative details of the New Lender
[insert details of Facility Office, address for notices and payment details etc.]

[EXISTING LENDER]	**[NEW LENDER]**
By:	By:

This Agreement is accepted as a Transfer Certificate for the purposes of the Senior Secured Revolving Credit Facility Agreement by the Agent and the Transfer Date is confirmed as [●].

FirstRand Bank Limited (acting through its Rand Merchant Bank division)

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

By:

FirstRand Bank Limited (acting through its Rand Merchant Bank division)

as Security Agent for and on behalf of
each of the parties to the Agreement
(other than the Existing Lender and
the New Lender)

By:

SCHEDULE 5
FORM OF ASSIGNMENT AGREEMENT

To: **FirstRand Bank Limited** (acting through its Rand Merchant Bank division) as Agent, **FirstRand Bank Limited** (acting through its Rand Merchant Bank division) as Security Agent and the Borrower

From: [EXISTING LENDER] (the "**Existing Lender**") and [NEW LENDER] (the "**New Lender**")

Date: [ ]

Helios Fairfax Partners Corporation – USD70 000 000 Senior Secured Revolving Credit Facility Agreement dated [ ] 2022 (the "Agreement")

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.

1 In accordance with the terms of the Agreement:

1.1 the Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender specified in the Schedule;

1.2 to the extent the obligations referred to in paragraph 1.3 below are effectively assumed by the New Lender, the Existing Lender is released from its obligations under the Agreement specified in the Schedule;

1.3 the New Lender assumes obligations equivalent to those obligations of the Existing Lender under the Agreement specified in the Schedule; and

1.4 the New Lender becomes a Lender under the Agreement and is bound by the terms of the Agreement as a Lender.

2 The proposed Transfer Date is [ ].

3 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations in respect of this Assignment Agreement contained in the Agreement.

4 The administrative details of the New Lender for the purposes of the Agreement are set out in the Schedule.

5 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 Agreement.

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

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

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

THE SCHEDULE

Rights and obligations to be transferred by assignment, assumption and release
[insert relevant details, including applicable Commitment (or part)]

Administrative details of the New Lender
[insert details of Facility Office, address for notices and payment details etc.]

[EXISTING LENDER]	**[NEW LENDER]**
By:	By:

This Agreement is accepted as an Assignment Agreement for the purposes of the Senior Secured Revolving Credit Facility Agreement by the Agent and the Transfer Date is confirmed as [●].

FirstRand Bank Limited (acting through its Rand Merchant Bank division)

as Agent, for and on behalf of
each of the parties to the Agreement
(other than the Existing Lender and
the New Lender)

By:

FirstRand Bank Limited (acting through its Rand Merchant Bank division)

as Security Agent, for and on behalf of
each of the parties to the Agreement
(other than the Existing Lender and
the New Lender)

By:

SCHEDULE 6
FORM OF COMPLIANCE CERTIFICATE

To: **FirstRand Bank Limited** (acting through its Rand Merchant Bank division) as Agent

From: **Helios Fairfax Partners Corporation** (formerly known as Fairfax Africa Holdings Corporation)

Date: [ ]

Helios Fairfax Partners Corporation – USD70 000 000 Senior Secured Revolving Credit Facility Agreement dated [ ] 2022 (the "Agreement")

1 We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2 We confirm that as at relevant testing date:

	RATIO	AS CALCULATED	COVENANT LEVEL	COMPLIANCE [Y / N]
(a)	Asset Cover Ratio	[•]	≥5x	[•]
(b)	Asset Cover Ratio (Helios Seven Rivers)	[•]	≥0.35x	[•]

3 We set out below calculations establishing the figures in paragraph 2 above:

[ ].

4 We confirm that as at the relevant testing date [no Default is continuing]/[the following Default[s] [is/are] continuing and the following steps are being taken to remedy [it/them]:

[ ]].]

5 We confirm that as at the relevant testing date the following members of the Group are Material Subsidiaries:

[ ]].]

Helios Fairfax Partners Corporation

(formerly known as Fairfax Africa Holdings Corporation)

By:

SCHEDULE 7
TIMETABLES

Delivery of a duly completed Utilisation Request (Clause 5.1 (*Delivery of a Utilisation Request*))	U-5 9.30 a.m.
Agent notifies the Lenders of the Loan in accordance with Clause 5.4 (*Lenders' participation*)	U-5 Noon
Reference Rate is fixed	Quotation Day as of 11am

"U" = date of utilisation or, if applicable in the case of a Loan that has already been borrowed, the first day of the relevant Interest Period for that Loan.

"U-X" = Business Days prior to date of utilisation.

SCHEDULE 8
TRANSACTION SECURITY DOCUMENTS

The Borrower shall enter into (and shall procure the entry into by the other Security Provider of) the following security agreements in favour of the Security Agent and/or the Finance Parties (as applicable):

1 a South African law governed pledge and cession *in securitatem debiti* agreement in terms of which the Borrower pledges and cedes in security to the Security Agent all of its right, title and interest in and to the securities held by it in the capital of, and claims against, HFP South Africa Investments;

2 a Mauritian law governed fixed and floating charge in terms of which the Borrower charges in security in favour of the Security Agent all of its right, title and interest in and to its shares in, and claims against, HFP Investments;

3 a Mauritian law governed floating charge in terms of which HFP Investments charges all of its right, title and interest in and to all of its bank accounts (and all monies standing to the credit thereof from time to time) as well as all receivables owing to it from time to time in favour of the Security Agent; and

4 an Ontario, Canada law governed general security agreement granted by the Borrower in favour of the Security Agent over all present and after-acquired personal property of the Borrower.

SCHEDULE 9
DISCLOSURE SCHEDULE

CLAUSE NO.	CLAUSE	DISCLOSURES
1.1.108.3	**Financial Indebtedness** Any Financial Indebtedness incurred by any member of the Material Group as at the Signature Date and which have been disclosed to the Agent in the Disclosure Schedule.	Debentures (as defined in this Agreement).
1.1.109.2	**Guarantees** Any guarantee or indemnity issued by any member of the Material Group existing as at the Signature Date and which has been disclosed to the Agent in the Disclosure Schedule.	None.
1.1.110.2	**Loans** Any loan made by any member of the Material Group as at the Signature Date and which has been disclosed to the Agent in the Disclosure Schedule.	As at September 30, 2021: • $20,000,000 loan made by the Borrower to Fairfax Financial Holdings on December 7, 2020; • $23,270,000 loan made by the Borrower to Consolidated Infrastructure Group Limited; • $19,969,000 loan made by the Borrower to PGR2 Investments Proprietary Limited; • $10,000,000 loan made by the Borrower to AFGRI International Proprietary Limited on August 20, 2021; • $39,507,000 loan made by the Borrower to Atlas Mara Limited; • $5,622,000 loan made by the Borrower to Philafrica Foods Proprietary Ltd; • $10,132,000 shareholder loan made by the Borrower in to Joseph Holdings; and • shareholder loan facility provided by the Borrower to HFP South Africa Investments in an amount up to the ZAR equivalent of approximately $150,000,000. The current outstanding balance is the ZAR equivalent of approximately $37,000,000.
1.1.111.2	**Security** Any Security or Quasi-Security provided by any member of the Material Group or Security Provider as at the Signature Date and which has been disclosed to the Agent in the Disclosure Schedule.	None.

SCHEDULE 10
PERMITTED TRANSFEREES

Banks

Absa Bank Limited
Afrasia Bank Limited
Bank of China Limited
Barclays Bank PLC
BNP Paribas
China Construction Bank Corporation
Citibank N.A.
Credit Suisse Group AG
Deutsche Bank Group AG
FirstRand Limited
Goldman Sachs
HSBC Bank Plc
ICBC Standard
Investec Bank Limited
JPMorgan Chase Bank
KfW IPEX-Bank
Mauritius Commercial Bank Limited
Nedbank Limited
Société Générale
The Standard Bank of South Africa Limited
Standard Chartered Bank

Asset Managers/Funds

Arena Investors, LP
Eaton Vance Management
Farallon Capital Management LCC
GoldenTree Asset Management
Kholo Capital Proprietary Limited
Liberty Group Limited
Nimble Group
Ninety One SA Proprietary Limited
Old Mutual Life Assurance Company (South Africa) Limited
Old Mutual Specialised Finance Proprietary Limited
Sanlam Capital Markets Proprietary Limited
Sanlam Investment Management Proprietary Limited
Sanlam Life Insurance Limited
Skybound Capital Limited
Stanlib Limited

Affiliates

Any affiliate, subsidiary or holding company of the banks and financial institutions listed in this Appendix and any fund or entity managed or controlled by any of them or any of their affiliates

EXECUTION PAGES

[signature pages not reinstated]

SIGNATURE PAGES

THE BORROWER

SIGNED at ____Toronto_______________ on this the ___01______ day of ____November___________ 2024

For and on behalf of

HELIOS FAIRFAX PARTNERS CORPORATION
(formerly known as Fairfax Africa Holdings Corporation)

/s/ [Redacted]

Name:	*[Redacted]*
Capacity:	Authorised Signatory

Who warrants his authority hereto

THE ORIGINAL LENDER

SIGNED at __Sandton_________________ on this the ___01______ day of ____November___________ 2024

For and on behalf of

FIRSTRAND BANK LIMITED
(acting through its Rand Merchant Bank division)

/s/ [Redacted]

Name: *[Redacted]*

Capacity: Authorised Signatory

Who warrants his authority hereto

For and on behalf of

FIRSTRAND BANK LIMITED
(acting through its Rand Merchant Bank division)

/s/ [Redacted]

Name: *[Redacted]*

Capacity: Authorised Signatory

Who warrants his authority hereto

THE ARRANGER

SIGNED at __Sandton________________ on this the ___01______ day of ____November__________ 2024

For and on behalf of

FIRSTRAND BANK LIMITED
(acting through its Rand Merchant Bank division)

/s/ [Redacted]

____

Name: *[Redacted]*

Capacity: Authorised Signatory

Who warrants his authority hereto

For and on behalf of

FIRSTRAND BANK LIMITED
(acting through its Rand Merchant Bank division)

/s/ [Redacted]

____

Name: *[Redacted]*

Capacity: Authorised Signatory

Who warrants his authority hereto

THE AGENT

SIGNED at __Sandton________________ on this the ___01______ day of ____November__________ 2024

For and on behalf of

FIRSTRAND BANK LIMITED
(acting through its Rand Merchant Bank division)

/s/ [Redacted]

Name: *[Redacted]*

Capacity: Authorised Signatory

Who warrants his authority hereto

For and on behalf of

FIRSTRAND BANK LIMITED
(acting through its Rand Merchant Bank division)

/s/ [Redacted]

Name: *[Redacted]*

Capacity: Authorised Signatory

Who warrants his authority hereto

SIGNATURE PAGE

THE SECURITY AGENT

SIGNED at ___Sandton_______________ on this the ___01______ day of ____November__________ 2024

For and on behalf of

FIRSTRAND BANK LIMITED
(acting through its Rand Merchant Bank division)

/s/ [Redacted]

Name: *[Redacted]*

Capacity: Authorised Signatory

Who warrants his authority hereto

/s/ [Redacted]

Name: *[Redacted]*

Capacity: Authorised Signatory

Who warrants his authority hereto