

# **Amendment and Restatement Agreement**

**dated 27 September 2021**

**to amend and restate the**

**Terms and Conditions**

**dated 30 March 2021**

**between**

**SGL International A/S**

**as Issuer**

**and**

**Intertrust (Sweden) AB**

**as Agent**

This amendment and restatement agreement (the "**Amendment and Restatement Agreement**") to the Terms and Conditions (as defined below) is entered into on 27 September 2021 and made between:

- (a) SGL International A/S, a Danish company with company registration number 37521043 (the "**Issuer**"), as issuer; and
- (b) Intertrust (Sweden) AB, a Swedish company with company registration number 556625-5487 (the "**Agent**"), as agent.

## 1. Background

- (a) On 8 April 2021, the Issuer issued senior secured fixed rate bonds in an amount of up to EUR 350,000,000 with ISIN SE0015810759 (the "**Bonds**"). The terms and conditions for the Bonds are documented in the terms and conditions dated 30 March 2021 between the Agent and the Issuer (the "**Terms and Conditions**") (as amended from time to time).
- (b) In a written procedure for which a notice was given on 1 September 2021 (the "**Notice**") the holders of the Bonds passed certain resolutions (the "**Resolutions**") approving amendments to the Terms and Conditions, including, amending paragraph (p) of the definition "Permitted Debt" in the Terms and Conditions and certain other amendments, each as set out in the Notice.
- (c) On 27 September 2021, the written procedure was completed and it was found that a sufficient number of Bondholders participated in the written procedure and a requisite majority of the holders of the Bonds had given their consent to the passing of the Resolutions and therein the amendments of the Terms and Conditions requested in the Notice (the "**Amendments**").
- (d) The purpose of this Amendment and Restatement Agreement is to document the Amendments.

## 2. Definitions

Terms defined in the Amended and Restated Terms and Conditions (as defined below) shall have the same meaning when used in this Amendment and Restatement Agreement, unless specifically stated otherwise herein or the context otherwise requires.

## 3. Effectiveness

- (a) This Amendment and Restatement Agreement shall be effective as of the date hereof.
- (b) The Amended and Restated Terms and Conditions shall become effective on the date on which the Agent notifies the Issuer that it has received, waived the requirement to receive or is satisfied that it will receive, all of the following documents and other evidence (the "**Effective Date**"):

- (i) a confirmation that there have been no changes to the constitutional documents of the Issuer (or in such a case, the updated constitutional documents); and
- (ii) corporate authorisations of the Issuer approving the execution of any Finance Document necessary in connection with this Amendment and Restatement Agreement, and the Amended and Restated Terms and Conditions.

#### **4. Amendment and Restatement of the Terms and Conditions**

The parties hereto agree that the Terms and Conditions have, with effect from and including the Effective Date, been amended and restated so as to read as set forth in Schedule 1 (*Amended and Restated Terms and Conditions*) (the "**Amended and Restated Terms and Conditions**"), so that the rights and obligations of the parties hereto and thereto relating to their performance under the Terms and Conditions, shall be governed by, and construed in accordance with, the terms of the Amended and Restated Terms and Conditions.

#### **5. Confirmation**

The Issuer confirms that except as expressly amended or waived by this Amendment and Restatement Agreement, the Finance Documents and the Obligors obligations thereunder shall continue in full force and effect, and any security or guarantee created or given by the Obligors under any Finance Document will continue in full force and effect and extend to the liabilities and obligations of the Issuer to the Bondholders and the Agent under the Finance Documents as amended by this Amendment and Restatement Agreement.

#### **6. Miscellaneous**

- (a) This Amendment and Restatement Agreement is a Finance Document for the purposes of the Amended and Restated Terms and Conditions and the other Finance Documents.
- (b) This Amendment and Restatement Agreement may be executed in a number of counterparts, and this has the same effect as if the signatures of the counterparts were on a single copy of this Amendment and Restatement Agreement.

#### **7. Governing Law and Jurisdiction**

Clause 26 (*Governing Law and Jurisdiction*) of the Amended and Restated Terms and Conditions shall apply to this Amendment and Restatement Agreement *mutatis mutandis* as if such provision were fully set out herein.

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*Signature page to follow*

**SGL INTERNATIONAL A/S**

as Issuer



\_\_\_\_\_  
Name: CLAES BRØNSGAARD PEDERSEN

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

**INTERTRUST (SWEDEN) AB**

as Agent

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

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

**SGL INTERNATIONAL A/S**

as Issuer

\_\_\_\_\_

Name:

\_\_\_\_\_

Name:

**INTERTRUST (SWEDEN) AB**

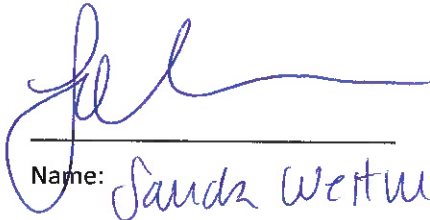
as Agent



\_\_\_\_\_

Name:

**Kristofer Nivenius**



\_\_\_\_\_

Name:

**Sandra Westman**

**The Amended and Restated Terms and Conditions**

*[Separate attachment]*



## **Terms and Conditions**

**SGL International A/S**

**Up to EUR 350,000,000**

**Senior Secured Fixed Rate Bonds**

**ISIN: SE0015810759**

**Originally dated 30 March 2021 and as amended and restated by an amendment and restatement agreement dated 27 August 2021 and as further amended and restated by an amendment and restatement agreement dated 27 September 2021**

**Other than the registration of the Bonds under Swedish law, no action is being taken in any jurisdiction that would or is intended to permit a public offering of the Bonds or the possession, circulation or distribution of this document or any other material relating to the Issuer or the Bonds in any jurisdiction where action for that purpose is required. Persons into whose possession this document comes are required by the Issuer to inform themselves about, and to observe, any applicable restrictions.**

**ROSCHIER**

## PRIVACY NOTICE

The Issuer and the Agent may collect and process personal data relating to the Bondholders, the Bondholders' representatives or agents, and other persons nominated to act on behalf of the Bondholders pursuant to the Finance Documents (name, contact details and, when relevant, holding of Bonds). The personal data relating to the Bondholders is primarily collected from the registry kept by the CSD. The personal data relating to other persons is primarily collected directly from such persons.

The personal data collected will be processed by the Issuer and the Agent for the following purposes:

- (a) to exercise their respective rights and fulfil their respective obligations under the Finance Documents;
- (b) to manage the administration of the Bonds and payments under the Bonds;
- (c) to enable the Bondholders' to exercise their rights under the Finance Documents;  
and
- (d) to comply with their obligations under applicable laws and regulations.

The processing of personal data by the Issuer and the Agent in relation to items (a) - (c) is based on their legitimate interest to exercise their respective rights and to fulfil their respective obligations under the Finance Documents. In relation to item (d), the processing is based on the fact that such processing is necessary for compliance with a legal obligation incumbent on the Issuer or Agent. Unless otherwise required or permitted by law, the personal data collected will not be kept longer than necessary given the purpose of the processing.

Personal data collected may be shared with third parties, such as the CSD, when necessary to fulfil the purpose for which such data is processed.

Subject to any legal preconditions, the applicability of which have to be assessed in each individual case, data subjects have the rights as follows. Data subjects have right to get access to their personal data and may request the same in writing at the address of the Issuer and the Agent, respectively. In addition, data subjects have the right to (i) request that personal data is rectified or erased, (ii) object to specific processing, (iii) request that the processing be restricted and (iv) receive personal data provided by themselves in machine-readable format. Data subjects are also entitled to lodge complaints with the relevant supervisory authority if dissatisfied with the processing carried out.

The Issuer's and the Agent's addresses, and the contact details for their respective Data Protection Officers (if applicable), are found on their websites [www.scangl.com](http://www.scangl.com) and [www.intertrustgroup.com](http://www.intertrustgroup.com).



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## 1. Definitions and Construction

### 1.1 Definitions

In these terms and conditions (the "**Terms and Conditions**"):

"**Account Operator**" means a bank or other party duly authorised to operate as an account operator pursuant to the Financial Instruments Accounts Act and through which a Bondholder has opened a Securities Account in respect of its Bonds.

"**Accounting Principles**" means international financial reporting standards (IFRS) within the meaning of Regulation 1606/2002/EC (or as otherwise adopted or amended from time to time as applied by the Issuer in preparing its annual consolidated financial statements.

"**Acquisition Consideration**" means the total funding requirement for an Eligible Acquisition.

"**Adjusted Nominal Amount**" means the Total Nominal Amount less the Nominal Amount of all Bonds owned by a Group Company or an Affiliate, irrespective of whether such Person is directly registered as owner of such Bonds.

"**Advance Purchase Agreements**" means (a) an advance or deferred purchase agreement if the agreement is in respect of the supply of assets or services and payment in the normal course of business with credit periods which are normal for the relevant type of project contracts, or (b) any other trade credit incurred in the ordinary course of business.

"**Affiliate**" means any Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the purpose of this definition, "**control**" when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "**controlling**" and "**controlled**" have meanings correlative to the foregoing.

"**Agency Agreement**" means the agency agreement entered into on or prior to the First Issue Date in connection with these Terms and Conditions, between the Issuer and the Agent, or any replacement agency agreement entered into after the First Issue Date between the Issuer and an agent.

"**Agent**" means Intertrust (Sweden) AB, reg. no. 556625-5476, P.O. Box 16285, SE-103 25 Stockholm, Sweden or another party replacing it, as Agent, in accordance with these Terms and Conditions.

"**Bond**" means a debt instrument (*Sw. skuldförbindelse*) for the Nominal Amount and of the type set forth in Chapter 1 Section 3 of the Financial Instruments Accounts Act and which are governed by and issued under these Terms and Conditions, including the Initial Bonds and any Subsequent Bonds.

"**Bondholder**" means the Person who is registered on a Securities Account as direct registered owner (*Sw. ägare*) or nominee (*Sw. förvaltare*) with respect to a Bond.

"**Bondholders' Meeting**" means a meeting among the Bondholders held in accordance with Clause 17 (*Bondholders' Meeting*).

"**Bond Issue**" means the Initial Bond Issue and any Subsequent Bond Issue.

"**Business Day**" means a day in Sweden other than a Sunday or other public holiday. Saturdays, Midsummer Eve (*Sw. midsommarafton*), Christmas Eve (*Sw. julafton*) and New Year's Eve (*Sw. nyårsafton*) shall for the purpose of this definition be deemed to be public holidays.

"**Call Option Amount**" mean the amount set out in Clause 9.3 (*Voluntary total redemption (call option)*), as applicable.

"**Cash and Cash Equivalents**" means cash and cash equivalents of the Group (in accordance with the Accounting Principles).

"**Change of Control Event**" means the occurrence of an event or series of events whereby one or more Persons, not being the Main Shareholders (or an Affiliate of the Main Shareholders), acting together, acquire control over the Issuer and where "control" means (a) acquiring or controlling, directly or indirectly, more than 50 per cent. of the voting shares of the Issuer, or (b) the right to, directly or indirectly, appoint or remove all or a majority of the directors of the board of directors of the Issuer.

"**Compliance Certificate**" means a certificate to the Agent, in the agreed form between the Agent and the Issuer, signed by the CFO, the CEO or an authorised signatory of the Issuer, certifying (as applicable):

- (a) that so far as it is aware no Event of Default is continuing or, if it is aware that an Event of Default is continuing, specifying the event and steps, if any, being taken to remedy it;
- (b) if the Compliance Certificate is provided in connection with an Incurrence Test, that the Incurrence Test is met (including calculations and figures in respect of the Net Leverage Ratio);
- (c) if the Compliance Certificate is provided in connection with the audited annual financial statements, confirmation of any required clean down of the Working Capital Facilities, if applicable;
- (d) if the Compliance Certificate is provided in connection with the unaudited annual interim financial statements of the Group, the nomination of Material Group Companies; and/or
- (e) if the Compliance Certificate is provided in connection with an acquisition in accordance with Clause 12.3(c), the amount of Financial Indebtedness that the Issuer intends to incur for the relevant acquisition.

"CSD" means the Issuer's central securities depository and registrar in respect of the Bonds, from time to time, initially Euroclear Sweden AB, Swedish Reg. No. 556112-8074, P.O. Box 191, 101 23 Stockholm, Sweden.

"Dividend Test" means the dividend test set out in Clause 12.2 (*Dividend Test*).

"EBITDA" means, in respect of the Reference Period, the consolidated profit of the Group from ordinary activities according to the latest Financial Report(s):

- (a) before deducting any amount of tax on profits, gains or income paid or payable by any member of the Group;
- (b) before deducting any Net Finance Charges;
- (c) before taking into account any extraordinary items which are not in line with the ordinary course of business and other non-recurring items, provided that such items are not in excess of an amount equal to (i) 12.50 per cent. of EBITDA in the Reference Period less any adjustments already made pursuant to paragraph 12.4(a)(i)(C);
- (d) before taking into account any Transaction Costs;
- (e) before deducting any accrued interest owing to any member of the Group and any deemed finance charge in respect of any pension liabilities and other provisions;
- (f) before taking into account any unrealised gains or losses on any derivative instrument (other than any derivative instruments which is accounted for on a hedge account basis);
- (g) after adding back or deducting, as the case may be, the amount of any loss or gain against book value arising on a disposal of any asset (other than in the ordinary course of trading) and any loss or gain arising from an upward or downward revaluation of any asset or liabilities;
- (h) after adding back (to the extent not already included) the proceeds of any business interruption insurance (or equivalent insurance) to the extent taken into account in determining the profits of the Group;
- (i) after deducting the amount of any profit (or adding back the amount of any loss) of any member of the Group which is attributable to minority interests;
- (j) plus or minus the Group's share of the profits or losses of entities which are not part of the Group;
- (k) after deducting any costs for any finance leases which are not accounted for as Financial Indebtedness pursuant to item (b) of the definition "Financial Indebtedness";
- (l) after adding back any amount attributable to the amortisation, depreciation or depletion of assets of members of the Group; and

- (m) before taking into account any non-cash expenses resulting from any employee benefit or management compensation plan or the grant of stock appreciation or similar rights, stock options, restricted stock or other rights or equity incentive programs to employees of any member of the Group pursuant to a written plan or agreement or the treatment of such options under variable plan accounting or any non-cash purchase accounting adjustment.

**"Eligible Acquisition"** means any acquisition carried out on arm's length basis, of a business within a similar line of business as the Group.

**"Euro"** and **"EUR"** means the single currency of the participating member states in accordance with the legislation of the European Community relating to Economic and Monetary Union.

**"Equity Claw Back"** means a voluntary partial prepayment in accordance with paragraph (a) of Clause 9.4 (*Voluntary partial redemption*).

**"Equity Listing Event"** means an initial public offering of shares in the Issuer, after which such shares shall be admitted to trading on a Regulated Market.

**"Event of Default"** means an event or circumstance specified in any of the Clauses 14.1 (*Non-Payment*) to and including 14.9 (*Continuation of the Business*).

**"Existing Bonds"** means the up to EUR 315,000,000 senior secured bond loan with ISIN SE0013101219 issued by the Issuer on 4 November 2019.

**"Excluded Jurisdiction"** means any jurisdiction in Africa or Asia in which the Group has no subsidiary as of the First Issue Date.

**"Final Maturity Date"** means 8 April 2025.

**"Finance Charges"** means, for the Reference Period, the aggregate amount of the accrued interest, commission, fees, discounts, payment fees, upfront fees or costs included as part of effective interest rate adjustments, premiums or charges and other finance payments in respect of Financial Indebtedness whether paid, payable or capitalised by any member of the Group according to the latest Financial Report(s) (calculated on a consolidated basis) other than Transaction Costs, capitalised interest in respect of any loan owing to any member of the Group or any Subordinated Loan and taking no account of any unrealised gains or losses on any derivative instruments.

**"Finance Documents"** means:

- (a) these Terms and Conditions;
- (b) the Agency Agreement;
- (c) the Proceeds Account Pledge Agreement;
- (d) the Security Documents;
- (e) the Guarantee and Adherence Agreement;

- (f) the US HoldCo Adherence Agreement;
- (g) the US HoldCo Intercreditor Agreement;
- (h) the Issuer Intercreditor Agreement;
- (i) the US Security Sharing Agreement; and
- (j) any other document designated by the Issuer and the Agent or the Security Agent as a Finance Document.

**"Financial Indebtedness"** means any indebtedness in respect of:

- (a) monies borrowed or raised, including Market Loans;
- (b) the amount of any liability in respect of any finance leases, to the extent the arrangement is treated as a finance lease in accordance with the Accounting Principles applicable prior to 1 January 2019 (a lease which in the accounts of the Group is treated as an asset and a corresponding liability);
- (c) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (d) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (e) 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 mark to market value shall be taken into account, provided that if any actual amount is due as a result of a termination or a close-out, such amount shall be used instead);
- (f) 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; and
- (g) (without double counting) any guarantee or other assurance against financial loss in respect of a type referred to in the above paragraphs (a)-(f).

**"Financial Instruments Accounts Act"** means the Swedish Financial Instruments Accounts Act (*lag (1998:1479) om värdepapperscentraler och kontoföring av finansiella instrument*).

**"Financial Report"** means the Group's annual audited financial statements or quarterly interim unaudited reports, which shall be prepared and made available according to Clauses 11.1(a)(i) and 11.1(a)(iii).

**"First Call Date"** means 4 May 2022.

**"First Issue Date"** means 8 April 2021.

**"Force Majeure Event"** has the meaning set forth in Clause 25(a).

**"Group"** means the Issuer and US HoldCo, and all their respective Subsidiaries from time to time and **"Group Company"** means any of them.

**"Guarantee and Adherence Agreement"** means the guarantee and adherence agreement pursuant to which the Guarantors shall, amongst other, guarantee all amounts outstanding under the Finance Documents, including but not limited to the Bonds and the Existing Bonds, plus accrued interests and expenses.

**"Guarantee"** means the guarantee provided by the Guarantors under the Guarantee and Adherence Agreement.

**"Guarantors"** means the Initial Guarantors and each Group Company becoming a Guarantor pursuant to Clause 13.18 (*Additional Guarantors*).

**"Incurrence Test"** means the incurrence test set out in Clause 12.1 (*Incurrence Test*).

**"Initial Guarantors"** means Scan Global Logistics Holding ApS, Scan Global Logistics A/S, SGL Express A/S, Scan Global Logistics AB, SGL Road AB, SGL Express Holding AB, SGL Express AB, Scan Global Logistics Ltd. (Hong Kong) and Scan Global Logistics Ltd – Shanghai.

**"Initial Nominal Amount"** has the meaning set forth in Clause 2(c).

**"Initial Bond Issue"** means the issuance of the Initial Bonds.

**"Initial Bonds"** means the Bonds issued on the First Issue Date.

**"Insolvent"** means, in respect of a relevant Person, that it is deemed to be insolvent, within the meaning of Chapter 2, Sections 7-9 of the Swedish Bankruptcy Act (*konkurslagen (1987:672)*) (or its equivalent in any other jurisdiction), admits inability to pay its debts as they fall due, suspends making payments on any of its debts or by reason of actual financial difficulties commences negotiations with its creditors with a view to rescheduling any of its indebtedness (including company reorganisation under the Swedish Company Reorganisation Act (*lag (1996:764) om företagsrekonstruktion*) (or its equivalent in any other jurisdiction)) or is subject to involuntary winding-up, dissolution or liquidation.

**"Intercreditor Agreements"** means the Issuer Intercreditor Agreement and the US HoldCo Intercreditor Agreement.

**"Interest"** means the interest on the Bonds calculated in accordance with Clauses 8(a) to 8(c).

**"Interest Payment Date"** means 8 April, 8 July, 8 October and 8 January. The first Interest Payment Date shall be 8 July 2021. The last Interest Payment Date shall be the Final Maturity Date (or such earlier date on which the Bonds are redeemed in full).

**"Interest Period"** means (i) in respect of the first Interest Period, the period from (but excluding) the First Issue Date to (and including) the first Interest Payment Date, and (ii)

in respect of subsequent Interest Periods, the period from (but excluding) an Interest Payment Date to (and including) the next succeeding Interest Payment Date (or a shorter period if relevant).

**"Interest Rate"** means 7.75.

**"Issuer"** SGL International A/S, business identity code 37521043.

**"Issuer Intercreditor Agreement"** means the intercreditor agreement entered into between, amongst other, the Issuer, the super senior RCF creditors under the Super Senior RCF, the facility agent under the Super Senior RCF, certain hedging counterparties and the Agent (representing the Bondholders) on 25 November 2019 or any intercreditor agreement entered into on substantially the same terms.

**"Issuer Group"** means the Issuer and its Subsidiaries.

**"Issuer Group Transaction Security"** means the following Security:

- (a) a pledge over any Subordinated Loans made to the Issuer by its direct or indirect parent company;
- (b) a pledge over all the equity interests currently issued in the Issuer, US HoldCo, SGL Australia Pty. Ltd and each Guarantor;
- (c) a pledge over any Material Intercompany Loan made by the Issuer to US HoldCo or any Material Group Company (other than Scan Global Logistics Ltd - Shanghai) and provided that all loans from the Issuer to the US HoldCo or any of its Subsidiaries shall be subordinated to the Revolving Loan Debt;
- (d) a pledge over floating charges or business mortgages in the business of Scan Global Logistics A/S and Scan Global Logistics Ltd (Hong Kong) provided that no Group Company shall be required to grant security over floating charges or business mortgages if the issuance or granting of such would impose a stamp duty or similar fee or tax which is not negligible;
- (e) a specific security deed over secured property in Scan Global Logistics Pty Ltd; and
- (f) any further Security granted pursuant to these Terms and Conditions or the Issuer Intercreditor Agreement (other than any Security granted by US HoldCo or any of its Subsidiaries).

**"Issuer ICA Secured Parties"** shall have the meaning given to the term "Secured Parties" in the Issuer Intercreditor Agreement.

**"Issuing Agent"** means Pareto Securities AB, or another party replacing it, as Issuing Agent, in accordance with these Terms and Conditions.

**"Legal Reservations"** means matters which are set out as qualifications or reservations as to matters of law of general application in the legal opinions delivered to the Agent pursuant to these Terms and Conditions.



**"Listing Failure Event"** means that the Issuer does not comply with the obligations set out under paragraph 13.3 (*Listing*).

**"Main Shareholders"** means AEA Investors SBF III Partners LP or other funds managed by AEA Investors SBF LP.

**"Market Loan"** means any loan or other indebtedness where an entity issues commercial paper, certificates, subordinated debentures, bonds or any other debt securities (including, for the avoidance of doubt, medium term note programmes and other market funding programmes), provided in each case that such instruments and securities are or can be subject to trade on NASDAQ Stockholm or any other regulated or unregulated recognised market place.

**"Material Adverse Effect"** means an event or circumstance which, taking into account all the mitigating factors or circumstances including, without limitation, resources (including, without limitation, funds, insurance and other claims and indemnities) available to the Group, has a material adverse effect on:

- (a) the business, assets or financial condition of the Group (taken as a whole);
- (b) the ability of the Group Companies (taken as a whole) to perform their payment obligations under the Finance Documents; or
- (c) subject to Legal Reservations and perfection requirements, the validity, enforceability or the effectiveness of any security granted or purported to be granted pursuant to the Finance Documents in a way that is materially adverse to the Bondholders as a whole.

**"Material Group Company"** means, at any time:

- (a) means the Issuer, US HoldCo, Transfair North America International Freight Services, LLC, Scan Global Logistics Holding ApS, Scan Global Logistics A/S, SGL Express A/S, ScanAm Global Logistics AB, SGL Road AB, SGL Express Holding AB, SGL Express AB, Scan Global Logistics Ltd. and Scan Global Logistics Ltd - Shanghai; and
- (b) any wholly-owned Group Company which is nominated as such by the Issuer in accordance with Clause 13.15 (*Nomination of Material Group Companies*).

**"Material Intercompany Loan"** means any intercompany loans where:

- (a) the term of the intercompany loan is at least 12 months (the term to be determined by the Issuer); and
- (b) the principal amount thereof is at least in an amount exceeding EUR 1,000,000.

**"MTF"** means any multilateral trading facility as defined in the Markets in Financial Instruments Directive 2014/65/EU (MiFID II), as amended.

**"Net Finance Charges"** means, for the Reference Period, the Finance Charges according to the latest Financial Report(s), after deducting any interest payable for that Reference

Period to any member of the Group and any interest income relating to cash or cash equivalent investment (and excluding any interest capitalised on Subordinated Loans).

**"Net Interest Bearing Debt"** means the aggregate interest bearing debt, being Financial Indebtedness under paragraphs (a), (b), (c), (f) and (g) (only in respect of Financial Indebtedness described in clauses (a) through (c) and (f) of the definition thereof) to the extent treated as such in accordance with the applicable Accounting Principles of the Group from time to time (for the avoidance of doubt, excluding guarantees, bank guarantees, Subordinated Loans, any claims subordinated pursuant to a subordination agreement in form and substance satisfactory to the Agent and interest bearing debt borrowed from any Group Company) less Cash and Cash Equivalents of the Group.

**"Net Leverage Ratio"** means the ratio of Net Interest Bearing Debt to EBITDA.

**"Net Proceeds"** means the proceeds from the Bond Issue after deduction has been made for the Transaction Costs payable by the Issuer to the Sole Bookrunner (if the Sole Bookrunner has requested that their respective fees and costs shall be deducted) and the Issuing Agent for the services provided in relation to the placement and issuance of the Bonds.

**"Nominal Amount"** means in respect of each Bond the Initial Nominal Amount, less the aggregate amount by which that Bond has been redeemed in part pursuant to Clause 9.4 (*Voluntary partial redemption*).

**"Obligors"** means the Issuer, US HoldCo and each Guarantor, each an **"Obligor"**.

**"Parent"** means SGLT Holding II LP, business identity code MC-86046.

**"Permitted Debt"** means any Financial Indebtedness:

- (a) incurred under the Bonds (excluding Subsequent Bonds);
- (b) of the Group incurred pursuant to any financial leasing arrangements pursuant to item (b) of the definition "Financial Indebtedness" incurred in the ordinary course of the Group's business in a maximum amount of USD 500,000;
- (c) incurred by the Group pursuant to any leases relating to rentals of office spaces, warehouses and other premises;
- (d) taken up from a Group Company;
- (e) of the Group under any guarantee issued by a Group Company or for the obligations of any Group Company, in the ordinary course of business;
- (f) arising under a foreign exchange transaction or commodity derivatives for spot or forward delivery entered into in connection with protection against fluctuation in currency rates or prices where the exposure arises in the ordinary course of business, but not any transaction for investment or speculative purposes;

- (g) arising under any interest rate hedging transactions, but not any transaction for investment or speculative purposes;
- (h) arising under cash pooling, netting or set off arrangements entered into by any Group Company in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances between Group Companies (including any ancillary bank facility which is an overdraft comprising more than one account);
- (i) related to any Subordinated Loans;
- (j) incurred under Advance Purchase Agreements;
- (k) incurred as a result of any Group Company acquiring another entity and which is due to such acquired entity holding indebtedness, provided that the Incurrence Test is met, tested pro forma on the acquired entity in question on a stand-alone basis (without the Group) and provided that the acquired debt is converted into equity or refinanced by the Issuer, by way of issuance of Subsequent Bonds or otherwise, within six (6) months following the date of the acquisition;
- (l) incurred by the Issuer if such Financial Indebtedness meets the Incurrence Test tested pro forma including such incurrence, and (i) is incurred as a result of a Subsequent Bond Issue by the Issuer under the Terms and Conditions, or (ii) ranks *pari passu* or is subordinated to the obligations of the Issuer under the Finance Documents, and has a final maturity date or a final redemption date or, when applicable, early redemption dates or instalment dates which occur after the Final Maturity Date and provided that no further Subsequent Bonds (as defined in the terms and conditions for the Existing Bonds) may be issued;
- (m) incurred under any pension and tax liabilities in the ordinary course of business by any Group Company;
- (n) incurred in connection with the redemption of the Existing Bonds or Bonds in order to fully refinance the Existing Bonds or Bonds either on the date of such incurrence or on a later date but, if to be applied in redemption of the Existing Bonds or Bonds on a later date than the date of incurrence, provided that the proceeds of such Financial Indebtedness incurred are subject to an escrow arrangement up until the date of the redemption of the Existing Bonds or Bonds (taking into account the rules and regulations of the CSD), for the purposes of securing, inter alia, redemption of the Existing Bonds or the Bonds;
- (o) incurred under the Existing Bonds (other than any further Subsequent Bonds (as defined in the terms and conditions for the Existing Bonds));
- (p) incurred by (A) the Issuer or its direct or indirect Subsidiaries under one or several working capital facilities, which, if secured, is subject to the Issuer Intercreditor Agreement or (B) US HoldCo or its direct or indirect Subsidiaries under one or several working capital facilities, which, if secured, is subject to the US HoldCo Intercreditor Agreement, provided for the general corporate

purposes of the Group in a maximum aggregate amount being the higher of (i) EUR 35,000,000 and (ii) an amount equal to 17.5 per cent. of the aggregate of the outstanding Nominal Amount under the Bonds, the aggregate Nominal Amount (as defined in the Terms and Conditions with respect to the Existing Bonds) of the Existing Bonds and the aggregate outstanding amount under any Market Loans (excluding any Subordinated Loans) and the total commitment of any Working Capital Facilities; and

- (q) not covered under items (a)-(p) above in an aggregate maximum amount of EUR 1,500,000.

**"Permitted Security"** means any Security:

- (a) granted under the Finance Documents and as granted under the finance documents of any other bonds that may be issued in compliance with these Terms and Conditions;
- (b) arising by operation of law or in the ordinary course of business (including any customary escrow arrangements in relation to acquisitions and disposals otherwise permitted under the finance documents or any collateral or retention of title arrangements in connection with Advance Purchase Agreements but, for the avoidance of doubt, not including guarantees or security in respect of any monies borrowed or raised);
- (c) provided in relation to any lease agreement entered into by a Group Company (including precautionary Uniform Commercial Code filings);
- (d) arising under any netting or set off arrangements under financial derivatives transactions or bank account arrangements, including group cash pool arrangements;
- (e) provided for interest rate hedging transactions set out in paragraph (g) of the definition Permitted Debt;
- (f) arising over any bank accounts or custody accounts or other clearing banking facilities held with any bank or financial institution under the standard terms and conditions of such bank or financial institution;
- (g) arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a Group Company in the ordinary course of business;
- (h) provided in relation to any letters of credit;
- (i) provided for any guarantees issued by a Group Company or for the obligations of any Group Company, in the ordinary course of business;
- (j) provided for the Existing Bonds;
- (k) provided for debt permitted under paragraph (k) of Permitted Debt but only over assets held, directly or indirectly, by such acquired entity;

- (l) any Security created for the benefit of the financing providers in relation to a refinancing of the Bonds, the Existing Bonds or of any other bonds that may be issued in compliance with these Terms and Conditions or the terms and conditions of the Existing Bonds, however provided always that any perfection requirements in relation thereto are satisfied after repayment of the Bonds, the Existing Bonds or of any other bonds that may be issued in compliance with these Terms and Conditions or the terms and conditions of the Existing Bonds that are intended to be refinanced (other than with respect to an escrow account (if applicable) which may be perfected in connection with the incurrence of such debt);
- (m) provided for the Working Capital Facilities;
- (n) over Cash and Cash Equivalents or other property arising in connection with any defeasance, discharge or redemption of Financial Indebtedness;
- (o) over property or assets under construction (and related rights) in favor of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets; and
- (p) not covered by items (a)-(o) securing Financial Indebtedness or other obligations up to an aggregate amount at any one time not exceeding EUR 1,000,000.

"**Person**" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organisation, government, or any agency or political subdivision thereof or any other entity, whether or not having a separate legal personality.

"**Proceeds Account**" means a bank account of the Issuer, into which the Net Proceeds will be transferred and which has been pledged in favour of the Agent and the bondholders (represented by the Agent) under the Proceeds Account Pledge Agreement.

"**Proceeds Account Pledge Agreement**" means the pledge agreement entered into between the Issuer and the Agent on or about the First Issue Date in respect of a first priority pledge over the Proceeds Account and all funds held on the Proceeds Account from time to time, granted in favour of the Agent and the bondholders (represented by the Agent).

"**Quotation Day**" means, in relation to any period for which an interest rate is to be determined, two (2) Business Days before the first day of that period.

"**Qualified Receivables**" means on-time receivables with less than 90 days maturity extended to (i) clients which have a credit rating of either BBB or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa2 or higher by Moody's Investor Service Limited and (ii) Supranational Organisations.

"**Record Date**" means the fifth (5) Business Day prior to (i) an Interest Payment Date, (ii) a Redemption Date, (iii) a date on which a payment to the Bondholders is to be made under Clause 15 (*Distribution of Proceeds*), (iv) the date of a Bondholders' Meeting, or

(v) another relevant date, or in each case such other Business Day falling prior to a relevant date if generally applicable on the Swedish bond market.

**"Redemption Date"** means the date on which the relevant Bonds are to be redeemed or repurchased in accordance with Clause 9 (*Redemption and Repurchase of the Bonds*).

**"Reference Period"** means each period of 12 consecutive calendar months.

**"Regulated Market"** means any regulated market as defined in the Markets in Financial Instruments Directive 2014/65/EU (MiFID II), as amended.

**"Restricted Payment"** has the meaning set forth in Clause 13.2(a).

**"Revolving Loan Agreement"** has the meaning given thereto in the US HoldCo Intercreditor Agreement.

**"Revolving Loan Debt"** has the meaning given thereto in the US HoldCo Intercreditor Agreement.

**"Secured Obligations"** shall have the meaning given to such term in the Issuer Intercreditor Agreement.

**"Secured Parties"** means

- (a) in relation to the Issuer Group Transaction Security, the Issuer ICA Secured Parties; and
- (b) in relation to the US Transaction Security, the Security Agent, the Bondholders and the Agent (including in its capacity as Agent under the Agency Agreement).

**"Securities Account"** means the account for dematerialised securities maintained by the CSD pursuant to the Financial Instruments Accounts Act in which (i) an owner of such security is directly registered or (ii) an owner's holding of securities is registered in the name of a nominee.

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

**"Security Agent"** means the security agent, appointed by the Secured Parties pursuant to the Issuer Intercreditor Agreement and these Terms and Conditions, holding the Transaction Security on behalf of the Secured Parties, being Intertrust (Sweden) AB on the First Issue Date.

**"Security Documents"** means the security documents pursuant to which the Transaction Security is created and any other document designated as a Security Document by the Issuer and the Security Agent.

**"Sole Bookrunner"** means Pareto Securities AB.

**"Subordinated Loans"** means any loan incurred by the Issuer or US HoldCo, where the Issuer or US HoldCo is the debtor, if such loan (a) according to its terms and pursuant to a subordination agreement on terms and conditions satisfactory to the Agent, is subordinated to the obligations of the Issuer under the Terms and Conditions, (b) according to its terms has a final redemption date or, when applicable, early redemption dates or instalment dates which occur after the Final Maturity Date, and (c) according to its terms yield only payment-in-kind interest.

**"Subsequent Bond Issue"** has the meaning set forth in Clause 2(d).

**"Subsequent Bonds"** means any Bonds issued after the First Issue Date on one or more occasions.

**"Subsidiary"** means an entity from time to time of which a person:

- (a) has direct or indirect control; or
- (b) owns directly or indirectly more than 50 per cent. of the share capital or other right of ownership.

**"Super Senior Debt"** has the meaning given thereto in the Issuer Intercreditor Agreement.

**"Super Senior RCF"** has the meaning given thereto in the Issuer Intercreditor Agreement.

**"Supranational Organisations"** means UNICEF, the United Nations, the World Health Organization and the United Nations Population Fund, including for the avoidance of doubt, any subsidiary or affiliate of any such organisation.

**"Tender Offer"** means the offer by the Issuer to repurchase certain of the Existing Bonds as announced by the Issuer on or about 23 March 2021.

**"Total Nominal Amount"** means the total aggregate Nominal Amount of the Bonds outstanding at the relevant time.

**"Transaction Costs"** means all fees, costs and expenses, stamp, registration and other taxes incurred by the Issuer or any other member of the Group in connection with (i) the issuance and listing of Market Loans, (ii) the listing of the Bonds or the Existing Bonds, (iii) any acquisition of another entity and (iv) an Equity Listing Event.

**"Transaction Security"** means the Issuer Group Transaction Security and the US Transaction Security.

**"US HoldCo"** means TransGroup Global Inc., business identity code 81-3664939.

**"US HoldCo Adherence Agreement"** means the adherence agreement pursuant to which the US HoldCo undertake to adhere to certain undertakings under these Terms and Conditions.

**"US HoldCo Intercreditor Agreement"** means the intercreditor agreement entered into between the revolving loan agent under the Revolving Loan Agreement (representing the super senior creditors under the Revolving Loan Agreement) and the Agent (representing the Bondholders) on 25 November 2019 or any intercreditor agreement entered into on substantially the same terms.

**"US HoldCo Group"** means US HoldCo and its Subsidiaries constituting Material Group Companies.

**"US Security Secured Obligations"** means all present and future, actual and contingent, liabilities and obligations at any time due, owing or incurred by any Obligor towards the Secured Parties outstanding from time to time under the Finance Documents.

**"US Security Sharing Agreement"** means the security sharing agreement between the Agent and the agent under the Existing Bonds regarding the sharing of the proceeds from an enforcement of the security granted pursuant to any US Transaction Security.

**"US Transaction Security"** means following Security:

- (a) a pledge over all the equity interests currently issued in any member of the US HoldCo Group other than US HoldCo;
- (b) a second ranking pledge over all assets of the US HoldCo Group other than equity interests; and
- (c) any further Security granted by US HoldCo or any of its Subsidiaries pursuant to these Terms and Conditions,

in each case, subject to the US HoldCo Intercreditor Agreement.

**"Working Capital Facilities"** means the working capital facilities described in paragraph (p) of the definitions of "Permitted Debt".

**"Written Procedure"** means the written or electronic procedure for decision making among the Bondholders in accordance with Clause 18 (*Written Procedure*).

## 1.2 Construction

- (a) Unless a contrary indication appears, any reference in these Terms and Conditions to:
  - (i) "assets" includes present and future properties, revenues and rights of every description;
  - (ii) any agreement or instrument is a reference to that agreement or instrument as supplemented, amended, novated, extended, restated or replaced from time to time;
  - (iii) a "regulation" includes any regulation, rule or official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency,



department or regulatory, self-regulatory or other authority or organisation;

- (iv) an Event of Default is continuing if it has not been remedied or waived;
  - (v) a provision of law is a reference to that provision as amended or re-enacted; and
  - (vi) a time of day is a reference to Stockholm time.
- (b) When ascertaining whether a limit or threshold specified in EUR has been attained or broken, an amount in another currency shall be counted on the basis of the rate of exchange for such currency against EUR for the previous Business Day, as published by the European Central Bank on its website [www.ecb.europa.eu](http://www.ecb.europa.eu). If no such rate is available, the most recently published rate shall be used instead.
- (c) A notice shall be deemed to be sent by way of press release if it is made available to the public within the European Economic Area promptly and in a non-discriminatory manner.
- (d) No delay or omission of the Agent, the Security Agent or of any Bondholder to exercise any right or remedy under the Finance Documents shall impair or operate as a waiver of any such right or remedy.

## 2. Status of the Bonds

- (a) The Bonds are denominated in Euro and each Bond is constituted by these Terms and Conditions. The Issuer undertakes to make payments in relation to the Bonds and to comply with these Terms and Conditions.
- (b) By subscribing for Bonds, each initial Bondholder agrees that the Bonds shall benefit from and be subject to the Finance Documents and by acquiring Bonds, each subsequent Bondholder confirms such agreement.
- (c) The initial nominal amount of each Initial Bond is EUR 1,000 (the "**Initial Nominal Amount**"). The maximum total nominal amount of the Initial Bonds is EUR 150,000,000. All Initial Bonds are issued on a fully paid basis at an issue price of 100 per cent. of the Initial Nominal Amount.
- (d) The minimum permissible investment in the Initial Bond Issue is EUR 100,000.
- (e) Provided that the Incurrence Test is met, the Issuer may, at one or several occasions, issue Subsequent Bonds (each such issue, a "**Subsequent Bond Issue**"). Subsequent Bonds shall benefit from and be subject to the Finance Documents, and, for the avoidance of doubt, the ISIN, the Interest Rate, the Nominal Amount and the Final Maturity Date applicable to the Initial Bonds shall apply to Subsequent Bonds. The price of the Subsequent Bonds may be set at a discount or at a premium compared to the Nominal Amount. The maximum total nominal amount of the Bonds (the Initial Bonds and all Subsequent Bonds) may not exceed EUR 350,000,000 unless a consent from the Bondholders is obtained

in accordance with Clause 16(e)(i). Each Subsequent Bond shall entitle its holder to Interest in accordance with Clause 8(a), and otherwise have the same rights as the Initial Bonds.

- (f) The Bonds constitute direct, unconditional, unsubordinated and secured obligations of the Issuer and shall at all times rank (i) without any preference among them and (ii) at least *pari passu* with all direct, unconditional, unsubordinated and unsecured obligations of the Issuer, except (A) those obligations which are mandatorily preferred by law and (B) the super senior ranking of the Super Senior Debt and the Revolving Loan Debt in accordance with the Intercreditor Agreements.
- (g) The Bonds are freely transferable but the Bondholders may be subject to purchase or transfer restrictions with regard to the Bonds, as applicable, under local laws to which a Bondholder may be subject. Each Bondholder must ensure compliance with such restrictions at its own cost and expense.
- (h) No action is being taken in any jurisdiction that would or is intended to permit a public offering of the Bonds or the possession, circulation or distribution of any document or other material relating to the Issuer or the Bonds in any jurisdiction other than Sweden, where action for that purpose is required. Each Bondholder must inform itself about, and observe, any applicable restrictions to the transfer of material relating to the Issuer or the Bonds.

### **3. Use of Proceeds**

The Net Proceeds of the Bond Issue shall be used to (i) finance any Eligible Acquisition including repayment of debt within the acquired groups, (ii) finance the Tender Offer, (iii) finance general corporate purposes, including acquisitions and (iv) pay Transaction Costs.

Net Proceeds from a Subsequent Bond Issue shall be used to finance general corporate purposes, including acquisitions, investments and repayment of any outstanding amount under the Working Capital Facilities.

### **4. Conditions Precedent**

#### **4.1 Conditions Precedent Initial Bond Issue**

- (a) The payment of the Net Proceeds from the Initial Bond Issue to the Proceeds Account is subject to the Agent having received documents and evidence of the Proceeds Account Pledge Agreement and the Agency Agreement being duly executed and perfected.
- (b) The Issuer shall provide, or procure the provision of, to the satisfaction of the Agent:
  - (i) certificate of registration (in the case of the Issuer and any other Danish Group Company, consisting a complete and up-to-date transcript from the Danish Business Authority) and articles of association for the Issuer

and any other Group Company entering into any security or guarantee confirmation agreement;

- (ii) corporate resolutions for the Issuer and any other relevant Group Company in relation to the Terms and Conditions or any security and guarantee confirmation agreement;
  - (iii) an agreed form Compliance Certificate;
  - (iv) evidence that the Agent has acceded to the Issuer Intercreditor Agreement and the US HoldCo Intercreditor Agreement;
  - (v) an executed copy of the US Security Sharing Agreement;
  - (vi) a Swedish law governed security and guarantee confirmation with respect to the Transaction Security governed by Swedish law, Danish law or Australian law;
  - (vii) a security confirmation that the security provided over the assets of the US Holdco Group remains in full force and effect and extends to the obligations under the Bonds;
  - (viii) a certificate addressed to the Agent certifying that no event of default exist under the Existing Bonds or would occur by issuance of the Bonds;
  - (ix) a legal opinion on the capacity and due execution, in respect of any entity becoming party to a Finance Document, unless it is incorporated in Sweden, issued by a reputable law firm; and
  - (x) any legal opinion on the validity and enforceability in respect of any Finance Document unless it is governed by Swedish law, issued by a reputable law firm.
- (c) Further to the conditions precedents set out in Clause 4.1(b) above, in connection with an Eligible Acquisition, the Issuer shall provide, or procure the provision of, to the satisfaction of the Agent:
- (i) constitutional documents and corporate resolutions for each Group Company granting Transaction Security in connection with the acquisition;
  - (ii) evidence that any Transaction Security to be granted in accordance with Clause 13.19 (*Additional Security upon the acquisition of any entity financed in whole or in part with proceeds from the issuance of Bonds*) has been granted or will be granted promptly following the relevant Eligible Acquisition;
  - (iii) evidence that the documents to be delivered and any other registrations, notarisations or similar action to be completed pursuant to the Transaction Security under (b) above to perfect and create the security thereunder will be delivered in connection with the completion

of the relevant Eligible Acquisition or as soon as practicable thereafter (taking into account customary registration or notarisation periods and other measures which are customary in the relevant jurisdiction);

- (iv) a confirmation that (a) all closing conditions for the acquisition (except for the payment of the Acquisition Consideration) have been satisfied or waived, (b) that the acquisition is in fact an Eligible Acquisition, (c) the acquisition will be consummated immediately upon disbursement of funds from the Proceeds Account, and (d) any existing Financial Indebtedness and/or existing Security not constituting Permitted Debt or Permitted Security, as applicable, incurred or granted by the target group will be repaid or released, as applicable, promptly in connection with the completion of the acquisition;
  - (v) legal opinion(s) on the capacity and due execution of each party to a Finance Document not incorporated in Sweden and the validity and enforceability of the Finance Documents not governed by Swedish law, in each case issued by a reputable law firm (if applicable).
- (d) The Agent may assume that the documentation and evidence delivered to it pursuant to Clause 4.1(b) and 4.1(c) is accurate, legally valid, enforceable, correct, true and complete unless it has actual knowledge to the contrary and the Agent does not have to verify or assess the contents of any such documentation. The Agent does not have any obligation to review the documentation and evidence referred to in Clause 4.1(b) and 4.1(c) above from a legal or commercial perspective of the Bondholders.
- (e) When the conditions precedent for disbursement set out in Clause 4.1(b) have been received to the satisfaction of the Agent (acting reasonably) or waived by the Agent, the Agent shall instruct the bank (with which the Issuer holds the Proceeds Account) to transfer the funds from the Proceeds Account for the purpose set out in Clause 3 (*Use of Proceeds*) in the following way (A) transferring an amount, not exceeding the amount of Financial Indebtedness that the Issuer is permitted to incur pursuant to the incurrence test under the Existing Bonds on the settlement date for the Bonds, to the Issuer, (B) continue to hold an amount not exceeding of EUR 92,200,000 on the Proceeds Account to be released in accordance Clause 4.1(f) out below, and (C) any remaining amounts shall be released and applied towards purchasing Existing Bonds under the Tender Offer., and the Agent shall thereafter, if there are no further funds standing on the Proceeds Account, release the pledge over the Proceeds Account.
- (f) When the conditions precedent for disbursement set out in Clause 4.1(b) and, in relation to the relevant Eligible Acquisitions, 4.1(c) have been received to the satisfaction of the Agent (acting reasonably) or waived by the Agent, the Agent shall instruct the bank (with which the Issuer holds the Proceeds Account) to transfer the funds from the Proceeds Account for the purpose of the relevant Eligible Acquisitions as set out in Clause 3 (*Use of Proceeds*), and the Agent shall thereafter, if there are no further funds standing on the proceeds account, release the pledge over the Proceeds Account.

## 5. Bonds in Book-Entry Form

- (a) The Bonds will be registered for the Bondholders on their respective Securities Accounts and no physical notes will be issued. Accordingly, the Bonds will be registered in accordance with the Financial Instruments Accounts Act. Registration requests relating to the Bonds shall be directed to an Account Operator.
- (b) Those who according to assignment, Security, the provisions of the Swedish Children and Parents Code (*Sw. föräldrabalken (1949:381)*), conditions of will or deed of gift or otherwise have acquired a right to receive payments in respect of a Bond shall register their entitlements to receive payment in accordance with the Financial Instruments Accounts Act.
- (c) The Issuer (and the Agent when permitted under the CSD's applicable regulations) shall be entitled to obtain information from the debt register (*Sw. skuldbok*) kept by the CSD in respect of the Bonds. At the request of the Agent, the Issuer shall promptly obtain such information and provide it to the Agent.
- (d) For the purpose of or in connection with any Bondholders' Meeting or any Written Procedure, the Issuing Agent shall be entitled to obtain information from the debt register kept by the CSD in respect of the Bonds.
- (e) The Issuer shall issue any necessary power of attorney to such Persons employed by the Agent, as notified by the Agent, in order for such individuals to independently obtain information directly from the debt register kept by the CSD in respect of the Bonds. The Issuer may not revoke any such power of attorney unless directed by the Agent or unless consent thereto is given by the Bondholders.

## 6. Right to Act on Behalf of a Bondholder

- (a) If any Person other than a Bondholder wishes to exercise any rights under the Finance Documents, it must obtain a power of attorney or other proof of authorisation from the Bondholder or a successive, coherent chain of powers of attorney or proofs of authorisation starting with the Bondholder and authorising such Person.
- (b) A Bondholder may issue one or several powers of attorney or other authorisation to third parties to represent it in relation to some or all of the Bonds held by it. Any such representative may act independently under the Finance Documents in relation to the Bonds for which such representative is entitled to represent the Bondholder and may further delegate its right to represent the Bondholder by way of a further power of attorney.
- (c) The Agent shall only have to examine the face of a power of attorney or other proof of authorisation that has been provided to it pursuant to Clause 6(b) and may assume that it has been duly authorised, is valid, has not been revoked or superseded and that it is in full force and effect, unless otherwise is apparent from its face.

## 7. Payments in Respect of the Bonds

- (a) Any payment or repayment under the Finance Documents, or any amount due in respect of a repurchase of any Bonds, shall be made to such Person who is registered as a Bondholder on the Record Date immediately prior to an Interest Payment Date or other relevant payment date, or to such other Person who is registered with the CSD on such date as being entitled to receive the relevant payment, repayment or repurchase amount.
- (b) If a Bondholder has registered, through an Account Operator, that principal and interest shall be deposited in a certain bank account, such deposits will be effected by the CSD on the relevant payment date. In other cases, payments will be transferred by the CSD to the Bondholder at the address registered with the CSD on the Record Date. Should the CSD, due to a delay on behalf of the Issuer or some other obstacle, not be able to effect any payment in accordance with this Clause 7, the Issuer shall procure that such amounts are paid to the Persons who are registered as Bondholders on the relevant Record Date as soon as possible after such obstacle has been removed.
- (c) If, due to any obstacle for the CSD, the Issuer cannot make a payment or repayment, such payment or repayment may be postponed until the obstacle has been removed. Interest shall accrue without any default interest in accordance with Clause 8(d) during such postponement.
- (d) If payment or repayment is made in accordance with this Clause 7, the Issuer and the CSD shall be deemed to have fulfilled their obligation to pay, irrespective of whether such payment was made to a Person not entitled to receive such amount.
- (e) If the Issuer is required by Danish law to withhold any tax from any payment in respect of the Bonds under the Finance Documents:
  - (i) the amount of the payment due from the Issuer will be increased to such amount which is necessary to ensure that the Bondholders or the Agent, as the case may be, receive a net amount which is (after making the required withholding) equal to the payment which would have been received if no withholding had been required; and
  - (ii) at the request of the Agent, the Issuer will deliver to the Agent evidence that the required tax deduction or withholding has been made.

## 8. Interest

- (a) Each Initial Bond carries Interest at the Interest Rate from (but excluding) the First Issue Date up to (and including) the relevant Redemption Date. Any Subsequent Bond will carry Interest at the Interest Rate from (but excluding) the Interest Payment Date falling immediately prior to its issuance up to (and including) the relevant Redemption Date.

- (b) Interest accrues during an Interest Period. Payment of Interest in respect of the Bonds shall be made to the Bondholders on each Interest Payment Date for the preceding Interest Period, or if such Interest Payment Date is not a Business Day on the first following day that is a Business Day.
- (c) Interest shall be calculated on the basis of a 360-day year comprised of twelve months of 30 days each.
- (d) If the Issuer fails to pay any amount payable by it on its due date, default interest shall accrue on the overdue amount from (but excluding) the due date up to (and including) the date of actual payment at a rate which is two (2) per cent. higher than the Interest Rate. Accrued default interest shall not be capitalised. No default interest shall accrue where the failure to pay was solely attributable to the Agent or the CSD, in which case the Interest Rate shall apply instead.

## **9. Redemption and Repurchase of the Bonds**

### **9.1 Redemption at maturity**

The Issuer shall redeem all, but not only some, of the outstanding Bonds in full on the Final Maturity Date with an amount per Bond equal to the Nominal Amount together with accrued but unpaid Interest. If the Final Maturity Date is not a Business Day, then the redemption shall occur on the first following Business Day.

### **9.2 Issuer's purchase of Bonds**

The Issuer may, subject to applicable law, at any time and at any price purchase Bonds on the market or in any other way. The Bonds held by the Issuer may at the Issuer's discretion be retained or sold but not cancelled.

### **9.3 Voluntary total redemption (call option)**

- (a) Subject to the Existing Bonds having been redeemed in full, the Issuer may redeem all, but not only some, of the outstanding Bonds in full:
  - (i) any time from and including the First Issue Date to, but excluding, the First Call Date at an amount per Bond equal to 103.375 per cent. of the Nominal Amount plus the remaining interest payments, calculated in accordance with Clause 9.3(c), up to but not including the First Call Date together with accrued but unpaid Interest;
  - (ii) any time from and including the First Call Date to, but excluding, the date falling 6 months after the First Call Date at an amount per Bond equal to 103.375 per cent. of the Nominal Amount, together with accrued but unpaid Interest;
  - (iii) any time from and including the date falling 6 months after the First Call Date to, but excluding, the date falling 12 months after the First Call Date at an amount per Bond equal to 102.700 per cent. of the Nominal Amount, together with accrued but unpaid Interest;

- (iv) any time from and including the date falling 12 months after the First Call Date to, but excluding, the date falling 18 months after the First Call Date at an amount per Bond equal to 102.025 per cent. of the Nominal Amount, together with accrued but unpaid Interest;
  - (v) any time from and including the date falling 18 months after the First Call Date to, but excluding, the date falling 24 months after the First Call Date at an amount per Bond equal to 101.350 per cent. of the Nominal Amount, together with accrued but unpaid Interest; and
  - (vi) any time from and including the date falling 24 months after the First Call Date to, but excluding, the Final Maturity Date at an amount per Bond equal to 100.675 per cent. of the Nominal Amount, together with accrued but unpaid Interest.
- (b) Redemption in accordance with Clause 9.3(a) shall be made by the Issuer giving not less than fifteen (15) Business Days' notice to the Bondholders and the Agent. Any such notice is irrevocable but may, at the Issuer's discretion, contain one or more conditions precedent. Upon expiry of such notice and the fulfillment of the conditions precedent (if any), the Issuer is bound to redeem the Bonds in full at the applicable amounts.
  - (c) For the purpose of calculating the remaining interest payments pursuant to Clause 9.3(a)(i) it shall be assumed that the Interest Rate for the period from the relevant Record Date to the First Call Date will be equal to the Interest Rate in effect on the date on which notice of redemption is given to the Bondholders. The relevant record date shall be agreed upon between the Issuer, the CSD and the Agent in connection with such repayment.

#### 9.4 Voluntary partial redemption

- (a) Following a redemption in full of the Existing Bonds, the Issuer may on one occasion, in connection with an Equity Listing Event, repay up to 30 per cent. of the total Nominal Amount, in which case all outstanding Bonds shall be partially repaid by way of reducing the Nominal Amount of each Bond *pro rata*. The repayment must occur on an Interest Payment Date within 180 days after such Equity Listing Event and be made with funds in an aggregate amount not exceeding the cash proceeds received by the Issuer as a result of such Equity Listing Event (net of fees, charges and commissions actually incurred in connection with such Equity Listing Event and net of taxes paid or payable as a result of such Equity Listing Event). The repayment price per Bond shall equal the repaid percentage of the Nominal Amount (rounded down to the nearest EUR 1.00) plus up to, but excluding, the date falling 30 months after the First Issue Date a premium on the repaid amount equal to the Call Option Amount set out in Clause 9.3(a)(ii) and thereafter, as applicable considering when the repayment occurs, a premium on the repaid amount equal to the Call Option Amount for the relevant period together with accrued but unpaid Interest.
- (b) Partial redemption in accordance with this Clause 9.4 shall be made by the Issuer giving not less than twenty (20) Business Days' notice to the Bondholders and



the Agent. Any such notice is irrevocable and, upon expiry of such notice, the Issuer is bound to redeem the Bonds in part on the immediately following Interest Payment Date at the applicable amounts. The applicable amount shall be an even amount in EUR and paid to the Person who is registered as a Bondholder on the Record Date prior to the relevant Redemption Date.

#### **9.5 Mandatory repurchase due to a Change of Control Event or Listing Failure Event (put option)**

- (a) Upon the occurrence of a Change of Control Event or Listing Failure Event, each Bondholder shall have the right to request that all, or some only, of its Bonds be repurchased at a price per Bond equal to 101 per cent. of the Nominal Amount together with accrued but unpaid Interest, during a period of sixty (60) days following a notice from the Issuer of the Change of Control Event or Listing Failure Event, pursuant to Clause 11.1(e) (after which time period such rights lapse). However, such period may not start earlier than upon the occurrence of the Change of Control Event or Listing Failure Event.
- (b) The notice from the Issuer pursuant to Clause 11.1(e) shall specify the repurchase date and include instructions about the actions that a Bondholder needs to take if it wants Bonds held by it to be repurchased. If a Bondholder has so requested, and acted in accordance with the instructions in the notice from the Issuer, the Issuer, or a Person designated by the Issuer, shall repurchase the relevant Bonds and the repurchase amount shall fall due on the repurchase date specified in the notice given by the Issuer pursuant to Clause 11.1(e). The repurchase date must fall no later than twenty (20) Business Days after the end of the period referred to in Clause 9.5(a).
- (c) The Issuer shall comply with the requirements of any applicable securities laws or regulations in connection with the repurchase of Bonds. To the extent that the provisions of such laws and regulations conflict with the provisions in this Clause 9.5, the Issuer shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Clause 9.5 by virtue of the conflict.
- (d) Any Bonds repurchased by the Issuer pursuant to this Clause 9.5 may at the Issuer's discretion be retained or sold, but not cancelled.

#### **10. Transaction Security and Guarantees**

- (a) Subject to the Issuer Intercreditor Agreement and applicable corporate law limitations, as continuing Security for the due and punctual fulfilment of the Secured Obligations, the Issuer, the Guarantors and each Group Company party to any Security Document and/or the Guarantee and Adherence Agreement grants the Issuer Group Transaction Security and the Guarantees (as applicable) to the Issuer ICA Secured Parties as represented by the Security Agent on the terms set out in the relevant Security Documents and the Guarantee and Adherence Agreement (as applicable).

- (b) Subject to the US HoldCo Intercreditor Agreement and applicable corporate law limitations, as continuing Security for the due and punctual fulfilment of the US Security Secured Obligations, each member of the US HoldCo Group being a party to any Security Document grants the US Transaction Security to the Secured Parties as represented by the Security Agent on the terms set out in the relevant Security Documents.
- (c) The Security Agent shall hold the Transaction Security and the Guarantees on behalf of the Secured Parties in accordance with the Security Documents, the Guarantee and Adherence Agreement, and the Intercreditor Agreements or these Terms and Conditions (as applicable). The Issuer shall, and shall procure that the Guarantors and each Group Company party to any Security Document and/or the Guarantee and Adherence Agreement (as applicable) will, enter into the Security Documents and/or the Guarantee and Adherence Agreement (as applicable) and perfect the Transaction Security in accordance with the Security Documents.
- (d) Unless and until the Security Agent has received instructions to the contrary from the Bondholders in accordance with Clause 16 (*Decisions by Bondholders*) in relation to the US Transaction Security or in accordance with the Issuer Intercreditor Agreement in relation to the Guarantees or the Issuer Group Transaction Security, the Security Agent shall (without first having to obtain the Bondholders' consent) be entitled to enter into agreements with the Issuer or a third party or take any other actions, if it is, in the Security Agent's opinion, necessary for the purpose of maintaining, altering, releasing or enforcing the Transaction Security, creating further Security for the benefit of the Secured Parties or for the purpose of settling the Bondholders' or the Secured Parties' or the Issuer's rights to the Transaction Security, in each case in accordance with the terms of the Finance Documents and provided that such agreements or actions are not detrimental to the interest of the Bondholders.
- (e) The Agent shall be entitled to give instructions relating to the Transaction Security and the Guarantees to the Security Agent in accordance with the Intercreditor Agreements.

## **11. Information to Bondholders**

### **11.1 Information from the Issuer**

- (a) The Issuer shall make the following information available in the English language by publication on the website of the Group:
  - (i) as soon as the same become available, but in any event within four (4) months after the end of each financial year, the annual audited consolidated financial statements of the Issuer, including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from the Issuer's board of directors;
  - (ii) as soon as the same become available, but in any event within four (4) months after the end of each financial year, the annual audited

consolidated report of SGLT Holding I LP, business identity code 86045, in a format comparable to the report prepared for the financial year ending 31 December 2018;

- (iii) as soon as the same become available, but in any event within two (2) months after the end of the relevant interim period, the semi-annual unaudited consolidated report or the year-end report (as applicable), of the Issuer, including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from the Issuer's board of directors; and
  - (iv) as soon as the same become available, but in any event within two (2) months after the end of each quarter of its financial year, the quarterly unaudited consolidated reports or the year-end report (as applicable), of the Parent, including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from the Issuer's board of directors.
- (b) Any other information required by the Swedish Securities Markets Act (*Sw. lag (2007:528) om värdepappersmarknaden*) and the rules and regulations of the Regulated Market and any MTF on which the Bonds are traded.
- (c) When the Bonds have been listed on a Regulated Market:
  - (i) the information set out in Clause 11.1(a) shall also be made available by way of press release; and
  - (ii) the reports referred to in Clause 11.1(a)(i) and Clause 11.1(a)(ii) shall be prepared in accordance with IFRS.
- (d) When the financial statements and other information are made available to the Bondholders pursuant to Clause 11.1(a), the Issuer shall send copies of such financial statements and other information to the Agent.
- (e) The Issuer shall promptly notify the Agent and the Bondholders upon becoming aware of the occurrence of a Change of Control Event or Listing Failure Event, and shall provide the Agent with such further information as the Agent may request (acting reasonably) following receipt of such notice. A notice regarding a Change of Control Event may be given in advance of the occurrence of a Change of Control Event, conditioned upon the occurrence of such Change of Control Event, if a definitive agreement is in place providing for a Change of Control Event.
- (f) The Issuer shall promptly notify the Agent (with full particulars) upon becoming aware of the occurrence of any event or circumstance which constitutes an Event of Default, or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing) constitute an Event of Default, and shall provide the Agent with such further information as it may reasonably request in writing following receipt of such notice. Should the Agent not receive such

information, the Agent is entitled to assume that no such event or circumstance exists or can be expected to occur, provided that the Agent does not have actual knowledge of such event or circumstance.

- (g) The Issuer shall submit a duly executed Compliance Certificate to the Agent:
  - (i) in connection with the incurrence of Financial Indebtedness or the making of a Restricted Payment;
  - (ii) in connection with publication of the annual audited consolidated financial statements and with respect to the clean down of the Working Capital Facilities; and
  - (iii) in connection with publication of the interim unaudited consolidated reports of the Group with respect to nomination of Material Group Companies.
- (h) The Agent may assume that any information provided by the Issuer in the Compliance Certificate delivered pursuant to paragraph (g) above is correct, and the Agent shall not be responsible or liable for the adequacy, accuracy or completeness of such information.
- (i) The Issuer is only obliged to inform the Agent according to this Clause 11.1 if informing the Agent would not conflict with any applicable laws or, when the Bonds are listed, the Issuer's registration contract with the Regulated Market. If such a conflict would exist pursuant to the listing contract with the Regulated Market or otherwise, the Issuer shall however be obliged to either seek approval from the Regulated Market or undertake other reasonable measures, including entering into a non-disclosure agreement with the Agent, in order to be able to timely inform the Agent according to this Clause 11.1.

## **11.2 Information from the Agent**

- (a) Subject to the restrictions of a non-disclosure agreement entered into by the Agent in accordance with Clause 11.2(b), the Agent is entitled to disclose to the Bondholders any event or circumstance directly or indirectly relating to the Issuer or the Bonds. Notwithstanding the foregoing, the Agent may if it considers it to be beneficial to the interests of the Bondholders delay disclosure or refrain from disclosing certain information other than in respect of an Event of Default that has occurred and is continuing.
- (b) If a committee representing the Bondholders' interests under the Finance Documents has been appointed by the Bondholders in accordance with Clause 16 (*Decisions by Bondholders*), the members of such committee may agree with the Issuer not to disclose information received from the Issuer, provided that it, in the reasonable opinion of such members, is beneficial to the interests of the Bondholders. The Agent shall be a party to such agreement and receive the same information from the Issuer as the members of the committee.

### 11.3 Publication of Finance Documents

- (a) The latest version of these Terms and Conditions (including any documents amending these Terms and Conditions) shall be available on the websites of the Group and the Agent.
- (b) The latest version of the Finance Documents shall be available to the Bondholders at the office of the Agent during the Agent's normal business hours.

## 12. Financial Undertakings

### 12.1 Incurrence Test

The Incurrence Test is met if:

- (a) The Net Leverage Ratio is not greater than:
  - (i) 5.00x until 31 March 2022;
  - (ii) 4.75x until 31 March 2023;
  - (iii) 4.50x until 31 March 2024;
  - (iv) 4.25x until the Final Maturity Date; and
- (b) no Event of Default is continuing or would occur upon the incurrence of Financial Indebtedness.

### 12.2 Dividend Test

The Dividend Test is met if the Net Leverage Ratio is not greater than 3.50x and no Event of Default is continuing or would occur upon the making of the Restricted Payment.

### 12.3 Testing of the Incurrence Test and Dividend Test

- (a) The calculation of the Net Leverage Ratio shall be made as per a testing date determined by the Issuer, falling (i) no more than two months prior to the incurrence of the new Financial Indebtedness pursuant to clause 2(e) (*Status of the Bonds*) or pursuant to paragraphs (k) and (l) of the definition of "Permitted Debt" or the making of a Restricted Payment pursuant to clause 13.2(b)(iii) (*Restricted Payments*) (as applicable) or (ii) no more than two months prior to the delivery of any Compliance Certificate delivered pursuant to paragraph (c) below. The Net Interest Bearing Debt shall be measured on the relevant testing date so determined, but include the new Financial Indebtedness provided it is an interest bearing obligation (however, any cash balance resulting from the incurrence of the new Financial Indebtedness shall not reduce the Net Interest Bearing Debt) and any Financial Indebtedness that the Issuer intends to incur as notified in any Compliance Certificate delivered pursuant to paragraph (c) below but which has not yet been incurred (provided that the Issuer has not withdrawn

such Compliance Certificate in accordance with paragraph (d) below). EBITDA shall be calculated as set out under Clause 12.4 (*Calculation Adjustments*) below.

- (b) Notwithstanding the above, if the Incurrence Test is tested in connection with incurrence of Financial Indebtedness to be used for an acquisition, the calculation of the Net Leverage Ratio may be made based on the Net Leverage Ratio for the to be acquired entity only on a stand-alone basis (without the Group). The Net Interest Bearing Debt shall be measured for the relevant to be acquired entity on the relevant testing date so determined, but include the new Financial Indebtedness incurred by the Group for the acquisition and shall include cash in the amount of any Subordinated Loan or unconditional shareholder's contribution made for the purpose of the Incurrence Test in connection with such acquisition.
- (c) If the Issuer wishes to finance an acquisition with Financial Indebtedness to be incurred pursuant to paragraph (b) above after the relevant acquisition has been completed, the Issuer shall, on or before the date of completion of the relevant acquisition, provide to the Agent a Compliance Certificate setting out (i) the Net Leverage Ratio for the entity to be acquired only on a stand-alone basis (without the Group) (including any new Financial Indebtedness incurred by the Group for the acquisition (which shall include any Financial Indebtedness intended to be incurred as notified in the relevant Compliance Certificate)) and (ii) the amount of Financial Indebtedness that the Issuer intends to incur for the relevant acquisition.
- (d) A Compliance Certificate delivered pursuant to paragraph (c) above may only be withdrawn in writing by the Issuer and any Financial Indebtedness permitted pursuant to such Compliance Certificate may following such withdrawal not be incurred.
- (e) Any Financial Indebtedness to be incurred pursuant to a Compliance Certificate delivered in accordance with paragraph (c) above may not be incurred more than nine (9) months after the completion date for the relevant acquisition and, if such Financial Indebtedness is not incurred, the relevant Compliance Certificate shall be deemed to have been withdrawn on the date falling nine (9) months after the date of such acquisition.

#### **12.4 Calculation Adjustments**

- (a) EBITDA, Finance Charges and Net Finance Charges
  - (i) The figures for EBITDA, Finance Charges and Net Finance Charges for the Reference Period ending on the last day of the period covered by the most recent Financial Report shall be used for the Incurrence Test, but adjusted so that:
    - (A) entities acquired or disposed of by the Group during the Reference Period, or after the end of the Reference Period but before the relevant testing date, shall be included or excluded (as applicable), pro forma, for the entire Reference Period;

- (B) any entity to be acquired with the proceeds from new Financial Indebtedness shall be included, pro forma, for the entire Reference Period; and
- (C) the pro forma calculation of EBITDA shall be adjusted to take into account the net cost savings and other reasonable cost synergies ("**Cost Adjustments**"), as the case may be, realisable by the Group during the Reference Period as a result of acquisitions and/or disposals of entities referred to in (A) or (B) above, provided that such Cost Adjustments (i) have been confirmed by a reputable accounting firm and the Issuer has provided evidence thereof to the Agent, (ii) do not exceed 5.00 per cent of EBITDA prior to the inclusion of the Cost Adjustments, and (iii) are specified in the quarterly reports of the Group and in each Compliance Certificate.

## 13. General Undertakings

### 13.1 General

The Issuer undertakes to (and shall, where applicable, procure that each other Group Company will and shall procure that each Obligor (pursuant to the Guarantee and Adherence Agreement) undertakes to) comply with the undertakings set out in this Clause 13 for as long as any Bonds remain outstanding.

### 13.2 Restricted Payments

- (a) The Issuer and US HoldCo shall not, and shall procure that none of their Subsidiaries will:
  - (i) pay any dividend in respect of its shares;
  - (ii) repurchase or redeem any of its own shares;
  - (iii) redeem or reduce its share capital or other restricted equity with repayment to its shareholders;
  - (iv) repay any Subordinated Loan or pay any interest thereon;
  - (v) grant any loans except to Group Companies; or
  - (vi) make any other similar distribution or transfers of value to the Issuer's, US HoldCo's or the Subsidiaries', direct and indirect shareholders (other than the Issuer, US HoldCo or a Subsidiary of the Issuer or US HoldCo) or the Affiliates of such direct and indirect shareholders,

(paragraphs (i)-(vi) above are together and individually referred to as a "**Restricted Payment**").
- (b) Notwithstanding 13.2(a) above, a Restricted Payment may be made:

- (i) If mandatory by law;
  - (ii) if made to the Issuer or a direct or indirect Subsidiary of the Issuer or the US HoldCo or a direct or indirect Subsidiary of the US HoldCo but, if made by a Subsidiary which is not directly or indirectly wholly-owned by the Issuer or US HoldCo, is made on a pro rata basis;
  - (iii) to refinance a Subordinated Loan in full (including any accrued interest) by way of an equity injection and/or with subordinated debt; and/or
  - (iv) following an Equity Listing Event by the Issuer and a full repayment in accordance with the Equity Claw Back if:
    - (A) the Dividend Test is met (calculated on a *pro forma* basis including the relevant Restricted Payment); and
    - (B) if, at the time of the payment, the aggregate amount of all Restricted Payments of the Group in any fiscal year (including the Restricted Payment in question) does not exceed 50 per cent. of the Group's consolidated net profit for the previous financial year adjusted for any distribution to any minority shareholder.
- (c) Notwithstanding the above, the Issuer may make payments to the Main Shareholders (or an Affiliate of the Main Shareholders) covering, *inter alia*, annual monitoring fees and administrative expenses, in a maximum aggregate amount (the "**Maximum Amount**") not exceeding the lower of (i) EUR 1,750,000 and (ii) 5 per cent. of EBITDA of the Group for the relevant period covered by the most recent Financial Report, for each calendar year provided that no Event of Default is continuing or would occur due to such Restricted Payment.

### 13.3 Listing

The Issuer shall ensure that:

- (a) the Initial Bonds are listed on the corporate bond list of Nasdaq Stockholm or any other Regulated Market within 60 days after the First Issue Date and with an intention to complete such listing within 30 days after the First Issue Date;
- (b) any Subsequent Bonds are listed on the corporate bond list on Nasdaq Stockholm or the relevant Regulated Market, within 60 days after the issuance of such Subsequent Bonds and with an intention to complete such listing within 30 days after the issuance of such Subsequent Bonds;
- (c) the Bonds are listed on the Open Market of the Frankfurt Stock Exchange (or any stock exchange replacing it) as soon as reasonably practicable after the First Issue Date or after the issuance of Subsequent Bonds (as applicable) and remain listed on such exchange until the Bonds have been redeemed in full; and
- (d) the Bonds, once admitted to trading on the corporate bond list of the relevant Regulated Market or MTF (as applicable), continue to be listed thereon for as



long as any Bond is outstanding (however, taking into account the rules and regulations of the relevant Regulated Market or MTF (as applicable) and the CSD (as amended from time to time) which may prevent trading in the Bonds in close connection to the redemption of the Bonds).

#### **13.4 Nature of Business**

The Issuer and US HoldCo shall procure that no substantial change is made to the general nature of the business carried on by the Group as of the First Issue Date if such substantial change would have a Material Adverse Effect.

#### **13.5 Financial Indebtedness**

No Obligor shall, and shall procure that none of its Subsidiaries will, incur any Financial Indebtedness, other than Permitted Debt.

#### **13.6 Disposal of Assets**

The Issuer and US HoldCo shall not, and shall procure that none of their Subsidiaries will, sell or otherwise dispose of any shares in any Subsidiary or of all or substantially all of its or that Subsidiary's assets or operations to any person other than:

- (a) to the Issuer or any member of the Issuer Group;
- (b) to US HoldCo or any of its Subsidiaries;
- (c) disposal of accounts receivables by way of non-recourse factoring or invoice discounting; or
- (d) to any other Person, provided that if the value of the assets being subject to a disposal exceeds EUR 10,000,000 the Issuer shall (i) deposit the net proceeds from such disposal in a bank account which is pledged in favour of the Security Agent, (ii) apply the net proceeds from such disposal towards reinvestment in the same line of business within 12 months (or, if committed to be so applied within 12 months from the disposal, shall be so applied within 18 months) from the disposal, and if no such reinvestment takes place within such reinvestment period, the net proceeds from such disposal shall within 2 months following the end of the reinvestment period (a) firstly, be applied towards redemption of the Existing Bonds and (b) thereafter, be applied towards partial repayment of outstanding Bonds by way of reducing the Nominal Amount of each Bond pro rata or (iii) provided that the Existing Bonds have been redeemed in full, apply the net proceeds in full or partial repayment of the Bonds (as applicable),

provided that the transaction (other than in respect of paragraph (a) and (b) above) is carried out at fair market value and on arm's length terms.

The amount of the Bonds repaid in accordance with paragraph (d) above shall be equal to the Nominal Amount repaid (rounded down to the nearest EUR 1.00) plus up to, but excluding, the First Call Date a premium on the repaid amount equal to the Call Option Amount set out in Clause 9.3(a)(ii) and thereafter, as applicable considering when the

repayment occurs, a premium on the repaid amount equal the Call Option Amount for the relevant period and accrued but unpaid interest on the repaid amount.

### 13.7 Negative Pledge

The Issuer and US HoldCo shall not, and shall procure that none of their Subsidiaries will, provide, prolong or renew any security over any of its/their assets (present or future); *provided, however*, that the Group Companies shall have the right to (i) provide, prolong and renew any Permitted Security, and (ii) retain, but not prolong or renew, any existing security in relation to indebtedness held by an entity acquired by a Group Company.

### 13.8 Loans Out

The Issuer and US HoldCo shall not, and shall procure that none of their Subsidiaries will, extend any loans in any form to any party other than (i) in the ordinary course of business, (ii) to a Group Company, and (iii) any other loans in an aggregate amount outstanding not exceeding EUR 1,000,000.

### 13.9 Clean Down of Working Capital Facilities

The Issuer shall procure that during each calendar year there shall be a period of five (5) consecutive days (the "**Clean Down Period**") during which the Clean Down Test is met. Not less than six (6) months shall elapse between two such Clean Down Periods. If the Net Leverage Ratio is below 4.50x pursuant to at least three Financial Reports relating to a calendar year, no clean-down shall be required for such calendar year.

For the purpose of this Clause 13.9, "**Clean Down Test**" means (a) if Net Leverage Ratio exceeds 5.00x according to the most recent Financial Report, that the aggregated amount outstanding under the Working Capital Facilities (if any) less Cash and Cash Equivalents and Qualified Receivables (being the "**Outstanding Amount**"), amounts to zero (0) or less, and (b) if Net Leverage Ratio is equal to or below 5.00x but is equal to or exceeds 4.50x pursuant to the most recent Financial Report, that the Outstanding Amount does not exceed an amount equivalent to 50 per cent of the total commitments under the Working Capital Facilities.

### 13.10 Dealings at arm's length terms

The Issuer and US HoldCo shall, and shall procure that their Subsidiaries will, conduct all dealings with the direct and indirect shareholders of the Group Companies (excluding other Group Companies) and/or any Affiliates of such direct and indirect shareholders on arm's length terms.

### 13.11 Compliance with laws and authorisations

The Issuer and US HoldCo shall, and shall make sure that their Subsidiaries will, (i) comply with all laws and regulations applicable from time to time and (ii), obtain, maintain, and comply with, the terms and conditions of any authorisation, approval, licence or other permit required for the business carried out by a Group Company, in each case, if failure to do so has or is reasonably likely to have a Material Adverse Effect.

### **13.12 Insurance**

The Issuer and US HoldCo shall, and shall procure that their Subsidiaries will maintain insurances on and in relation to their business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business, where failure to do so would have a Material Adverse Effect.

### **13.13 Environmental compliance**

The Issuer and US HoldCo shall, and shall ensure that their Subsidiaries will, comply with all environmental laws and obtain, maintain and ensure compliance with all requisite environmental permits, if failure to do so has or is reasonably likely to have a Material Adverse Effect.

### **13.14 Holding Company**

The Issuer and US HoldCo shall not trade, carry on any business, own any material assets or incur any liabilities, except for (i) the provision of administrative, managerial, legal, treasury, information, technology and accounting services to other Group Companies of a type customarily provided by a holding company (including retaining and the secondment of employees for such purpose), (ii) acquisition and ownership of shares in any company, (iii) intra-group debit and credit balances and debit and credit balances held in bank accounts, (iv) the payment of professional fees and administrative costs, (v) liabilities incurred in connection with Subordinated Loans, the Bonds, the Existing Bonds or any other bonds that may be issued, or the incurrence of any other indebtedness, in each case, in compliance with these Terms and Conditions, (vi) trading, carrying on any business, owning any material assets or incurring any liabilities as permitted by the Finance Documents and under the Working Capital Facilities and (vii) liability to pay tax.

### **13.15 Nomination of Material Group Companies**

At:

- (a) the First Issue Date and thereafter once every year (simultaneously with the publication by the Parent of the audited annual financial statements of the Group and the Compliance Certificate related thereto pursuant to the Terms and Conditions); and
- (b) the date of acquisition of any assets by a Group Company financed (in whole or in part) by Permitted Debt for consideration in excess of 5 per cent. of EBITDA of the Group (calculated on a consolidated basis) (simultaneously with the delivery by the Issuer of the Compliance Certificate related to the incurrence of such Permitted Debt),

the Issuer shall ensure that:

- (c) each Group Company (other than Group Companies incorporated in an Excluded Jurisdiction or any Group Company that is subject to any legal, statutory (provided that the Issuer or US HoldCo shall use commercial reasonable efforts to procure that such statutory restrictions are removed (to the extent such

removal is possible and practicable)) or regulatory restrictions that restricts its ability to provide a guarantee or security or otherwise fulfil the obligations of a Material Group Company) which (on a consolidated basis in the case of a Group Company which itself has Subsidiaries) has EBITDA representing 5 per cent. or more of EBITDA of the Group (calculated on a consolidated basis); and

- (d) such Group Companies (other than Group Companies incorporated in an Excluded Jurisdiction or any Group Company that is subject to any legal, statutory (provided that the Issuer or US Holdco shall use commercial reasonable efforts to procure that such statutory restrictions are removed (to the extent such removal is possible and practicable)) or regulatory restrictions that restricts its ability to provide a guarantee or security or otherwise fulfil the obligations of a Material Group Company) as are necessary to ensure that the Material Group Companies (calculated on an unconsolidated basis and excluding all intra-group items and investments in Subsidiaries of any Group Company) in aggregate account for at least 85 per cent. of EBITDA of the Group (calculated on a consolidated basis),

in each case, determined by reference to the most recent yearly interim unaudited consolidated report of the Group, are listed as Material Group Companies in the relevant Compliance Certificate delivered in connection thereto.

### **13.16 Additional Security over Material Group Companies**

Each Obligor shall procure that, subject to the Intercreditor Agreements, Security over the equity interests in each Material Group Company (subject to customary financial assistance and corporate benefit limitations) is granted no later than 120 days after its nomination in accordance with the Clause 13.15 (*Nomination of Material Group Companies*) above and in connection therewith provide to the Agent:

- (a) constitutional documents and corporate resolutions (approving the relevant Security Document and authorising a signatory/-ies to execute that Security Document) for the relevant security provider and each other party to that Security Document (other than the Agent);
- (b) copies of the relevant Security Documents duly executed;
- (c) evidence that the Transaction Security either has been or will be perfected in accordance with the terms of the relevant Security Documents;
- (d) any legal opinion on the capacity and due execution in respect of any entity being party to the relevant Security Document unless it is incorporated in Sweden, issued by a reputable law firm unless the relevant security is granted pursuant to an existing Security Document where the Agent has previously been provided with a legal opinion on the capacity and due execution of such Security Document by such party; and
- (e) any legal opinion on the validity and enforceability in respect of the relevant Security Document unless it is governed by Swedish law which, if requested by the Agent, shall also include customary opinions regarding the role of the

Security Agent in such jurisdiction (such as no residency or registration requirement and no need to deposit funds), issued by a reputable law firm unless the relevant security is granted pursuant to an existing Security Document where the Agent has previously been provided with a legal opinion on the validity and enforceability of such Security Document.

Security shall be subject to customary financial assistance, corporate benefit, fiduciary duties, risk of personal or criminal liability on the part of any officer or director and other corporate law limitations.

No Group Company shall be required to provide any Security if the granting of such would impose a stamp duty or similar fee or tax which is not negligible.

If US Holdco or any of its subsidiaries are required to grant any additional security pursuant to this Clause 13.16, such security shall be granted on the terms set out in the Security Documents entered into in relation to the security listed in (a) and (b) in the definition of "US Transaction Security".

### **13.17 Additional Guarantors**

Each Obligor shall procure that each Material Group Company (other than any Material Group Company incorporated in the US) accedes to the Guarantee and Adherence Agreement no later than 120 days after its nomination in accordance with Clause 13.15 (*Nomination of Material Group Companies*) above and in connection therewith provides to the Agent:

- (a) duly executed accession letters to the Guarantee and Adherence Agreement;
- (b) duly executed accession letters to the Issuer Intercreditor Agreement (other than in relation to US HoldCo or any of their Subsidiaries);
- (c) constitutional documents and corporate resolutions (approving the relevant Finance Documents and authorising a signatory/-ies to execute the Finance Documents) for it and each other party to a Finance Document (other than the Agent);
- (d) any legal opinion on the capacity and due execution unless such Material Group Company is incorporated in Sweden, issued by a reputable law firm; and
- (e) any legal opinion on the validity and enforceability in respect of any Finance Documents unless it is governed by Swedish law which, if requested by the Agent, shall also include customary opinions regarding the role of the Security Agent in such jurisdiction (such as no residency or registration requirement and no need to deposit funds), issued by a reputable law firm.

All guarantees shall be subject to, and limited as required by, financial assistance regulations corporate benefit, fiduciary duties, risk of personal or criminal liability on the part of any officer or director and other corporate law limitations.

No Group Company shall be required to provide any guarantees if the granting of such would impose a stamp duty or similar fee or tax which is not negligible.

### **13.18 Additional Security Material Intercompany Loans**

The Issuer shall, upon the Issuer granting a Material Intercompany Loan to a Material Group Company, subject to the Intercreditor Agreements, grant a pledge over that Material Intercompany Loan as Security (subject to customary financial assistance and corporate benefit limitations) and for all amounts outstanding under the Finance Documents, provided that all loans from the Issuer to US HoldCo or any of its Subsidiaries may be subordinated to the Revolving Loan Debt, and simultaneously therewith deliver to the Agent (unless previously provided):

- (a) if applicable, constitutional documents and corporate resolutions (approving the relevant Security Documents and authorising a signatory/-ies to execute the relevant Security Document) for the relevant security provider, and each other party to that Security Document (other than the Agent);
- (b) a legal opinion on the capacity and due execution, in respect of any entity being party to the relevant Security Document unless it is incorporated in Sweden, issued by a reputable law firm unless the relevant security is granted pursuant to an existing Security Document where the Agent has previously been provided with a legal opinion on the capacity and due execution of such Security Document by such party; and
- (c) any legal opinion on the validity and enforceability in respect of the relevant Security Document unless it is governed by Swedish law which, if requested by the Agent, shall also include customary opinions regarding the role of the Security Agent in such jurisdiction (such as no residency or registration requirement and no need to deposit funds), issued by a reputable law firm unless the relevant security is granted pursuant to an existing Security Document where the Agent has previously been provided with a legal opinion on the validity and enforceability of such Security Document.

The security shall be subject to customary financial assistance and corporate benefit limitations. Provided that no Event of Default has occurred and is continuing (i) payment of principal under the Material Intercompany Loans made for the purpose of making payments under the Bonds and (ii) payment of interest under the Material Intercompany Loans shall be permitted.

### **13.19 Additional Security upon the acquisition of any entity financed in whole or in part with proceeds from the issuance of Bonds**

Upon the acquisition of any entity financed in whole or in part directly with proceeds from the issuance of Bonds, all amounts outstanding under the Finance Documents, including but not limited to the Bonds, plus accrued interest and expenses shall be secured by:

- (a) a pledge over all acquired shares in the relevant acquired entity at the time of the acquisition unless it is customary that such security instead is granted as attached security in which case all the shares issued in the acquired entity at the time of the acquisition and acquired by a Group Company shall be granted as

security for the Material Intercompany Loan set out to be pledged under (c) below;

- (b) a pledge over any Material Intercompany Loans from any Group Company (other than any member of the US HoldCo Group to the extent covered by any second ranking pledge referred to in paragraph (b) of the definition of "US Transaction Security") to the acquired entity unless it is customary that such security instead is granted as attached security in which case any Material Intercompany Loan between the acquiring entity and the acquired entity shall be granted as security for the Material Intercompany Loan set out to be pledged under (c) below;
- (c) a pledge over any Material Intercompany Loan from the Issuer to the acquiring entity (including, if applicable, attached security over all the shares issued in the acquired entity at the time of the acquisition and acquired by a Group Company and the Material Intercompany Loan set out to be pledged under (b) above); and
- (d) a pledge over floating charges or business mortgages in the business of any wholly owned acquired entity, in an amount equivalent to the value of the assets covered by the floating charge or business mortgages, as confirmed by the Issuer, provided that the acquired entity shall not be required to grant security over floating charges or business mortgages if the issuance or granting of such would impose a stamp duty or registration fee which is not negligible and further provided that if the pledge relates to an acquired entity which becomes a Subsidiary of US HoldCo, it shall be a second ranking pledge over all assets of such entity other than equity interests.

The Security shall be subject to customary financial assistance, corporate benefit, fiduciary duties, risk of personal or criminal liability on the part of any officer or director and other corporate law limitations and, in the case of pledges of equity interests in non-wholly owned Subsidiaries, the terms of the constituent documents of such Subsidiaries (provided that the Issuer or US HoldCo shall use commercial reasonable efforts to procure that such restrictions in the constituent documents of any such Subsidiary are removed (to the extent such removal is possible and practicable)).

If US Holdco or any of its subsidiaries are required to grant any additional security pursuant to this Clause 13.19, such security shall be granted on the terms set out in the Security Documents entered into in relation to the security listed in (a) and (b) in the definition of "US Transaction Security" and subject to the US Holdco Intercreditor Agreement.

The Security pursuant to paragraph (a) above shall only be required if 50 per cent. or more of the shares, share capital or votes of the acquired entity have been acquired by a Group Company and this Clause 13.19 shall not apply in relation to entities incorporated in any Excluded Jurisdiction.

### **13.20 Tender Offer**

Existing Bonds repurchased in the Tender Offer may not be sold by the Issuer.

## 14. Events of Default and Acceleration of the Bonds

Each of the events or circumstances set out in this Clause 14 (other than Clause 14.10 (*Acceleration of the Bonds*)) is an Event of Default.

### 14.1 Non-Payment

The Issuer or a Guarantor fails to pay an amount on the date it is due in accordance with the Finance Documents unless:

- (a) its failure to pay is caused by administrative or technical error and
- (b) payment is made within five (5) Business Days of the due date.

### 14.2 Other Obligations

A party (other than the Agent) fails to comply with the Finance Documents, in any other way than due to a Listing Failure Event or as set out in Clauses 14.1 (*Non-Payment*), provided that no Event of Default will occur if the failure to comply is capable of being remedied and the Issuer or that party has remedied the failure within twenty (20) Business Days of the earlier (i) the Issuer or that party becoming aware of the failure to comply and (ii) the Agent requesting the Issuer in writing to remedy such failure.

### 14.3 Cross payment default and Cross-acceleration

Any Financial Indebtedness of a Material Group Company is:

- (a) not paid when due as extended by any originally applicable grace period (if there is one); or
- (b) declared to be due and payable prior to its specified maturity as a result of an event of default (however described),

provided that no Event of Default will occur under this Clause 14.3 if the aggregate amount of Financial Indebtedness that has fallen due is less than EUR 5,000,000 and provided that it does not apply to any Financial Indebtedness owed to a Group Company.

### 14.4 Insolvency

- (a) Any Material Group Company is unable or admits inability to pay its debts as they fall due or is declared to be unable to pay its debts under applicable law, suspends making payments on its debts generally or, by reason of actual or anticipated financial difficulties, commences negotiations with its creditors (except for Bondholders) with a view to rescheduling its Financial Indebtedness.
- (b) A moratorium is declared in respect of the Financial Indebtedness of any Material Group Company.



#### **14.5 Insolvency Proceedings**

Any corporate action, legal proceedings or other procedures are taken (other than (i) proceedings or petitions which are being disputed in good faith and are discharged, stayed or dismissed within 60 days of commencement or, if earlier, the date on which it is advertised and (ii), in relation to Subsidiaries of the Issuer or US HoldCo, solvent liquidations) in relation to:

- (a) the suspension of payments, winding-up, dissolution, administration or reorganisation (by way of voluntary agreement, scheme of arrangement or otherwise) of any Material Group Company; and
- (b) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any Material Group Company or any of its assets or any analogous procedure or step is taken in any jurisdiction.

#### **14.6 Creditors' Process**

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of any Material Group Company having an aggregate value of an amount equal to or exceeding EUR 5,000,000 and is not discharged within 60 days.

#### **14.7 Mergers and demergers**

A decision is made that any Material Group Company shall be demerged or merged if such merger or demerger is likely to have a Material Adverse Effect, provided that a merger involving the Issuer or the US HoldCo, where the Issuer is not the surviving entity and, in relation to US HoldCo only, where US HoldCo is not the surviving entity and the surviving entity does not assume the obligations of the US HoldCo, shall always be considered an Event of Default and provided that the Issuer or US HoldCo may not be demerged.

#### **14.8 Impossibility or Illegality**

It is or becomes impossible or unlawful for any party (other than the Agent) to fulfil or perform any of the provisions of the Finance Documents or if the obligations under the Finance Documents are not, or cease to be, legal, valid, binding and enforceable (subject to the Legal Reservations).

#### **14.9 Continuation of the Business**

The Issuer, US HoldCo or any other Material Group Company ceases to carry on its business (other than (i) a solvent liquidation permitted pursuant to Clause 14.5 (*Insolvency Proceedings*) above or (ii) a disposal permitted under the Finance Documents), if such discontinuation is likely to have a Material Adverse Effect.

#### 14.10 Acceleration of the Bonds

- (a) Upon the occurrence of an Event of Default which is continuing but subject to the terms of the Issuer Intercreditor Agreement, the Agent is entitled to, and shall following a demand in writing from a Bondholder (or Bondholders) representing at least twenty-five (25) per cent. of the Adjusted Nominal Amount (such demand may only be validly made by a Person who is a Bondholder on the Business Day immediately following the day on which the demand is received by the Agent and shall, if made by several Bondholders, be made by them jointly) or following an instruction given pursuant to Clause 14.10(d), on behalf of the Bondholders (i) by notice to the Issuer, declare all, but not some only, of the outstanding Bonds due and payable together with any other amounts payable under the Finance Documents, immediately or at such later date as the Agent determines, and (ii) exercise any or all of its rights, remedies, powers and discretions under the Finance Documents.
- (b) The Agent may not accelerate the Bonds in accordance with Clause 14.10(a) by reference to a specific Event of Default if it is no longer continuing or if it has been decided, on a Bondholders Meeting or by way of a Written Procedure, to waive such Event of Default (temporarily or permanently).
- (c) The Agent shall notify the Bondholders of an Event of Default within five (5) Business Days of the date on which the Agent received actual knowledge of that an Event of Default has occurred and is continuing. The Agent shall, within twenty (20) Business Days of the date on which the Agent receives actual knowledge that an Event of Default has occurred and is continuing, decide if the Bonds shall be so accelerated. If the Agent decides not to accelerate the Bonds, the Agent shall promptly seek instructions from the Bondholders in accordance with Clause 16 (*Decisions by Bondholders*). The Agent shall always be entitled to take the time necessary to consider whether an event that has occurred constitutes an Event of Default.
- (d) If the Bondholders (in accordance with these Terms and Conditions) instruct the Agent to accelerate the Bonds, the Agent shall promptly declare the Bonds due and payable and take such actions as may, in the opinion of the Agent, be necessary or desirable to enforce the rights of the Bondholders under the Finance Documents, unless the relevant Event of Default is no longer continuing.
- (e) If the right to accelerate the Bonds is based upon a decision of a court of law or a government authority, it is not necessary that the decision has become enforceable under law or that the period of appeal has expired in order for cause of acceleration to be deemed to exist.
- (f) Subject to the Issuer Intercreditor Agreement, in the event of an acceleration of the Bonds in accordance with this Clause 14.10, the Issuer shall up to, but excluding, the date falling 30 months after the First Issue Date redeem all Bonds at an amount per Bond equal to the Call Option Amount set out in Clause 9.3(a)(ii) and thereafter, as applicable considering when the acceleration occurs, redeem all Bonds at an amount per Bond equal to the Call Option Amount for the relevant period.

## 15. Distribution of Proceeds

### 15.1 Distribution of Proceeds from Transaction Security other than US Transaction Security

- (a) All payments by the Issuer relating to the Bonds and the Finance Documents following an acceleration of the Bonds in accordance with Clause 14 (*Events of Default and Acceleration of the Bonds*) and any proceeds received from an enforcement of the Transaction Security (other than the US Transaction Security) or the Guarantees (in the case of Guarantees to the extent proceeds from the Guarantees can be applied towards satisfaction of the Secured Obligations) shall be distributed in accordance with the Issuer Intercreditor Agreement.
- (b) If a Bondholder or another party has paid any fees, costs, expenses or indemnities referred to in Clause 15.2(a)(i), such Bondholder or other party shall be entitled to reimbursement by way of a corresponding distribution in accordance with Clause 15.2(a)(i).
- (c) Funds that the Agent receives (directly or indirectly) in connection with the acceleration of the Bonds or the enforcement of the Transaction Security (other than US Transaction Security) or the Guarantees constitute escrow funds (*Sw. redovisningsmedel*) and must be promptly turned over to the Security Agent to be applied in accordance with the Issuer Intercreditor Agreement.

### 15.2 Distribution of Proceeds relating to US Transaction Security

- (a) Any proceeds received from an enforcement of the US Transaction Security shall, subject to the provisions of the US HoldCo Intercreditor Agreement, be distributed in the following order of priority:
  - (i) *first*, in or towards payment *pro rata* of (i) all unpaid fees, costs, expenses and indemnities payable by the Issuer to the Agent and the Security Agent in accordance with the Agency Agreement (other than any indemnity given for liability against the Bondholders), (ii) other costs, expenses and indemnities relating to the acceleration of the Bonds, the enforcement of the US Transaction Security or the protection of the Bondholders' rights as may have been incurred by the Agent and the Security Agent, (iii) any costs incurred by the Agent and the Security Agent for external experts that have not been reimbursed by the Issuer in accordance with Clause 20.2(g), and (iv) any costs and expenses incurred by the Agent and Security Agent in relation to a Bondholders' Meeting or a Written Procedure that have not been reimbursed by the Issuer in accordance with Clause 16(m);
  - (ii) *secondly*, in or towards payment *pro rata* of accrued but unpaid Interest under the Bonds (Interest due on an earlier Interest Payment Date to be paid before any Interest due on a later Interest Payment Date);

- (iii) *thirdly*, in or towards payment *pro rata* of any unpaid principal under the Bonds; and
- (iv) *fourthly*, in or towards payment *pro rata* of any other costs or outstanding amounts unpaid under the Finance Documents.

Any excess funds after the application of proceeds in accordance with paragraphs (i) to (iv) above shall be paid to the Issuer.

### 15.3 Payments

If the Issuer or the Agent shall make any payment under this Clause 15, the Issuer or the Agent, as applicable, shall notify the Bondholders of any such payment at least fifteen (15) Business Days before the payment is made. Such notice shall specify the Record Date, the payment date and the amount to be paid. Notwithstanding the foregoing, for any Interest due but unpaid the Record Date specified in Clause 7(a) shall apply and for any partial redemption in accordance with Clause 9.4 (*Voluntary partial redemption*) due but not made, the Record Date specified in Clause 9.4(a) (as applicable) shall apply.

### 16. Decisions by Bondholders

- (a) A request by the Agent for a decision by the Bondholders on a matter relating to the Finance Documents shall (at the option of the Agent) be dealt with at a Bondholders' Meeting or by way of a Written Procedure.
- (b) Any request from the Issuer or a Bondholder (or Bondholders) representing at least ten (10) per cent. of the Adjusted Nominal Amount (such request may only be validly made by a Person who is a Bondholder on the Business Day immediately following the day on which the request is received by the Agent and shall, if made by several Bondholders, be made by them jointly) for a decision by the Bondholders on a matter relating to the Finance Documents shall be directed to the Agent and dealt with at a Bondholders' Meeting or by way a Written Procedure, as determined by the Agent. The Person requesting the decision may suggest the form for decision making, but if it is in the Agent's opinion more appropriate that a matter is dealt with at a Bondholders' Meeting than by way of a Written Procedure, it shall be dealt with at a Bondholders' Meeting.
- (c) The Agent may refrain from convening a Bondholders' Meeting or instigating a Written Procedure if (i) the suggested decision must be approved by any Person in addition to the Bondholders and such Person has informed the Agent that an approval will not be given, or (ii) the suggested decision is not in accordance with applicable laws.
- (d) Only a Person who is, or who has been provided with a power of attorney or other authorisation pursuant to Clause 6 (*Right to Act on Behalf of a Bondholder*) from a Person who is, registered as a Bondholder:
  - (i) on the Record Date prior to the date of the Bondholders' Meeting, in respect of a Bondholders' Meeting, or

- (ii) on the Business Day specified in the communication pursuant to Clause 18(c), in respect of a Written Procedure,

may exercise voting rights as a Bondholder at such Bondholders' Meeting or in such Written Procedure, provided that the relevant Bonds are included in the definition of Adjusted Nominal Amount.

- (e) The following matters shall require the consent of Bondholders representing at least sixty-six and two thirds ( $66 \frac{2}{3}$ ) per cent. of the Adjusted Nominal Amount for which Bondholders are voting at a Bondholders' Meeting or for which Bondholders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 18(c):
  - (i) the issue of any Subsequent Bonds, if the total nominal amount of the Bonds exceeds, or if such issue would cause the total nominal amount of the Bonds to at any time exceed, EUR 315,000,000 (for the avoidance of doubt, for which consent shall be required at each occasion such Subsequent Bonds are issued);
  - (ii) a change to the terms of any of Clause 2(a), and Clauses 2(f) to 2(h);
  - (iii) a reduction of the premium payable upon the redemption or repurchase of any Bond pursuant to Clause 9 (*Redemption and Repurchase of the Bonds*);
  - (iv) a change to the Interest Rate or the Nominal Amount (other than as a result of an application of Clause 9.4 (*Voluntary partial redemption*));
  - (v) waive a breach of or amend an undertaking set out in Clause 13 (*General Undertakings*);
  - (vi) a change to the terms for the distribution of proceeds set out in Clause 15 (*Distribution of Proceeds*);
  - (vii) a change to the terms dealing with the requirements for Bondholders' consent set out in this Clause 16;
  - (viii) a change of issuer, an extension of the tenor of the Bonds or any delay of the due date for payment of any principal or interest on the Bonds;
  - (ix) a release of the Transaction Security or the Guarantees, except in accordance with the terms of the Security Documents and/or the Guarantee and Adherence Agreement (as applicable);
  - (x) a mandatory exchange of the Bonds for other securities; and
  - (xi) early redemption of the Bonds, other than upon an acceleration of the Bonds pursuant to Clause 14 (*Events of Default and Acceleration of the Bonds*) or as otherwise permitted or required by these Terms and Conditions.

- (f) Any matter not covered by Clause 16(e) shall require the consent of Bondholders representing more than 50 per cent. of the Adjusted Nominal Amount for which Bondholders are voting at a Bondholders' Meeting or for which Bondholders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 18(c). This includes, but is not limited to, any amendment to, or waiver of, the terms of any Finance Document that does not require a higher majority (other than an amendment permitted pursuant to Clause 19(a)(i) or 19(a)(ii)), an acceleration of the Bonds or the enforcement of any Transaction Security or Guarantees.
- (g) Quorum at a Bondholders' Meeting or in respect of a Written Procedure only exists if a Bondholder (or Bondholders) representing at least twenty (20) per cent. of the Adjusted Nominal Amount:
  - (i) if at a Bondholders' Meeting, attend the meeting in person or by telephone conference (or appear through duly authorised representatives); or
  - (ii) if in respect of a Written Procedure, reply to the request.
- (h) If a quorum does not exist at a Bondholders' Meeting or in respect of a Written Procedure, the Agent or the Issuer shall convene a second Bondholders' Meeting (in accordance with Clause 17(a)) or initiate a second Written Procedure (in accordance with Clause 18(a)), as the case may be, provided that the relevant proposal has not been withdrawn by the Person(s) who initiated the procedure for Bondholders' consent. The quorum requirement in Clause 16(g) shall not apply to such second Bondholders' Meeting or Written Procedure.
- (i) Any decision which extends or increases the obligations of the Issuer or the Agent, or limits, reduces or extinguishes the rights or benefits of the Issuer or the Agent, under the Finance Documents shall be subject to the Issuer's or the Agent's consent, as appropriate.
- (j) A Bondholder holding more than one Bond need not use all its votes or cast all the votes to which it is entitled in the same way and may in its discretion use or cast some of its votes only.
- (k) The Issuer may not, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Bondholder for or as inducement to any consent under these Terms and Conditions, unless such consideration is offered to all Bondholders that consent at the relevant Bondholders' Meeting or in a Written Procedure within the time period stipulated for the consideration to be payable or the time period for replies in the Written Procedure, as the case may be.
- (l) A matter decided at a duly convened and held Bondholders' Meeting or by way of Written Procedure is binding on all Bondholders, irrespective of them being present or represented at the Bondholders' Meeting or responding in the Written Procedure. The Bondholders that have not adopted or voted for a

decision shall not be liable for any damages that this may cause other Bondholders.

- (m) All costs and expenses incurred by the Issuer or the Agent for the purpose of convening a Bondholders' Meeting or for the purpose of carrying out a Written Procedure, including reasonable fees to the Agent, shall be paid by the Issuer.
- (n) If a decision shall be taken by the Bondholders on a matter relating to the Finance Documents, the Issuer shall promptly at the request of the Agent provide the Agent with a certificate specifying the number of Bonds owned by Group Companies or (to the knowledge of the Issuer) Affiliates, irrespective of whether such Person is directly registered as owner of such Bonds. The Agent shall not be responsible for the accuracy of such certificate or otherwise be responsible to determine whether a Bond is owned by a Group Company or an Affiliate.
- (o) Information about decisions taken at a Bondholders' Meeting or by way of a Written Procedure shall promptly be sent by notice to the Bondholders and published on the websites of the Group and the Agent, provided that a failure to do so shall not invalidate any decision made or voting result achieved. The minutes from the relevant Bondholders' Meeting or Written Procedure shall at the request of a Bondholder be sent to it by the Issuer or the Agent, as applicable.

## **17. Bondholders' Meeting**

- (a) The Agent shall convene a Bondholders' Meeting by sending a notice thereof to each Bondholder no later than five (5) Business Days after receipt of a request from the Issuer or the Bondholder(s) (or such later date as may be necessary for technical or administrative reasons).
- (b) Should the Issuer want to replace the Agent, it may convene a Bondholders' Meeting in accordance with Clause 17(a) with a copy to the Agent. After a request from the Bondholders pursuant to Clause 20.4(c), the Issuer shall no later than five (5) Business Days after receipt of such request (or such later date as may be necessary for technical or administrative reasons) convene a Bondholders' Meeting in accordance with Clause 17(a).
- (c) The notice pursuant to Clause 17(a) shall include (i) time for the meeting, (ii) place for the meeting, (iii) agenda for the meeting (including each request for a decision by the Bondholders) and (iv) a form of power of attorney. Only matters that have been included in the notice may be resolved upon at the Bondholders' Meeting. Should prior notification by the Bondholders be required in order to attend the Bondholders' Meeting, such requirement shall be included in the notice.
- (d) The Bondholders' Meeting shall be held no earlier than fifteen (15) Business Days and no later than thirty (30) Business Days from the notice.

- (e) Without amending or varying these Terms and Conditions, the Agent may prescribe such further regulations regarding the convening and holding of a Bondholders' Meeting as the Agent may deem appropriate. Such regulations may include a possibility for Bondholders to vote without attending the meeting in person.

## **18. Written Procedure**

- (a) The Agent shall instigate a Written Procedure (which may be conducted electronically) no later than five (5) Business Days after receipt of a request from the Issuer or the Bondholder(s) (or such later date as may be necessary for technical or administrative reasons) by sending a communication to each such Person who is registered as a Bondholder on the Business Day prior to the date on which the communication is sent.
- (b) Should the Issuer want to replace the Agent, it may send a communication in accordance with Clause 18(a) to each Bondholder with a copy to the Agent.
- (c) A communication pursuant to Clause 18(a) shall include (i) each request for a decision by the Bondholders, (ii) a description of the reasons for each request, (iii) a specification of the Business Day on which a Person must be registered as a Bondholder in order to be entitled to exercise voting rights, (iv) instructions and directions on where to receive a form for replying to the request (such form to include an option to vote yes or no for each request) as well as a form of power of attorney, and (v) the stipulated time period within which the Bondholder must reply to the request (such time period to last at least fifteen (15) Business Days from the communication pursuant to Clause 18(a)). If the voting shall be made electronically, instructions for such voting shall be included in the communication.
- (d) When the requisite majority consents of the total Adjusted Nominal Amount pursuant to Clauses 16(e) and 16(f) have been received in a Written Procedure, the relevant decision shall be deemed to be adopted pursuant to Clause 16(e) or 16(f), as the case may be, even if the time period for replies in the Written Procedure has not yet expired.

## **19. Amendments and Waivers**

- (a) The Issuer and the Agent and/or the Security Agent (as applicable) (in each case acting on behalf of the Bondholders) may agree to amend the Finance Documents or waive any provision in a Finance Document, provided that:
  - (i) such amendment or waiver is not detrimental to the interest of the Bondholders, or is made solely for the purpose of rectifying obvious errors and mistakes;
  - (ii) such amendment or waiver is required by applicable law, a court ruling or a decision by a relevant authority; or



- (iii) such amendment or waiver has been duly approved by the Bondholders in accordance with Clause 16 (*Decisions by Bondholders*).
- (b) The consent of the Bondholders is not necessary to approve the particular form of any amendment to the Finance Documents. It is sufficient if such consent approves the substance of the amendment or waiver.
- (c) The Agent shall promptly notify the Bondholders of any amendments or waivers made in accordance with Clause 19(a), setting out the date from which the amendment or waiver will be effective, and ensure that any amendments to the Finance Documents are published in the manner stipulated in Clause 11.3 (*Publication of Finance Documents*). The Issuer shall ensure that any amendments to the Finance Documents are duly registered with the CSD and each other relevant organisation or authority, to the extent such registration is possible with the rules of the relevant CSD.
- (d) An amendment to the Finance Documents shall take effect on the date determined by the Bondholders Meeting, in the Written Procedure or by the Agent, as the case may be.

## **20. Appointment and Replacement of the Agent and the Security Agent**

### **20.1 Appointment of Agent and the Security Agent**

- (a) By subscribing for Bonds, each initial Bondholder:
  - (i) appoints the Agent and the Security Agent to act as its agent and security agent (as applicable) in all matters relating to the Bonds and the Finance Documents, and authorises each of the Agent and the Security Agent to act on its behalf (without first having to obtain its consent, unless such consent is specifically required by these Terms and Conditions) in any legal or arbitration proceedings relating to the Bonds held by such Bondholder including any legal or arbitration proceeding relating to the perfection, preservation, protection or enforcement of the Transaction Security and the Guarantees; and
  - (ii) confirms the appointment under the Issuer Intercreditor Agreement of the Security Agent to act as its agent in all matters relating to the Issuer Group Transaction Security, the Security Documents relating to the Issuer Group Transaction Security, the Guarantees and the Guarantee and Adherence Agreement, including any legal or arbitration proceeding relating to the perfection, preservation, protection or enforcement of the Issuer Group Transaction Security and the Guarantees and acknowledges and agrees that the rights, obligations, role of and limitations of liability for the Security Agent is further regulated in the Issuer Intercreditor Agreement.
- (b) By acquiring Bonds, each subsequent Bondholder confirms the appointment and authorisation for the Agent and the Security Agent to act on its behalf, as set forth in Clause 20.1(a).

- (c) Each Bondholder shall immediately upon request provide the Agent and the Security Agent with any such documents, including a written power of attorney (in form and substance satisfactory to the Agent or the Security Agent, as applicable), that the Agent or the Security Agent (as applicable) deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents. Neither the Agent nor the Security Agent is under any obligation to represent a Bondholder which does not comply with such request.
- (d) The Issuer shall promptly upon request provide the Agent and the Security Agent with any documents and other assistance (in form and substance satisfactory to the Agent or the Security Agent, as applicable), that the Agent or the Security Agent (as applicable) deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents.
- (e) Each of the Agent and the Security Agent is entitled to fees for its respective work and to be indemnified for costs, losses and liabilities on the terms set out in the Finance Documents and the Agent's and the Security Agent's respective obligations as Agent and Security Agent (as applicable) under the Finance Documents are conditioned upon the due payment of such fees and indemnifications.
- (f) Each of the Agent and the Security Agent may act as agent or trustee for several issues of securities issued by or relating to the Issuer and other Group Companies notwithstanding potential conflicts of interest.

## **20.2 Duties of the Agent and the Security Agent**

- (a) Each of the Agent and the Security Agent shall represent the Bondholders subject to and in accordance with the Finance Documents, including, *inter alia*, holding the Transaction Security pursuant to the Security Documents and the Guarantees pursuant to the Guarantee and Adherence Agreement on behalf of the Bondholders and, where relevant, enforcing the Transaction Security on behalf of the Bondholders. Neither the Agent nor the Security Agent is responsible for the content, valid execution, legal validity or enforceability of the Finance Documents or the perfection of the Transaction Security.
- (b) When acting in accordance with the Finance Documents, each of the Agent and the Security Agent is always acting with binding effect on behalf of the Bondholders. Each of the Agent and the Security Agent shall carry out its duties under the Finance Documents in a reasonable, proficient and professional manner, with reasonable care and skill.
- (c) Each of the Agent's and the Security Agent's duties under the Finance Documents are solely mechanical and administrative in nature and the Agent and the Security Agent only acts in accordance with the Finance Documents and upon instructions from the Bondholders, unless otherwise set out in the Finance Documents. In particular, neither the Agent nor the Security Agent is acting as an advisor (whether legal, financial or otherwise) to the Bondholders or any other Person.

- (d) Neither the Agent nor the Security Agent is obligated to assess or monitor the financial condition of the Issuer or compliance by the Issuer of the terms of the Finance Documents unless to the extent expressly set out in the Finance Documents, or to take any steps to ascertain whether any Event of Default (or any event that may lead to an Event of Default) has occurred. Until it has actual knowledge to the contrary, each of the Agent and the Security Agent is entitled to assume that no Event of Default (or any event that may lead to an Event of Default) has occurred.
- (e) Each of the Agent and the Security Agent is entitled to delegate its duties to other professional parties, but each of them shall remain liable for the actions of such parties under the Finance Documents.
- (f) Each of the Agent and the Security Agent shall treat all Bondholders equally and, when acting pursuant to the Finance Documents, act with regard only to the interests of the Bondholders and shall not be required to have regard to the interests or to act upon or comply with any direction or request of any other Person, other than as explicitly stated in the Finance Documents.
- (g) Each of the Agent and the Security Agent is entitled to engage external experts when carrying out its duties under the Finance Documents, including for the avoidance of doubt, in relation to any Bondholders meeting, Written Procedure or any other amendment of any Finance Document. The Issuer shall on demand by the Agent and/or the Security Agent pay all costs for external experts engaged after the occurrence of an Event of Default, or for the purpose of investigating or considering (i) an event which the Agent reasonably believes is or may lead to an Event of Default, (ii) a matter relating to the Issuer or the Finance Documents which the Agent and/or the Security Agent reasonably believes may be detrimental to the interests of the Bondholders under the Finance Documents, (iii) in connection with any Bondholders' Meeting or Written Procedure, (iv) in connection with any amendment or (v) as otherwise agreed between the Agent and/or the Security Agent and the Issuer. Any compensation for damages or other recoveries received by the Agent and/or the Security Agent from external experts engaged by it for the purpose of carrying out its duties under the Finance Documents shall be distributed in accordance with Clause 15 (*Distribution of Proceeds*).
- (h) Notwithstanding any other provision of the Finance Documents to the contrary, neither the Agent nor the Security Agent is 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.
- (i) If in the Agent's or Security Agent's (as applicable) reasonable opinion the cost, loss or liability which it may incur (including its respective reasonable fees) in complying with instructions of the Bondholders, or taking any action at its own initiative, will not be covered by the Issuer, or the Bondholders (as applicable), the Agent or the Security Agent (as applicable) may refrain from acting in accordance with such instructions, or taking such action, until it has received such funding or indemnities (or adequate Security has been provided therefore) as it may reasonably require.

- (j) Unless it has actual knowledge to the contrary, each of the Agent and the Security Agent may assume that all information provided by or on behalf of the Issuer (including by its advisors) is correct, true and complete in all aspects.
- (k) Each of the Agent and the Security Agent shall give a notice to the Bondholders (i) before it ceases to perform its obligations under the Finance Documents by reason of the non-payment by the Issuer of any fee or indemnity due to the Agent or the Security Agent under the Finance Documents or (ii) if it refrains from acting for any reason described in Clause 20.2(i).

### **20.3 Limited liability for the Agent and the Security Agent**

- (a) Neither the Agent nor the Security Agent will be liable to the Bondholders for damage or loss caused by any action taken or omitted by it under or in connection with any Finance Document, unless directly caused by its negligence or wilful misconduct. Neither the Agent nor the Security Agent shall be responsible for indirect loss.
- (b) Neither the Agent nor the Security Agent shall be considered to have acted negligently if it has acted in accordance with advice addressed to it from or opinions of reputable external experts or if it has acted with reasonable care in a situation when it considers that it is detrimental to the interests of the Bondholders to delay the action in order to first obtain instructions from the Bondholders.
- (c) Neither the Agent nor the Security Agent shall be liable for any delay (or any related consequences) in crediting an account with an amount required pursuant to the Finance Documents to be paid by it to the Bondholders, provided that 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.
- (d) Neither the Agent nor the Security Agent shall have any liability to the Bondholders for damage caused by it acting in accordance with instructions of the Bondholders given in accordance with the Finance Documents.
- (e) Any liability towards the Issuer which is incurred by the Agent or the Security Agent in acting under, or in relation to, the Finance Documents shall not be subject to set-off against the obligations of the Issuer to the Bondholders under the Finance Documents.
- (f) The Agent is not liable for information provided to the Bondholders by or on behalf of the Issuer or any other Person.

### **20.4 Replacement of the Agent and the Security Agent**

- (a) Subject to Clause 20.4(f), each of the Agent and the Security Agent may resign by giving notice to the Issuer and the Bondholders, in which case the Bondholders shall appoint a successor Agent and/or the Security Agent at a

Bondholders' Meeting convened by the retiring Agent or by way of Written Procedure initiated by the retiring Agent.

- (b) Subject to Clause 20.4(f), if the Agent and/or the Security Agent is Insolvent, the Agent and/or the Security Agent (as applicable) shall be deemed to resign as Agent and/or the Security Agent (as applicable) and the Issuer shall within ten (10) Business Days appoint a successor Agent and/or a successor Security Agent (as applicable) which shall be an independent financial institution or other reputable company which regularly acts as agent under debt issuances.
- (c) A Bondholder (or Bondholders) representing at least ten (10) per cent. of the Adjusted Nominal Amount may, by notice to the Issuer (such notice may only be validly given by a Person who is a Bondholder on the Business Day immediately following the day on which the notice is received by the Issuer and shall, if given by several Bondholders, be given by them jointly), require that a Bondholders' Meeting is held for the purpose of dismissing the Agent and/or the Security Agent and appointing a new Agent and/or the new Security Agent (as applicable). The Issuer may, at a Bondholders' Meeting convened by it or by way of Written Procedure initiated by it, propose to the Bondholders that the Agent and/or the Security Agent be dismissed and a new Agent and/or a new Security Agent (as applicable) be appointed.
- (d) If the Bondholders have not appointed a successor Agent and/or successor Security Agent within ninety (90) days after (i) the earlier of the notice of resignation was given or the resignation otherwise took place or (ii) the Agent and/or the Security Agent was dismissed through a decision by the Bondholders, the Issuer shall appoint a successor Agent and/or successor Security Agent (as applicable) which shall be an independent financial institution or other reputable company which regularly acts as agent under debt issuances.
- (e) The retiring Agent and/or the retiring Security Agent (as applicable) shall, at its own cost, make available to the successor Agent and/or the successor Security Agent (as applicable) such documents and records and provide such assistance as the successor Agent and/or successor Security Agent may reasonably request for the purposes of performing its functions as Agent and/or the Security Agent (as applicable) under the Finance Documents.
- (f) The Agent's and the Security Agent's resignation or dismissal shall only take effect upon the appointment of a successor Agent and/or the successor Security Agent (as applicable) and acceptance by such successor Agent and/or the successor Security Agent (as applicable) of such appointment and the execution of all necessary documentation to effectively substitute the retiring Agent and/or the retiring Security Agent (as applicable).
- (g) Upon the appointment of a successor, the retiring Agent and/or 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 the Finance Documents and remain liable under the Finance Documents in respect of any action which it took or failed to take whilst acting as Agent and/or the Security Agent (as applicable). Its successor, the Issuer and each of the Bondholders shall

have the same rights and obligations amongst themselves under the Finance Documents as they would have had if such successor had been the original Agent and/or the Security Agent.

- (h) In the event that there is a change of the Agent and/or the Security Agent in accordance with this Clause 20.4, the Issuer shall execute such documents and take such actions as the new Agent and/or the new Security Agent may reasonably require for the purpose of vesting in such new Agent and/or the new Security Agent (as applicable) the rights, powers and obligation of the Agent and/or the Security Agent and releasing the retiring Agent and/or the retiring Security Agent (as applicable) from its respective further obligations under the Finance Documents. Unless the Issuer and the new Agent and/or the new Security Agent agrees otherwise, the new Agent and/or the new Security Agent shall be entitled to the same fees and the same indemnities as the retiring Agent and/or the retiring Security Agent (as applicable).

## **21. Appointment and Replacement of the Issuing Agent**

- (a) The Issuer appoints the Issuing Agent to manage certain specified tasks under these Terms and Conditions and in accordance with the legislation, rules and regulations applicable to and/or issued by the CSD and relating to the Bonds.
- (b) The Issuing Agent may retire from its assignment or be dismissed by the Issuer, provided that the Issuer has approved that a commercial bank or securities institution approved by the CSD accedes as new Issuing Agent at the same time as the old Issuing Agent retires or is dismissed. If the Issuing Agent is Insolvent, the Issuer shall immediately appoint a new Issuing Agent, which shall replace the old Issuing Agent as issuing agent in accordance with these Terms and Conditions.

## **22. No Direct Actions by Bondholders**

- (a) A Bondholder may not take any steps whatsoever against the Issuer or with respect to the Transaction Security or the Guarantees to enforce or recover any amount due or owing to it pursuant to the Finance Documents, or to initiate, support or procure the winding-up, dissolution, liquidation, company reorganisation (Sw. *företagsrekonstruktion*) or bankruptcy (Sw. *konkurs*) (or its equivalent in any other jurisdiction) of the Issuer in relation to any of the liabilities of the Issuer under the Finance Documents.
- (b) Clause 22(a) shall not apply if the Agent has been instructed by the Bondholders in accordance with the Finance Documents to take certain actions but fails for any reason to take, or is unable to take (for any reason other than a failure by a Bondholder to provide documents in accordance with Clause 20.1(c)), such actions within a reasonable period of time and such failure or inability is continuing. However, if the failure to take certain actions is caused by the non-payment by the Issuer of any fee or indemnity due to the Agent under the Finance Documents or by any reason described in Clause 20.2(i), such failure must continue for at least forty (40) Business Days after notice pursuant to

Clause 20.2(k) before a Bondholder may take any action referred to in Clause 22(a).

- (c) The provisions of Clause 22(a) shall not in any way limit an individual Bondholder's right to claim and enforce payments which are due to it under Clause 9.5 (*Mandatory repurchase due to a Change of Control Event or Listing Failure Event (put option)*) or other payments which are due by the Issuer to some but not all Bondholders.

## 23. Prescription

- (a) The right to receive repayment of the principal of the Bonds shall be prescribed and become void ten (10) years from the Redemption Date. The right to receive payment of interest (excluding any capitalised interest) shall be prescribed and become void three (3) years from the relevant due date for payment. The Issuer is entitled to any funds set aside for payments in respect of which the Bondholders' right to receive payment has been prescribed and has become void.
- (b) If a limitation period is duly interrupted in accordance with the Swedish Act on Limitations (*Sw. preskriptionslag (1981:130)*), a new limitation period of ten (10) years with respect to the right to receive repayment of the principal of the Bonds, and of three (3) years with respect to receive payment of interest (excluding capitalised interest) will commence, in both cases calculated from the date of interruption of the limitation period, as such date is determined pursuant to the provisions of the Swedish Act on Limitations.

## 24. Notices and Press Releases

### 24.1 Notices

- (a) Any notice or other communication to be made under or in connection with the Finance Documents:
  - (i) if to the Agent, shall be given at the address specified on its website [www.intertrustgroup.com/our-locations/europe/sweden](http://www.intertrustgroup.com/our-locations/europe/sweden) on the Business Day prior to dispatch or, if sent by email by the Issuer, to the email address notified by the Agent from time to time;
  - (ii) if to the Issuer, shall be given at the address specified on its website [www.scangl.com](http://www.scangl.com) on the Business Day prior to dispatch or if sent by email by the Agent, to the email address notified by the Issuer to the Agent from time to time; and
  - (iii) if to the Bondholders, shall be given at their addresses as registered with the CSD, on the Business Day prior to dispatch, and by either courier delivery (if practically possible) or letter for all Bondholders. A notice to the Bondholders shall also be published on the websites of the Group and the Agent.

- (b) Any notice or other communication made by one Person to another under or in connection with the Finance Documents shall be sent by way of courier, personal delivery or letter, or if between the Issuer and the Agent, by email, and will only be effective:
  - (i) in case of courier or personal delivery, when it has been left at the address specified in Clause 24.1(a);
  - (ii) in case of letter, three (3) Business Days after being deposited postage prepaid in an envelope addressed to the address specified in Clause 24.1(a); or
  - (iii) in case of email, on the day of dispatch (unless a delivery failure message was received by the sender), save that any notice or other communication sent by email that is sent after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.
- (c) Failure to send a notice or other communication to a Bondholder or any defect in it shall not affect its sufficiency with respect to other Bondholders.

## 24.2 Press releases

- (a) Any notice that the Issuer or the Agent shall send to the Bondholders pursuant to Clauses 9.3 (*Voluntary total redemption (call option)*), 9.4 (*Voluntary partial redemption*), 11.1(e), 14.10(c), 16(o), 17(a), 18(a) and 19(c) shall also be published by way of press release by the Issuer or the Agent, as applicable.
- (b) In addition to Clause 24.2(a), if any information relating to the Bonds or the Group contained in a notice the Agent may send to the Bondholders under these Terms and Conditions has not already been made public by way of a press release, the Agent shall before it sends such information to the Bondholders give the Issuer the opportunity to issue a press release containing such information. If the Issuer does not promptly issue a press release and the Agent considers it necessary to issue a press release containing such information before it can lawfully send a notice containing such information to the Bondholders, the Agent shall be entitled to issue such press release.

## 25. Force Majeure and Limitation of Liability

- (a) None of the Agent, the Security Agent or the Issuing Agent shall be held responsible for any damage arising out of any legal enactment, or any measure taken by a public authority, or war, strike, lockout, boycott, blockade or any other similar circumstance (a "**Force Majeure Event**"). The reservation in respect of strikes, lockouts, boycotts and blockades applies even if the Agent, the Security Agent or the Issuing Agent itself takes such measures, or is subject to such measures.
- (b) The Issuing Agent shall have no liability to the Bondholders if it has observed reasonable care. The Issuing Agent shall never be responsible for indirect damage with exception of gross negligence and wilful misconduct.



- (c) Should a Force Majeure Event arise which prevents the Agent, the Security Agent or the Issuing Agent from taking any action required to comply with these Terms and Conditions, such action may be postponed until the obstacle has been removed.
- (d) The provisions in this Clause 25 apply unless they are inconsistent with the provisions of the Financial Instruments Accounts Act which provisions shall take precedence.

## **26. Governing Law and Jurisdiction**

- (a) These Terms and Conditions, and any non-contractual obligations arising out of or in connection therewith, shall be governed by and construed in accordance with the laws of Sweden.
- (b) The Issuer submits to the non-exclusive jurisdiction of the City Court of Stockholm (Sw. *Stockholms tingsrätt*).

*[Signed by way of a separate Amendment and Restatement Agreement]*