

**Dated 10 May 2017**

**1. CHISBRIDGE LIMITED**

**- and -**

**2. GARY ASHWORTH**

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**Project Iliad**

**GA Facility Agreement**

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**THIS AGREEMENT** is dated the 10<sup>th</sup> day of May 2017

**BETWEEN:**

1. **CHISBRIDGE LIMITED**, a private company incorporated in England with registered number 10451963 whose registered office is at Bockmer House, Bockmer End, Medmenham, Marlow, Buckinghamshire, SL7 2HL (“**Borrower**”); and
2. **GARY ASHWORTH** of Bockmer House, Bockmer End, Medmenham, Marlow, Buckinghamshire, SL7 2HL (“**Lender**”)

**IT IS AGREED** as follows:

**1 DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement, unless the context otherwise requires:

“**Accounting Principles**” means generally accepted accounting principles in England and Wales;

“**Advance**” means an advance made or to be made by the Lender to the Borrower under this Agreement or, as the context may require, the principal amount thereof from time to time outstanding;

“**Annual Financial Statements**” means the financial statements delivered by the Borrower to the Lender pursuant to Clause 12.1.6;

“**Budget**” means a budget prepared in accordance with Accounting Principles and the accounting practices and financial reference periods applied to the Annual Financial Statements or management accounts (as the case may be) for the immediately following two financial years in a form reasonably acceptable to the Lender and including a projected consolidated profit and loss, balance sheet and cashflow statement for the Group and projected financial covenant calculations;

“**Business Day**” means a day (not being Saturday or Sunday) on which banks in London are open for business of the kind contemplated by this Agreement;

“**Change of Control**” means any person or group of persons acting in concert (as defined in the Code) gaining direct or indirect Control of Borrower;

“**Commitment**” means the commitment of the Lender to make Advances on the terms and conditions of this Agreement as reduced from time to time by the amount of any outstanding Advances and otherwise as provided in this Agreement;

“**Commitment Period**” means the period commencing on the date of this Agreement and ending on 31 August 2017;

“**Companies Act**” means the Companies Act 2006 of England and Wales as amended;

“**Compliance Certificate**” means a certificate for the purposes of Clause 16.4 in form and substance satisfactory to the Lender;

“**Control**” means the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to (i) cast, or control the casting of, more than one-half of the maximum number of

votes that might be cast at a general meeting of Borrower; or (ii) appoint or remove all, or the majority, of the directors or other equivalent officers of Borrower; or (iii) to give directions with respect to the operating and financial policies of Borrower with which the directors or other equivalent officers of Borrower are obliged to comply; or (iv) the holding beneficially of more than 50 per cent. of the issued share capital of Borrower (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital);

“**Drawdown Date**” means, in relation to any Advance, the date on which the Advance is made;

“**Drawdown Notice**” means a notice in the form set out in Schedule 1;

“**Encumbrance**” means any mortgage charge (whether fixed or floating) pledge lien hypothecation assignment security interest title retention or other encumbrance or security agreement or security or preferential arrangement of any kind;

“**Event of Default**” means any of the events or circumstances described in Clause 17.1;

“**Facility**” means the facility the terms and conditions of which are set out in this Agreement;

“**Facility Amount**” means up to £1,000,000;

“**Finance Document**” means this Agreement;

“**Financial Indebtedness**” means Indebtedness incurred in respect of:

- (a) money borrowed, raised or deposited;
- (b) any bond bill of exchange note loan stock debenture commercial paper or similar security or instrument;
- (c) acceptance, documentary credit or guarantee facilities;
- (d) deferred payments for assets or services acquired (but excluding trade credit in the ordinary course of business);
- (e) rental payments under leases, whether in respect of land buildings machinery equipment or otherwise, entered into primarily as a method of raising finance or financing the acquisition of the relevant asset;
- (f) payments under hire purchase contracts;
- (g) factored debts, to the extent that there is recourse;
- (h) guarantees bonds standby letters of credit or other instruments issued in connection with the performance of contracts or obligations;
- (i) interest rate or currency swaps and similar financial transactions;
- (j) guarantees indemnities or other assurances against financial loss in respect of Indebtedness of any person falling within any of paragraphs (a) to (i) inclusive above; and

(k) amounts raised or obligations incurred under any other transaction having the commercial effect of any of the above;

“**First Interest Accrual Date**” means the date of first drawdown of any part of the Loan under the terms of this Agreement;

“**First Interest Payment Date**” means the last Business Day of the month which is three calendar months after the First Interest Accrual Date;

“**Group**” means the Borrower and its Subsidiaries (if any) for the time being;

“**Indebtedness**” means any obligation for the payment or repayment of money, whether present or future, actual or contingent, sole or joint;

“**Interest Payment Date**” means the First Interest Payment Date and, thereafter, the last Business Day of next following three months from the date on which interest was last due for payment in accordance with this Agreement;

“**Interest Period**” means each period for the calculation of interest determined in accordance with Clause 8.3;

“**LIBOR**” means the applicable Screen Rate as of the First Accrual Date and, thereafter, as of the relevant Interest Payment Date for an amount in Sterling equal to the amount of the outstanding Loan at such date and for a period of three months or, in the event LIBOR cannot be calculated, at such other rate as the parties may agree, and if, for the avoidance of doubt, that rate is less than zero, LIBOR shall be deemed to be zero;

“**Listing**” means the listing of any of the shares of Borrower on the Official List of the UK Listing authority or their being admitted to trading on the AIM market of the London Stock Exchange, the NEX Growth Market or any other multilateral trading facility;

“**LJ Facility Agreement**” means the facility agreement entered into between the Borrower, Luke Johnson and the Lender on the same date as this Agreement pursuant to which Luke Johnson has agreed to make available to the Borrower a sterling loan facility in the maximum aggregate principal amount of £10,000,000;

“**Loan**” means the aggregate principal amount of Advance(s) for the time being outstanding under this Agreement;

“**Loan Note Instrument**” means the instrument pursuant to which the Loan Notes are, or are to be, constituted;

“**Loan Notes**” means the unsecured subordinated loan notes due 30 June 2027 proposed to be issued by Borrower by way of alternative consideration under the Offer;

“**Margin**” means 3.5% per cent per annum;

“**Major Default**” means with respect to the Borrower only any circumstances constituting a Potential Default under any of Clause 17.1.1, Clause 17.1.2 and Clause 17.1.3 insofar as they relate to a breach of a Major Undertaking only, Clause 17.1.4 insofar as it relates to the breach of any

Major Representation only, Clauses 17.1.7 to 17.1.9 (inclusive), Clause 17.1.11, Clause 17.1.12 and Clause 17.1.14;

**“Major Representation”** means each of the representations or warranty with respect to the Borrower only as set out in Clauses 11.1.1 to 11.1.3 (inclusive);

**“Major Undertaking”** means each of the undertakings made by the Borrower in respect of itself only as set out in Clause 12.1.1 to 12.1.5 (inclusive);

**“Material Consent”** means, in relation to the Borrower any approval, authorisation, consent, exemption, licence, permission or registration by, of or from any governmental or regulatory or other authority or person necessary for (i) the carrying on by it of its business and (ii) the execution, delivery and performance of this Agreement and any Related Document and the use of the Facility;

**“Offer”** means a contractual takeover offer within the meaning of Section 974 of the Companies Act to be made by the Borrower for the whole of the issued and to be issued ordinary share capital of Target on the terms and subject to the conditions set out in Offer Document (including, if the Lender so agrees, any amended extended or revised offers);

**“Offer Document”** means the offer document sent, or to be sent, by the Borrower to the shareholders of the Target in respect of the Offer;

**“Offer Press Release”** means the press release announcing, in compliance with Rule 2.7 of the Takeover Code, a firm intention to make the Offer;

**“Permitted Encumbrance”** means any encumbrance referred to in Clause 13.2;

**“Potential Default”** means any event which, with the giving of notice or the lapse of time or the making of any determination or the satisfaction of any other condition (or any combination thereof), might/would constitute an Event of Default;

**“Proposed Refinancing Date”** means the date which is four calendar months from the First Interest Accrual Date;

**“Refinancing”** means a refinancing of the Loan by a bank or other financial institution;

**“Related Document”** means any document or instrument required by this Agreement to be executed delivered or produced by the Borrower or any Subsidiary;

**“Repayment Date”** means the date of the occurrence of the first of the events set out in Clause 6.1;

**“Screen Rate”** means in relation to LIBOR, the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant currency and period displayed (before any correction, recalculation or republication by the administrator) on pages LIBOR01 or LIBOR02 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, “the Lender may specify another page or service displaying the relevant rate after consultation with the Borrower.

**“Sterling”** and “£” means the lawful currency of the United Kingdom;

“**Subsidiary**” has the meaning given to such expression by Section 1159 of the Companies Act 2006;

“**Substantial Subsidiary**” means a body corporate which is a Subsidiary of the Borrower whose gross assets or revenues, at any time, represent 5 per cent or more of the consolidated gross assets or revenues of the Group at that time ascertained by reference to the consolidated financial statements of the Group and the financial statements of such Subsidiary at the date to which the latest audited consolidated financial statements of the Group have been prepared;

“**Target**” means Interquest Group Plc, a public company incorporated in England with registered number 04298109 whose registered office is at 6-7 St Cross Street, London EC1N 8UA;

“**Taxes**” includes all present and future taxes levies imposts duties fees charges or withholdings of whatever nature and wherever levied charged or assessed, together with any interest thereon and any fines surcharge or penalties in respect thereof;

“**Unconditional Date**” means the date on which the Offer becomes or is declared unconditional in all respects.

1.2 Any reference to:

1.2.1 the Borrower and the Lender shall be construed so as to include their respective successors and assigns from time to time;

1.2.2 a time of day is a reference to London time;

1.2.3 a “person” shall be construed as a reference to any individual, firm, company, body corporate, government, state or state entity or any association or partnership (whether or not having separate legal personality) or any two or more of the foregoing;

1.2.4 this Agreement or any other document or instrument is a reference to this Agreement or that other document or instrument as the same may have been, or may from time to time be, amended or supplemented;

1.2.5 the liquidation, winding-up or dissolution of a company or body corporate or the appointment of a receiver, manager or administrator of or in relation to a company or body corporate or any of its assets shall be construed so as to include any equivalent or analogous proceedings or, as the case may be, person under the law of the jurisdiction in which it is incorporated or any jurisdiction in which it carries on business or has assets or liabilities;

1.2.6 a Clause or a Schedule is a reference to a clause of or a Schedule to this Agreement;

1.2.7 any statutory provision shall include a reference to such provision as from time to time re-enacted, amended, extended or replaced.

1.3 Fees, costs and expenses payable under or pursuant to this Agreement shall be exclusive of any value added tax or similar taxes chargeable on them, which shall accordingly be payable in addition.

1.4 In this Agreement, words importing the singular shall include the plural and vice versa.

1.5 Headings in this Agreement are for ease of reference only and shall not affect its interpretation.

## **2 THE FACILITY**

2.1 Subject to the terms and conditions of this Agreement the Lender agrees to make available to the Borrower a sterling loan facility in the maximum aggregate principal amount of £1,000,000 whereby the Lender will, at the request of the Borrower, make Advances in accordance with the provisions of this Agreement.

2.2 The Lender agrees to advance the Facility Amount in accordance with the provisions of this Agreement prior to and the Borrower agrees to draw down the full Facility Amount before the Borrower issues any drawdown notice pursuant to the LJ Facility Agreement.

## **3 PURPOSE**

3.1 The Facility shall be used by the Borrower:

3.1.1 in the purchase of ordinary shares in Target pursuant to the Offer or otherwise and/or in the financing of any acquisition of ordinary shares in Target under sections 974 to 989 (as amended) of the Companies Act 2006; and/or

3.1.2 in payment of fees costs and expenses (including legal fees and expenses) incurred in connection with (i) the purchase or acquisition of shares in Target or (ii) the Facility.

3.2 The Borrower shall not use any Advance for any purpose except that permitted in this Clause. However, failure by the Borrower to comply with this Clause shall not prejudice any rights of the Lender, which shall not be responsible for monitoring or ensuring the use or application by the Borrower of any Advance.

## **4 CONDITIONS**

4.1 The first Drawdown Notice may not be issued, and the Lender shall not be obliged to make any Advance, until it shall have received, in each case in form and substance satisfactory to it, the documents, items and evidence specified in Schedule 2.

4.2 The obligation of the Lender to make each and every Advance is subject to the further conditions precedent that at the time of the giving of the relevant Drawdown Notice and at the time of such Advance:

4.2.1 all of the Major Representations are true and correct in all material respects as if each were made with reference to the facts and circumstances existing at such time;

4.2.2 no Major Default is continuing or would result from the making of such Advance; and

4.2.3 all of the Major Undertakings are being complied with in all material respects.

4.3 During the Commitment Period (save in circumstances where, pursuant to clause 4.2, the Lender is not obliged to make an Advance and comply with clause 5 (*Drawdown*)) and subject as provided in Clause 20.4 (*Illegality*), the Lender shall not be entitled to:

4.3.1 cancel any of its Commitments to the extent to do so would prevent or limit the making of an Advance;

- 4.3.2 rescind, terminate or cancel this Agreement or the Facility or exercise any similar right or remedy or make or enforce any claim under the Finance Documents it may have to the extent to do so would prevent or limit the making of an Advance;
- 4.3.3 refuse to participate in the making of an Advance;
- 4.3.4 exercise any right of set-off or counterclaim in respect of an Advance to the extent to do so would prevent or limit the making of an Advance; or
- 4.3.5 cancel, accelerate or cause repayment or prepayment of any amounts owing under this Agreement or under any other Finance Document to the extent to do so would prevent or limit the making of an Advance,

provided that immediately upon the expiry of the Commitment Period all such rights, remedies and entitlements shall be available to the Lender notwithstanding that they may not have been used or been available for use during the Commitment Period.

## **5 DRAWDOWN**

- 5.1 Subject to the terms and conditions of this Agreement, the Borrower may from time to time draw Advances provided that:
  - 5.1.1 the Lender shall have received a duly completed and executed Drawdown Notice relating to each proposed Advance not later than 10.00 am on the first Business Day before the proposed Drawdown Date of such Advance;
  - 5.1.2 each proposed Drawdown Date shall be a Business Day during the Commitment Period; and
  - 5.1.3 the aggregate of all Advances shall not exceed the Facility Amount.
- 5.2 Each Drawdown Notice shall be irrevocable and the Borrower shall be obliged to borrow accordingly.
- 5.3 Subject as otherwise provided in this Agreement, each Advance shall be made available on the Drawdown Date therefor by the Lender crediting the amount of such Advance to such bank account as the Borrower shall specify to the Lender for this purpose in the relevant Drawdown Notice.
- 5.4 Any part of the Facility which shall not have been drawn down or cancelled by the close of business on the last Business Day of the Commitment Period shall at that time be automatically cancelled and the Commitment shall at that time be reduced to zero.

## **6 REPAYMENT, PREPAYMENT AND CANCELLATION**

- 6.1 The Loan shall be repaid in full:
  - 6.1.1 on a Refinancing;
  - 6.1.2 on a Change of Control;
  - 6.1.3 on a Listing; or

6.1.4 on the date of redemption of the Loan Notes

the first of which to occur being the Repayment Date

- 6.2 The Borrower may (provided that it shall have given to the Lender not less than 2 Business Days' prior notice specifying the date and intended amount of the prepayment) prepay to the Lender the whole or any part of the Loan but, if in part, being the minimum amount of £10,000 and an integral multiple of £10,000.
- 6.3 Prepayments under Clause 6.2 shall be made together with accrued interest thereon and all other amounts payable under and in relation to this Agreement and any Related Document.
- 6.4 No amount prepaid under this Agreement may be redrawn.
- 6.5 Any notice of prepayment given by the Borrower under this Agreement shall be irrevocable and the Borrower shall be bound to prepay the relevant amount(s) in accordance with such notice.

## **7 REFINANCING**

- 7.1 The Parties shall use reasonable endeavours to procure and complete a Refinancing on or before the Proposed Refinancing Date.

## **8 INTEREST**

- 8.1 Without prejudice to Clause 8.5, interest shall commence to accrue and be payable with effect from the First Interest Accrual Date.
- 8.2 The Borrower shall pay to the Lender interest on all monies drawn down under this Agreement at the following rates:
- 8.2.1 in respect of the first calendar month from the First Interest Accrual Date, at rate equal to an annual rate of the Margin plus LIBOR relative to that Interest Period;
- 8.2.2 in respect of the second calendar month from the First Interest Accrual Date, at a rate equal to an annual rate of 7% per annum; and
- 8.2.3 in respect of the third and subsequent calendar months from the First Interest Accrual Date, at a rate equal to an annual rate of 14% per annum.
- 8.3 The first interest payment shall be made on the First Interest Payment Date and subsequent interest payments shall be made on relevant Interest Payment Dates at quarterly intervals thereafter.
- 8.4 For the purpose of determining the duration of any Interest Period:
- 8.4.1 the first Interest Period shall commence on the First Interest Accrual Date and each subsequent Interest Period shall commence forthwith on the expiry of the preceding Interest Period;
- 8.4.2 if any Interest Period would end on a day which is not a Business Day, such Interest Period shall be extended to the next Business Day unless that would extend that Interest Period into the next following calendar month, in which event that Interest Period shall be shortened so as to end on the immediately preceding Business Day;

- 8.4.3 if any Interest Period commences on the last Business Day in a calendar month or if there is no corresponding date in the calendar month in which an Interest Period is due to end, then such Interest Period shall end on the last Business Day in the relevant later month;
- 8.4.4 the last Interest Period shall end on the Repayment Date.
- 8.5 The Borrower shall, on demand by the Lender, pay to the Lender interest on sums not paid on their respective due dates under this Agreement from the due date up to the date of actual payment (as well after as before judgment) at the relevant rate of interest set out in Clause 8.2 above. All interest and other payments of an annual nature under this Agreement shall accrue from day to day and be calculated on the basis of the actual number of days elapsed and a 365-day year. Any certificate or determination by the Lender as to any rate of interest payable under this Agreement shall, in the absence of manifest error, be conclusive and binding on the Borrower.
- 8.6 The Lender shall promptly notify the Borrower of each rate of interest determined by it under this Clause.

## **9 EXPENSES**

### **9.1 Expenses**

- 9.1.1 The Borrower shall pay, on demand and on a full indemnity basis, to the Lender the amount of all reasonable costs and expenses (including but not limited to legal and out-of-pocket expenses) which the Lender properly incurs in connection with the preparation negotiation execution and delivery of this Agreement and any Related Document.
- 9.1.2 The Borrower shall pay, on demand and on a full indemnity basis, to the Lender all costs and expenses (including but not limited to legal and out-of-pocket expenses) incurred by it in connection with any actual or proposed amendment or extension of or any waiver or consent under this Agreement and in contemplation of or otherwise in connection with the enforcement (or attempted enforcement) of, or preservation (or attempted preservation) of any rights under, this Agreement and/or any Related Document or otherwise in respect of any monies from time to time owing under this Agreement.

### **9.2 Duties**

The Borrower shall pay all stamp, documentary, registration or other similar duties or Taxes (including any payable by the Lender) imposed in or by the United Kingdom on or in connection with this Agreement and/or any other document referred to herein and shall indemnify the Lender against any liability arising by reason of any delay or omission by the Borrower to pay such duties or Taxes.

### **9.3 Payment by deduction**

The Lender shall be entitled to effect payment (to the extent not already discharged) of all fees expenses and other sums due and payable by the Borrower under this Clause 9 out of and by deduction from any Advance and the Borrower hereby irrevocably authorises the Lender to do so.

## **10 PAYMENTS**

### **10.1 Payments**

- 10.1.1 All payments to be made by the Borrower under this Agreement shall be made in full, without any set-off or counterclaim whatsoever and free and clear of any deductions or withholdings, in immediately available, freely transferable, cleared funds in Sterling not later than 11.00 am on the due date to such account of the Lender as it may from time to time notify to the Borrower.
- 10.1.2 In the case of a partial payment by the Borrower, the Lender may appropriate such payment towards such of the obligations of the Borrower under this Agreement as the Lender may decide. The Borrower waives any right to make an appropriation in respect of a partial payment. Any appropriation by the Lender shall apply to the exclusion of any actual or purported appropriation by the Borrower.

## **10.2 Business Days**

Save as otherwise provided in this Agreement, if any payment would otherwise be due on a day which is not a Business Day, the next following Business Day shall be substituted for such day unless such Business Day shall be in a new calendar month in which case such payment shall instead be made on the immediately preceding Business Day. Interest and fees shall be adjusted accordingly.

## **11 REPRESENTATIONS AND WARRANTIES**

11.1 The Borrower represents and warrants to the Lender that:

- 11.1.1 it is a limited liability company duly incorporated and validly existing under the laws of England and Wales and has power to carry on its business and to own its property and other assets;
- 11.1.2 it has power and authority to execute deliver and perform its obligations under this Agreement and any Related Document and to use the Facility; all necessary action has been taken (and not revoked) to authorise the execution delivery and performance of this Agreement and any Related Document; and subject to all applicable insolvency laws this Agreement constitutes , and any Related Document is or when executed and delivered will be, its valid and legally binding obligation enforceable in accordance with the terms thereof;
- 11.1.3 the execution delivery and performance of this Agreement and any Related Document and the use of the Facility do not and will not:
- (i) contravene any law, regulation, directive, judgment or order to which it is subject; or
  - (ii) result in any actual or potential breach of or default under any obligation agreement instrument or Consent to which it is a party or by which it is bound or which it requires to carry on its business; or
  - (iii) contravene any provision of its memorandum and articles of association and/or statutes and/or constitutional documents; or
  - (iv) result in any limitation on its powers to borrow or incur Financial Indebtedness being exceeded; or

- (v) result in the creation or imposition of or oblige it to create any Encumbrance on its undertaking or any of its assets rights or revenues;
- 11.1.4 its obligations under this Agreement and any Related Document are its direct, general and unconditional obligations and rank at least pari passu with all other of its present and future unsecured and unsubordinated Indebtedness (with the exception of any obligations which are mandatorily preferred by law and not by contract);
- 11.1.5 no litigation, arbitration or administrative proceeding and without limitation no dispute with any statutory or governmental authority is current or pending or to its knowledge threatened against it or any other member of the Group or any of its respective assets which would have a material adverse effect on its respective business, assets or financial condition or its ability to observe or perform its respective obligations under this Agreement or any Related Document;
- 11.1.6 no Event of Default or Potential Default has occurred and is continuing;
- 11.1.7 it is not/neither it nor any other member of the Group in default in the payment of any due and payable Taxes or in the filing, registration or recording of any document or under any legal or statutory obligation or requirement which default would have a material adverse effect on its respective business, assets or financial condition or its ability to observe or perform its respective obligations under this Agreement or any Related Document;
- 11.1.8 neither it nor any other member of the Group is (or would with the giving of notice or lapse of time or any certificate or the making of any determination or any combination thereof be) in breach of or in default under any agreement relating to Financial Indebtedness to which it or such company is a party or by which it or such company is bound which would have a material adverse effect on its respective business, assets or financial condition or its ability to observe or perform its respective obligations under this Agreement or any Related Document;
- 11.1.9 there exists no Encumbrance other than any Permitted Encumbrance over the whole or any part of the present or future undertaking, assets, rights or revenues (including uncalled capital) of itself or any of its Subsidiaries and no obligation to create any such Encumbrance;
- 11.1.10 the latest Annual Financial Statements of the Borrower have been prepared in accordance with accounting principles and practices generally accepted in England consistently applied and give a true and fair view of the financial condition, assets and liabilities of the Group at the date to which such financial statements have been prepared; and since that date there has been no material adverse change in the financial condition or the business, assets or operations of the Borrower or the Group, taken as a whole, which would have a material adverse effect on its business, assets or financial condition or its ability to observe or perform its obligations under this Agreement or any Related Document;
- 11.1.11 it has obtained and complied with all Material Consents (and the same are in full force and effect);
- 11.1.12 all factual information supplied to the Lender in contemplation or for the purpose of this Agreement or the Facility was true and accurate in all material respects as at its date and did not omit anything material, no change has occurred since the date on which such

information was supplied which renders the same untrue or misleading in any material respect, and all projections and statements of belief and opinion given by the Borrower to the Lender were made honestly and in good faith after due and careful enquiry and remain valid.

## **11.2 Repetition**

The representations and warranties in Clause 11.1 will be deemed to be repeated by the Borrower on and as of each Drawdown Date and each Interest Payment Date as if made with reference to the facts and circumstances existing at such respective date.

## **11.3 Effect of investigation**

The rights and remedies of the Lender in respect of any misrepresentation or breach of warranty on the part of the Borrower shall not be prejudiced or affected by any investigation of the Borrower or any other person by or on behalf of the Lender or without limitation any other act or matter which, but for this provision, would or might prejudice or affect any such rights or remedies.

## **12 BORROWER'S UNDERTAKINGS**

12.1 The Borrower undertakes with the Lender that, so long as any Commitment is in force or any monies or obligations are outstanding under this Agreement:

- 12.1.1 it will announce or procure the announcement of the Offer on or before 30 June 2017;
- 12.1.2 it will not despatch the Offer Document without having first received the prior written approval of the Lender (such approval not to be unreasonably delayed) to any references therein to the Lender and/or this Agreement in the form and context in which they appear;
- 12.1.3 it will not declare the Offer unconditional as to acceptances unless it has acquired or agreed to acquire (either pursuant to the Offer or otherwise) shares in Target carrying over 50 per cent of the voting rights attributable to shares in Target in compliance with Rule 10 of the City Code on Takeovers and Mergers;
- 12.1.4 it will at all times comply with the provisions of applicable law, the Listing Rules published by the Financial Services Authority in its capacity as UK Listing Authority and the applicable provisions of the City Code on Takeovers and Mergers;
- 12.1.5 it will ensure that its obligations under this Agreement shall at all times rank at least pari passu with all its other present and future unsecured and unsubordinated Indebtedness (with the exception of any obligations which are mandatorily preferred by law and not by contract);
- 12.1.6 it will prepare financial statements in respect of each financial period of the Borrower in accordance with Clause 15 and cause the same to be audited by its auditors and deliver two copies of the same to the Lender promptly and in any event not later than 180 days after the end of the relevant financial period;
- 12.1.7 it will deliver to the Lender promptly, and in any event not later than 30 days after the end of the relevant period, management accounts relating to it containing financial information (in no less detail than such as having been prepared prior to the date of this

Agreement) in respect of successive monthly periods during each of its financial years;

- 12.1.8 from and in respect of its financial year ending 31 December 2018, the Borrower shall supply to the Lender a Budget as soon as the same becomes available but, in any event, within 30 days before the start of each of its Financial Years;
- 12.1.9 it will provide the Lender with copies of all notices and other communications despatched to its shareholders or analogous persons (or any class thereof) or its creditors (or any class thereof) when despatched;
- 12.1.10 it will provide the Lender with such financial and other information concerning its business, assets and affairs and those of any of its Subsidiaries as the Lender may from time to time reasonably require except that it will not be obliged to provide any such information which is secret or confidential to it except pursuant to a confidentiality undertaking reasonably acceptable to it or if disclosure requires the consent of any third party which it will, on request, use reasonable endeavours to obtain;
- 12.1.11 it will obtain, maintain in full force and effect and comply with all Material Consents and any conditions thereof;
- 12.1.12 it will not make or permit any material change in the nature of its business or commence any new type of business materially different from its business at the date of this Agreement;
- 12.1.13 it will maintain insurances on or in relation to its business and assets with underwriters and insurance companies of repute against such risks of the kinds customarily insured against by, and in amounts reasonably and commercially prudent for, companies carrying on similar businesses;
- 12.1.14 it will promptly inform the Lender, upon becoming aware of the same, of any occurrence or circumstance of which it becomes aware which would adversely affect its ability to perform its obligations under this Agreement or any Related Document and of any Event of Default or Potential Default;
- 12.1.15 it will from time to time, forthwith on request by the Lender, deliver to it a certificate signed by two of its directors (acting without personal liability except in the case of wilful default or misconduct) confirming that, save as may be notified in detail in such certificate, no Event of Default or Potential Default has occurred and is then subsisting;
- 12.1.16 it will promptly deliver to the Lender copies of any press or other public announcements made by it in relation to the acquisition of shares in Target, all material correspondence received by it from Target or the vendor of the shares or any other person in relation to the acquisition of the shares, and any pronouncements or determinations made by any competent regulatory authority in relation to the acquisition of the shares or the transactions contemplated by this Agreement;
- 12.1.17 it will not, without the prior written consent of the Lender, acquire any assets other than shares in Target pursuant to the Offer and will not carry on any business or activity other than incidental to a company holding such shares;
- 12.1.18 except as contemplated by this Agreement, it will not create or acquire any subsidiaries

without the prior written consent of the Lender;

12.1.19 it will not pay any dividends or make any other distributions prior to all Advances and amounts outstanding under the Facility being repaid in full together with accrued interest, without the prior written consent of the Lender; and

12.1.20 any disposal of shares in Target shall be effected at full market value.

### **13 NEGATIVE PLEDGE**

13.1 The Borrower undertakes with the Lender that, so long as any Commitment is in force or any monies or obligations are outstanding under this Agreement, it will not (and it will procure that none of its Subsidiaries will):

13.1.1 create or permit to subsist any Encumbrance other than any Permitted Encumbrance over all or any part of their respective present or future undertaking, assets, rights or revenues;

13.1.2 sell or otherwise dispose of any of its assets on terms whereby it is or may be leased to or acquired by it or any other member of the Group (except for sale and lease-backs of any asset on normal arm's length commercial terms and in the normal course of business) or sell or otherwise dispose of any of its receivables on recourse terms (except for the discounting of bills or notes in the ordinary course of business), in any such case in circumstances where the transaction is entered into primarily as a method of raising finance or of financing the acquisition of an asset.

13.2 Paragraph 13.1 shall not apply to any Encumbrance:

13.2.1 created or outstanding with the prior written consent of the Lender;

13.2.2 arising by operation of law;

13.2.3 arising under any retention of title arrangements entered into in the ordinary course of trading;

13.2.4 over goods or documents of title to goods arising in the ordinary course of documentary credit transactions;

13.2.5 provided that simultaneously with the creation of such Encumbrance the obligations of the Borrower under this Agreement are equally and rateably secured by a comparable Encumbrance on other assets reasonably acceptable to the Lender in form and substance satisfactory to it;

13.2.6 on assets acquired after the date of this Agreement, or on assets of a body corporate which becomes a Subsidiary by acquisition after the date of this Agreement, provided that:

(i) any such Encumbrance is in existence prior to such acquisition and is not created in contemplation of such acquisition; and

(ii) the amount secured by such Encumbrance does not exceed, at any time, the maximum amount secured or agreed to be secured by it (in accordance with the

original terms on which such Encumbrance was created) as at the date of acquisition;

- 13.2.7 created in favour of a plaintiff or defendant in any action, or the court or tribunal before which such action is brought, as security for costs or expenses where any member of the Group is prosecuting or defending such action in the bona fide interests of that member and/or any other member of the Group;
- 13.2.8 pursuant to any order of attachment, distraint, garnishee order or injunction restraining disposal of assets or similar legal process arising in connection with legal proceedings;
- 13.2.9 created or outstanding on or over any assets of any member of the Group provided that the aggregate principal amount so secured under this paragraph 13.2.9 shall not at any time exceed £50,000 or its equivalent in other currencies;
- 13.2.10 securing Indebtedness incurred to refinance other indebtedness permitted to be secured under paragraphs 13.2.1 to 13.2.9 above inclusive and/or this paragraph 13.2.10 provided that the aggregate principal amount of the Indebtedness secured by such Encumbrance is not increased and such Encumbrance does not extend to any assets other than those which were subject to the Encumbrance securing the refinanced Indebtedness.

#### **14 DISPOSALS**

- 14.1 The Borrower undertakes with the Lender that, so long as any Commitment is in force or any monies or obligations are outstanding under this Agreement, it will not (and the Borrower shall procure that no Subsidiary will) either in a single transaction or in a series of transactions, whether related or not and whether voluntarily or involuntarily, sell, transfer, lease or otherwise dispose of all or any substantial part of its respective assets.
- 14.2 Clause 14.1 shall not apply to:
  - 14.2.1 disposals made with the prior consent of the Lender;
  - 14.2.2 disposals made in the ordinary course of business/trading of the disposing entity for not less than market value on an arm's length basis;
  - 14.2.3 disposals from any member of the Group (other than the Borrower) to the Borrower or any other member of the Group;
  - 14.2.4 disposals of property or assets in exchange for other property or assets of a comparable type and value;
  - 14.2.5 disposals of cash in acquiring any asset at not more than market value;
  - 14.2.6 disposals of property or assets otherwise than to any member of the Group during any financial year of the Borrower so long as the aggregate book value of all such property or assets does not exceed £100,000.

## 15 FINANCIAL STATEMENTS

The Borrower will ensure that all audited financial statements prepared by it and each of its Subsidiaries and delivered pursuant to this Agreement shall be prepared in accordance with the Accounting Principles, consistently applied in respect of each financial period or giving details of any inconsistency, on an individual and if applicable consolidated basis and that such financial statements shall contain a balance sheet giving a true and fair view of the state of affairs of the Borrower and its Subsidiaries as at the end of the period to which they relate and a profit and loss account giving a true and fair view of their profit or loss for such period.

## 16 FINANCIAL UNDERTAKINGS

### 16.1 Financial definitions

In this Agreement:

“**Borrowings**” means, at any time, the aggregate outstanding principal, capital or nominal amount (and any fixed or minimum premium payable on prepayment or redemption) of any indebtedness of members of the Group for or in respect of:

- (a) monies borrowed and debit balances at banks or other financial institutions;
- (b) any acceptances under any acceptance credit or bill discount facility (or dematerialised equivalent);
- (c) any note purchase facility or the issue of bonds (but not Trade Instruments), notes, debentures, loan stock or any similar instrument;
- (d) any Finance Lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirements for de-recognition under the Accounting Principles);
- (f) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument (but not, in any case, Trade Instruments) issued by a bank or financial institution in respect of an underlying liability of an entity which is not a member of the Group which liability would fall within one of the other paragraphs of this definition;
- (g) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before the Termination Date or are otherwise classified as borrowings under the Accounting Principles;
- (h) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind the entry into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 90 days after the date of supply;

- (i) any amount raised under any other transaction (including any forward sale or purchase agreement, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles; and
- (j) (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraph (a) to paragraph (i).

“**Capital Expenditure**” means any expenditure or obligation in respect of expenditure which, in accordance with the Accounting Principles, is treated as capital expenditure (and (except for the purposes of paragraph (g) of the definition of “Cashflow” where it shall not be included) including the capital element of any expenditure or obligation incurred in connection with a Finance Lease).

“**Cashflow**” means, in respect of any Relevant Period, EBITDA for that Relevant Period after:

- (a) adding the amount of any decrease (and deducting the amount of any increase) in Working Capital for that Relevant Period;
- (b) adding the amount of any cash receipts (and deducting the amount of any cash payments) during that Relevant Period in respect of any Exceptional Items not already taken account of in calculating EBITDA for any Relevant Period (other than, in the case of cash receipts, Relevant Proceeds);
- (c) adding the amount of any cash receipts during that Relevant Period in respect of any Tax rebates or credits and deducting the amount actually paid or due and payable in respect of Taxes during that Relevant Period by any member of the Group;
- (d) adding (to the extent not already taken into account in determining EBITDA) the amount of any dividends or other profit distributions received in cash by any member of the Group during that Relevant Period from any entity which is itself not a member of the Group and deducting (to the extent not already deducted in determining EBITDA) the amount of any dividends paid in cash during the Relevant Period to minority shareholders in members of the Group;
- (e) adding the amount of any increase in provisions, other non-cash debits and other non-cash charges (which are not Current Assets or Current Liabilities) and deducting the amount of any non-cash credits (which are not Current Assets or Current Liabilities) in each case to the extent taken into account in establishing EBITDA;
- (f) deducting the amount of any Capital Expenditure actually made in cash during that Relevant Period by any member of the Group except (in each case) to the extent funded from:
  - (i) the proceeds of any claims against third parties in connection with the Offer, disposals of Group assets otherwise than in the ordinary courses of business and insurance claims; or
  - (ii) Retained Excess Cashflow,

and so that no amount shall be added (or deducted) more than once and there shall be excluded the effect of all cash movements associated with the Offer and the costs of the Offer.

“**Cashflow Cover**” means the ratio of Cashflow to Debt Service in respect of any Relevant Period.

“**Current Assets**” means the aggregate (on a consolidated basis) of all inventory, work in progress, trade and other receivables of each member of the Group including prepayments in relation to operating items and sundry debtors (but excluding cash and cash equivalent investments) expected to be realised within twelve months from the date of computation but excluding amounts in respect of:

- (a) receivables in relation to Tax;
- (b) Exceptional Items and other non-operating items;
- (c) insurance claims;
- (d) any interest owing to any member of the Group; and
- (e) amounts owed by the shareholders in the Target in connection with the Offer.

“**Current Liabilities**” means the aggregate (on a consolidated basis) of all liabilities (including trade creditors, accruals and provisions) of each member of the Group expected to be settled within twelve months from the date of computation but excluding amounts in respect of:

- (a) liabilities for Borrowings and Finance Charges;
- (b) liabilities for Tax;
- (c) Exceptional Items and other non-operating items;
- (d) insurance claims;
- (e) liabilities in relation to dividends declared but not paid by a member of the Group in favour of a person which is not a member of the Group; and
- (f) amounts owed to the shareholders of the Target in connection with the Offer.

“**Debt Service**” means, in respect of any Relevant Period, the aggregate of:

- (a) Finance Charges for that Relevant Period;
- (b) all scheduled and mandatory repayments of Borrowings falling due and any voluntary prepayments made during that Relevant Period but excluding:
  - (i) any amounts falling due under any overdraft or revolving facility and which were available for simultaneous redrawing according to the terms of that facility;
  - (ii) for the avoidance of doubt, any mandatory prepayment made pursuant to Clause 20.4;
  - (iii) any such obligations owed to any member of the Group; and
- (c) the amount of the capital element of any payments in respect of that Relevant Period payable under any Finance Lease entered into by any member of the Group,

and so that no amount shall be included more than once.

“**EBITDA**” means, in respect of any Relevant Period, the consolidated operating profit of the Group before taxation (including the results from discontinued operations):

- (a) before deducting any interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments whether paid, payable or capitalised by any member of the Group (calculated on a consolidated basis) in respect of that Relevant Period;
- (b) not including any accrued interest owing to any member of the Group;
- (c) after adding back any amount attributable to the amortisation, depreciation or impairment of assets of members of the Group (and taking no account of the reversal of any previous impairment charge made in that Relevant Period);
- (d) before taking into account any Exceptional Items;
- (e) before deducting any costs of the Offer;
- (f) after deducting the amount of any profit (or adding back the amount of any loss) of any member of the Group which is attributable to minority interests;
- (g) plus or minus the Group’s share of the profits or losses (after finance costs and tax) of Non-Group Entities;
- (h) before taking into account any unrealised gains or losses on any derivative instrument (other than any derivative instrument which is accounted for on a hedge accounting basis);
- (i) before taking into account any gain or loss arising from an upward or downward revaluation of any other asset at any time after 31 December 2016; and
- (j) excluding the charge to profit represented by the expensing of stock options,

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

“**Exceptional Items**” means any exceptional, one off, non-recurring or extraordinary items.

“**Excess Cashflow**” means, for any period for which it is being calculated, Cashflow for that period less (except to the extent already deducted in calculating Cashflow) Debt Service for that period.

“**Finance Charges**” means, for any Relevant Period, the aggregate amount of the accrued interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments in respect of Borrowings paid, or payable by any member of the Group (calculated on a consolidated basis) in cash or capitalised in respect of that Relevant Period:

- (a) including any upfront fees or costs which are included as part of the effective interest rate adjustments;
- (b) including the interest (but not the capital) element of payments in respect of any Finance Lease;

- (c) including any commission, fees, discounts and other finance payments payable by (and deducting any such amounts payable to) any member of the Group under any interest rate hedging arrangement;
- (d) taking no account of any unrealised gains or losses on any derivative instruments other than any derivative instruments which are accounted for on a hedge accounting basis; and
- (e) excluding (i) any capitalised interest and (ii) interest (capitalised or otherwise) in respect of the Loan Notes,

together with the amount of any cash dividends or distributions paid or made by the Borrower in respect of that Relevant Period and so that no amount shall be added (or deducted) more than once.

“**Finance Lease**” means any lease or hire purchase contract which would, in accordance with the Accounting Principles, be treated as a finance or capital lease.

“**Financial Quarter**” means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

“**Financial Year**” means the annual accounting period of the Group ending on or about 31 December in each year.

“**Interest Cover**” means the ratio of EBITDA to Finance Charges in respect of any Relevant Period.

“**Leverage**” means, in respect of any Relevant Period, the ratio of the Loan on the last day of that Relevant Period to EBITDA in respect of that Relevant Period.

“**Non-Group Entity**” means any investment or entity (which is not itself a member of the Group (including associates and joint ventures)) in which any member of the Group has an ownership interest.

“**Quarter Date**” means each of 31 March, 30 June, 30 September and 31 December.

“**Relevant Period**” means each period of 12 consecutive months (in the case of Clause 16.2.1 such shorter period commencing on the Closing Date) ending on the last day of the Financial Year and each period of 12 consecutive months ending on the last day of each Financial Quarter.

“**Relevant Proceeds**” means the proceeds arising from any claim against any third party in connection with the Offer, any disposal of the assets of the Group otherwise than in the ordinary course of business or from any insurance claim in each case after expenses and any Tax arising thereon or in connection therewith.

“**Retained Excess Cashflow**” means Excess Cashflow which is not required to be applied in making any prepayment under the Finance Documents.

“**Working Capital**” means, on any date, Current Assets less Current Liabilities.

## 16.2 Financial condition

The Borrower shall ensure that:

- 16.2.1 **Cashflow Cover:** Cashflow Cover in respect of each Relevant Period shall not be less than 1.3:1.
- 16.2.2 **Interest Cover:** Interest Cover in respect of each Relevant Period shall not be less than 4.0:1.
- 16.2.3 **Leverage:** Leverage in respect of any Relevant Period specified in column 1 below shall not equal or exceed the ratio set out in column 2 below opposite that Relevant Period.

<b>Column 1</b>	<b>Column 2</b>
<b>Relevant Period</b>	<b>Ratio</b>
Relevant Period expiring on the last day of each Financial Quarter of Financial Year 2017	2.5:1
Relevant Period expiring on the last day of each Financial Quarter of Financial Year 2018	1.5:1
Relevant Period expiring on the last day of each Financial Quarter of Financial Year 2019	0.5:1
Relevant Period expiring on the last day of each Financial Quarter of Financial Year 2020	0.5:1
Relevant Period expiring on the last day of each Financial Quarter of Financial Year 2021	0.5:1

- 16.2.4 **Capital Expenditure:** The aggregate Capital Expenditure of the Group (other than Capital Expenditure funded by the retention of the proceeds of claims against third parties in connection with the Offer, disposals of Group assets otherwise than in the ordinary courses of business and insurance claims) in any Financial Year shall not exceed £750,000.

### 16.3 Financial testing

- 16.3.1 Subject to Clause 16.3.2, the financial covenants set out in Clause 16.2 shall be calculated in accordance with the Accounting Principles and tested by reference to each of the management accounts delivered pursuant to Clause 12.1.7 **Error! Reference source not found.**and/or each Compliance Certificate delivered pursuant to Clause 16.4.1.
- 16.3.2 For the purpose of the financial covenant in Clause 16.2.2 for each of the Relevant Periods ending on a date which is less than 12 months after the Closing Date, EBITDA shall be calculated by reference to the amount of EBITDA as disclosed in the financial statements, management accounts and/or Compliance Certificates for the Financial Quarters ending after the Closing Date, annualised on a straight line basis.

### 16.4 Compliance Certificates

- 16.4.1 The Borrower shall supply a Compliance Certificate to the Lender with each set of its Annual Financial Statements and each set of its Quarterly Management Accounts.

- 16.4.2 The Compliance Certificate shall, amongst other things, set out (in reasonable detail) computations as to:
- (a) compliance with Clause 16.2;
  - (b) compliance with Clause 16.2 but on the assumption that the financial covenants set out in that clause are tested for a period of 12 consecutive months starting on the first day of the Financial Year and each period of 12 consecutive months starting on the first day of each Financial Quarter (each a “Look Forward Relevant Period”), calculated in accordance with the Accounting Principles and tested by reference to the Budget and assuming projected payments due in connection with the Loan, projected Finance Charges, projected EBITDA, projected Cashflow and projected Capital Expenditure for the relevant Look Forward Relevant Period.
- 16.4.3 Each Compliance Certificate shall be signed by two directors of the Borrower and, if required to be delivered with the Annual Financial Statements of the Borrower, shall be reported on by the Borrower’s Auditors in the form agreed by the Borrower and the Lender.

## **17 DEFAULT**

### **17.1 Events of Default**

There shall be an Event of Default if:

- 17.1.1 the Borrower fails to pay, in the currency and manner provided in this Agreement, any sum payable by it under this Agreement or any Related Document when due provided that such failure shall not be an Event of Default if it occurs solely for administrative or technical reasons affecting the transfer of funds despite timely payment instructions by the Borrower and that payment is received by the Lender within two Business Days after the due date; or
- 17.1.2 the Borrower commits any breach of any provision of Clauses 12.1.5, 12.1.11, 13, 14 or 16; or
- 17.1.3 the Borrower commits any material breach of any other provision of this Agreement or any Related Document and either such breach is not capable of remedy or such breach is capable of remedy and is not remedied within 28 days after the date of notice by the Lender requiring such remedy; or
- 17.1.4 any representation or warranty made or deemed to be made or repeated by the Borrower in or pursuant to this Agreement is or proves to have been untrue or incorrect in any material respect when made or when deemed to be repeated with reference to the facts and circumstances existing at such time; or
- 17.1.5 any Financial Indebtedness of the Borrower or any Subsidiary of the Borrower exceeding in aggregate £250,000 or its equivalent in any currency is not paid when due or within any applicable grace period or becomes due prior to its stated maturity (and, in the case of a guarantee or an indemnity, is called) and is not, in the reasonable opinion of the Lender, being disputed promptly and in good faith; or

- 17.1.6 any Encumbrance to secure any Financial Indebtedness of the Borrower or any Subsidiary of the Borrower exceeding in aggregate £100,000 or its equivalent in any other currency becomes enforceable; or
- 17.1.7 an encumbrancer takes possession or a receiver or administrative receiver or manager or sequestrator is appointed of the whole or any substantial part of the undertaking assets rights or revenues of the Borrower or any Subsidiary of the Borrower or a distress or other process is levied or enforced upon any of the assets rights or revenues of the Borrower or any Subsidiary of the Borrower and any such action is not lifted or discharged within 14 days; or
- 17.1.8 a petition is presented to, or any order is made by, any competent court for the appointment of an administrator in relation to the Borrower or any Subsidiary of the Borrower or any corporate action, procedure or step is taken by any person for the purpose of or with a view to re administration of the Borrower or any Subsidiary of the Borrower; or
- 17.1.9 the Borrower or any Subsidiary of the Borrower is, or is adjudicated or found to be, insolvent or stops or suspends payment of its respective debts or is (or is deemed to be) unable to or admits inability to pay its respective debts as they fall due or proposes or enters into any voluntary arrangement or any composition or other arrangement for the benefit of its creditors generally or proceedings are commenced in relation to the Borrower or any Subsidiary of the Borrower under any law regulation or procedure relating to reconstruction or adjustment of debts; or
- 17.1.10 any petition is presented by any person or any order is made by any competent court or any resolution is passed by the Borrower or any Subsidiary of the Borrower for its winding-up or dissolution or for the appointment of a liquidator of the Borrower or any Subsidiary of the Borrower (except for the purpose of a solvent amalgamation or reconstruction on terms and conditions which shall have first been approved by the Lender); or
- 17.1.11 the Borrower or any Subsidiary of the Borrower ceases or threatens to cease to carry on the whole or substantially the whole of its business; or
- 17.1.12 this Agreement is or becomes (or is alleged to be) unlawful or unenforceable in any respect; or
- 17.1.13 any Material Consent is withdrawn or revoked or expires or is modified or made subject to any condition which in the reasonable opinion of the Lender may materially and adversely affect the Borrower or any Subsidiary of the Borrower or its respective ability to perform or comply with any of its respective obligations under this Agreement or any Related Document; or
- 17.1.14 the Borrower becomes a Subsidiary of any other person or one person or more than one person acting in concert (within the meaning of The City Code on Takeovers and Mergers), not having such control at the date of this Agreement, obtain(s) control (as defined in section 1124 of the Corporation Tax Act 2010) of the Borrower; or
- 17.1.15 any other event or series of events or any circumstances whether related or not (including, but without limitation, any adverse change in the business, assets or financial condition of

the Borrower or the Group, taken as a whole) occur(s) or arise(s) which, in the reasonable opinion of the Lender, would have a material adverse effect on the Borrower or the Group, taken as a whole or its ability or willingness to perform or comply with any of its obligations under this Agreement and/or any Related Document.

## **17.2 Rights on a Default**

The Lender may (without prejudice to any of its rights) upon and at any time after the happening of an Event of Default, so long as the same is continuing, by notice to the Borrower declare that:

- 17.2.1 the Commitment of the Lender and any obligation of the Lender to make any Advance shall be terminated, whereupon such Commitment shall be reduced to zero and such obligation shall be terminated forthwith; and/or
- 17.2.2 the Loan has become immediately due and payable, whereupon the Borrower shall forthwith repay the same together with all interest accrued and all other sums payable under this Agreement; and/or
- 17.2.3 the Loan has become due and payable on demand, whereupon the Loan and all interest and other sums payable under this Agreement shall at all times after such declaration be due and payable forthwith on demand.

## **18 INDEMNITIES**

### **18.1 Indemnities**

The Borrower shall on demand indemnify the Lender against any liability, loss or expense which the Lender shall certify as incurred by it as a consequence of:

- 18.1.1 any default in payment by the Borrower of any sum under this Agreement when due;
- 18.1.2 the occurrence of any Event of Default;
- 18.1.3 any repayment or prepayment of any Advance or part thereof being received otherwise than on the last day of an Interest Period;
- 18.1.4 the early breaking, termination or reversing (in whole or in part) of any agreement or arrangement entered into by the Lender with the Borrower or any third party for the purpose of or in connection with fixing, capping the rate of or otherwise hedging interest payable under this Agreement; or
- 18.1.5 any Advance not being made for any reason (excluding any default by the Lender) after a Drawdown Notice therefor has been given

including in any such case, but not limited to, any loss of profit and any loss or expense incurred in maintaining or funding the Loan or any Advance or other sum or in liquidating or re-employing deposits from third parties acquired or contracted for in order to effect or maintain the same.

### **18.2 Currency**

No payment to the Lender under this Agreement pursuant to any judgment or order of any court or otherwise shall operate to discharge the obligations of the Borrower in respect of which it was

made unless and until payment in full shall have been received in Sterling; and to the extent that the amount of any such payment shall on actual conversion into Sterling fall short of the amount of the relevant obligation expressed in Sterling, the Lender shall have a further and separate cause of action against the Borrower for the recovery of such sum as shall after conversion into Sterling be equal to the amount of the shortfall.

## **19 TAXES**

### **19.1 Grossing up payments**

All payments to be made by the Borrower under this Agreement shall be made free and clear of and without deduction for or on account of Taxes unless the Borrower is required to make such a payment subject to the deduction or withholding of Taxes, in which case the amount payable by the Borrower in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Lender receives and retains (free from any liability in respect of any such deduction or withholding) a net amount equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

### **19.2 Notification**

If at any time the Borrower is required by law to make any deduction or withholding from any sum payable by it under this Agreement (or if subsequently there is any change in the rates at which or the manner in which such deductions or withholdings are calculated), it shall promptly notify the Lender upon becoming aware of the same.

### **19.3 Tax receipts**

If the Borrower is required to make any deduction or withholding from any payment hereunder, it shall pay the full amount required to be deducted or withheld to the relevant taxation or other authority within the time allowed for such payment under applicable law and shall deliver to the Lender within 30 days after it has made such payment to the applicable authority an original official receipt issued by such authority and any other appropriate evidence of the payment to such authority of all amounts so required to be deducted or withheld.

### **19.4 Indemnity**

The Borrower shall indemnify and hold harmless the Lender against, and reimburse it on demand, the amount of any Taxes so deducted withheld or accounted for and paid by the Borrower.

### **19.5 Tax credits**

If the Borrower pays any increased amount under Clause 19.1 and the Lender effectively obtains a refund of tax or credit against tax by reason of that payment, and if the Lender is able (in its sole opinion, which shall not be capable of being challenged) to identify that refund or credit as being attributable to that payment having regard to its other activities, then the Lender shall reimburse to the Borrower such amount as it shall determine (any such determination being conclusive) to be the proportion of that refund or credit as will leave the Lender after that reimbursement in no better or worse position than it would have been in if that payment had not been required. The Lender shall not be obliged to arrange its tax affairs in any particular manner or to disclose any information regarding its tax affairs or computations to the Borrower.

## **19.6 Withholding Tax**

The Lender warrants to the Borrower that it (or such other person as is beneficially entitled to interest paid to the Lender under this Agreement) is within the charge to corporation tax in the UK as respects such interest when paid. This warranty will be deemed to be repeated by the Lender on the due date for payment of any interest to the Lender under this Agreement, unless it is unable to repeat it on that date. If at any time the Lender becomes aware that it is, or will become, unable so to repeat this warranty for whatever reason, it will promptly notify the Borrower.

- 19.7 If, otherwise than as a result of the introduction of or any change in, or in the interpretation or application of, any law or regulation or any practice or concession of the Inland Revenue after the date of this Agreement, the Lender or such other person as is beneficially entitled to interest paid under this Agreement is not within the charge to corporation tax in the UK as respects such interest when it is paid, the Borrower shall not be liable to pay to or for the account of the Lender any increased sum under Clause 19.1 in excess of any sum which it would have been obliged to pay if the Lender or such other person as is beneficially entitled to interest paid under this Agreement had been within the charge to corporation tax in the UK as respects such interest.

## **20 CHANGES IN CIRCUMSTANCES/INCREASED COSTS**

- 20.1 If by reason of any change in or introduction of any law regulation, treaty or official directive or any change in its interpretation, application or administration and/or compliance with any request from or agreement with or requirement of any central bank or other fiscal, monetary or other authority (whether or not having the force of law):

20.1.1 the Lender or any holding company of the Lender incurs a cost as a result of its having entered into and/or performing any of its respective obligations under this Agreement; or

20.1.2 there is any increase in the cost to the Lender or any holding company of the Lender of funding or maintaining all or any of the advances comprised in a class of advances formed by or including any Advance; or

20.1.3 any Lender or a holding company of the Lender is unable to obtain the rate of return on its capital which it would have been able to obtain but for the Lender having entered into or assuming or maintaining its Commitment or performing its obligations under this Agreement; or

20.1.4 the Lender or any holding company of the Lender becomes liable to make any payment on or calculated by reference to any Advance and/or to any sum received or receivable by it hereunder

the Borrower shall from time to time on demand by the Lender promptly pay to the Lender amounts sufficient to indemnify the Lender or any such holding company against, as the case may be, such cost, increased cost, reduction in the rate of return or liability.

- 20.2 Notwithstanding sub-clause 20.1, the Borrower shall not be obliged to make any payment pursuant thereto to the extent that the relevant cost, increased cost, reduction or liability:

20.2.1 represents Taxes on, or a change in the rate of Taxes on, the overall net income or profits of the Lender; or

20.2.2 results from the Lender having exceeded some limit or failed to comply with some obligation, if on the date on which the matters referred to in 20.1 took effect the Lender did not (and was not committed to) exceed such limit or breach such obligation.

20.3 The Lender shall promptly notify the Borrower of the circumstances giving rise to the Borrower's obligation to make any such payment, giving reasonable details of how such cost, increased cost, reduction or liability has been calculated and attributed to the Facility, such calculation and attribution by the Lender being conclusive in the absence of manifest error.

#### **20.4 Illegality**

If at any time it is or becomes unlawful, or contrary to any request from or requirement of any central bank or other fiscal monetary or other authority (whether or not having the force of law), for the Lender to make, fund or allow to remain outstanding any Advance or part of the Loan, then the Lender shall promptly after becoming aware of the same deliver to the Borrower a certificate to that effect and:

20.4.1 the Lender shall not thereafter be obliged to make any Advance and its Commitment shall be reduced to zero; and

20.4.2 if the Lender so requires, the Borrower shall, not later than such date as the Lender shall have specified (such date not being earlier than 3 Business Days prior to the latest permitted date), repay each Advance together with accrued interest thereon and any other amounts then due to the Lender hereunder.

#### **20.5 Market disruption**

If in respect of any proposed Advance or forthcoming Interest Period the Lender determines after consulting the Borrower if practicable that:

20.5.1 adequate and fair means do not exist for ascertaining the interest rate for any Interest Period; or

20.5.2 by reason of circumstances affecting the London Interbank Market generally it is impracticable for the Lender to fund or continue to fund the Loan or any Advance during any Interest Period,

the Lender shall notify the Borrower accordingly. If such notification is given before the drawdown of the first Advance, no Advance shall be made available and, if such notification is given after the drawdown of the first Advance, the Borrower and the Lender shall negotiate in good faith with a view to arriving within a period of 30 days at an acceptable alternative arrangement (pending which any right of the Borrower to draw Advances shall be suspended), failing which the Borrower shall promptly prepay the Loan together with accrued interest thereon to the date of prepayment (calculated at the rate or rates most lately applicable) and all other sums payable by the Borrower under this Agreement and the Lender's obligations hereunder shall terminate. In such case the Borrower shall also reimburse to the Lender such amount as may be determined by the Lender to be necessary to compensate it for the increased cost (if any) of maintaining any Advance during the period of negotiation referred to in this Clause until such prepayment.

## **20.6 Prepayment and Mitigation**

- 20.6.1 If the Borrower is or becomes bound to pay any increased amount under Clause 19.1 or to make any payment under Clause 20.1 for the account of the Lender then, so long as such obligation continues, it shall be entitled at any time on giving to the Lender not less than ] days' notice (which shall be irrevocable) to prepay the whole (but not part only) of all outstanding Advances together with accrued interest and any other amount payable under this Agreement.
- 20.6.2 If the Borrower is or becomes obliged to pay any increased amount under Clause 19.1 or Clause 20.1 or to repay any amount under Clause 20.4 then, without affecting any obligation or liability of the Borrower under any such Clause, the Lender shall endeavour (but without a legal obligation) to take such reasonable steps to mitigate the effect on the Borrower, whether by the novation of its rights and obligations under this Agreement to another body corporate acceptable to the Borrower or otherwise, provided that such steps will not, in the reasonable opinion of the Lender, be prejudicial to it.

## **21 SET-OFF**

- 21.1 The Lender may, without prior notice to the Borrower, apply any credit balance (whether or not then due and in whatever currency) which is at any time held by the Lender for the account of the Borrower in or towards satisfaction of any sum then due and payable from the Borrower under this Agreement and in respect of which a default in payment has occurred. The Lender will promptly notify the Borrower of such application.
- 21.2 For the purposes of exercising any rights under this Clause, or any rights under the general law, the Lender may convert or translate all or any part of such a credit balance into another currency applying a rate which in its opinion fairly reflects prevailing rates of exchange.
- 21.3 The Lender is not obliged to exercise any of its rights under this Clause, which shall be without prejudice and in addition to any rights under the general law.
- 21.4 In this Clause "rights under the general law" means any right of set off, combination or consolidation of accounts, lien or similar right which the Lender has under any applicable law.

## **22 ASSIGNMENT**

- 22.1 This Agreement shall be binding upon, and enure for the benefit of, each of the parties hereto and their respective successors and permitted assigns (and any person to whom the Lender shall transfer or novate any rights and/or obligations under this Agreement).
- 22.2 The Borrower may not assign or transfer any of its rights, benefits or obligations under this Agreement.
- 22.3 The Lender may assign all or any part of its rights or benefits or transfer all or any part of its obligations under this Agreement or any Related Document. The Borrower shall enter into all documents specified by the Lender to be necessary to give effect to any such assignment or transfer. However, if at the time of any such assignment or transfer circumstances exist under which there arises or will arise any obligation on the part of the Borrower under Clause 19.1 or Clause 20.1 to pay to the assignee or transferee any sum in excess of the sum (if any) which, but for

such assignment or transfer, it would have been obliged to pay to the Lender, the Borrower shall not be obliged to pay the excess.

- 22.4 The Lender may disclose on a confidential basis to any actual or potential assignee or transferee of any rights, benefits or obligations under this Agreement or any Related Document such information about the Borrower and any Subsidiary of the Borrower (and so that the Borrower shall procure any further requisite consent from each Subsidiary) and their respective business and financial condition as the Lender shall reasonably consider appropriate.

## **23 NOTICES**

- 23.1 Every notice or other communication under this Agreement shall be in writing and may be delivered personally or by letter or by email transmission despatched as follows:

23.1.1 if to the Lender, at his address specified at the head of this Agreement or to the following email address:

`gary@garyashworth.com`

23.1.2 if to the Borrower, at its address specified at the head of this Agreement or its registered or principal office for the time being or to the following email address:

`david@foxhillend.com`

or (in any case) to such other address and/or email address and/or facsimile number as may be notified in accordance with this Clause by the relevant party to the other party for such purpose.

- 23.2 Every notice or other communication shall, subject as otherwise provided in this Agreement, be deemed to have been received (if sent by post) 24 hours after despatch and (if delivered personally or despatched by telex subject to receiving the correct telex answerback or by facsimile transmission) at the time of delivery or despatch if during normal business hours in the place of intended receipt on a working day in that place and otherwise at the opening of business in that place on the next succeeding such working day, provided that any notice or communication to be made or delivered to the Lender shall be effective only on actual receipt by the Lender.

## **24 GENERAL**

- 24.1 No delay or omission on the part of the Lender in exercising any right or remedy under this Agreement shall impair that right or remedy or operate as or be taken to be a waiver of it, nor shall any single partial or defective exercise by the Lender or any such right or remedy preclude any other or further exercise under this Agreement of that or any other right or remedy. The remedies provided in this Agreement are cumulative and are not exclusive of any remedies provided by law.

- 24.2 If at any time any of the provisions of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality, validity and enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected or impaired as a result.

24.3 This Agreement may be executed in any number of counterparts in which case this Agreement will be as effective as if all signatures on the counterparts were on a single copy of this Agreement.

## **25 LAW AND JURISDICTION**

25.1 This Agreement shall be governed by and construed in accordance with English law.

25.2 The Borrower irrevocably agrees for the exclusive benefit of the Lender that the courts of England shall have jurisdiction to hear and determine any suit action or proceeding, and to settle any disputes, which may arise out of or in connection with this Agreement and for such purposes hereby irrevocably submits to the jurisdiction of such courts.

25.3 Nothing contained in this Clause shall limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).

25.4 The Borrower irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of subclause (2) above and agrees not to claim that any such court is not a convenient or appropriate forum.

**AS WITNESS** this Agreement has been duly executed the day and year first above written.

SCHEDULE 1

Drawdown Notice

To: Gary Ashworth  
Bockmer House,  
Bockmer End,  
Medmenham,  
Marlow,  
Buckinghamshire, SL7 2HL

Date [ ] 2017

Dear Gary,

Facility Agreement dated [ ] May 2017

We wish to draw an Advance under the above Facility Agreement as follows:

- (a) Drawdown Date: [ ] 2017
- (b) Amount: £[ ]
- (d) Lender account to which proceeds are to be paid: [ ]

We confirm that:

- (a) the matters represented by us and set out in Clause 11.1 of the Facility Agreement are true and accurate on the date of this notice as if made on such date; and
- (b) no Event of Default or Potential Default, each as defined in the Facility Agreement, has occurred and is continuing or would result from the drawing of the proposed Advance.

Yours faithfully,

for and on behalf of  
**CHISBRIDGE LIMITED**

Authorised Signatory

## SCHEDULE 2

### Conditions Precedent

In this Schedule, “certified” means certified by a director or another duly authorised officer of the Borrower as being a true complete and up-to-date copy as at a date no earlier than the date of the first Drawdown Notice.

1. A certified copy of the memorandum and articles of association of the Borrower.
2. A certified copy of a resolution of the board of directors of the Borrower approving this Agreement and any Related Document required to be delivered under this Agreement to which it is expressed to be a party, authorising the person(s) executing the same to do so and authorising a person or persons to sign Drawdown Notices and all notices or other communications to be given or made by or on behalf of the Borrower under this Agreement or any such Related Document.
3. A specimen signature, authenticated to the satisfaction of the Lender, of each person authorised to sign by the resolutions referred to in paragraph 2 above.



**SIGNED by GARY ASHWORTH**  
For and on behalf of  
**CHISBRIDGE LIMITED**



**SIGNED by GARY ASHWORTH**