

DATED 18 April 2022

SENSYNE HEALTH PLC
as the Issuer

and

THE GUARANTORS LISTED HEREIN

WITH

KROLL AGENCY SERVICES LIMITED
as Purchasers' Representative

AND

KROLL TRUSTEE SERVICES LIMITED
as Security Agent

**AMENDMENT AND RESTATEMENT AGREEMENT
IN RESPECT OF THE NOTE PURCHASE AGREEMENT
ORIGINALLY DATED 26 JANUARY 2022**

THIS AMENDMENT AND RESTATEMENT AGREEMENT (this **Agreement**) is made on 18 April 2022

BETWEEN:

- (1) **SENSYNE HEALTH PLC**, a public company limited by shares incorporated in England and Wales with company number 11425451 and its registered office at John Eccles House Robert Robinson Avenue Oxford Science Park Oxford Oxfordshire OX4 4GP (the “**Issuer**”);
- (2) **SENSYNE HEALTH HOLDINGS LIMITED**, a private company limited by shares incorporated in England and Wales with company number 09427409 and its registered office at John Eccles House Robert Robinson Avenue Oxford Science Park Oxford Oxfordshire OX4 4GP (“**Sensyne Holdings UK**”);
- (3) **SENSYNE HEALTH GROUP LIMITED**, a private company limited by shares incorporated in England and Wales with company number 11240986 and its registered office at John Eccles House Robert Robinson Avenue Oxford Science Park Oxford Oxfordshire OX4 4GP (“**Sensyne Group UK**”);
- (4) **SENSYNE HEALTH, INC.**, a company incorporated in the State of Delaware, United States of America, with file number 5762006 and its registered office at 850 New Burton Road, Suite 201, Dover, Delaware 19904 (“**Sensyne US**” and together with Sensyne Holdings UK and Sensyne Group UK, the “**Guarantors**”);
- (5) **KROLL AGENCY SERVICES LIMITED**, formerly known as Lucid Agency Services Limited, a company incorporated under the laws of England and Wales and with registration number 10987833 with its registered office at The News Building, Level 6, 3 London Bridge Street, London, United Kingdom, SE1 9SG as agent of the other Finance Parties (the “**Purchasers’ Representative**”); and
- (6) **KROLL TRUSTEE SERVICES LIMITED**, formerly known as Lucid Trustee Services Limited, a company incorporated under the laws of England and Wales and with registration number 10992576 with its registered office The News Building, Level 6, 3 London Bridge Street, London, United Kingdom, SE1 9SG as security trustee for the Secured Parties (the “**Security Agent**”).

RECITALS:

- I. The parties hereto have agreed to enter into this Agreement to amend and restate the note purchase agreement, entered into between, amongst others, Sensyne Health Plc as issuer, certain persons listed therein as purchasers, Lucid Agency Services Limited (now known as Kroll Agency Services Limited) as purchasers’ representative and Lucid Trustee Services Limited (now known as Kroll Agency Services Limited) as security agent, originally dated 26 January 2022 (the “**Note Purchase Agreement**”), on the terms and subject to the conditions set out in this Agreement.
- II. The Finance Parties require each Guarantor to confirm that the guarantees and indemnity provided under the Note Purchase Agreement remain in full force and effect

and extend to the liabilities and obligations of each of the Obligors under the A&R Note Purchase Agreement (as defined below).

- III. The Finance Parties also require each Obligor to confirm that the Transaction Security Documents remain in full force and effect and are continuing security for the obligations and liabilities of the relevant Obligor under the Finance Documents, including the A&R Note Purchase Agreement (as defined below).
- IV. Pursuant to clause 34 (*Amendments and Waivers*) of the Note Purchase Agreement, the Purchasers' Representative is authorised to effect, on behalf of any Finance Party, any amendment or waiver permitted by that clause; and having received the requisite consent for the amendments contemplated by this Agreement, the Purchasers' Representative is authorised and instructed to executed this Agreement on behalf of the Finance Parties.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

“**A&R Note Purchase Agreement**” means the amended and restated note purchase agreement in the form set out in Schedule 2 (*Amended And Restated Note Purchase Agreement*).

“**Effective Date**” means the later of the date of this Agreement and the date on which the Purchasers' Representative confirms in writing to the Issuer that it has received all of the documents and other evidence listed in Schedule 1 (*Conditions Precedent*), in each case, in form and substance satisfactory to it.

1.2 Interpretation

- (a) Unless the context otherwise requires and except as mentioned below, words and expressions defined in the Note Purchase Agreement shall have the same meanings when used in this Agreement.
- (b) Except as otherwise expressly provided in this Agreement, the rules of interpretation set out in clauses 1.2 (*Construction*) to 1.4 (*Third party rights*) of the Note Purchase Agreement will apply to this Agreement.

1.3 Finance Document

In accordance with the Note Purchase Agreement, by execution of this Agreement, each of the Purchasers' Representative and the Issuer designates this Agreement as a Finance Document for the purpose of the definition of “Finance Document” in the Note Purchase Agreement.

2. REPRESENTATIONS AND WARRANTIES

Each Obligor jointly and severally, in each case, on the date of this Agreement and the Effective Date, makes the Repeating Representations and references to "this Agreement" in the Repeating Representations should be construed as references to the Note Purchase Agreement and represents and warrants that it has not amended or varied any of its constitutional documents since the date such documents were delivered to the Purchasers' Representative pursuant to clause 4.1 (*Initial Conditions Precedent*) of the Note Purchase Agreement.

3. AMENDMENT AND RESTATEMENT

Pursuant to the terms of the Note Purchase Agreement, each of the Issuer and the Purchasers' Representative (acting on the instructions of all Purchasers) consents to the amendments to the Note Purchase Agreement contemplated by this Agreement and confirms that, from the Effective Date, the Note Purchase Agreement shall be amended and restated as set out in Schedule 2 (*Amended and Restated Note Purchase Agreement*).

4. PURCHASER CONSENT

Upon its entry into this Agreement, each of the Issuer and the Purchasers' Representative (acting on the instructions of all the Purchasers) and (in respect of paragraph (b) below, the Security Agent (acting on the instructions of all the Purchasers) confirms:

- (a) its consent to the issuance of the Additional Notes (as defined in the A&R Note Purchase Agreement) in accordance with the terms of the A&R Note Purchase Agreement, up to an aggregate principal amount of £15,000,000;
- (b) its:
 - (i) consent to the Obligors' entry into the Second Ranking Transaction Security Documents (as defined in the A&R Note Purchase Agreement) on or about the date of this Agreement; and
 - (ii) waiver of clause 19.15(a) (*Negative pledge*) of the Note Purchase Agreement, clause 6.1 (*Negative pledge and disposal restrictions*) of the First Ranking English Debenture (as defined in the A&R Note Purchase Agreement) and clause 7(d) (*Covenants*) of the First Ranking New York Pledge and Security Agreement (as defined in the A&R Note Purchase Agreement), each in respect of the Obligors' entry into the relevant Second Ranking Transaction Security Documents (as defined in the A&R Note Purchase Agreement).

5. CONTINUITY AND FURTHER ASSURANCE

5.1 Continuation of underlying agreements

Each of the Obligors agrees and acknowledges that the provisions of the Note Purchase Agreement and the other Finance Documents to which it is a party shall, save as amended and restated by this Agreement, continue in full force and effect.

5.2 Confirmation of Guarantee

Each Guarantor confirms for the benefit of the Finance Parties that the guarantee and indemnity under Clause 15 (*Guarantee and Indemnity*) of the Note Purchase Agreement and each other Finance Document to which it is a party shall, after giving effect to the amendments effected by this Agreement, on and after the Effective Date:

- (a) continue to remain in full force and effect in all respects and extend to the liabilities and obligations of each of the Obligors under the A&R Note Purchase Agreement and the other Finance Documents (as amended and restated from time to time)
- (b) continue to remain in full force and effect in all respects notwithstanding the amendment and restatement referred to in Clause 3 (*Amendment and Restatement*); and
- (c) extend to any new obligations assumed by any Obligor under the Finance Documents as a result of this Agreement (including under the A&R Note Purchase Agreement); and
- (d) continue to constitute legal, valid and binding obligations of the Guarantors enforceable in accordance with their terms.

5.3 Security Confirmation

Each Obligor confirms for the benefit of the Finance Parties that after giving effect to the amendments effected by this Agreement, each of the security interests created under any Transaction Security Documents:

- (a) continues in full force and effect as security for the payment or discharge of the Secured Liabilities including, without limitation, all present and future monies, obligations and liabilities owed by the relevant Obligor to the Secured Parties, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity, under or in connection with the Finance Documents (including, without limitation, the A&R Note Purchase Agreement or the Transaction Security Documents); and
- (b) shall remain in full force and effect in all respects notwithstanding the amendment and restatement referred to in Clause 3 (*Amendment and Restatement*);
- (c) extends to any new obligations assumed by any Obligor under the Finance Documents as a result of this Agreement (including under the A&R Note Purchase Agreement); and
- (d) continues to constitute legal, valid and binding obligations of the relevant Obligors enforceable in accordance with their terms,

and that the Transaction Security Documents shall be read and construed with this Agreement and the A&R Note Purchase Agreement.

5.4 Further assurance

Each Obligor, shall, at the request of the Purchasers' Representative and at such Obligor's own expense, do all such acts and things necessary or desirable to give effect to the amendments effected or to be effected pursuant to this Agreement.

6. MISCELLANEOUS

6.1 Costs and Expenses

The provisions of Clause 15 (*Costs and Expenses*) of the Note Purchase Agreement shall apply to this Agreement as if it were expressly set out in this Agreement with the necessary changes being made and with each reference in the Note Purchase Agreement to "this Agreement" being construed as references to this Agreement.

6.2 Incorporation of terms

Each Party agrees that the provisions of clauses 30 (*Notices*), 32 (*Partial Invalidity*), 33 (*Remedies and Waivers*), 35 (*Confidential Information*) and 41 (*Enforcement*) of the Note Purchase Agreement are incorporated in this Agreement as if such provisions were set out, *mutatis mutandis*, in this Agreement.

6.3 Counterparts

This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument. This Agreement may be delivered by facsimile, electronic mail (including pdf) or any electronic means. Any counterpart so delivered and executed (including by "e-signature" or other electronic means) shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law.

7. GOVERNING LAW

This Agreement (and any non-contractual obligations arising out of or in connection with it) are governed by and shall be construed in accordance with English law.

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

SCHEDULE 1
CONDITIONS PRECEDENT

1. Obligor

- (a) A copy of a resolution of the board or, if applicable, a committee of the board of directors of each Obligor:
 - (i) approving the terms of, and the transactions contemplated by, the Finance Documents listed in paragraph 2 below to which it is a party and resolving that it execute, deliver and perform the Finance Documents listed in paragraph 2 below to which it is a party;
 - (ii) authorising a specified person or persons to execute the Finance Documents listed in paragraph 2 below to which it is a party on its behalf; and
 - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the Finance Documents listed in paragraph 2 below to which it is a party.
- (b) If applicable, a copy of a resolution of the board of directors of the relevant company, establishing the committee referred to in paragraph (a).
- (c) A copy of a resolution signed by all the holders of the issued shares in each Obligor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Obligor is a party.
- (d) A specimen of the signature of each person authorised by the resolution referred to in paragraphs (a) and (b) above.
- (e) A certificate of a director of each Obligor incorporated in England or Wales (signed by a director):
 - (i) confirming that the borrowing, securing or guaranteeing (as appropriate) of the Total Commitments would not cause any borrowing, securing or guaranteeing or similar limit binding on it to be exceeded;
 - (ii) certifying that each copy document relating to it specified in this Schedule 1 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement; and
 - (iii) attaching a specimen of the signature of each person authorised by the resolutions referred to in paragraph (a) above or otherwise in relation to this Agreement and related documents.
- (f) A certificate, with respect to Sensyne US, executed by a secretary, assistant secretary or other senior officer (as the case may be) of Sensyne US, which shall:
 - (i) certify that (1) attached thereto is a true and complete copy of the resolutions of its board of directors authorizing the execution, delivery

and performance of this Agreement, and (2) such resolutions have not been modified, rescinded or amended and are in full force and effect,

- (ii) identify by name and title and bear the signatures of the officers, directors or authorized signatories of Sensyne US authorized to sign this Agreement,
- (iii) certify that (1) attached thereto is a true and complete copy of the certificate of incorporation of Sensyne US certified by the relevant authority of the jurisdiction of organization of Sensyne US and a true and correct copy of its by-laws and (2) such documents or agreements have not been amended (except as otherwise attached to such certificate and certified therein as being the only amendments thereto as of such date),
- (iv) certify that attached thereto is a true, correct and complete copy of the certificate of good standing of Sensyne US certified, as of a recent date, by the Secretary of State of the State of Delaware, and
- (v) confirming that by guaranteeing and securing the Total Commitments no borrowing, guarantee, security or similar limit binding on the Corporation will be exceeded.

2. Finance Documents

A copy of this Agreement duly executed by each of the Obligors.

3. Other Documents and Evidence

- (a) Evidence that any process agent has agreed to continue to act as process agent specified in clause 41.2 (*Enforcement*) of the Note Purchase Agreement for each of the Obligors for the service of process in England.
- (b) Evidence that the fees, costs and expenses then due pursuant to Clause 6.1 (*Costs and Expenses*) have been paid or will be paid.
- (c) A copy of any authorisation or other document or assurance which, in the opinion of the Purchasers' Representative, is necessary or desirable in connection with the entry into and performance of the transactions contemplated by this Agreement or for the validity and enforceability of this Agreement.

For the purpose of sub-paragraphs (d) to (i) below, unless the context otherwise requires, words and expressions defined in the A&R Note Purchase Agreement shall have the same meanings when used therein:

- (d) Evidence of confirmation from the Takeover Panel that:
 - (i) they have unconditionally agreed to disapply Rule 21.1(a) of the Takeover Code in relation to:
 - a. the issue of the Additional Notes;
 - b. the conversion of the Unconditional Additional A Notes into Ordinary Shares;

- c. subject to the satisfaction or waiver (as applicable) of the Conversion Rights Conditions, conversion of the Original Notes and the Conditional Additional Notes into Ordinary Shares; and
 - d. exercise of the Asset Purchase Option; and
- (ii) the changes to the Issuer's board do not trigger any mandatory offer requirement under Rule 9 of the Takeover Code.
- (e) Evidence that Lord Paul Drayson has irrevocably and unconditionally: (i) resigned as CEO and director of the Issuer; and (ii) waived all existing and future claims against the Issuer and its Group.
 - (f) Evidence that Alex Snow has been appointed as CEO and director of the Issuer upon execution of this Agreement.
 - (g) A copy of the irrevocable undertakings from Lord Paul Drayson and Lady Elspeth Drayson in respect of their shares in the Issuer (and any that they control) to vote in favour of all shareholder resolutions required to (i) issue the Additional Notes; (ii) satisfy the Conversion Rights Conditions; (iii) effect any board or other governance changes set out in Part 3 of Schedule 2 (*Conditions Precedent*), and (iv) approve any other matters under this Agreement and the A&R Note Purchase Agreement in respect of which shareholder approvals of the Issuer may be required.
 - (h) A copy of the irrevocable undertaking from Sand Grove Capital Management LLP in respect of their shares in the Issuer (and any that they control) to vote in favour of all shareholder resolutions required to (i) issue the Additional Notes; (ii) satisfy the Conversion Rights Conditions; (iii) effect any board or other governance changes set out in Part 3 of Schedule 2 (*Conditions Precedent*) of the A&R Note Purchase Agreement, and (iv) approve any other matters under this Agreement and the A&R Note Purchase Agreement in respect of which shareholder approvals of the Issuer may be required.
 - (i) A copy of the fully executed Drayson Second Letter of Undertaking.

SCHEDULE 2

AMENDED AND RESTATED NOTE PURCHASE AGREEMENT

[To be appended.]

DATED 26 JANUARY 2022
(as amended and restated pursuant to an Amendment and Restatement Agreement
dated 18 April 2022)

SENSYNE HEALTH PLC
as the Issuer

WITH

THE PERSONS LISTED HEREIN
as Purchasers

AND

KROLL AGENCY SERVICES LIMITED
as Purchasers' Representative

KROLL TRUSTEE SERVICES LIMITED
as Security Agent

NOTE PURCHASE AGREEMENT
IN RESPECT OF STERLING NOTES IN AN
AGGREGATE AMOUNT OF UP TO £26,350,000

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THIS AGREEMENT is dated 26 January 2022 (as amended and restated pursuant to an Amendment and Restatement Agreement dated 18 April 2022)

BETWEEN:

- (1) **SENSYNE HEALTH PLC**, a public company limited by shares incorporated in England and Wales with company number 11425451 and its registered office at John Eccles House Robert Robinson Avenue Oxford Science Park Oxford Oxfordshire OX4 4GP (the “**Issuer**”);
- (2) **SENSYNE HEALTH HOLDINGS LIMITED**, a private company limited by shares incorporated in England and Wales with company number 09427409 and its registered office at John Eccles House, Robert Robinson Avenue, Oxford Science Park, Oxford Oxfordshire, OX4 4GP (“**Sensyne Holdings UK**”);
- (3) **SENSYNE HEALTH GROUP LIMITED**, a private company limited by shares incorporated in England and Wales with company number 11240986 and its registered office at John Eccles House, Robert Robinson Avenue, Oxford Science Park, Oxford Oxfordshire, OX4 4GP (“**Sensyne Group UK**”);
- (4) **SENSYNE HEALTH, INC.**, a company incorporated in the State of Delaware, United States of America, with file number 5762006 and its registered office at 850 New Burton Road, Suite 201, Dover, Delaware 19904 (“**Sensyne US**”);
- (5) **THE ENTITIES** listed in Part 1 of Schedule 1 (*Purchasers*) as Original Purchasers (the “**Original Purchasers**”);
- (6) **KROLL AGENCY SERVICES LIMITED**, formerly known as Lucid Agency Services Limited, a company incorporated under the laws of England and Wales and with registration number 10987833 with its registered office at The News Building, Level 6, 3 London Bridge Street, London, United Kingdom, SE1 9SG as agent of the other Finance Parties (the “**Purchasers’ Representative**”); and
- (7) **KROLL TRUSTEE SERVICES LIMITED**, formerly known as Lucid Trustee Services Limited, a company incorporated under the laws of England and Wales and with registration number 10992576 with its registered office The News Building, Level 6, 3 London Bridge Street, London, United Kingdom, SE1 9SG as security trustee for the Secured Parties (the “**Security Agent**”).

IT IS AGREED as follows:

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

In this Agreement:

“**Acceptable Bank**” means:

- (a) a bank or financial institution which has a rating for its long-term unsecured and non-credit-enhanced debt obligations of A- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or A3 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency; or
- (b) any other bank or financial institution approved by the Purchasers' Representative.

"Accession Deed" means a document substantially in the form set out in Schedule 7 (*Form of Accession Deed*).

"Accounting Principles" means generally accepted accounting principles in the Original Jurisdiction of the relevant entity, including where relevant, IFRS.

"Additional Guarantor" means a company which becomes an Additional Guarantor in accordance with Clause 22 (*Changes to the Guarantors*).

"Additional A Note Purchasers" means the entities listed in Part 2 of Schedule 1 (*The Additional A Note Purchasers*) as Additional A Note Purchasers (and **"Additional A Note Purchaser"** means any one of them).

"Additional A Notes" means the additional Notes issued pursuant to Clause 2.2(a)(ii) (*Additional Notes*) in an aggregate amount of £6,000,000.

"Additional B Note Purchaser" has the meaning given in Clause 2.2(a)(iii) (*Subscription for Additional Notes*).

"Additional B Notes" means the additional Notes issued pursuant to Clause 2.2(a)(iii) (*Additional Notes*).

"Additional C Note Purchaser" has the meaning given in Clause 2.2(a)(iii) (*Subscription for Additional Notes*).

"Additional C Notes" means the additional Notes issued pursuant to Clause 2.2(a)(iii) (*Additional Notes*).

"Additional Note Purchaser" means an Additional A Note Purchaser, an Additional B Note Purchaser or an Additional C Note Purchaser.

"Additional Notes" means the Additional A Notes, the Additional B Notes and the Additional C Notes.

"Additional Notes Notice" has the meaning given in Clause 2.2(a)(i).

"Additional Obligor" means an Additional Guarantor.

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

purposes of Clause 17.30 (*Private Offering: No Integration or General Solicitation*) and Clause 37 (*Representations and Undertakings of the Purchasers*), “**Affiliate**” shall have the meaning set forth in Rule 405 under the U.S. Securities Act.

“**AIM**” means the market of that name operated by London Stock Exchange plc.

“**AIM Notification**” means the notification to be issued by the Issuer in connection with the entry into the Finance Documents, duly issued in accordance with, and containing the information specified by the AIM Rules.

“**AIM Rules**” means the rules published by London Stock Exchange plc entitled “AIM Rules for Companies”.

“**Amendment and Restatement Agreement**” means the amendment and restatement agreement amending and restating this Agreement, entered into on the date stated at the beginning of this Agreement between, amongst others, the Issuer, the Purchasers’ Representative and the Security Agent.

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction applicable to an Obligor and each other member of the Group from time to time concerning or relating to bribery or corruption, including, without limitation, the UK Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.

“**Article 55 BRRD**” means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

“**Asset Purchase Option**” has the meaning given to such term in Clause 7.5 (*Asset Purchase Option*).

“**Assignment Agreement**” means an agreement substantially in the form set out in Schedule 6 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee.

“**Auditors**” means, at any time, the statutory auditors of the Issuer at such time.

“**Authorisation**” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

“**Availability Period**” means:

- (a) in respect of the Original Notes, the period from and including the date of this Agreement to and including the earlier of:
 - (i) the date falling thirty (30) calendar days from such date; and
 - (ii) the Purchase Date; and

- (b) in respect of the Additional Notes, the period specified in any Additional Notes Notice (if any).

“**Bail-In Action**” means the exercise of any Write-down and Conversion Powers.

“**Bail-In Legislation**” means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time;
- (b) in relation to the United Kingdom, the UK Bail-In Legislation; and
- (c) in relation to any state other than such an EEA Member Country, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

“**Budget**” means:

- (a) in relation to the period ending 30 April 2022, the budget for the Group in form and substance reasonably satisfactory to all Purchasers to be delivered by the Issuer to the Purchasers’ Representative pursuant to Clause 4.1 (*Initial conditions precedent*); and
- (b) in relation to any Financial Year commencing on 1 May 2022, any budget delivered to the Purchasers’ Representative in respect of that period pursuant to paragraph (a) of Clause 18.1 (*Information undertakings*).

“**Business Day**” means a day (other than a Saturday or Sunday) on which banks are open for general business in London.

“**Cash Equivalent Investments**” means at any time:

- (a) certificates of deposit maturing within one year after the relevant date of calculation and issued by an Acceptable Bank;
- (b) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;
- (c) commercial paper not convertible or exchangeable to any other security:
 - (i) for which a recognised trading market exists;

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

in each case, denominated in Sterling and to which any Obligor is alone (or together with other Obligors) beneficially entitled at that time and which is not issued or guaranteed by any member of the Group or subject to any Security (other than Security arising under the Transaction Security Documents).

“Change of Control” means:

- (a) any transaction which is not approved by the Purchasers' Representative (acting on the instructions of all Purchasers) (including an offer or scheme of arrangement) which results in a party or one or more parties acting in concert (other than a Purchaser and/or any party acting in concert with a Purchaser):
 - (i) having the power to appoint or remove all, or the majority, of the directors or other equivalent officers of the Issuer;

- (ii) having the power to give directions with respect to the operating and financial policies of the Issuer with which the directors or other equivalent officers of the Issuer are obliged to comply;
 - (iii) holding all or substantially all of the assets of the Issuer or the Group (taken as a whole); or
 - (iv) holding more than fifty per cent. (50%) of the Issuer's outstanding issued voting shares; or
- (b) any merger or similar reorganisation of the Issuer, which is not approved by the Purchasers' Representative (acting on the instructions of all Purchasers), which results in a party or one or more parties acting in concert (other than a Purchaser and/or any party acting in concert with a Purchaser):
- (i) having the power to appoint or remove all, or the majority, of the directors or other equivalent officers of the Issuer;
 - (ii) having the power to give directions with respect to the operating and financial policies of the Issuer with which the directors or other equivalent officers of the Issuer are obliged to comply;
 - (iii) holding all or substantially all of the assets of the Issuer or the Group (taken as a whole); or
 - (iv) holding more than fifty per cent. (50%) of the Issuer's outstanding issued voting shares,

where "**acting in concert**" means a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition and/or ownership of voting shares in the Issuer, to obtain or consolidate control (directly or indirectly) of the Issuer provided that the persons voting in the same or consistent manner at any general meeting of the Issuer will not be considered to be acting in concert by virtue only of exercising their votes in such manner.

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

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

"**Commitment**" means:

- (a) in relation to an Original Purchaser, the amount set opposite its name under the heading "Commitment" in Part 1 of Schedule 1 (*Purchasers*) and the amount of any other Commitment transferred to it under this Agreement;
- (b) from the Establishment Date of the Additional A Notes, in relation to an Additional A Note Purchaser, the amount set opposite its name under the

heading “Commitment” in Part 2 of Schedule 1 (*Purchasers*) and the amount of any other Commitment transferred to it under this Agreement;

- (c) in relation to an Additional B Note Purchaser or Additional C Note Purchaser, the amount specified in the Additional Notes Notice and the amount of any other Commitment transferred to it under this Agreement; and
- (d) in relation to any other Purchaser, the amount of any Commitment transferred to it under this Agreement,

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

“**Conditional Additional Notes**” means the Additional Notes other than the Unconditional Additional A Notes.

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

- (a) any member of the Group or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

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

“**Confidentiality Undertaking**” means a confidentiality undertaking substantially in a recommended form of the LMA or in any other form agreed between the Issuer and the Purchasers’ Representative.

“**Constitutional Documents**” means the constitution of the Issuer.

“**Conversion**” means a conversion of any principal amount of the Notes (including any Redemption Premium) into Ordinary Shares in accordance with Clause 7 (*Conversion and Asset Purchase*), and “**Converted**” shall be construed accordingly.

“**Conversion Amount**” has the meaning given to that term in Clause 7.1(d)(i) (Right to convert the Notes).

“**Conversion Date**” means the date of Conversion specified in each Conversion Notice.

“**Conversion Notice**” means a notice in writing served by a Purchaser to the Issuer to convert all (but not part) of its participations in the outstanding principal amount of the relevant Notes (excluding capitalised interest) into Ordinary Shares.

“**Conversion Price**” means:

- (a) prior to the date on which the Conversion Rights Conditions have been satisfied in full or waived (as applicable), £0.10 per Ordinary Share in respect of the Unconditional Additional A Notes; and
- (b) on and after the date on which the Conversion Rights Conditions have been satisfied in full or waived (as applicable), £0.008 per Ordinary Share in respect of any Notes (including any Unconditional Additional A Notes).

“**Conversion Rights Conditions**” has the meaning given to that term in Clause 7.2 (*Conversion Rights Conditions*).

“**Conversion Share**” has the meaning given to that term in Clause 7.3(b) (*Procedures on conversion*).

“**Default**” means any event or circumstance specified in Clause 20 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

“**Deferred Shares**” means deferred shares of £0.092 each in the capital of the Issuer resulting from the Sub-Division, which shall have no voting rights, no rights to receive dividends or other distributions, on a return of assets upon liquidation shall only be entitled to the nominal amount paid up thereon, and shall have no other right to participate in the assets of the Issuer.

“**Delegate**” means any delegate, agent, attorney, custodian, nominee or co-trustee appointed by the Security Agent.

“**Directors**” means the board of directors of the Issuer, or a duly authorised committee of that board, for the time being.

“**Disruption Event**” means either or both of:

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

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

“Dormant Subsidiary” means any member of the Group which does not trade (for itself or as agent for any person) and does not own, legally or beneficially, assets which in aggregate have a value of £10,000 or more (or its equivalent in other currencies), including as at the date of this Agreement Drayson Mexico and Drayson Services Mexico.

“Drayson Letter of Undertaking” means the letter of undertaking from the Rt. Hon. Lord Drayson to the Original Purchasers dated 26 January 2022.

“Drayson Mexico” means Drayson Technologies Mexico, S.A. de C.V, a company incorporated in Mexico with registered number 564066.

“Drayson Second Letter of Undertaking” means the letter of undertaking from the Rt. Hon Lord Drayson and Lady Elspeth Drayson to the Company dated 7 April 2022.

“Drayson Services Mexico” means Drayson Technologies Mexico (Services), S.A. de C.V, a company incorporated in Mexico with registered number 564067.

“EEA Member Country” means any member state of the European Union, Iceland, Liechtenstein and Norway.

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

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

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

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

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

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

“**Environmental Permits**” means any permit and other Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any Obligor conducted on or from the properties owned or used by any Obligor.

“**Establishment Date**” means, in relation to the Additional Notes, the later of:

- (a) the proposed Establishment Date specified in the Additional Notes Notice; and
- (b) the date on which the Purchasers’ Representative executes the Additional Notes Notice.

“**EU Bail-In Legislation Schedule**” means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

“**Event of Default**” means any event or circumstance specified as such in Clause 20 (*Events of Default*).

“**Exscientia**” means Exscientia AI Ltd, a private limited company incorporated in Scotland with registered number SC428761 and registered office address at Level 3, Dundee One River Court, 5 West Victoria Dock Road, Dundee, Scotland.

“**FATCA**” means:

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

US government or any governmental or taxation authority in any other jurisdiction.

“FATCA Application Date” means:

- (a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014; or
- (b) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraph (a) above, the first date from which such payment may become subject to a deduction or withholding required by FATCA.

“FATCA Deduction” means a deduction or withholding from a payment under a Finance Document required by FATCA.

“FATCA Exempt Party” means a Party that is entitled to receive payments free from any FATCA Deduction.

“Fee Letter” means any letter or agreement setting out fees payable by the Issuer to a Finance Party under any Finance Document.

“Finance Document” means this Agreement, any Note, any Fee Letter, any Additional Notes Notice, any Accession Deed, any Resignation Letter, any Transaction Security Document, the Purchase Request, the Drayson Second Letter of Undertaking and any other document designated as a “Finance Document” by the Purchasers’ Representative and the Issuer.

“Finance Party” means the Purchasers’ Representative, the Security Agent or a Purchaser.

“Financial Indebtedness” means any indebtedness for or in respect of:

- (a) monies borrowed and debit balances at banks or other financial institutions;
- (b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
- (c) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of finance leases;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirement for de-recognition under the Accounting Principles);
- (f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value (or, if any actual amount is due as

a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);

- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of (i) 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 or (ii) any liabilities of any member of the Group relating to any post-retirement benefit scheme;
- (h) 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);
- (i) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than sixty (60) days after the date of supply;
- (j) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles; and
- (k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j).

“Financial Year” means the annual accounting period of the relevant Obligor ending on 30 April or 31 December (as applicable for Obligor’s incorporated in the United States) in each year.

“First Ranking English Debenture” has the meaning given to it in paragraph 3(a) of Part 1 of Schedule 2 (*Conditions Precedent*).

“First Ranking New York Pledge and Security Agreement” has the meaning given to it in paragraph 3(a) of Part 1 of Schedule 2 (*Conditions Precedent*).

“First Ranking Transaction Security Document” means each of the First Ranking English Debenture and the First Ranking New York Pledge and Security Agreement and any document creating or expressed to create Security required to be delivered to the Purchasers’ Representative under Part 1 of Schedule 2 (*Conditions Precedent*).

“Further Shareholder Approvals” means:

- (a) the Shareholder Conversion Approvals;
- (b) the Shareholder Delisting Approvals; and

(c) the Shareholder APO Approval.

“**Group**” means the Issuer and each of its respective Subsidiaries for the time being.

“**Group Structure Chart**” means the group structure chart in the agreed form and delivered to the Purchasers’ Representative pursuant to Clause 4.1 (*Initial conditions precedent*).

“**Guarantor**” means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 22 (*Changes to the Guarantors*).

“**Holding Company**” means, in relation to a person, any other person in respect of which it is a Subsidiary.

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

“**Independent Shareholders**” means the shareholders of the Issuer excluding the Additional Note Purchasers (or such other persons as determined by the Takeover Panel).

“**Initial Termination Date**” means the date falling three hundred and sixty-four (364) days after and including the initial Purchase Date for the Original Notes.

“**Intellectual Property**” means:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets of each Obligor (which may now or in the future subsist).

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

“**Legal Reservations**” means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;

- (c) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and
- (d) any other matters which are set out as qualifications or reservations as to matters of law of general application in the any legal opinions delivered to the Purchasers' Representative in connection with this Agreement.

“**Limitation Acts**” means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984.

“**LMA**” means the Loan Market Association.

“**Majority Purchasers**” means a Purchaser or Purchasers holding more than 66 ²/₃% of the aggregate principal amount of the outstanding Notes on the date of calculation.

“**Margin Stock**” shall have the meaning assigned to such term in Regulation U.

“**Material Adverse Effect**” means any event or circumstance which:

- (a) has a material adverse effect on:
 - (i) the business, operations, assets, financial condition or prospects of the Group or the Obligors, in each case taken as a whole;
 - (ii) the ability of the Obligors to perform any of their respective payment obligations under the Finance Documents; or
- (b) materially adversely affects the validity or enforceability of, or the effectiveness or ranking of any security granted or purporting to be granted pursuant to any of, the Finance Documents, or the rights of any Finance Party thereunder.

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

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

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

“**Net Proceeds**” means the cash proceeds of any Disposal after deducting:

- (a) arms-length fees, costs and expenses incurred by any member of the Group with respect to that disposal or claim to persons that are not members of the Group; and
- (b) any tax incurred and required to be paid or reserved for by the seller connection with that disposal as reasonably determined by the seller.

“**NHS Trust**” means a legal entity as set up by order of the Secretary of State under section 25 of, and Schedule 4 to, the National Health Service Act 2006, to provide goods and services for the purposes of the health service.

“**Notes**” means the Original Notes and/or the Additional Notes (as applicable).

“**Obligor**” means the Issuer or a Guarantor.

“**Obligors’ Agent**” means the Issuer, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to Clause 2.4 (*Obligors’ Agent*).

“**Ordinary Shares**” means, prior to the date on which the Conversion Rights Conditions have been satisfied or waived (as applicable), the ordinary shares of £0.10 each in the capital of the Issuer or, following the date on which the Conversion Rights Conditions have been satisfied or waived (as applicable), the ordinary shares of £0.008 each in the capital of the Issuer.

“**Original Financial Statements**” means in relation to each of the Issuer, Sensyne Holdings UK and Sensyne Group UK, its audited financial statements for the Financial Year ended 30 April 2020.

“**Original Guarantor**” means each of the Issuer, Sensyne Holdings UK, Sensyne Group UK and Sensyne US.

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

“**Original Notes**” means the transferable promissory notes substantially in the form set out in Schedule 4 (*Form of Note*) to be issued and sold by the Issuer to the Original Purchasers pursuant to the terms of this Agreement in an aggregate amount of the Total Commitment as at the relevant Purchase Date.

“**Original Obligor**” means the Issuer and the other Original Guarantors.

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

“**Party**” means a party to this Agreement.

“**Peel Hunt**” means Peel Hunt LLP.

“**Peel Hunt Side Letter**” means the side letter entered into on or about the date of this Agreement between the Issuer and Peel Hunt setting out the set off in respect of Peel Hunt’s fees payable by the Issuer to Peel Hunt pursuant to their engagement letter dated on or about 24 January 2022 against Peel Hunt’s Commitments payable pursuant to this Agreement.

“**Permitted Acquisition**” means:

- (a) an acquisition by a member of the Group (other than the Issuer or a Dormant Subsidiary) of an asset sold, leased, transferred or otherwise disposed of by another member of the Group (other than any Dormant Subsidiary) in circumstances constituting a Permitted Disposal;
- (b) an acquisition of, or subscription for, shares or securities pursuant to paragraph (d) of the definition of Permitted Share Issue; and/or
- (c) an acquisition of securities which are Cash Equivalent Investments so long as those Cash Equivalent Investments become subject to the Transaction Security as soon as is reasonably practicable.

“**Permitted Disposal**” means any sale, lease, sub-lease, licence, assignment, transfer or other disposal which, except in the case of paragraph (b), is on arm’s length terms:

- (a) of trading stock or cash (other than shares, businesses, undertakings, Real Property or Intellectual Property) made by any member of the Group (other than the Issuer) in the ordinary course of trading of the disposing entity;
- (b) of any asset by a member of the Group (other than the Issuer or any Dormant Subsidiary) (the “**Disposing Company**”) to another member of the Group (other than any Dormant Subsidiary) (the “**Acquiring Company**”), but if:
 - (i) the Disposing Company is an Obligor, the Acquiring Company must also be an Obligor;
 - (ii) the Disposing Company had given Transaction Security over the asset, the Acquiring Company must give equivalent Transaction Security over that asset (where, for the avoidance of doubt, Transaction Security may not be equivalent in case of different limitation language applying to the relevant Security to the extent required by law); and
 - (iii) the Disposing Company is a Guarantor, the Acquiring Company must be a Guarantor guaranteeing at all times an amount no less than that guaranteed by the Disposing Company;
- (c) of assets (other than shares, businesses, undertakings, Real Property or Intellectual Property (except as expressly permitted under paragraph (g) below))

in exchange for other assets comparable or superior as to type, value and quality (other than an exchange of a non-cash asset for cash);

- (d) of obsolete or redundant vehicles, plant and equipment for cash;
- (e) of Cash Equivalent Investments (other than shares in any member of the Group) for cash or in exchange for other Cash Equivalent Investments;
- (f) arising as a result of any Permitted Security; and/or
- (g) of all or part of Sensyne Group UK's leases dated: (i) 12 September 2018 relating to Part First Floor, The Schrodinger Building, The Oxford Science Park, Sandford-on-Thames, Oxford; (ii) 19 December 2018 relating to Part First Floor (West), The Schrödinger Building, The Oxford Science Park, Sandford-on-Thames, Oxford; and (iii) 12 March 2019 relating to Meeting Rooms, First Floor, The Schrödinger Building, The Oxford Science Park, Sandford-on-Thames, Oxford, to Exscientia or any of its Affiliates, for cash consideration constituting fair market value.

“Permitted Distribution” means:

- (a) the payment of a dividend to the Issuer, to any of the Obligors, or from one Dormant Subsidiary to another Dormant Subsidiary; and/or
- (b) the payment of a dividend to the Issuer to enable the Issuer to pay a payment constituting a “Permitted Payment”.

“Permitted Financial Indebtedness” means Financial Indebtedness:

- (a) arising under the Finance Documents;
- (b) arising under a foreign exchange transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency rates where that foreign exchange exposure arises in the ordinary course of trade, but not a foreign exchange transaction for investment or speculative purposes;
- (c) arising under a Permitted Loan or a Permitted Guarantee or as permitted by Clause 19.30 (*Treasury Transactions*); and/or
- (d) incurred or subsisting with the prior written consent of the Purchasers' Representative (acting on the instructions of the Majority Purchasers).

“Permitted Guarantee” means:

- (a) the endorsement of negotiable instruments in the ordinary course of trade;
- (b) any guarantee permitted under Clause 19.21 (*Financial Indebtedness*);

- (c) any guarantee given in respect of the netting or set-off arrangements permitted pursuant to paragraph (b) of the definition of “Permitted Security”; and/or
- (d) any guarantee given to any third party person by a member of the Group in respect of another member of the Group’s performance obligations under a contract entered into in the ordinary course of business with such third party person.

“Permitted Loan” means:

- (a) Financial Indebtedness which is referred to in the definition of, or otherwise constitutes, Permitted Financial Indebtedness;
- (b) a loan made by an Obligor to another Obligor or made by a member of the Group which is not an Obligor to another member of the Group, so long as the creditor of such Financial Indebtedness shall (if it is an Obligor) grant security over its rights in respect of such Financial Indebtedness in favour of the Secured Parties on terms acceptable to the Purchasers’ Representative (acting on the instructions of the Purchasers); and/or
- (c) any loan with the prior written consent of the Purchasers’ Representative (acting on the instructions of the Majority Purchasers).

“Permitted Payment” means any payment to which the Purchasers’ Representative (acting on the instructions of the Majority Purchasers) has given its prior written consent.

“Permitted Security” means:

- (a) any lien arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by any member of the Group;
- (b) any netting or set-off arrangement entered into by any member of the Group with a bank or financial institution in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of members of the Group but only so long as (i) such arrangement does not permit credit balances of Obligors to be netted or set off against debit balances of members of the Group which are not Obligors and (ii) such arrangement does not give rise to other Security over the assets of Obligors in support of liabilities of members of the Group which are not Obligors;
- (c) any payment or close out netting or set-off arrangement pursuant to any Treasury Transaction or foreign exchange transaction entered into by a member of the Group which constitutes Permitted Financial Indebtedness, excluding any Security or Quasi-Security under a credit support arrangement;
- (d) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect

of goods supplied to a member of the Group in the ordinary course of trading and on the supplier's standard or usual terms;

- (e) any Quasi-Security arising as a result of a disposal which is a Permitted Disposal; and/or
- (f) the Transaction Security.

“Permitted Share Issue” means an issue of:

- (a) shares by the Issuer pursuant to: (i) the Warrants; and (ii) any options, warrants or other rights to subscribe for, acquire or convert into shares of the Issuer outstanding or announced prior to, and as existing or pending on, the date of this Agreement and disclosed to the Original Purchasers prior to the date of this Agreement, including pursuant to the Strategic Research Agreements;
- (b) shares (or rights to subscribe for or to convert securities into shares) by the Issuer pursuant to (a) a rights issue or open offer in accordance with any share issuance authority and/or any dis-application of pre-emption rights authority approved by the Issuer's shareholders in a general meeting (and including an annual general meeting) of the Issuer; or (b) a specific shareholder authority and disapplication of pre-emption rights in relation to that issue;
- (c) options pursuant to the Issuer's employee share scheme (or any similar scheme established for the benefit of any consultant of a member of the Group) from time to time and the issue of shares on the exercise of such options;
- (d) shares by a member of the Group other than the Issuer which is a Subsidiary to its immediate Holding Company for non-cash consideration where (if the existing shares of the Subsidiary are the subject of the Transaction Security) the newly-issued shares also become subject to the Transaction Security on the same terms; and/or
- (e) any Ordinary Shares, or grant of any options, warrants or other rights to subscribe for, acquire or convert into Ordinary Shares, in each case, provided that such issue or grant is made in connection with a Conversion.

“Permitted Transaction” means any disposal pursuant to, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the Finance Documents.

“PSC Register” means the “PSC register” within the meaning of section 790C (10) of the Companies Act 2006.

“Purchase” means the purchase of the Notes by the Purchasers pursuant to the terms of this Agreement.

“**Purchase Date**” means the date on which any Notes are to be sold and purchased and, in respect of the Additional Notes, the Establishment Date of such Additional Notes.

“**Purchase Office**” means in respect of a Purchaser, the office or offices through which it will perform its obligations under this Agreement.

“**Purchase Request**” means a notice substantially in the form set out in Schedule 3 (*Purchase Request*).

“**Purchaser**” means:

- (a) any Original Purchaser;
- (b) any Additional Note Purchaser; and
- (c) any holder of the Notes from time to time.

“**Purchaser Affiliate**” means (i) a Purchaser, any direct or indirect shareholder of a Purchaser and each of their Affiliates, Related Funds and direct and indirect Subsidiaries, (ii) any sponsor, limited partnerships or entities managed or advised by a Purchaser or any direct or indirect shareholder of or investor in a Purchaser or any of their Affiliates or any of their Related Funds or any of their direct or indirect Subsidiaries (iii) any trust of a Purchaser, any direct or indirect shareholder of a Purchaser or any of their Affiliates or any of their Related Funds or any of their direct or indirect Subsidiaries or in respect of which any such persons are a trustee, (iv) any partnership of a Purchaser, any direct or indirect shareholder of a Purchaser or any of their Affiliates or any of their Related Funds or any of their direct or indirect Subsidiaries or in respect of which any such persons are a partner, and (v) any trust, fund or other entity which is managed by, or is under the control of a Purchaser or any direct or indirect shareholder of a Purchaser or any of their Affiliates or any of their Related Funds or any of their direct or indirect Subsidiaries.

“**Quasi-Security**” has the meaning given to that term in Clause 19.15 (*Negative pledge*).

“**Real Property**” means:

- (a) any freehold, leasehold or immovable property; and
- (b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that freehold, leasehold or immovable property.

“**Receiver**” means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.

“**Redemption Premium**” means, in respect of the participation in any Note being prepaid, redeemed or repurchased, an amount calculated at the rate of twenty five per

cent. (25%) of the redemption or repurchase price (such redemption or repurchase price being equal to the principal amount thereof).

“**Register**” has the meaning given to such term in Clause 21.7 (*The Register*).

“**Regulation U**” shall mean Regulation U of the Board of Governors of the Federal Reserve System of the United States of America and any successor thereto, as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“**Regulation S**” means Regulation S promulgated under the U.S. Securities Act.

“**Related Fund**” in relation to a fund (the “first fund”), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

“**Relevant Jurisdiction**” means, in relation to an Obligor, its Original Jurisdiction.

“**Relevant Purchaser**” has the meaning given in Clause 2.2(a)(iii)(B) (*Subscription for Additional Notes*).

“**Relevant Market**” means the London interbank market.

“**Repeating Representations**” means each of the representations set out in Clause 17.2 (*Status*) to Clause 17.7 (Governing Law and enforcement), 17.11 (*No Default*), paragraph (c) of Clause 17.12 (*Misleading Information*) and Clause 17.20 (*Ranking*) to Clause 17.22 (*Legal and beneficial ownership*) inclusive.

“**Representative**” means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

“**Resignation Letter**” means a letter substantially in the form set out in Schedule 8 (*Form of Resignation Letter*).

“**Resolution Authority**” means any body which has authority to exercise any Write-down and Conversion Powers.

“**Rule 502**” means Rule 502 under the U.S. Securities Act (or any successor provision), as it may be amended from time to time.

“**Sanctioned Country**” means, at any time, a country or territory which is, or whose government is, the target of comprehensive Sanctions (as of the date of this Agreement, being the Crimea region of Ukraine, Cuba, Iran, North Korea, (North) Sudan and Syria).

“**Sanctioned Person**” means any person that is (or persons that are):

- (a) listed on, or owned or controlled (as such terms are defined and interpreted by the relevant Sanctions) by a person listed on any Sanctions List;

- (b) a government of a Sanctioned Country;
- (c) an agency or instrumentality of, or an entity directly or indirectly owned or controlled by, a government of a Sanctioned Country; or
- (d) resident or located in, or incorporated under the laws of any Sanctioned Country, or to the best of the Issuer's knowledge otherwise a target of Sanctions.

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

“**Sanctions Authority**” means (a) the US, (b) the United Nations Security Council, (c) the European Union and any EU member state, (d) the United Kingdom and (e) the respective governmental institutions of any of the foregoing which administer Sanctions, including OFAC, the US State Department, the US Department of Commerce, Her Majesty's Treasury and the US Department of the Treasury.

“**Sanctions List**” means the “*Specially Designated Nationals and Blocked Persons*” list issued by OFAC, the Consolidated List of Financial Sanctions Targets issued by Her Majesty's Treasury, or any similar list issued or maintained and made public by any of the Sanctions Authorities as amended, supplemented or substituted from time to time.

“**SEC**” means the United States Securities and Exchange Commission or any successor thereto.

“**Second Ranking English Debenture**” has the meaning given to it in paragraph 2 of Part 3 of Schedule 2 (*Conditions Precedent*).

“**Second Ranking New York Pledge and Security Agreement**” has the meaning given to it in paragraph 2 of Part 3 of Schedule 2 (*Conditions Precedent*).

“**Second Ranking Transaction Security Document**” means each of the Second Ranking English Debenture and the Second Ranking New York Pledge and Security Agreement and any document creating or expressed to create Security required to be delivered to the Purchasers' Representative under Part 3 of Schedule 2 (*Conditions Precedent*).

“**Secured Liabilities**” means all present and future monies, obligations and liabilities due, owing or incurred by each Obligor to the Secured Parties under or in connection with the Finance Documents, whether actual or contingent and whether incurred jointly or severally with any other person, as principal or surety or in any other capacity, together with all interest or premiums accruing thereon and all losses incurred by any Secured Party in connection therewith (to the extent such losses are indemnified by or otherwise due or owing from an Obligor under the Finance Documents).

“**Secured Parties**” means each Finance Party from time to time party to this Agreement, and each Receiver or Delegate.

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

“**Shareholder APO Approval**” means the passing of an ordinary resolution by the Issuer’s shareholders in accordance with Rule 15 of the AIM Rules to approve the Asset Purchase Option, such authority only to be valid if the Conversion Rights Conditions are not satisfied or waived (as applicable) in accordance with the terms of this Agreement.

“**Shareholder Conversion Approvals**” means the passing of the following resolutions by the Issuer’s shareholders:

- (a) ordinary resolution to approve the Sub-Division;
- (b) ordinary resolution to authorise the directors of the Issuer to grant rights to convert the Original Notes and the Additional Notes into ordinary shares of £0.008 each in the capital of the Issuer up to an aggregate nominal amount of £26,350,000;
- (c) special resolution to empower the directors of the Issuer to dis-apply the statutory pre-emption rights in respect of the grant of rights to convert the Original Notes and the Additional Notes into ordinary shares of £0.008 each in the capital of the Issuer as described in paragraph (b) above, provided that such power shall be limited to an aggregate nominal amount of £26,350,000;
- (d) ordinary resolution to authorise the directors of the Issuer to issue the Warrants to subscribe for up to 29,169,448 ordinary shares of £0.008 each in the capital of the Issuer;
- (e) special resolution to empower the directors of the Issuer to dis-apply the statutory pre-emption rights in respect of the issue of the Warrants described in paragraph (d) above;
- (f) special resolution to amend the articles of association of the Issuer to set out the rights of the Deferred Shares following the Sub-Division; and
- (g) ordinary resolution from the Independent Shareholders or as otherwise determined by the Takeover Panel to waive Rule 9 of the Takeover Code which would otherwise apply to the Additional Note Purchasers (or such other persons as determined by the Takeover Panel) as a result of the issue to them of Ordinary Shares pursuant to the Conversion and/or the exercise of the Warrants.

“**Shareholder Delisting Approval**” means the passing of the special resolution by the Issuer’s shareholders in accordance with Rule 41 of the AIM Rules for the cancellation of the admission to trading on AIM of the Ordinary Shares, such authority and such cancellation being conditional upon Conversion of such amount of the Original Notes and the Conditional Additional Notes as would result in the Purchasers collectively

holding (together with any existing Ordinary Shares and Warrants already held by them) not less than 75 per cent. (75%) of the Ordinary Shares (on an as converted basis).

“Strategic Research Agreements” means the strategic research agreements entered into between the Issuer and each of:

- (a) Wye Valley NHS Trust in respect of 0.9% of the issued share capital of the Issuer (1,428,571 Ordinary Shares);
- (b) George Eliot Hospitals NHS Trust in respect of 0.9% of the issued share capital of the Issuer (1,428,571 Ordinary Shares);
- (c) Royal Devon and Exeter NHS Foundation Trust in respect of 0.9% of the issued share capital of the Issuer (1,428,571 Ordinary Shares);
- (d) St Luke’s Health Network, Inc in respect of 0.3% of the issued share capital of the Issuer (462,162 Ordinary Shares);
- (e) Sentara Healthcare in respect of 0.3% of the issued share capital of the Issuer (462,162 Ordinary Shares);
- (f) Great Ormond Street Hospital for Children NHS Foundation trust in respect of 0.9% of the issued share capital of the Issuer (1,428,571 Ordinary Shares); and
- (g) Cambridge University Hospitals NHS Foundation Trust in respect of 2.6% of the issued share capital of the Issuer (4,285,714 Ordinary Shares).

“Sub-Division” means the proposed sub-division and re-designation of each existing ordinary share of £0.10 each in the capital of the Issuer into one new ordinary share of £0.008 each in the capital of the Issuer and one Deferred Share.

“Subsidiary” means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006 and/or a subsidiary within the meaning of section 1159 of the Companies Act 2006.

“Takeover Code” means the City Code on Takeovers and Mergers issued by the Takeover Panel.

“Takeover Panel” means the Panel on Takeovers and Mergers.

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

“Termination Date” means, in respect of any Notes, the earlier of:

- (a) the Initial Termination Date; or, if earlier

- (b) the date on which all of the Notes are prepaid pursuant to the terms of this Agreement.

“**Total Commitments**” means the aggregate of the Commitments of the relevant Purchasers to purchase the Notes on the relevant Purchase Date.

“**Transaction Security**” means the Security created or expressed to be created in favour of the Security Agent pursuant to the Transaction Security Documents.

“**Transaction Security Document**” means:

- (a) each of First Ranking Transaction Security Documents;
- (b) each of the Second Ranking Transaction Security Documents; and
- (c) any other document entered into by any Obligor creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents.

“**Transfer Certificate**” means a certificate substantially in the form set out in Schedule 5 (*Form of Transfer Certificate*) or any other form agreed between the Purchasers’ Representative and the Issuer.

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

- (a) the proposed Transfer Date specified in the relevant Transfer Document; and
- (b) the date on which the Purchasers’ Representative executes the relevant Transfer Document.

“**Transfer Document**” means an Assignment Agreement or a Transfer Certificate.

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

“**UK Bail-In Legislation**” means Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

“**Unconditional Additional A Notes**” means such portion of the Additional A Notes as would result, upon Conversion thereof, in the Purchasers collectively holding 29.9% of the issued share capital of the Issuer (including any existing shareholdings, warrants and accounting for the cashless exercise of the Warrants).

“**Unpaid Sum**” means any sum due and payable but unpaid by an Obligor under the Finance Documents.

“**United States**” or “**US**” means the United States of America, its territories and possessions, any State of the United States, and the District of Columbia.

“**U.S. Collateral**” means (a) a security interest in all of the assets and undertakings of Sensyne US, and (b) a pledge of Sensyne Holdings UK’s 100% shareholding in Sensyne US.

“**USA PATRIOT Act**” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

“**VAT**” means:

- (a) value added tax imposed under the Value Added Tax Act 1994;
- (b) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (c) any other tax of a similar nature, whether imposed in the United Kingdom or in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraphs (a) or (b), or imposed elsewhere.

“**Warrants**” means the detachable warrants issued in the agreed form for the purchase of up to 17.7% of the issued share capital of the Issuer (29,169,448 Ordinary Shares) alongside the issue of the Notes split into (as applicable):

- (a) warrants in respect of 8,239,950 Ordinary Shares issued on the initial Purchase Date (the “**Closing Warrants**”);
- (b) warrants in respect of 12,689,541 Ordinary Shares issued upon obtaining the requisite shareholder consent to disapply statutory pre-emption rights in respect of the issue of such warrants (the “**Post Closing Warrants**”); and
- (c) warrants in respect of 8,239,957 Ordinary Shares issued with the Additional A Notes (the “**Additional A Note Warrants**”),

(such Warrants which are permissible under company law being the “**Unconditional Warrants**” and those Warrants which require shareholder approval (whether to disapply statutory pre-emption rights or otherwise) being the “**Excess Warrants**”) subject to any adjustments required pursuant to the terms of the Warrant Instrument.

“**Warrant Instrument**” means the warrant instrument in the agreed form pursuant to which the Warrants are issued by the Issuer to the Purchasers.

“**Write-down and Conversion Powers**” means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule;
- (b) in relation to any other applicable Bail-In Legislation:
 - (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and
 - (ii) any similar or analogous powers under that Bail-In Legislation; and
- (c) in relation to any UK Bail-In Legislation:
 - (i) any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers; and
 - (ii) any similar or analogous powers under that UK Bail-In Legislation.

1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Agreement to:
 - (i) any “**Delegate**”, any “**Finance Party**”, any “**Obligor**”, any “**Party**”, any “**Purchaser**”, the “**Purchasers’ Representative**”, any “**Receiver**”, any “**Secured Party**”, the “**Security Agent**” or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents and, in the case of the Security Agent and Purchasers’ Representative, any person for the time being appointed as

Security Agent or Purchasers' Representative in accordance with the Finance Documents;

- (ii) a document in “**agreed form**” is a document which is previously agreed in writing by or on behalf of the Issuer and the Purchasers' Representative or, if not so agreed, is in the form specified by the Purchasers' Representative;
- (iii) “**assets**” includes present and future properties, revenues and rights of every description;
- (iv) a “**Finance Document**” or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended (however fundamentally), novated, supplemented, extended, restated or replaced from time to time (whether or not such amendment, novation, supplement, extension, restatement or replacement contemplated as at the date of this Agreement) and including cases where the amendments concerned involve an increase, extension or other change (however great) to the Notes or the grant of any additional facility (however great);
- (v) a “**group of Purchasers**” includes all the Purchasers;
- (vi) “**guarantee**” means (other than in Clause 16 (*Guarantee and indemnity*)) any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- (vii) “**including**” means including without limitation and “**includes**” and “**included**” shall be construed accordingly;
- (viii) “**indebtedness**” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (ix) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (x) a “**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;

- (xi) a provision of law is a reference to that provision as amended or re-enacted; and
 - (xii) a time of day is a reference to London time.
- (b) Section, clause and schedule headings are for ease of reference only.
- (c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (d) A Default (other than an Event of Default) is “**continuing**” if it has not been remedied or waived and an Event of Default is “**continuing**” if it has not been remedied or waived.
- (e) Any references within this Agreement or any other Finance Document to the Purchasers’ Representative or the Security Agent providing approval or consent or making a request, or to an item or a person being acceptable to, satisfactory to, to the satisfaction of or approved by the Purchasers’ Representative or the Security Agent, are to be construed, unless otherwise specified, as references to the Purchasers’ Representative or the Security Agent taking such action or refraining from acting on the instructions of the Majority Purchasers, or any other group of lenders and reference in this Agreement or any other Finance Document to (i) the Purchasers’ Representative or the Security Agent acting reasonably, (ii) a matter being in the reasonable opinion of the Purchasers’ Representative or the Security Agent, (iii) the Purchasers’ Representative’s or the Security Agent’s approval or consent not being unreasonably withheld or delayed or (iv) any document, report, confirmation or evidence being required to be reasonably satisfactory to the Purchasers’ Representative or the Security Agent, are to be construed, unless otherwise specified in this Agreement or such other relevant Finance Document, as the Purchasers’ Representative or the Security Agent acting on the instructions of the Majority Purchasers who are acting reasonably or not unreasonably withholding or delaying their consent (as the case may be). Where the Purchasers’ Representative or the Security Agent is obliged to consult with the Borrower under the terms of this Agreement, unless otherwise specified, the Majority Purchasers must instruct the Purchasers’ Representative or the Security Agent to consult in accordance with the terms of this Agreement and the Purchasers’ Representative or the Security Agent must carry out that consultation in accordance with the instructions it receives from the Majority Purchasers.
- (f) Any corporation into which the Purchasers’ Representative or Security Agent may be merged or converted, or any corporation with which the Purchasers’ Representative or Security Agent may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Purchasers’ Representative or Security Agent shall be a party, or any corporation, including affiliated corporations, to which the Purchasers’ Representative or Security

Agent shall sell or otherwise transfer: (a) all or substantially all of its assets or (b) all or substantially all of its corporate trust business shall, on the date when the merger, conversion, consolidation or transfer becomes effective and to the extent permitted by any applicable laws and subject to any credit rating requirements set out in this Agreement become the successor Purchasers' Representative or Security Agent under this Agreement without the execution or filing of any paper or any further act on the part of the parties to this Agreement, unless otherwise required by the Purchasers (acting reasonably), and after the said effective date all references in this Agreement to the Purchasers' Representative or Security Agent shall be deemed to be references to such successor corporation. Written notice of any such merger, conversion, consolidation or transfer shall promptly be given to the Issuer by the Purchasers' Representative or Security Agent.

1.3 **Currency symbols and definitions**

“£”, “GBP” and “Sterling” denote the lawful currency of the United Kingdom.

1.4 **Third party rights**

- (a) Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

2. **THE NOTES**

2.1 **The Original Notes**

- (a) Subject to the terms and conditions of this Agreement, the Issuer agrees that it shall issue and sell to the Original Purchasers, and the Original Purchasers, acting severally and not jointly, agree that they shall subscribe for and purchase the Original Notes in Sterling from the Issuer on the Purchase Date for the Original Notes.
- (b) Each Original Purchaser's Original Notes shall be issued by the Issuer and purchased by such Original Purchaser in Sterling only in a single Note equal to the principal amount represented by such Original Purchaser's Commitment.
- (c) Notwithstanding anything to the contrary in this Agreement, each of the Issuer and Peel Hunt agree that the terms set out in the Peel Hunt Side Letter apply in respect of Peel Hunt LLP's purchase of the Original Notes.

2.2 Additional Notes

(a) Subscription for Additional Notes

(i) The Issuer may request the establishment of the Additional A Notes, the Additional B Notes and/or the Additional C Notes by the Issuer giving notice to the Purchasers' Representative (the "**Additional Notes Notice**") not later than:

(A) three (3) Business Days prior to the proposed Establishment Date specified in the Additional Notes Notice in respect of the Additional A Notes; and

(B) seven (7) Business Days prior to the proposed Establishment Date specified in the Additional Notes Notice in respect of the Additional B Notes or Additional C Notes,

provided that the Additional Notes Notice in respect of the Additional B Notes may only be delivered after the Establishment Date of the Additional A Notes, and the Additional Notes Notice in respect of the Additional C Notes may only be delivered after the Establishment Date of the Additional B Notes.

(ii) Subject to the terms and conditions of this Agreement, the Issuer agrees that it shall issue and sell to the Additional A Note Purchasers, and the Additional A Note Purchasers, acting severally and not jointly, agree that they shall subscribe for and purchase from the Issuer, the Additional A Notes in Sterling on the Purchase Date for the Additional A Notes. Each Additional A Note Purchaser's Additional A Notes shall be issued by the Issuer and purchased by such Additional A Note Purchaser in Sterling only in a single Note equal to the principal amount represented by such Additional A Note Purchaser's Commitment.

(iii)

(A) Alex Snow may subscribe, at his sole election, for up to £2,000,000 of Additional B Notes and/or Additional C Notes (in the aggregate); and

(B) each Original Purchaser (other than Peel Hunt), Gatmore Investment Partners I LP and MNL (Hambro Perks) Nominees Limited (together, the "**Relevant Purchasers**"), may subscribe for up to its pro rata proportion of the remaining amount of Additional B Notes and/or Additional C Notes (measured by reference to the proportion of Notes owned by that Relevant Purchaser (in each case, taking into account any allocations pursuant to paragraph (iv) or Clause 21.2 (*Issuer consent*) below) to the Notes owned by all Relevant Purchasers (in each case,

taking into account any allocations pursuant to paragraph (iv) or Clause 21.2 (*Issuer consent*) below) subscribing for Additional B Notes or Additional C Notes (as applicable)) (or such lesser amount as such Relevant Purchaser shall elect in their sole discretion). To the extent any such Relevant Purchaser does not exercise its right to subscribe for the Additional B Notes or Additional C Notes (as applicable) or exercises less than its pro rata share (in each case, taking into account any allocations pursuant to paragraph (iv) or Clause 21.2 (*Issuer consent*) below), its remaining pro rata share of the Additional B Notes or Additional C Notes (as applicable) may be taken up by the other Relevant Purchasers,

and, if the amount of Additional B Notes or Additional C Notes (as applicable) subscribed for by Alex Snow and the Relevant Purchasers (or any person to whom they make an allocation pursuant to paragraph (iv) or Clause 21.2 (*Issuer consent*) below) is less than the aggregate issuance amount for the Additional B Notes or Additional C Notes (as applicable) specified in the applicable Additional Notes Notice, the Issuer may select third parties to provide the remaining Additional B Notes or Additional C Notes (as applicable) (subject to, in respect of the remaining Additional C Notes only, the unanimous consent of the Additional A Note Purchasers) (any such third parties (including any person to whom an allocation is made pursuant to paragraph (iv) or Clause 21.2 (*Issuer consent*) below) together with Alex Snow and each Relevant Purchaser which subscribes for Additional B Notes or Additional C Notes (as applicable) being each an “**Additional B Note Purchaser**” and together the “**Additional B Note Purchasers**” or an “**Additional C Note Purchaser**” and together the “**Additional C Note Purchasers**” (as applicable)). For the avoidance of doubt:

- (I) neither Alex Snow nor any Relevant Purchaser is obliged to subscribe for Additional B Notes or Additional C Notes; and
 - (II) Additional B Notes or Additional C Notes may each be issued in any aggregate value, provided that the total aggregate amount of Additional Notes shall not exceed £20,000,000.
- (iv) Each Additional A Note Purchaser (in respect of paragraph (ii) above) and each Additional A Note Purchaser, Additional B Note Purchaser and Additional C Note Purchaser (in respect of paragraph (iii) above) shall be entitled to allocate, at its discretion, such Additional Notes between its Purchaser Affiliates or, with the consent of the Issuer, to one or more third parties.

- (v) For the avoidance of doubt, Peel Hunt shall not be entitled to subscribe for any Additional Notes.
- (vi) An Establishment Date for any Additional Note set out in any Additional Notes Notice may only be a date on or before 31 December 2022.

(b) Completion of the Additional Notes Notice

The Additional Notes Notice is irrevocable and will not be regarded as having been duly completed unless it references the terms applicable to the Additional Notes and those terms are the same as the Original Notes.

(c) Conditions to establishment

- (i) The establishment of the Additional Notes will only be effected in accordance with this Clause 2.2 if:
 - (A) on the date of the Additional Notes Notice and on the Establishment Date:
 - (1) no Default is continuing or would result from the establishment of the relevant Additional Notes; and
 - (2) the Repeating Representations to be made by each Obligor are true;
 - (B) (in respect of the establishment of the Additional A Notes) the Additional A Note Warrants are issued to each Additional A Note Purchaser;
 - (C) (in respect of the establishment of the Additional A Notes) the conditions precedent set out in Part 3 of Schedule 2 (*Conditions Precedent*) have been satisfied;
 - (D) each Additional Note Purchaser accedes to this Agreement as a Purchaser;
 - (E) the Purchasers' Representative has received in form and substance satisfactory to it:
 - (1) all of the documents and other evidence specified as conditions precedent in the Additional Notes Notice in form and substance satisfactory to the Purchasers' Representative or the Purchasers' Representative (acting on the instructions of all Additional Note Purchasers) has waived in writing receipt of such documents or evidence (in each case acting on the instructions of the Additional Note Purchasers);

- (2) such documents (if any) as are reasonably necessary as a result of the establishment of the relevant Additional Notes to maintain the effectiveness of the Security, guarantees, indemnities and other assurance against loss provided to the Finance Parties pursuant to the Finance Documents; and
 - (3) any applicable Transaction Security in connection with the Additional Notes; and
 - (ii) The Purchasers' Representative shall notify the Issuer and the Additional Note Purchasers promptly upon being satisfied under paragraph (C) above.
- (d) **Establishment of Additional Notes**
 - (i) If the conditions set out in this Agreement have been met, the establishment of the relevant Additional Notes will be effected in accordance with paragraph (iii) below when the Purchasers' Representative executes the otherwise duly completed Additional Notes Notice. The Purchasers' Representative shall, subject to paragraph (ii) below, as soon as reasonably practicable after receipt by it of the duly completed Additional Notes Notice appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute the Additional Notes Notice.
 - (ii) The Purchasers' Representative shall only be obliged to execute the Additional Notes Notice delivered to it by the Issuer once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the establishment of the relevant Additional Notes.
 - (iii) On the Establishment Date:
 - (A) subject to the terms of this Agreement, the Issuer agrees that it shall issue and sell to the Additional Note Purchasers, and the Additional Note Purchasers, acting severally and not jointly, agree that they shall subscribe for and purchase the relevant Additional Notes in Sterling from the Issuer on the Establishment Date;
 - (B) each Additional Note Purchaser's Additional Notes shall be issued by the Issuer and purchased by such Additional Note Purchaser in Sterling only in a single Note equal to the principal amount represented by such Additional Note Purchaser's Commitment.

- (C) each Additional Note Purchaser shall assume all the obligations of a Purchaser corresponding to the Commitment specified opposite its name in the Additional Notes Notice as if it had been an Original Purchaser in respect of that Commitment;
- (D) each of the Obligors and each Additional Note Purchaser shall assume obligations towards one another and/or acquire rights against one another as the Obligors and that Additional Note Purchaser would have assumed and/or acquired had that Additional Note Purchaser been an Original Purchaser;
- (E) each Additional Note Purchaser and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as that Additional Note Purchaser and those Finance Parties would have assumed and/or acquired had the Additional Note Purchaser been an Original Purchaser in respect of the Additional Notes; and
- (F) each Additional Note Purchaser shall become a Party as a "Purchaser".

(e) **Notification of establishment**

The Purchasers' Representative shall, as soon as reasonably practicable after the establishment of the relevant Additional Notes notify the Issuer and the Purchasers of that establishment and the Establishment Date of those Additional Notes.

(f) **Additional Notes costs and expenses**

The Issuer shall promptly on demand pay the Purchasers' Representative and the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by either of them and, in the case of the Security Agent, by any Receiver or Delegate in connection with the establishment of the Additional Notes under this Clause 2.2 up to an aggregate total amount of £3,000.

(g) **Prior amendments binding**

Each Additional Note Purchaser confirms for the avoidance of doubt, that the Purchasers' Representative has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Purchaser or Purchasers in accordance with this Agreement on or prior to the date on which the establishment of the relevant Additional Notes requested in that Additional Note Notice became effective in accordance with this Agreement and that it is bound by that decision to the same extent as it would have been had it been an Original Purchaser.

2.3 Finance Parties' rights and obligations

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of the Notes or any other amount owed by an Obligor which relates to a Finance Party's participation in the Notes or its role under a Finance Document (including any such amount payable to the Purchasers' Representative on its behalf) is a debt owing to that Finance Party by that Obligor.
- (c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

2.4 Obligors' Agent

- (a) Each Obligor (other than the Issuer) by its execution of this Agreement or an Accession Deed irrevocably appoints the Issuer (acting through one or more authorised signatories) to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
 - (i) the Issuer on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions (including, without limitation, Purchase Requests), to execute on its behalf any agreement or deed, to make such agreements and to effect the relevant amendments, supplements and variations (in each case however fundamental) capable of being given, made or effected by any Obligor notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and
 - (ii) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Issuer,

and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions (including, without limitation, any Purchase Requests) or executed or made the agreements or deeds or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

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

3. **PURPOSE**

3.1 **Purpose**

- (a) The Issuer shall use the proceeds of the subscription for the Original Notes towards funding the costs associated with maintaining the Issuer's operations until 31 May 2022;
- (b) in the case of any Additional A Notes, the proceeds of such Additional A Notes shall be used for satisfying the costs associated with maintaining the Issuer's operations for 30 calendar days from the date of this Agreement; and
- (c) in the case of any Additional B Notes and Additional C Notes, the proceeds of such Additional B Notes and Additional C Notes (as applicable) shall be used for satisfying the costs associated with maintaining the Issuer's operations for a further 30 calendar days from the date of issuance of such Additional B Notes or Additional C Notes (as applicable),

and, in respect of paragraphs (b) and (c) above, in each case in order to enable the formulation and execution of a restructuring and financing plan for the Group.

3.2 **Monitoring**

No Finance Party is bound to monitor or verify the application of any amount advanced by way of subscription for the Notes pursuant to this Agreement.

4. **CONDITIONS OF PURCHASE**

4.1 **Initial conditions precedent**

- (a) The Original Purchasers will only be obliged to comply with Clause 5.4 (*Purchasers' participation*) in relation to the Purchase of the Original Notes, if, on or before the Purchase Date for the Original Notes, the Purchasers' Representative has received all of the documents and other evidence listed in Part 1 of Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Purchasers' Representative or the Purchasers' Representative (acting on the instructions of all Original Purchasers) has waived in writing receipt of such

documents or evidence (in each case acting on the instructions of the Original Purchasers). The Purchasers' Representative shall notify the Issuer promptly upon being so satisfied.

- (b) Other than to the extent that the Purchasers notify the Purchasers' Representative in writing to the contrary before the Purchasers' Representative gives the notification described in paragraph (a) above, the Purchasers authorise the Purchasers' Representative to give that notification. The Purchasers' Representative shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

4.2 Further conditions precedent

Subject to Clause 4.1 (*Initial conditions precedent*), the Purchasers will only be obliged to comply with Clause 5.4 (*Purchasers' participation*), if on the date of the Purchase Request and on the proposed Purchase Date:

- (a) no Default is continuing or would result from the proposed issuance and purchase of the Notes; and
- (b) all the representations and warranties in Clause 17 (*Representations*) to be made by each Obligor are true.

4.3 Maximum number of Purchase Requests

Without prejudice to Clause 5.2 (*Completion of a Purchase Request for the Notes*), only one Purchase Request may be delivered by the Issuer in respect of each of the Original Notes, the Additional A Notes, the Additional B Notes and the Additional C Notes.

4.4 Conditions precedent to Additional A Notes

- (a) The Additional A Note Purchasers will only be obliged to comply with Clause 5.4 (*Purchasers' participation*), if on the date of the Purchase Request and on the proposed Purchase Date, the Purchasers' Representative has received all of the documents and other evidence listed in Part 3 of Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Purchasers' Representative or the Purchasers' Representative (acting on the instructions of all Additional A Note Purchasers) has waived in writing receipt of such documents or evidence (in each case acting on the instructions of the Additional A Note Purchasers). The Purchasers' Representative shall notify the Issuer promptly upon being so satisfied.
- (b) Other than to the extent that the Additional A Note Purchasers notify the Purchasers' Representative in writing to the contrary before the Purchasers' Representative gives the notification described in paragraph (a) above, the Additional A Note Purchasers authorise the Purchasers' Representative to give that notification. The Purchasers' Representative shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

5. PURCHASE

5.1 Delivery of a Purchase Request

The Issuer may request a purchase of the Notes by delivery to the Purchasers' Representative of a duly completed Purchase Request:

- (a) in respect of the Purchase Request for the Original Notes only, not later than 10:00 (London time) two (2) Business Days prior to the proposed Purchase Date; or
- (b) in respect of the Purchase Request for any Additional Notes, in accordance with the timeframes set out in clause 2.2(i) for an Additional Notes Notice (it being acknowledged that such Purchase Request and Additional Notes Notice may be combined within the same document).

5.2 Completion of a Purchase Request for the Notes

Any Purchase Request for the Notes is irrevocable and will not be regarded as having been duly completed unless:

- (a) the proposed Purchase Date is a Business Day within the Availability Period; and
- (b) the currency and amount of the Notes comply with Clause 5.3 (*Currency and amount*).

5.3 Currency and amount

The currency specified in the Purchase Request must be Sterling and the amount of Notes proposed to be purchased in the Purchase Request must be an amount equal to the Commitments in respect of the Original Notes or the Additional Notes (as applicable) as at the relevant Purchase Date.

5.4 Purchasers' participation

- (a) If the conditions set out in this Agreement have been met, each Original Purchaser shall, on the Purchase Date, purchase (and in respect of Peel Hunt, subscribe on a fully paid basis pursuant to the set-off detailed in Clause 2.1(c) and the Peel Hunt Side Letter) the Notes through its Purchase Office in an aggregate principal amount equal to its respective Commitments.
- (b) If the conditions set out in this Agreement and the Additional Notes Notice have been met, each Additional Note Purchaser shall, on the relevant Purchase Date, purchase the Additional Notes through its Purchase Office in an aggregate principal amount equal to its respective Commitments.
- (c) On each Purchase Date, the Issuer shall deliver the Notes to the relevant Purchasers and each Purchaser (other than, with respect to the Original Notes

only, Peel Hunt LLP) shall pay to the Purchasers' Representative who shall on such Purchase Date pay to the account designated by the Issuer in the Purchase Request an amount in Sterling equal to the aggregate of each Purchaser's respective Commitments (in respect of the Original Notes or the Additional Notes (as applicable)) as at the Purchase Date.

5.5 Cancellation of Commitment

The Commitments (if any) which have not been utilised pursuant to a Purchase shall be immediately cancelled at the end of the Availability Period (in respect of the Original Notes or the Additional Notes (as applicable)).

6. REPAYMENT

6.1 Repayment of the Notes

- (a) On the Termination Date, the Issuer shall repay the Notes that have not otherwise been converted pursuant to the Conversion provisions under and in accordance with Clause 7 (*Conversion and Asset Purchase*) in full, in an amount equal to the aggregate of the principal amount of the Notes plus the applicable Redemption Premium. For the avoidance of doubt, any Notes that have been converted pursuant to the Conversion provisions of Clause 7 (*Conversion and Asset Purchase*) shall be automatically cancelled in their entirety and no longer benefit from any rights pursuant to any terms of this Agreement.
- (b) Any part of the Notes which is repaid, redeemed, repurchased or in respect of which Conversion has occurred shall be automatically cancelled and extinguished.

7. CONVERSION AND ASSET PURCHASE

7.1 Right to convert the Notes

- (a) No Original Notes or Conditional Additional Notes shall be capable of conversion into Ordinary Shares, and no Original Purchasers or Additional A Note Purchasers shall serve any Conversion Notice in respect of such Notes, unless and until the Conversion Rights Conditions have been satisfied in full or waived (as applicable). For the avoidance of doubt, this paragraph (a) and Clause 7.2 (*Conversion Rights Conditions*) below shall not apply to the Unconditional Additional A Notes.
- (b) The Additional A Note Purchasers (acting together) may, without further condition at any time prior to the date on which the Conversion Rights Conditions have been satisfied in full or waived (as applicable), deliver a Conversion Notice to the Issuer to convert all but not part of the Unconditional A Notes held by all Additional A Note Purchasers (including any Redemption Premium to be paid on such Unconditional Additional A Notes) into fully paid Ordinary Shares at the Conversion Price.

- (c) The Relevant Purchasers (acting together) may, without further condition at any time on or after the time at which the Conversion Rights Conditions have been satisfied in full or waived (as applicable), deliver a Conversion Notice to the Issuer to convert all but not part of the Original Notes and the Conditional Additional Notes held by all Purchasers (including any Redemption Premium to be paid on such Original Notes and the Conditional Additional Notes) into fully paid Ordinary Shares at the Conversion Price.
- (d) Each Conversion Notice shall be delivered by the Additional A Note Purchasers (in respect of a conversion of the Unconditional A Notes) or the Relevant Purchasers (in respect of the Original Notes and the Conditional Additional Notes) to the Issuer by no later than three (3) Business Days prior to the proposed Conversion Date, and shall set out, at a minimum:
 - (i) the aggregate of the principal amount of the Notes (the “**Conversion Amount**”) which is to be Converted into Ordinary Shares;
 - (ii) the proposed Conversion Date;
 - (iii) the proposed date on which the Conversion Shares shall be admitted to trading on AIM, which shall be no sooner than five (5) Business Days following the delivery of the Conversion Notice;
 - (iv) any conditions (if any) applicable to the conversion and agreed in writing in advance by the Issuer; and
 - (v) in respect of any Unconditional Additional A Notes to be Converted before the date on which the Conversion Rights Conditions are satisfied in full or waived (as applicable), each Additional A Note Purchaser’s pro rata proportion of the Unconditional A Notes which are to be Converted into Ordinary Shares (measured by reference to the proportion of Additional A Notes owned by that Additional A Note Purchaser to the Unconditional Additional A Notes).
- (e) The service of a Conversion Notice shall be irrevocable and binding on all Purchasers in respect of the Notes to which the relevant Conversion Notice relates.
- (f) Subject to Clause 7.3 (*Procedure on Conversion*) and paragraphs (a), (b) and (c) above, upon the Conversion Date as set out in any Conversion Notice, the Conversion Amount set out in such Conversion Notice shall automatically convert into a number of fully paid Ordinary Shares determined by dividing (i) the Conversion Amount set out in such Conversion Notice, by (ii) the relevant Conversion Price.
- (g) For the avoidance of doubt, the anti-dilution adjustment rights set out in the Warrant Instrument shall not apply in respect of this Clause 7 or the Conversion of the Notes pursuant to this Clause 7.

7.2 Conversion Rights Conditions

No Original Notes or Conditional Additional Notes shall be capable of conversion into Ordinary Shares and no Purchaser shall serve any Conversion Notice in respect of such Original Notes or Conditional Additional Notes unless the Purchasers' Representative (acting on the instructions of all Additional Note Purchasers) has notified the Issuer in writing that it has received all evidence in form and substance satisfactory to the Purchasers' Representative or, in respect of paragraph (b) below only, the Purchasers' Representative (acting on the instructions of all Additional Note Purchasers) has waived in writing receipt of such evidence:

- (a) evidence that the Shareholder Conversion Approvals have been obtained;
- (b) evidence that the Shareholder Delisting Approvals have been obtained; and
- (c) evidence of any approvals of the Takeover Panel necessary for the availability of conversion rights under the Original Notes and the Conditional Additional Notes,

(together, the "**Conversion Rights Conditions**").

For the avoidance of doubt, following confirmation by the Purchasers' Representative that the Conversion Rights Conditions have been satisfied or waived (as applicable), the Original Notes and the Conditional Additional Notes shall be capable of Conversion into Ordinary Shares (in each case, in full but not in part) at any time until the Termination Date, in accordance with Clause 7.1 (*Right to convert the Notes*) and Clause 7.3 (*Procedure on Conversion*).

7.3 Procedures on conversion

On any Conversion Date, the directors of the Issuer shall convert the Conversion Amount set out in the applicable Conversion Notice into such number of new fully paid Ordinary Shares at the Conversion Price in accordance with the following provisions:

- (a) Conversion of the relevant Notes shall be effected by the Issuer redeeming such Notes on the Conversion Date. Each Purchaser whose Notes are being converted in accordance with this Clause 7 shall be deemed to irrevocably authorise and instruct the Issuer to apply the redemption monies payable to that Purchaser in subscribing for new fully paid Ordinary Shares.
- (b) The Ordinary Shares arising on Conversion of the relevant Conversion Amount (the "**Conversion Shares**") shall be issued and allotted by the Issuer on the Conversion Date in the name of each Purchaser notified in the relevant Conversion Notice and in the proportion specified therein. The Issuer shall enter the name of such Purchaser in the register of members of the Issuer and the certificates for such Conversion Shares shall be issued within three (3) Business Days of the Conversion Date and dispatched to the persons entitled to them at their own risk.

- (c) The Issuer shall make an application for the Conversion Shares to be admitted to trading on AIM for such admission to occur on the date specified in the Conversion Notice.
- (d) The Conversion Shares shall be credited as fully paid and rank pari passu with Ordinary Shares of the same class in issue on the relevant Conversion Date and shall carry the right to receive all dividends and other distributions declared, made or paid after the relevant Conversion Date.
- (e) No fraction of an Ordinary Share will be issued and the entitlement of any Purchaser to a fraction of an Ordinary Share shall be rounded down to the nearest whole number of Ordinary Shares which result from the conversion of the relevant Conversion Amount.

7.4 Taxes

Notwithstanding any other provision of this Agreement, the Issuer shall be liable for and shall pay any United Kingdom stamp duty or United Kingdom stamp duty reserve tax arising on the issue of the Conversion Shares other than any stamp duty levied under sections 67 or 70 of the Finance Act 1986 or stamp duty reserve tax levied under any of sections 93 and 96 of the Finance Act 1986. The relevant Purchasers shall be liable for any stamp duty levied under sections 67 or 70 of the Finance Act 1986 or stamp duty reserve tax levied under any of sections 93 and 96 of the Finance Act 1986 on the issue of the Conversion Shares and any stamp duty or stamp duty reserve tax on the transfer of the Notes by the relevant Purchaser or the transfer of the Conversion Shares by the relevant Purchaser.

7.5 Asset Purchase Option

- (a) If the Conversion Rights Conditions have not been satisfied in full or waived (as applicable) in accordance with Clause 7.2 (*Conversion Rights Conditions*) above by the date falling 60 days from the Purchase Date of the Additional A Notes, the Relevant Purchasers shall together have the option (subject to the Shareholder APO Approval having been obtained), exercisable at their sole election (acting together), to purchase the entire issued share capital of Sensyne Holdings UK (the “**Asset Purchase Option**”) for consideration comprising: (i) the payment of £1.00; and (ii) the assumption by the Relevant Purchasers of the Issuer’s outstanding obligations under the Notes.
- (b) If any Relevant Purchaser wishes to exercise the Asset Purchase Option in accordance with paragraph (a) above, it shall deliver to the Issuer a written notice of such intention signed by all of the Relevant Purchasers. The service of such a notice shall be irrevocable and binding on the relevant Purchaser.
- (c) The Relevant Purchasers shall pay any stamp duty or stamp duty reserve tax arising from the transfer of the shares pursuant to the Asset Purchase Option.

8. PREPAYMENT

8.1 Exit

Upon the occurrence of (i) a Change of Control, or (ii) the sale of all or substantially all of the assets of the Group whether in a single transaction or a series of related transactions, each Purchaser shall be entitled to require the repayment, redemption or repurchase of all or part of the outstanding Notes held by it and any other amounts accrued or owing to it under the Finance Documents, and all such outstanding Notes (or the relevant part thereof) held by such Purchaser together with the Redemption Premium thereon, and all such other amounts accrued or owing to such Purchaser under the Finance Documents (if any) shall become immediately due and payable, and the Issuer will promptly redeem all such Notes (or the relevant part thereof) and repay such amounts accrued or owing to it under the Finance Documents, and any unutilised Commitments of any Purchaser shall be immediately cancelled and no Purchaser shall have any obligations to fund or participate in any new Purchase or Notes.

8.2 Illegality

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

- (a) that Purchaser shall promptly notify the Purchasers' Representative upon becoming aware of that event;
- (b) upon the Purchasers' Representative notifying the Issuer, the unutilised Commitment of that Purchaser will be immediately cancelled; and
- (c) the Issuer shall promptly redeem or repurchase that Purchaser's Notes specified by that Purchaser in the notice delivered to the Purchasers' Representative (being no later than the last day of any applicable grace period permitted by law) at a redemption or repurchase price equal to the principal amount thereof, and that Purchaser's corresponding Commitment shall be cancelled in the amount of such redemption or repurchase.

The Redemption Premium shall be reduced to an amount calculated at the rate of ten per cent. (10%) of the redemption or repurchase price (such redemption or repurchase price being equal to the principal amount thereof) in relation to any Notes that are prepaid pursuant to this Clause 8.2 (*Illegality*).

8.3 Partial Prepayment

Each Purchaser shall be entitled to require the repayment, redemption or repurchase of all or part of the outstanding Notes held by it, together with the Redemption Premium thereon, and any other amounts accrued or owing to it under the Finance Documents,

in an amount equal to the cumulative Net Proceeds received by any member of the Group in respect of:

- (a) any share issuance by the Issuer or a member of the Group (other than to another member of the Group, or as a result of the exercise of the Warrants, or as a result of the exercise of any of the Conversion provisions of this Agreement in respect of the Notes) or a recapitalisation of the Issuer or a member of the Group; and
- (b) any material asset sale by the Issuer or a member of the Group,

provided that such cumulative Net Proceeds exceed £2,000,000 (in which case the full amount thereof shall be the relevant amount for the purposes of this Clause, and not just the excess), and provided further that if the Net Proceeds received by the Issuer are insufficient to repay, redeem or repurchase all outstanding Notes of the Purchasers in full, any such repayment, redemption or repurchase in part shall be made pro rata to the proportion of outstanding Notes held by that Purchaser to the outstanding Notes held by all Purchasers at such time. Any such repayment, redemption or repurchase shall be made within ten (10) Business Days of receipt by the Issuer or a member of the Group of such Net Proceeds.

8.4 Voluntary prepayment

Subject to any prior Conversion of Notes pursuant to the provisions of Clause 7 (*Conversion and Asset Purchase*), the Issuer may, if it gives the Purchasers' Representative not less than ten (10) Business Days' notice (or such shorter period as the Purchasers' Representative may agree) prior written notice, prepay, redeem or repurchase the whole or any part of the Notes prior to the Termination Date. Any such prepayment shall be made on the date specified in the notice provided by the Issuer and shall include the payment of the principal outstanding in respect of those Notes being redeemed and any applicable Redemption Premium thereon.

9. RESTRICTIONS

9.1 Notices of cancellation or prepayment

Any notice of cancellation, redemption, prepayment, repurchase, authorisation or other election given by any Party under Clause 7 (*Conversion and Asset Purchase*) shall (subject to the terms of those clauses) be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or repurchase is to be made and the amount of that cancellation, prepayment or repurchase.

9.2 Redemption Premium and other amounts

Any prepayment, redemption or repurchase under this Agreement shall be made together with the Redemption Premium on such amount, and without premium or penalty.

9.3 **Prepayment in accordance with Agreement**

The Issuer shall not prepay, repurchase or redeem the Notes except at the times and in the manner expressly provided for in this Agreement.

9.4 **No Purchase of Notes**

The Issuer and any member of the Group may not (i) repurchase or offer for resale any part of a Note which is repaid, redeemed or otherwise repurchased or (ii) purchase any Note from any Purchaser (other than any redemption pursuant to Clause 8 (*Prepayment*) and this Clause 9).

9.5 **Purchasers' Representative receipt of notices**

If the Purchasers' Representative receives a notice under Clause 8.2 (*Illegality*), it shall promptly forward a copy of that notice or election to both the Issuer and the affected Purchaser.

9.6 **Effect of repayment and prepayment on Commitments**

Without prejudice to Clause 6.1 (*Repayment of the Notes*), if all or part of any Purchaser's participation in any Note is repaid, an amount of that Purchaser's Commitment (equal to the amount of the participation which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment or repurchase.

10. **TAX GROSS-UP AND INDEMNITIES**

10.1 **Definitions**

In this Agreement:

"Obligor DTTP Filing" means an HM Revenue & Customs' Form DTTP2 duly completed and filed by the relevant Obligor, which:

- (a) where it relates to a Treaty Purchaser that is an Original Purchaser, contains the scheme reference number and jurisdiction of tax residence stated opposite that Purchaser's name in Part 1 of Schedule 1 (*Purchasers*) or notified in writing to the Obligor, and:
 - (i) where the Obligor is an Original Obligor, is filed with HM Revenue & Customs within 30 days of the date of this Agreement; or
 - (ii) where the Obligor is an Additional Obligor, is filed with HM Revenue & Customs within 30 days of the date on which that Obligor becomes an Additional Obligor; or
- (b) where it relates to a Treaty Purchaser that is not an Original Purchaser, contains the scheme reference number and jurisdiction of tax residence stated in respect

of that Purchaser in the documentation which it executes on becoming a Party as a Purchaser; and

- (i) where the Purchaser is a Purchaser as at the date on which that Treaty Purchaser becomes a Party as a Purchaser, is filed with HM Revenue & Customs within 30 days of that date; or
- (ii) where the Purchaser is not a Purchaser as at the date on which that Treaty Purchaser becomes a Party as a Purchaser, is filed with HM Revenue & Customs within 30 days of the date on which that Purchaser becomes an Purchaser.

“**ITA**” means the Income Tax Act 2007.

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

“**Tax Credit**” has the meaning given to that term in Clause 10.4(a) below.

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

“**Tax Payment**” means either the increase in a payment made by an Obligor to a Purchaser under Clause 10.2 (*Tax gross-up*) or a payment under Clause 10.3 (*Tax indemnity*).

“**Treaty Purchaser**” means a Purchaser which:

- (a) is treated as a resident of a Treaty State for the purposes of the relevant Treaty; and
- (a) does not carry on a business in the United Kingdom through a permanent establishment with which that Purchaser’s participation in this Agreement is effectively connected.

“**Treaty State**” means a jurisdiction having a double taxation agreement (a “**Treaty**”) with the United Kingdom which makes provision for full exemption from tax imposed by the United Kingdom on interest.

Unless a contrary indication appears, in this Clause 10 a reference to “**determines**” or “**determined**” means a determination made in the absolute discretion of the person making the determination.

10.2 **Tax gross-up**

- (a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.

- (b) The Issuer shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Purchasers' Representative accordingly. Similarly, a Purchaser shall notify the Purchasers' Representative on becoming so aware in respect of a payment payable to that Purchaser. If the Purchasers' Representative receives such notification from a Purchaser it shall notify that Obligor.
- (c) If a Tax Deduction is required by law to be made from any payment made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (e) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Purchasers' Representative for the Finance Party entitled to the payment a statement under section 975 of the ITA or other evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
- (f) Without limitation to the obligations of any Obligor under this Agreement, if any Tax Deduction is required to be made from any payment to be made by an Obligor, each Purchaser shall, in consultation with the Issuer, permit and take all reasonable steps to enable the listing of the Notes on a recognised stock exchange, where such listing would enable that payment to be made without a Tax Deduction.
- (g) At the request of a Purchaser, the Issuer shall take all reasonable steps necessary to mitigate any circumstances which arise and which result in any Tax Deduction, including (but not limited to), at the sole cost of the Issuer, taking all steps necessary to list the Notes on a recognized stock exchange.
- (h)
 - (i) Subject to paragraph (ii) below, a Treaty Purchaser and each Obligor which makes a payment to which that Treaty Purchaser is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.
 - (ii)

- (A) A Treaty Purchaser which is an Original Purchaser and that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence opposite its name in Part 1 of Schedule 1 (*Purchasers*) or in writing to the Obligor; and
- (B) a Treaty Purchaser which is not an Original Purchaser and that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence in the documentation which it executes on becoming a Party as a Purchaser,

and, having done so, that Purchaser shall be under no obligation pursuant to paragraph (i) above.

- (i) If a Purchaser has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with paragraph (h)(ii) above and:
 - (i) an Obligor making a payment to that Purchaser has not made a Obligor DTTP Filing in respect of that Purchaser; or
 - (ii) an Obligor making a payment to that Purchaser has made a Obligor DTTP Filing in respect of that Purchaser but:
 - (A) that Obligor DTTP Filing has been rejected by HM Revenue & Customs;
 - (B) HM Revenue & Customs has not given the Obligor authority to make payments to that Purchaser without a Tax Deduction within 60 days of the date of the Obligor DTTP Filing; or
 - (C) HM Revenue & Customs has given the Obligor authority to make payments to that Purchaser without a Tax Deduction but such authority has subsequently been revoked or expired,

and in each case, the Purchaser has notified that Obligor in writing, that Purchaser and the Obligor shall co-operate in completing any additional procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.

- (j) If a Purchaser has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph (h)(ii) above, no Obligor shall make a Obligor DTTP Filing or file any other form relating to the HMRC DT Treaty Passport scheme in respect of that Purchaser's Commitment(s) or its participation in this Agreement unless the Purchaser otherwise agrees.

- (k) An Obligor shall, promptly on making a Obligor DTTP Filing, deliver a copy of that Obligor DTTP Filing to the relevant Purchaser.

10.3 Tax indemnity

- (a) The Issuer shall (within three (3) Business Days of demand by the Purchasers' Representative) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Clause 10.3(a) shall not apply:
 - (i) with respect to any Tax assessed on a Finance Party:
 - (A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which that Finance Party's Purchase Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or
 - (ii) to the extent a loss, liability or cost:
 - (A) is compensated for by an increased payment under Clause 10.2 (*Tax gross-up*);
 - (B) would have been compensated for by an increased payment under Clause 10.2 (*Tax gross-up*) but was not so compensated solely because one of the exclusions in paragraph (d) of Clause 10.2 (*Tax gross-up*) applied; or
 - (C) relates to a FATCA Deduction required to be made by a Party.
- (c) A Protected Party making, or intending to make a claim under Clause 10.3(a) shall promptly notify the Purchasers' Representative of the event which will give, or has given, rise to the claim, following which the Purchasers' Representative shall notify the Issuer.
- (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 10.3, notify the Purchasers' Representative.

10.4 Tax Credit

If an Obligor makes a Tax Payment, and the relevant Finance Party determines that:

- (a) a credit against, relief or remission for, or repayment of any Tax (“**Tax Credit**”) is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Finance Party (or an investor in that Finance Party) has obtained and utilised that Tax Credit,

the Finance Party shall (or, in the case of a Tax Credit utilised by an investor, shall use commercially reasonable endeavours to procure that the relevant investor in that Finance Party shall) pay an amount to the Issuer which that Finance Party (or the relevant investor) determines will leave it (after that payment) in the same after-Tax position as it would have been in had some or all of the Tax Payment not been required to be made by the Issuer.

10.5 Stamp taxes

The Issuer shall pay and, within three (3) Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document, provided that the Issuer shall not be liable for any cost, loss or liability in respect of such Taxes arising on the transfer of any Finance Document *except* where such transfer is: (a) made at the request of the Issuer or as a result of a right exercised by the Issuer under any Finance Document; or (b) made in connection with an Event of Default.

10.6 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to Clause 10.6(b), if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the “**Supplier**”) to any other Finance Party (the “**Recipient**”) under a Finance Document, and any Party other than the Recipient (the “**Relevant Party**”) is required by the terms of any Finance Document to pay an amount equal to the

consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):

- (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) Any reference in this Clause 10.6 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term “representative member” to have the same meaning as in the Value Added Tax Act 1994).
- (e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party’s VAT registration and such other information as is reasonably requested in connection with such Finance Party’s VAT reporting requirements in relation to such supply.

10.7 **FATCA information**

- (a) Subject to Clause 10.7(c), each Party shall, within ten (10) Business Days of a reasonable request by another Party:
 - (i) confirm to that other Party whether it is:
 - (A) a FATCA Exempt Party; or

- (B) not a FATCA Exempt Party;
 - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
 - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to Clause 10.7(a)(i) that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
 - (c) Clause 10.7(a) shall not oblige any Finance Party to do anything, and Clause 10.7(a)(iii) shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
 - (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with Clause 10.7(a)(i) or Clause 10.7(a)(ii) (including, for the avoidance of doubt, where Clause 10.7(c) applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

10.8 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Issuer and the Purchasers' Representative and the Purchasers' Representative shall notify the other Finance Parties.

11. INCREASED COSTS

11.1 Increased Costs

- (a) Subject to Clause 11.3 (*Exceptions*) the Issuer shall, within three (3) Business Days of a demand by the Purchasers' Representative, pay for the account of a Finance Party the amount of any Increased Costs reasonably incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or (ii) compliance with any law or regulation made after the date of this Agreement.
- (b) In this Agreement, "**Increased Costs**" means:
- (i) a reduction in the rate of return from the Notes or on a Finance Party's (or its Affiliate's) overall capital;
 - (ii) an additional or increased cost reasonably incurred; or
 - (iii) a reduction of any amount due and payable under any Finance Document,

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

11.2 Increased cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 11.1 (*Increased Costs*) shall notify the Purchasers' Representative of the event giving rise to the claim, following which the Purchasers' Representative shall promptly notify the Issuer.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Purchasers' Representative, provide a certificate confirming the amount of its Increased Costs. The said certificate shall specify the basis on which the Increased Cost was incurred and provide such evidence as is reasonable to substantiate the quantum of the Increased Cost claim.

11.3 Exceptions

- (a) Clause 11.1 (*Increased Costs*) does not apply to the extent any Increased Cost is:
- (i) attributable to a Tax Deduction required by law to be made by an Obligor;
 - (ii) attributable to a FATCA Deduction required to be made by a Party;

- (iii) compensated for by Clause 10.3 (*Tax indemnity*) (or would have been compensated for under Clause 10.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in Clause 10.3(b) (*Tax indemnity*) applied);
 - (iv) compensated for by payment of an amount under Clause 10.5 (*Stamp taxes*) (or would have been so compensated but was not so compensated solely because an exclusion in Clause 10.5 (*Stamp taxes*) applied); or
 - (v) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.
- (b) In this Clause 11.3, reference to a “**Tax Deduction**” has the same meaning given to the term in Clause 10.1 (*Definitions*).

12. **AGENCY FEES**

The Issuer shall pay to the Purchasers’ Representative (for its own account and for the account of the Security Agent) a non-refundable agency and security agency fee as set out in a Fee Letter.

13. **OTHER INDEMNITIES**

13.1 **Currency indemnity**

- (a) If any sum due from an Obligor under the Finance Documents (a “**Sum**”), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the “**First Currency**”) in which that Sum is payable into another currency (the “**Second Currency**”) for the purpose of:
- (i) making or filing a claim or proof against that Obligor; or
 - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three (3) Business Days of demand, indemnify each Secured Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

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

13.2 Other indemnities

- (a) The Issuer shall (or shall procure that an Obligor will), within three (3) Business Days of demand, indemnify each Secured Party against any cost, loss or liability incurred by it directly as a result of:
 - (i) the occurrence of any Event of Default;
 - (ii) a failure by an Obligor to pay any amount due under a Finance Document on its due date including without limitation, any cost, loss or liability arising as a result of clause 1 (*Sharing among the Finance Parties*);
 - (iii) funding, or making arrangements to fund, its participation in a Purchase requested by the Issuer in the Purchase Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Secured Party alone); or
 - (iv) any prepayment or redemption payable by the Issuer under the Finance Documents not being prepaid in accordance with a notice of prepayment given by the Issuer.
- (b) The Issuer shall promptly indemnify each Finance Party, each Affiliate of a Finance Party and each officer or employee of a Finance Party or its Affiliate, against any cost, loss or liability directly incurred by that Finance Party or its Affiliate (or officer or employee of that Finance Party or Affiliate) in connection with or arising out of funding or making arrangements to fund, its participation in a Purchase (including but not limited to those incurred in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry concerning the transactions under the Finance Documents), unless such loss or liability is caused by the gross negligence or wilful misconduct of that Finance Party or its Affiliate (or employee or officer of that Finance Party or Affiliate). Any Affiliate or any officer or employee of a Finance Party or its Affiliate may rely on this Clause 13.2 subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.
- (c) The Issuer shall pay all reasonable legal, other advisory and other related out-of-pocket expenses of the Purchasers (other than Peel Hunt) in connection with the negotiation of the Finance Documents reasonably incurred after 26 January 2022, the Purchase of the Additional Notes and the Additional A Note Warrants and the matters related thereto (including any related shareholder meetings), including any fees that may be incurred in connection with the Asset Purchase Option in the event this is exercised, subject to an agreed cap (excluding VAT).

13.3 Indemnity to the Purchasers' Representative

The Issuer shall promptly indemnify the Purchasers' Representative against:

- (a) any cost, loss or liability directly incurred by the Purchasers' Representative (acting reasonably) as a result of:
 - (i) investigating any event which it reasonably believes is a Default;
 - (ii) acting or relying on any notice or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
 - (iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and

any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Purchasers' Representative (otherwise than by reason of the Purchasers' Representative's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 28.10 (*Disruption to payment systems etc.*) notwithstanding the Purchasers' Representative's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Purchasers' Representative) in acting as the Purchasers' Representative under the Finance Documents.

13.4 Indemnity to the Purchasers' Representative and the Security Agent

- (a) Each Obligor jointly and severally shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them directly as a result of:
 - (i) any failure by the Issuer to comply with its obligations under Clause 15 (*Costs and expenses*);
 - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
 - (iii) the taking, holding, protection or enforcement of the Transaction Security;
 - (iv) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law;
 - (v) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; or
 - (vi) acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Charged Property (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct).

- (b) Each Obligor expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 13.4 will not be prejudiced by any release or disposal.
- (c) The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 13.4 and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all monies payable to it.

14. MITIGATION BY THE PURCHASERS

14.1 Mitigation

- (a) Each Finance Party shall, in consultation with the Issuer, take all reasonable steps to mitigate any circumstances which arise and which would result in the Notes ceasing to be available for sale and purchase or any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 8.2 (*Illegality*) or Clause 11 (*Increased Costs*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Purchase Office and permitting the listing of the Notes on a recognized stock exchange.
- (b) Clause 14.1(a) does not in any way limit the obligations of any Obligor under the Finance Documents.

14.2 Limitation of liability

- (a) The Issuer shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 14.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 14.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

15. COSTS AND EXPENSES

15.1 Transaction expenses

The Issuer shall, promptly on provision of the relevant receipts or invoices, pay the Finance Parties the amount of all costs and expenses (including legal fees) reasonably incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution, syndication and perfection of, this Agreement and any other documents referred to in this Agreement and the Transaction Security and any other Finance Documents executed after the date of this Agreement.

15.2 Amendment costs

If:

- (a) an Obligor requests an amendment, waiver or consent; or
- (b) an amendment is required pursuant to Clause 28.9 (*Change of currency*),

the Issuer shall, within three (3) Business Days of demand, reimburse the relevant Finance Party for the amount of all costs and expenses (including legal fees) reasonably incurred by the Finance Parties (and, in the case of the Security Agent, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

15.3 Security Agent's management time and additional remuneration

- (a) Any amount payable to the Security Agent under Clause 13.4 (*Indemnity to the Security Agent*) and this Clause 15 shall include the cost of utilising the Security Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Security Agent may notify to the Issuer and the Purchasers, and is in addition to any other fee paid or payable to the Security Agent, provided that the Security Agent shall notify the Issuer if the aggregate costs incurred by it in accordance with this Clause 15.3(a) exceed £10,000 and provide evidence reasonably satisfactory to the Issuer in respect of such costs.
- (b) Without prejudice to Clause 15.3(a), in the event of:
 - (i) the occurrence of an Event of Default;
 - (ii) the Security Agent being requested by an Obligor or the Purchasers to undertake duties which the Security Agent and the Issuer agree to be of an exceptional nature or outside the scope of the normal duties of the Security Agent under the Finance Documents; or
 - (iii) the Security Agent and the Issuer agreeing that it is otherwise appropriate in the circumstances,

the Issuer shall pay to the Security Agent any additional remuneration that may be agreed between them or determined pursuant to Clause 15.3(c).

- (c) If the Security Agent and the Issuer fail to agree upon the nature of the duties, or upon the additional remuneration referred to in Clause 15.3(b) or whether additional remuneration is appropriate in the circumstances, any dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Issuer or, failing approval, nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Issuer) and the

determination of any investment bank shall be final and binding upon the Parties.

15.4 Enforcement and preservation costs

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

16. GUARANTEE AND INDEMNITY

16.1 Guarantee and indemnity

Subject to Clause 16.11 below, each Guarantor irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Finance Party punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents;
- (b) undertakes with each Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Finance Party immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 16 if the amount claimed had been recoverable on the basis of a guarantee.

16.2 Continuing guarantee

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

16.3 Reinstatement; Stay of Acceleration

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Finance Party in whole or in part on the basis of any payment, security or other disposition which is

avoided or must be restored in insolvency, liquidation, examinership, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 16 will continue or be reinstated as if the discharge, release or arrangement had not occurred. If acceleration of the time for payment of any of the Guarantor's obligations is stayed upon the insolvency, bankruptcy or reorganisation of the Issuer or a member of the Group, all such amounts otherwise subject to acceleration shall nonetheless be payable by the other Guarantors forthwith on demand by the Security Agent.

16.4 **Waiver of defences**

The obligations of each Guarantor under this Clause 16 will not be affected by an act, omission, matter or thing which, but for this Clause 16, would reduce, release or prejudice any of its obligations under this Clause 16 (without limitation and whether or not known to it or a Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security;
- (g) any insolvency or similar proceedings; or
- (h) the existence of any claim, setoff or other right which any Obligor may have at any time against any Finance Party or any other Person, whether in connection herewith or in any unrelated transactions.

16.5 **Guarantor intent**

Without prejudice to the generality of Clause 16.4 (*Waiver of defences*), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

16.6 **Immediate recourse**

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Clause 16. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

16.7 **Appropriations**

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

- (a) refrain from applying or enforcing any other monies, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing or non interest-bearing suspense account any monies received from any Guarantor or on account of any Guarantor's liability under this Clause 16.

16.8 **Deferral of Guarantors' rights**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Purchasers' Representative otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 16:

- (a) to be indemnified by an Obligor;

- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 16.1 (*Guarantee and indemnity*);
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Finance Party.

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

16.9 Release of Guarantors' right of contribution

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

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

16.10 **Additional security**

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

16.11 **Guarantee limitations**

This guarantee does not apply to any liability to the extent that it would result in this guarantee constituting unlawful financial assistance within the meaning of sections 678 or 679 of the Companies Act 2006 or any equivalent and applicable provisions under the laws of the Original Jurisdiction of the relevant Guarantor and, with respect to any Additional Guarantor, is subject to any limitations set out in the Accession Deed applicable to such Additional Guarantor.

16.12 **Guarantor Representations**

- (a) The guarantees provided by each Obligor to each Finance Party are being provided in good faith for the purposes of each Obligor carrying on its business and there are reasonable grounds for believing that the transactions contemplated by this Agreement and the Notes will benefit each Obligor.
- (b) Each Obligor assumes all responsibility for being and keeping itself informed of the financial condition and assets of the other Obligors, and of all other circumstances bearing upon the risk of nonpayment of the guaranteed obligations and the nature, scope and extent of the risks that each Obligor assumes and incurs, and agrees that none of the Security Agent or any other Finance Party shall have any duty to advise any Obligor of information known to it regarding those circumstances or risks.

17. **REPRESENTATIONS**

17.1 **General**

- (a) Each Obligor makes the representations and warranties set out in this Clause 17 to each Finance Party.
- (b) For the purpose of this Clause 17, any Dormant Subsidiary shall be deemed not to be a member of the Group or a Subsidiary of the Issuer or any other member of the Group.

17.2 **Status**

- (a) It is a limited liability corporation or a corporation, as applicable, duly incorporated and validly existing under the law of its Original Jurisdiction.
- (b) Each of its Subsidiaries is a limited liability corporation or a corporation, as applicable, duly incorporated and validly existing under the law of its jurisdiction of incorporation.

- (c) It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.
- (d) Each Obligor incorporated in the US is in good standing under the laws of its jurisdiction of incorporation.

17.3 **Binding obligations**

Subject to the Legal Reservations:

- (a) the obligations expressed to be assumed by it in each Finance Document and the Warrants to which it is a party are legal, valid, binding and enforceable obligations; and
- (b) (without limiting the generality of Clause 17.3(a)) each Transaction Security Document to which it is a party creates the security interests which that Transaction Security Document purports to create and those security interests are valid and effective, and will be, upon the timely and proper filings, deliveries, notations and other actions contemplated in the Transaction Security Documents, perfected security interests (to the extent that such security interests can be perfected by such filings, deliveries, notations and other actions).

17.4 **Non-conflict with other obligations**

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

- (a) any law or regulation applicable to it;
- (b) the constitutional or organisational documents of any member of the Group; or
- (c) any agreement or instrument binding upon it or any member of the Group or any of its or any member of the Group's assets or constitute a default or termination event (however described) under any such agreement or instrument.

17.5 **Power and authority**

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is or will be a party and the transactions contemplated by those Finance Documents.
- (b) No limit on its powers will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by the Finance Documents to which it is a party.

17.6 **Validity and admissibility in evidence**

- (a) All Authorisations required:

- (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and
- (ii) to make the Finance Documents to which it is a party admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect, except any Authorisations referred to in Clause 17.9 (*No filing or stamp taxes*), which Authorisations will be promptly obtained or effected after the Purchase Date.

17.7 **Governing law and enforcement**

- (a) The choice of governing law of the Finance Documents will be recognised and enforced in its Relevant Jurisdictions.
- (b) Any judgment obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in its Relevant Jurisdictions.

17.8 **Insolvency**

No:

- (a) corporate action, legal proceeding or other procedure or step described in Clause 20.7(a) (*Insolvency proceedings*); or
- (b) creditors' process described in Clause 20.8 (*Creditors' process*),

is currently outstanding or, to the knowledge of the Issuer, threatened in relation to a member of the Group; and none of the circumstances described in Clause 20.6 (*Insolvency*) applies to a member of the Group.

17.9 **No filing or stamp taxes**

Under the laws of its Relevant Jurisdiction it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except:

- (a) registration of particulars of Transaction Security Documents at Companies House in England and Wales under section 859A of the Companies Act 2006 and payment of associated fees;
- (b) registration of particulars of Security created over any trademarks or patents pursuant to the Transaction Security Documents at the Intellectual Property Office in England and Wales and payment of associated fees;

- (c) registration of any Security created over Real Property at HM Land Registry or Land Charges Register in England and Wales and payment of associated fees;
- (d) stamp duty or stamp duty reserve tax on a transfer of a Finance Document (if applicable);
- (e) filing in any relevant jurisdiction in the United States any financing statements, continuations thereof and amendments thereto that contain the information required by Article 9 of the Uniform Commercial Code of each applicable jurisdiction for the filing of any financing statement, continuations thereof or amendment relating to the Charged Property; and
- (f) recordation with the United States Patent and Trademark Office and the United States Copyright Office (and any successor office and any similar office in any state of the United States or in any other country) the relevant Transaction Security Documents,

which registrations, filings, recordation taxes and fees will (save to the extent not required by the Purchasers' Representative) be made and paid promptly after the date of the relevant Finance Document or the date of such transfer of a Finance Document (as applicable), in each case as provided for by this Agreement.

17.10 Deduction of Tax

It is not required to make any Tax Deduction (as defined in Clause 10.1 (Definitions)) from any payment it may make under any Finance Document to a Purchaser.

17.11 No Default

- (a) No Event of Default and, on the date of this Agreement and the Purchase Date, no Default is continuing or is reasonably likely to result from the making of a Purchase or the entry into, the performance of, or any transaction contemplated by, any Finance Document.
- (b) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (however described) under any other agreement or instrument which is binding on it or to which its assets are subject which has or is reasonably likely to have a Material Adverse Effect.

17.12 Misleading information

Save as disclosed in writing to the Purchasers' Representative prior to the date of this Agreement, to the best of its knowledge and belief:

- (a) all announcements of inside information made by the Issuer since the date of the most recent financial statements published by the Issuer were true and

accurate in all material respects and did not omit any information the omission of which would result in the announcement being misleading in any material respect;

- (b) all material information provided to a Finance Party by or on behalf of an Obligor in connection with this Agreement on or before the date of this Agreement and not superseded before that date is accurate and not misleading in any material respect and all projections provided to any Finance Party on or before the date of this Agreement have been prepared in good faith on the basis of assumptions which were reasonable at the time at which they were prepared and supplied; and
- (c) all other written information provided by any Obligor to any Finance Party was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect.

17.13 Financial Statements

- (a) Its Original Financial Statements were prepared in accordance with the Accounting Principles consistently applied unless expressly disclosed to the Purchasers' Representative in writing to the contrary prior to the date of this Agreement.
- (b) Its Original Financial Statements fairly present its financial condition and its results of operations during the relevant financial year unless expressly disclosed to the Purchasers' Representative in writing to the contrary prior to the date of this Agreement.
- (c) The budgets and forecasts supplied under this Agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were reasonable as at the date they were prepared and supplied.
- (d) There has been no material adverse change in its assets, business or financial condition since the Original Financial Statements, except as expressly disclosed to the Purchasers' Representative to the contrary prior to the date of this Agreement.

17.14 No proceedings

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

belief (having made due and careful enquiry)) been made against it or any of its Subsidiaries.

17.15 No breach of laws

It has not (and none of its Subsidiaries has) breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.

17.16 Environmental laws

Each member of the Group is in compliance with Clause 19.3 (*Environmental compliance*) and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.

17.17 Taxation

- (a) It is not materially overdue in the filing of any Tax returns and it is not materially overdue in the payment of any material amount in respect of Tax.
- (b) No claims or investigations are being, or are reasonably likely to be, made or conducted against it with respect to Taxes such that a liability of, or claim against, any member of the Group is reasonably likely to arise.
- (c) It is resident for Tax purposes only in its Original Jurisdiction.

17.18 Anti-corruption law and sanctions

- (a) Each member of the Group has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.
- (b) It has not directly or knowingly indirectly, used the proceeds of the Notes, or lent, contributed or otherwise made available such proceeds to any subsidiary, joint venture partner or other person, to fund any activities of or business with any person, or in any Sanctioned Country, or in any other manner that resulted in or would reasonably be expected to result in a violation by any person (including any person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of any Sanctions.
- (c) It will not directly or knowingly indirectly use any purchase, use of proceeds or other transaction contemplated by this Agreement to violate any Anti-Corruption Laws or Sanctions.

17.19 Security and Financial Indebtedness

- (a) No Security or Quasi-Security exists over all or any of the present or future assets of any member of the Group other than Permitted Security or as permitted by this Agreement.
- (b) No member of the Group has any Financial Indebtedness outstanding other than Permitted Financial Indebtedness or as otherwise permitted by this Agreement.

17.20 Ranking

The Transaction Security has or will have first ranking priority and it is not subject to any prior ranking or *pari passu* ranking Security.

17.21 Good title to assets

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

17.22 Legal and beneficial ownership

It is the sole legal and beneficial owner of the respective assets over which it purports to grant Security.

17.23 Shares

The shares of any member of the Group which are subject to the Transaction Security are fully paid and not subject to any option to purchase or similar rights. The constitutional documents or organisational documents of companies whose shares are subject to the Transaction Security do not restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security. There are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of any member of the Group which is subject to the Transaction Security (including any option or right of pre-emption or conversion).

17.24 Intellectual Property

It:

- (a) is the sole legal and beneficial owner of or has licensed to it on normal commercial terms all the Intellectual Property which is material in the context of its business and which is required by it in order to carry on its business as it is being conducted;
- (b) does not, in carrying on its businesses, infringe any Intellectual Property of any third party in any respect which has or is reasonably likely to have a Material Adverse Effect; and

- (c) has taken all formal or procedural actions (including payment of fees) as may be reasonably required to maintain any material Intellectual Property owned by it,

save for any Intellectual Property that is obsolete or of negligible commercial value.

17.25 Group Structure Chart

The Group Structure Chart delivered to the Purchasers' Representative pursuant to Part 1 of Schedule 2 (*Conditions Precedent*) is true, complete and accurate in all material respects and records the structure of the Group.

17.26 Obligors; Solvency

- (a) Each Subsidiary of the Issuer, other than any Dormant Subsidiary, is or will be an Obligor on the Purchase Date.
- (b) As of the Purchase Date, after the incurrence of the indebtedness and obligations being incurred in connection with this Agreement on the Purchase Date, (i) the sum of the debt (including contingent liabilities) of the Issuer and its Subsidiaries on a consolidated basis does not exceed the fair value of the assets of the Issuer and its Subsidiaries on a consolidated basis, (ii) the present fair saleable value of the assets of the Issuer and its Subsidiaries on a consolidated basis is not less than the amount that will be required to pay the probable liabilities of the Issuer and its Subsidiaries on a consolidated basis on their debts as they become absolute and matured, (iii) the capital of the Issuer and its Subsidiaries on a consolidated basis is not unreasonably small in relation to the business of the Issuer or its Subsidiaries on a consolidated basis contemplated as of the date hereof and (iv) the Issuer and its Subsidiaries on a consolidated basis do not intend to incur, or believe that they will incur, debts (including current obligations and contingent liabilities) beyond their ability to pay such debts as they mature in the ordinary course of business.

17.27 Pensions

The pension schemes of each Obligor are funded to the extent required by law or otherwise comply with the requirements of any material law applicable in the jurisdiction in which the relevant pension scheme is maintained.

17.28 Dormant subsidiaries

Each of Drayson Mexico and Drayson Services Mexico is a Dormant Subsidiary.

17.29 Margin Regulations; Investment Company Act.

- (a) Neither the Issuer nor any other Obligor is engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying Margin Stock, or extending credit for the purpose of purchasing or

carrying Margin Stock, and no proceeds of any Notes will be used for any purpose that violates Regulation U.

- (b) Neither the Issuer nor any other Obligor is, or after giving effect to the transactions contemplated by this Agreement will be, required to register as, an “**investment company**” under the U.S. Investment Company Act of 1940, as amended (the “**1940 Act**”).

17.30 **Private Offering; No Integration or General Solicitation**

- (a) Subject to compliance by the Original Purchasers or the Additional Note Purchasers (as applicable) with the representations and warranties set forth in Clause 38 (*Representations and Undertakings of the Purchasers*), it is not necessary in connection with the offer and sale of the Notes to the Original Purchasers or the Additional Note Purchasers (as applicable) in the manner contemplated by this Agreement, to register the Notes or the guarantees under the U.S. Securities Act or to qualify an indenture relating to the Notes or guarantees thereof under the U.S. Trust Indenture Act of 1939, as amended.
- (b) None of the Original Obligors, Obligors as at the Establishment Date of the Additional Notes (the “**Additional Notes Obligors**”) (as applicable) or their Affiliates or any person acting on any of their behalf directly or indirectly, has offered, sold or solicited any offer to buy and will not, directly or indirectly, offer, sell or solicit any offer to buy, any security of a type or in a manner which would be integrated with the sale of the Notes or the guarantees thereof and require the Notes or the guarantees thereof to be registered under the U.S. Securities Act. None of the Original Obligors or Additional Notes Obligors (as applicable) or their Affiliates or any person acting on any of their behalf has engaged or will engage in any form of general solicitation or general advertising (within the meaning of Rule 502(c) under the U.S. Securities Act) in connection with the offering of the Notes. With respect to the Notes:
 - (i) none of the Original Obligors or Additional Notes Obligors (as applicable) or their Affiliates or any person acting on any of their behalf has engaged or will engage in any directed selling efforts within the meaning of Regulation S; and
 - (ii) each of the Original Obligors or Additional Notes Obligors (as applicable) and their Affiliates and any person acting on any of their behalf has complied and will comply with the offering restrictions set forth in Regulation S.
- (c) No member of the Group has paid, or is obligated to pay, to any person any brokerage or finder’s fees in connection with the offering and sale of the Notes.

17.31 Times when representations made

- (a) All the representations and warranties in this Clause 17 are made by each Original Obligor on the date of this Agreement.
- (b) All the representations and warranties in this Clause 17 are deemed to be made by each Obligor on each Purchase Date.
- (c) The Repeating Representations are deemed to be made by each Obligor on the last day of each Month.
- (d) All the representations and warranties in this Clause 17, except Clause 17.25 (*Group Structure Chart*), are deemed to be made by each Additional Obligor on the day on which it becomes (or it is proposed that it becomes) an Additional Obligor.
- (e) Each representation or warranty deemed to be made after the date of this Agreement shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

18. INFORMATION UNDERTAKINGS

The undertakings in this Clause 18 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

18.1 Information undertakings

- (a) The Issuer shall supply to the Purchasers' Representative, commencing with the Financial Year beginning 1 May 2022, not more than 60 days after the beginning of each of its Financial Years, its annual budget for such Financial Year.
- (b) The Issuer shall ensure that each Budget delivered to the Purchasers' Representative pursuant to this Agreement shall:
 - (i) be in the format discussed with the Purchasers' Representative and shall include a projected consolidated profit and loss statement, balance sheet and cashflow statements for the Group (including forecasted capital and research and development expenditures ("**Capital and R&D Expenditure**")), projected disposals and projected capital expenditure for the Group;
 - (ii) have been approved by the CEO or CFO of the Group; and

- (iii) be prepared using the Accounting Principles, accounting practices and financial reference periods consistent with those applied in its financial statements and the initial Budget delivered pursuant to this Agreement.
- (c) The Issuer shall supply to the Purchasers' Representative, commencing with the first full week from the initial Purchase Date, weekly updates on cash levels within the Group not more than one (1) Business Day after the beginning of each week.
- (d) The Issuer shall not (and shall procure that none of its Subsidiaries will) at any time provide to any Finance Party or the Purchasers' Representative any "inside information" other than (i) at the same time as such information is publically announced, (ii) where the relevant Finance Party consents in writing to such provision of "inside information" prior to being provided with it, or (iii) where such information is being provided to the Purchasers' Representative, where such "inside information" is identified to the Purchasers' Representative. This clause shall not apply to inside information provided by the Issuer to Peel Hunt LLP in its capacity as the Issuer's nominated adviser pursuant to the AIM Rules.
- (e) The Issuer undertakes to promptly issue an appropriate public announcement to cleanse all Purchasers of "inside information" upon:
 - (i) the publication of an announcement under Rule 2.7 of the Takeover Code in respect of an offer (within the meaning of the Takeover Code) for the Issuer;
 - (ii) the date on which the current offer period (within the meaning of the Takeover Code) in respect of the Issuer ends (including as a result of an announcement of the termination of the current formal sale process);
 - (iii) the Termination Date or the date on which the Original Notes are repaid, redeemed or repurchased in full;
 - (iv) election by all the Original Purchasers not to subscribe for any Additional Notes;
 - (v) each issuance of any Additional Notes; and
 - (vi) the occurrence of an Event of Default (and the expiry of any applicable grace or waiver period).

18.2 Notification of default

Each Obligor shall notify the Purchasers' Representative of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).

18.3 “Know your customer” checks

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

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

- (b) Each Purchaser shall promptly upon the request of the Purchasers’ Representative supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Purchasers’ Representative (for itself) in order for the Purchasers’ Representative to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.
- (c) The Issuer shall, by not less than ten (10) Business Days’ prior written notice to the Purchasers’ Representative, notify the Purchasers’ Representative (which shall promptly notify the Purchasers) of its intention to request that one of its Subsidiaries becomes an Additional Obligor pursuant to Clause 22 (*Changes to the Guarantors*).
- (d) Following the giving of any notice pursuant to Clause 18.3(c), if the accession of such Additional Obligor obliges the Purchasers’ Representative or any Purchaser to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already

available to it, the Issuer shall promptly upon the request of the Purchasers' Representative or any Purchaser supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Purchasers' Representative or any Purchaser in order for the Purchasers' Representative or such Purchaser to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the accession of such Subsidiary to this Agreement as an Additional Obligor.

18.4 **Board Observer**

- (a) Each of (i) Sand Grove Capital Management LLP and (ii) the Additional Note Purchasers as a whole shall be entitled to appoint one observer (which observer shall be reasonably acceptable to the Issuer) (each a "**Board Observer**") to attend board meetings of the board of directors of the Issuer (the "**Board Meetings**").
- (b) Each Board Observer shall be given notice of and the agenda for each Issuer board meeting, and all papers and other materials circulated in connection therewith (the "**Board Materials**"), on the same date and in the same manner as the board of directors of the Issuer.
- (c) Each Board Observer may speak at board meetings of the Issuer but shall not in any circumstance be entitled to vote on any matter or count in the quorum of any such board meeting.

19. **GENERAL UNDERTAKINGS**

The undertakings in this Clause 19 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force. For the purpose of this Clause 19 (other than Clauses 19.5 (*Anti-corruption law and sanctions*), Clauses 19.7 (*Merger*) to 19.22 (*Share capital*) (inclusive), Clause 19.25 (*Dormant subsidiaries*), Clause 19.27 (*Amendments*), Clause 19.28 (*Financial assistance*), Clause 19.29 (*Group Bank Accounts*), and Clause 19.30 (*Treasury Transactions*)), any Dormant Subsidiary shall be deemed not to be a member of the Group or a Subsidiary of the Issuer or any other member of the Group.

Authorisations and compliance with laws

19.1 **Authorisations**

The Issuer and each other Obligor shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect its legal existence (including its good standing, to the extent applicable to an Obligor) under the laws of the jurisdiction of its organization; and

- (b) supply copies to the Purchasers' Representative of any Authorisation required under any law or regulation of a Relevant Jurisdiction to:
 - (i) enable it to perform its obligations under the Finance Documents;
 - (ii) ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document; and
 - (iii) carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.

19.2 Compliance with laws

- (a) Each Obligor shall comply in all respects with all laws (including the 1940 Act or any rule, regulation or order of the SEC under the 1940 Act, the Employee Retirement Income Security Act of 1974 as amended and the USA PATRIOT Act, to the extent such laws are applicable to an Obligor), to which it may be subject, and all orders, writs, injunctions and decrees of any governmental authority applicable to it or to its business or property, if failure so to comply has or is reasonably likely to have a Material Adverse Effect.
- (b) No Obligor shall take any action which would require it to be registered as an "investment company" under the 1940 Act.

19.3 Environmental compliance

Each Obligor shall:

- (a) comply with all Environmental Laws;
- (b) obtain, maintain and ensure compliance with all requisite Environmental Permits;
- (c) implement procedures to monitor compliance with and to prevent liability under any Environmental Law,

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

19.4 Environmental claims

Each Obligor shall (through the Issuer), promptly upon becoming aware of the same, inform the Purchasers' Representative in writing of:

- (a) any Environmental Claim against any Obligor which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any Obligor,

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

19.5 Anti-corruption law and sanctions

- (a) The Issuer has instituted and shall maintain policies and procedures designed to ensure compliance by the Issuer and each of its Subsidiaries and with Anti-Corruption Laws.
- (b) No Obligor shall:
 - (i) request a Purchase or, directly or indirectly, use the proceeds of any sale and purchase of the Notes and the proceeds of the transaction, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person in furtherance of an offer, payment, promise to pay or authorisation of the payment or giving of money, or anything else of value, in violation of any Anti-Corruption Laws for the purpose of funding, financing or facilitating any activities, business or transaction of or with, any Sanctioned Person or in any Sanctioned Country in breach of Sanctions; or
 - (ii) otherwise act in contravention of Sanctions.
- (c) Any provision of this Clause 19.5 or Clause 17.18 (*Anti-corruption law and sanctions*) shall not apply to, or be represented or undertaken by, any person if and to the extent that it is or would be unenforceable by or against that person by reason of breach of any applicable Blocking Law.
- (d) For the purposes of this Agreement, “**Blocking Law**” means:
 - (i) any provision of Council Regulation (EC) No 2271/1996 of 22 November 1996 (or any law or regulation implementing such Regulation in any member state of the European Union or the United Kingdom);
 - (ii) section 7 of the German Foreign Trade Regulation (*Außenwirtschaftsverordnung*); or
 - (iii) any similar blocking or anti-boycott law in the United Kingdom.

19.6 Taxation

- (a) Each Obligor shall pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:
 - (i) such payment is being contested in good faith;

- (ii) adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements made available to the public; and
 - (iii) such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.
- (b) No member of the Group may change its residence for Tax purposes.

Restrictions on business focus

19.7 Merger

Except with the prior written consent of the Purchasers' Representative (acting on the instructions of the Majority Purchasers) or at the direction of the Purchasers' Representative (acting on the instructions of the Majority Purchasers), no Obligor shall enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction. For the avoidance of doubt, this shall not preclude any transaction in respect of or in connection with a general offer or scheme of arrangement pursuant to the Takeover Code and resulting in a Change of Control of the Group.

19.8 Change of business

The Issuer shall procure that no substantial change is made to the general nature of the business of the Issuer or the Obligors from that carried on by the Group at the date of this Agreement.

19.9 Acquisitions

- (a) Except as permitted under Clause 19.9(b), no Obligor shall:
- (i) acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them); or
 - (ii) incorporate a company.
- (b) Clause 19.9(a) does not apply to an acquisition of a company, of shares, securities or a business or undertaking (or, in each case, any interest in any of them) or the incorporation of a company which is:
- (i) a Permitted Acquisition; or
 - (ii) a Permitted Transaction.

19.10 Joint Ventures

No Obligor shall:

- (a) enter into, invest in or acquire (or agree to acquire) any shares, stocks, securities or other interest in any Joint Venture; or
- (b) transfer any assets or lend to or guarantee or give an indemnity for or give Security for the obligations of a Joint Venture or maintain the solvency of or provide working capital to any Joint Venture (or agree to do any of the foregoing).

19.11 **Budget and Operations**

Each Obligor shall not incur Capital and R&D Expenditure that is materially in excess of the forecasted Capital and R&D Expenditure for such Financial Year set out in the relevant Budget.

19.12 **Bonus and compensation**

The Issuer shall not pay any bonus awards to any of its directors or any of the directors of any member of the Group, except with the prior written consent of the Purchasers' Representative (acting on the instructions of the Majority Purchasers).

Restrictions on dealing with assets and Security

19.13 **Preservation of assets**

Each Obligor shall maintain in good working order and condition (ordinary wear and tear excepted) all of its assets necessary or desirable in the conduct of its business.

19.14 **Pari passu ranking**

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

19.15 **Negative pledge**

In this Clause 19.15, “**Quasi-Security**” means an arrangement or transaction described in Clause 19.15(b).

Except as permitted under Clause 19.15(c):

- (a) No Obligor shall create or permit to subsist any Security over any of its assets.
- (b) No Obligor shall:
 - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group;

- (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
 - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
 - (iv) enter into any other preferential arrangement having a similar effect, in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.
- (c) Clause 19.15(a) and (b) do not apply to any Security or (as the case may be) Quasi-Security, which is:
- (i) Permitted Security; or
 - (ii) a Permitted Transaction.

19.16 Disposals

- (a) Except as permitted under Clause 19.16(b), no Obligor shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.
- (b) Clause 19.16(a) does not apply to any sale, lease, transfer or other disposal which is:
 - (i) a Permitted Disposal; or
 - (ii) a Permitted Transaction.

19.17 Arm's length basis

- (a) Except as permitted by Clause 19.17(b), no Obligor shall enter into any transaction with any person except on arm's length terms and for full market value.
- (b) The following transactions shall not be a breach of this Clause 19.17:
 - (i) intra-Group loans permitted under Clause 19.18 (*Loans or credit*);
 - (ii) fees, costs and expenses payable under the Finance Documents in the amounts set out in the Finance Documents delivered to the Purchasers' Representative under Clause 4.1 (*Initial conditions precedent*) or agreed by the Purchaser; and
 - (iii) any Permitted Transaction or Permitted Distribution.

Restrictions on movement of cash - cash out

19.18 Loans or credit

- (a) Except as permitted under Clause 19.18(b), no Obligor shall be a creditor in respect of any Financial Indebtedness.
- (b) Clause 19.18(a) does not apply to:
 - (i) a Permitted Loan; or
 - (ii) a Permitted Transaction.

19.19 No guarantees or indemnities

- (a) Except as permitted under Clause 19.19(b), no Obligor shall incur or allow to remain outstanding any guarantee in respect of any obligation of any person.
- (b) Clause 19.19(a) does not apply to a guarantee which is:
 - (i) a Permitted Guarantee; or
 - (ii) a Permitted Transaction.

19.20 Payments, Dividends and share redemption

- (a) Except as permitted under Clause 19.20(b), the Issuer shall not:
 - (i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);
 - (ii) repay or distribute any dividend or share premium reserve; or
 - (iii) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.
- (b) Clause 19.20(a) does not apply to:
 - (i) a Permitted Distribution;
 - (ii) a Permitted Payment; or
 - (iii) a Permitted Transaction.

Restrictions on movement of cash - cash in

19.21 Financial Indebtedness

- (a) Except as permitted under Clause 19.21(b), no Obligor shall incur or allow to remain outstanding any Financial Indebtedness.
- (b) Clause 19.21(a) does not apply to Financial Indebtedness which is:
 - (i) Permitted Financial Indebtedness; or
 - (ii) a Permitted Transaction.

19.22 Share capital

No Obligor shall issue any shares, except pursuant to, or grant rights to subscribe for or to convert any security into shares:

- (a) a Permitted Share Issue; or
- (b) a Permitted Transaction.

Miscellaneous

19.23 Insurance

- (a) Each Obligor shall maintain insurances on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.
- (b) All insurances must be with reputable independent insurance companies or underwriters.

19.24 Pensions

Each Obligor will ensure that all pension schemes for the time being operated by members of the Group are fully funded to the extent required by law.

19.25 Dormant subsidiaries

The Issuer shall procure that each of Drayson Mexico and Drayson Services Mexico shall remain a Dormant Subsidiary.

19.26 Intellectual Property

- (a) Each Obligor shall:
 - (i) preserve and maintain the subsistence and validity of the Intellectual Property necessary for the business of the relevant Obligor;

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

19.27 Amendments

- (a) No Obligor shall amend, vary, novate, supplement, supersede, waive or terminate any term of a Finance Document or any other document delivered to the Purchasers' Representative pursuant to Clause 4.1 (*Initial conditions precedent*) or Clause 22 (*Changes to the Guarantors*) except:
 - (i) in accordance with Clause 34 (*Amendments and waivers*); or
 - (ii) (other than with respect of any Finance Document) with the prior written consent of the Purchasers' Representative (acting on the instructions of the Majority Purchasers); and
- (b) The Issuer shall promptly supply to the Purchasers' Representative a copy of any document relating to any of the matters referred to in paragraph (a) above.

19.28 Financial assistance

Each Obligor shall comply in all respects with sections 678 and 679 of the Companies Act 2006 and any equivalent legislation in other jurisdictions including in relation to the execution of the Transaction Security Documents and payment of amounts due under this Agreement.

19.29 Group bank accounts

The Issuer shall ensure that on and from the Purchase Date all bank accounts of the Group are subject to valid Security under the Transaction Security Documents.

19.30 Treasury Transactions

No Obligor shall enter into any Treasury Transaction, other than:

- (a) spot and forward delivery foreign exchange contracts entered into in the ordinary course of business and not for speculative purposes; and

- (b) any Treasury Transaction entered into for the hedging of actual or projected real exposures arising in the ordinary course of its trading activities for a period of not more than twelve (12) months and not for speculative purposes.

19.31 Guarantors

- (a) The Issuer shall procure that each member of the Group that is not a Dormant Subsidiary as at the date of this Agreement shall be a Guarantor.
- (b) The Issuer shall procure that any other person, which becomes a member of the Group after the date of this Agreement becomes an Additional Guarantor in accordance with Clause 22.2 (*Additional Guarantors*) and grants such Security as the Purchaser may require, in each case within three (3) Business Days of becoming a member of the Group.

19.32 Further assurance

- (a) Each Obligor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
 - (i) to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security and the filing of Uniform Commercial Code and other financing statements) or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law;
 - (ii) to confer on the Security Agent or on the Finance Parties Security over any property and assets of that Obligor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents, provided that any registration in respect of Security over Intellectual Property, Real Property and shares shall only be required (if at all) in the United Kingdom and/or the United States of America (as the case may be); and/or
 - (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.
- (b) Each Obligor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to

be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents.

19.33 Condition Subsequent

- (a) On the Purchase Date for the Original Notes (or, if later, immediately after the Issuer receives the subscription proceeds in respect of the Original Notes from the Original Purchasers), the Issuer shall issue the Original Notes to the Original Purchasers.
- (b) On each Purchase Date for the Additional Notes (or, if later, immediately after the Issuer receives the subscription proceeds in respect of the relevant Additional Notes from the Additional Note Purchasers), the Issuer shall issue the relevant Additional Notes to the Additional Note Purchasers.
- (c) The Issuer undertakes to hold a general meeting by 18 February 2022 in order for shareholders to approve the necessary resolutions for the issuance of the Excess Warrants and, subject to the necessary resolutions being approved at such general meeting, within three (3) Business Days of that general meeting, to issue the Post Closing Warrants on the same terms as the Closing Warrants to the Original Purchasers.
- (d) The Issuer undertakes to hold a general meeting by 20 May 2022 (or such date which is one (1) month after the Establishment Date of the Additional A Notes) in order to obtain the Shareholder Conversion Approvals and the Shareholder Delisting Approval and, if the Shareholder Conversion Approvals and the Shareholder Delisting Approval are not obtained at such general meeting, to hold a further general meeting by 17 June 2022 (or such date which is two (2) Business Days prior to the date on which the Asset Purchase Option becomes exercisable) to obtain the Shareholder Conversion Approvals and the Shareholder Delisting Approval.
- (e) If a notice is delivered by the Relevant Purchasers, acting together, to the Issuer in accordance with Clause 7.5(b) (*Asset Purchase Option*), the Issuer undertakes to:
 - (i) hold a general meeting, within 28 days of the date of such notice, to obtain the Shareholder APO Approval and all other shareholder approvals as may be necessary to enable the exercise of the Asset Purchase Option;
 - (ii) obtain all board approvals as may be necessary to enable the exercise of the Asset Purchase Option; and
 - (iii) seek any necessary Takeover Panel and other applicable regulatory approvals,

in each case as may be necessary to enable the exercise of the Asset Purchase Option; and

- (iv) in advance of completion of the Asset Purchase Option but following its exercise, transfer to Sensyne Holdings UK (or procure the transfer to Sensyne Holdings UK of) all material assets (including all Strategic Research Agreements and data collaboration agreements) of the Group that are not at such time already owned by Sensyne Holdings UK.
- (f) The Issuer agrees to limit the legal, advisory and other related out-of-pocket expenses it (or any member of its Group) incurs, including any fees payable to Peel Hunt LLP (but excluding the expenses of the Purchasers under Clause 13.2(c) (*Other indemnities*)), in connection with the negotiation of the Finance Documents after 26 January 2022, the purchase of the Additional Notes and the Additional A Note Warrants and the matters related thereto (including any related shareholder meetings but excluding any fees that may be incurred in connection with the Asset Purchase Option in the event this is exercised), regardless of whether or not the transaction is closed, to an agreed cap (excluding VAT).

20. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 20 is, following the expiry of any applicable grace period as set out below, an Event of Default (save for Clause 20.19 (*Acceleration*)). For the purpose of this Clause 20, any Dormant Subsidiary shall be deemed not to be a member of the Group or a Subsidiary of the Issuer or any other Obligor.

20.1 Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless such failure to pay is caused by (i) an administrative or technical error or (ii) a Disruption Event and is not remedied within two (2) Business Days of the due date.

20.2 Certain obligations

- (a) An Obligor does not comply with any provision of:
 - (i) Clause 18 (*Information undertakings*); or
 - (ii) Clause 19.33 (*Condition Subsequent*).

20.3 Other obligations

- (a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 20.1 (*Non-payment*) and Clause 20.2 (*Certain obligations*)) or the Warrant Instrument.

- (b) No Event of Default under Clause 20.3(a) will occur if the failure to comply is capable of remedy and is remedied within twenty (20) Business Days of the earlier of (i) the Purchasers' Representative giving notice to the Issuer or the relevant Obligor and (ii) the Issuer or an Obligor becoming aware of the failure to comply.

20.4 **Misrepresentation**

- (a) Any representation or statement made or deemed to be made by an Obligor in the Finance Documents, the Warrant Instrument or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading when made or deemed to be made.
- (b) No Event of Default under Clause 20.4(a) will occur if the event or circumstances causing the representation or statement to be incorrect or misleading is capable of remedy and is remedied within fifteen (15) Business Days of such representation or statement being made.

20.5 **Cross default**

- (a) Any Financial Indebtedness of any member of the Group in excess of £250,000 is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of any Obligor in excess of £250,000 is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness of any Obligor in excess of £250,000 is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
- (d) Any creditor of any Obligor becomes entitled to declare any Financial Indebtedness of any Obligor in excess of £250,000 due and payable prior to its specified maturity as a result of an event of default (however described).

20.6 **Insolvency**

- (a) A member of the Group:
 - (i) is unable or admits inability to pay its debts as they fall due;
 - (ii) suspends or threatens to suspend making payments on any of its debts;
or
 - (iii) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Finance

Party in its capacity as such) with a view to rescheduling any of its indebtedness.

- (b) A moratorium is declared in respect of any indebtedness of any Obligor.

20.7 **Insolvency proceedings**

- (a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:
 - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, examinership, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Obligor;
 - (ii) a composition, compromise, assignment or arrangement with any creditor of any Obligor;
 - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, examinership, compulsory manager or other similar officer in respect of any Obligor or any of its assets; or
 - (iv) enforcement of any Security over any assets of any Obligor,or any analogous procedure or step is taken in any jurisdiction.
- (b) Clause 20.7(a) shall not apply to:
 - (i) any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within fourteen (14) days of commencement; or
 - (ii) any step or procedure contemplated by paragraph (b) of the definition of “Permitted Transaction”.

20.8 **Creditors’ process**

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of an Obligor and is not discharged within twenty (20) Business Days.

20.9 **Unlawfulness and invalidity**

- (a) It is or becomes unlawful for an Obligor to perform any of its obligations under the Finance Documents, the Warrant Instrument or any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective.

- (b) Any obligation or obligations of any Obligor under any Finance Documents or the Warrant Instrument are not (subject to the Legal Reservations) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Purchasers under the Finance Documents or the Warrant Instrument.
- (c) Any Finance Document or Warrant Instrument ceases to be in full force and effect or any Transaction Security ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective or such Transaction Security Document ceases to create any lien purported to be created by any such Transaction Security Document.

20.10 Cessation of business

Any Obligor suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business except as a result of a Permitted Disposal or a Permitted Transaction.

20.11 Change of ownership

After the Purchase Date, an Obligor (other than the Issuer) ceases to be a wholly-owned Subsidiary of the Issuer.

20.12 Audit qualification

The Auditors qualify the audited annual consolidated financial statements of the Issuer in respect of the Group continuing as a going concern or by reason of failure to disclose information.

20.13 Expropriation

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

20.14 Repudiation and rescission of agreements

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

20.15 Litigation

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

transactions contemplated in the Finance Documents or against any Obligor or its assets which have, or has, or are, or is, reasonably likely to have a Material Adverse Effect.

20.16 Pensions

The Pensions Regulator (as under Part I of the Pensions Act 2004) issues a financial support direction (under section 43 of the Pensions Act 2004) or a contribution notice (section 38 or section 47 of the Pensions Act 2004) to any Obligor incorporated in England requiring payment under a schedule of contributions to any other Obligor incorporated in England.

20.17 Material adverse change

Any event or circumstance occurs which the Purchasers' Representative (acting on the instructions of the Majority Purchasers) reasonably believes has or is reasonably likely to have a Material Adverse Effect.

20.18 Warrants

The Issuer's shareholders do not approve the necessary resolutions for the issuance of the Excess Warrants by 25 February 2022.

20.19 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Purchasers' Representative may, and shall if so directed by the Majority Purchasers:

- (a) by notice to the Issuer:
 - (i) terminate the availability of the sale and purchase of the Notes and cancel the Total Commitments in relation to the purchase of the Notes whereupon the Notes shall cease to be available for purchase, the unutilised portion of the Commitments of the Purchasers shall be cancelled and no Purchaser shall be under any further obligation to purchase or redeem the Notes under this Agreement; and/or
 - (ii) declare that all or part of the Notes together with the applicable Redemption Premium and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable and repurchased or redeemed at which time they shall become immediately due and payable and due for repurchase and/or redemption; and/or
 - (iii) declare that all or part of the Notes be repurchased and/or redeemed on demand, at which time they shall immediately be repurchased and/or redeemed with the Redemption Premium on demand being made by the Purchasers' Representative on the instructions of the Purchasers; and/or

- (b) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

21. CHANGES TO THE PURCHASERS

21.1 Successors

The Finance Documents shall be binding upon and enure to the benefit of each party hereto and its or any subsequent successors, transferees, assigns.

21.2 Issuer consent

A Purchaser must obtain the prior written consent of the Issuer before it may assign any of its rights or transfer by novation any of its rights and obligations under any Finance Document (including, for the avoidance of doubt, the Notes), unless (i) the assignment or transfer is to another Purchaser or a Purchaser Affiliate and (other than any Original Purchaser) the aggregate Commitments of such Purchaser and its Purchaser Affiliates is at least the lower of (A) £500,000 and (B) the amount of Notes held by that Purchaser immediately prior to and following such assignment or transfer; or (ii) in the case of MNL (Hambro Perks) Nominees Limited, the transfer is a direct or indirect transfer of beneficial interests to other investors managed or advised by Hambro Perks Asset Management Limited. If an Event of Default occurs and is continuing, a Purchaser may assign any of its rights or transfer by novation any of its rights and obligations under any Finance Document (including, for the avoidance of doubt, the Notes) without the prior written consent of the Issuer.

21.3 Other conditions of assignment or transfer

- (a) An assignment will only be effective on:
 - (i) receipt by the Purchasers' Representative (whether in the Assignment Agreement or otherwise) of written confirmation from the new Purchaser (in form and substance satisfactory to the Purchasers' Representative) that the new Purchaser will assume the same obligations to the other Secured Parties as it would have been under if it had been an Original Purchaser; and
 - (ii) performance by the Purchasers' Representative of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to such assignment to a new Purchaser, the completion of which the Purchasers' Representative shall promptly notify to the new Purchaser.
- (b) Each new Purchaser, by executing the relevant Transfer Document, confirms, for the avoidance of doubt, that the Purchasers' Representative has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the relevant Purchaser or Purchasers in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes

effective in accordance with this Agreement and that it is bound by that decision to the same extent as the existing Purchaser would have been had it remained a Purchaser.

- (c) If a Purchaser transfers or assigns only part of its Notes, the transfer or assignment of such Notes shall be in a minimum amount of £100,000 (or, if the par value of such Purchaser's Notes is less than £100,000, the minimum amount shall be the entirety of its Notes).

21.4 **Limitation of responsibility of Existing Purchasers**

- (a) Unless expressly agreed to the contrary, an existing Purchaser makes no representation or warranty and assumes no responsibility to a new Purchaser for:
 - (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents, the Transaction Security or any other documents;
 - (ii) the financial condition of any Obligor;
 - (iii) the performance and observance by any Obligor or any other member of the Group of its obligations under the Finance Documents or any other documents; or
 - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,and any representations or warranties implied by law are excluded.
- (b) Each new Purchaser confirms to the existing Purchaser and the Secured Parties that it:
 - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the existing Purchaser or any other Purchaser in connection with any Finance Document or the Transaction Security; and
 - (ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
- (c) Nothing in any Finance Document obliges an existing Purchaser to:
 - (i) accept a re-transfer or re-assignment from a new Purchaser of any of the rights and obligations assigned or transferred under this Clause 21; or

- (ii) support any losses directly or indirectly incurred by the new Purchaser by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

21.5 Procedure for transfer

- (a) Subject to the conditions set out in 21.2 (*Issuer Consent*) and Clause 21.3 (*Other conditions of assignment or transfer*), a transfer is effected in accordance with Clause 20.5(c) when the Purchasers' Representative executes an otherwise duly completed Transfer Certificate delivered to it by the existing Purchaser and the new Purchaser. The Purchasers' Representative shall, subject to Clause 21.5(b), as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.
- (b) The Purchasers' Representative shall only be obliged to execute a Transfer Certificate delivered to it by the existing Purchaser and the new Purchaser once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to such new Purchaser.
- (c) On the Transfer Date:
 - (i) to the extent that in the Transfer Certificate the existing Purchaser seeks to transfer by novation its rights and obligations under the Finance Documents and in respect of the Transaction Security, each of the Obligors and the Existing Purchaser shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (being the "**Discharged Rights and Obligations**");
 - (ii) each of the Obligors and the new Purchaser shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor or other member of the Group and the new Purchaser have assumed and/or acquired the same in place of that Obligor and the existing Purchaser;
 - (iii) the Purchasers' Representative, the Security Agent, the new Purchaser and the other Purchasers shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the new Purchaser been an Original Purchaser with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Purchasers' Representative, the Security Agent and the existing

Purchaser shall each be released from further obligations to each other under the Finance Documents; and

- (iv) the new Purchaser shall become a Party as a “Purchaser”.

21.6 Procedure for assignment

- (a) Subject to the conditions set out in Clause 21.2 (*Issuer Consent*) and Clause 21.3 (*Other conditions of assignment or transfer*) an assignment may be effected when the Purchasers’ Representative executes an otherwise duly completed Assignment Agreement delivered to it by the existing Purchaser and the new Purchaser. The Purchasers’ Representative shall, subject to Clause 21.6(b), as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.
- (b) The Purchasers’ Representative shall only be obliged to execute an Assignment Agreement delivered to it by the existing Purchaser and the new Purchaser once it is satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assignment to such new Purchaser.
- (c) On the Transfer Date:
 - (i) the existing Purchaser will assign absolutely to the new Purchaser its rights under the Finance Documents and in respect of the Transaction Security expressed to be the subject of the assignment in the Assignment Agreement;
 - (ii) the existing Purchaser will be released from the obligations (the “**Relevant Obligations**”) expressed to be the subject of the release in the Assignment Agreement (and any corresponding obligations by which it is bound in respect of the Transaction Security); and
 - (iii) the new Purchaser shall become a Party as a “Purchaser” and will be bound by obligations equivalent to the Relevant Obligations.

21.7 The Register

- (a) The Purchasers’ Representative, acting for this purpose as the agent of the Obligors, shall maintain at its address referred to in Clause 30.2 (*Addresses*):
 - (i) each Transfer Certificate referred to in Clause 21.5 (*Procedure for transfer*) and each Assignment Agreement referred to in Clause 21.6 (*Procedure for assignment*) delivered to and accepted by it; and

- (ii) with respect to the Notes, a register for the recording of the names and addresses of the Purchasers and the Commitment of, and principal amount owing to, each Purchaser from time to time (the “**Register**”) under the Notes, which may be kept in electronic form.
- (b) The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Obligors, the Purchasers’ Representatives and the Purchasers shall treat each person whose name is recorded in the Register as a Purchaser hereunder for all purposes of this Agreement. Upon surrender for registration of transfer of any such Note with the Purchasers’ Representative, the Purchasers’ Representative shall, subject to the restrictions and conditions set out in this Clause 21 (*Changes to the Purchasers*), promptly register such transfer in the Register and execute and deliver, in the name of the designated transferee or transferees, one or more new Notes of the same type and in a like aggregate principal amount reflecting the unpaid principal amount in accordance with the Register. As an issuer of a Note, the Issuer shall not have any obligations in respect of such Note hereunder or under such Note to any other Person than the registered holder of such Note or such holder’s permitted transferees. The Purchasers’ Representative shall provide the Issuer with a copy of the Register as soon as reasonably practicable following any request and, in any event within two (2) Business Days of request.
- (c) Each party to this Agreement irrevocably authorises the Purchasers’ Representative to make the relevant entry in the Register (and which the Purchasers’ Representative shall do promptly) on its behalf for the purposes of this Clause 21.7 (*The Register*) without any further consent of, or consultation with, such Party.
- (d) The Purchasers’ Representative shall, upon request by an existing Purchaser or a new Purchaser, confirm to that existing Purchaser or new Purchaser whether a transfer or assignment from that existing Purchaser or (as the case may be) to that new Purchaser has been recorded on the Register (including details of the Commitment or participation in the Notes of that existing Purchaser or new Purchaser in the Notes).
- (e) Each Purchaser shall be entitled to receive from the Issuer, without charge, one certificate for the Notes registered in its name. When a Purchaser transfers or redeems part only of its Notes or requests a division of its Notes, the old certificate in relation to such Notes shall be cancelled and a new certificate for such balance or reflecting such division, as applicable, of such Notes shall be issued by the Issuer to such Purchaser without charge promptly and in any event within three (3) Business Days from request by such Purchaser.
- (f) If a Purchaser claims that a Note has been lost, destroyed or wrongfully taken, or if such Note is mutilated and is surrendered to a the Purchasers’ Representative, the Issuer will issue a replacement Note. Any loss, theft, destruction or mutilation of any Note shall be without prejudice to any transfers

of such Notes in accordance with this Agreement and the Register shall definitively establish such Purchaser's holding of the relevant Notes.

21.8 **Copy of Transfer Document**

The Purchasers' Representative shall, as soon as reasonably practicable and in any event within two (2) Business Days after it has executed a Transfer Document, send to the Issuer a copy of that Transfer Document.

22. **CHANGES TO THE GUARANTORS**

22.1 **Assignment and transfers by Obligor**

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

22.2 **Additional Guarantors**

- (a) Subject to compliance with the provisions of Clause 18.3(b) and (c) ("*Know your customer*" checks), the Issuer may (without prejudice to its obligations under paragraph (b) of Clause 19.31 (*Guarantors*)) request that any of its wholly owned Subsidiaries becomes a Guarantor.
- (b) A member of the Group shall become an Additional Guarantor if:
 - (i) the Issuer and the proposed Additional Guarantor deliver to the Purchasers' Representative a duly completed and executed Accession Deed; and
 - (ii) the Purchasers' Representative has received all of the documents and other evidence listed in Part 2 and, if applicable, Part 1 of Schedule 2 (*Conditions Precedent*) in relation to that Additional Guarantor, each in form and substance satisfactory to the Purchasers' Representative (acting on the instructions of the Majority Purchasers).
- (c) The Purchasers' Representative shall notify the Issuer and the Purchasers promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part 2 and, if applicable, Part 1 of Schedule 2 (*Conditions Precedent*).
- (d) Other than to the extent that the Majority Purchasers notify the Purchasers' Representative in writing to the contrary before the Purchasers' Representative gives the notification described in paragraph (c) above, the Majority Purchasers authorise (but do not require) the Purchasers' Representative to give that notification. The Purchasers' Representative shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

22.3 Resignation of a Guarantor

- (a) In this Clause 22.3 (Resignation of a Guarantor), “**Third Party Disposal**” means the disposal of a Guarantor to a person which is not a member of the Group where that disposal is made with the approval of the Purchasers’ Representative (acting on the instructions of the Majority Purchasers).
- (b) The Issuer may request that a Guarantor (other than the Issuer) ceases to be a Guarantor by delivering to the Purchasers’ Representative a Resignation Letter if that Guarantor is being disposed of by way of a Third Party Disposal (as defined in this Clause 22.3 (*Resignation of a Guarantor*)).
- (c) The resignation of that Guarantor shall not be effective until the date of the relevant Third Party Disposal at which time that company shall cease to be a Guarantor and shall have no further rights or obligations under the Finance Documents as a Guarantor.

22.4 Repetition of Representations

Delivery of an Accession Deed constitutes confirmation by the relevant Subsidiary that the representations and warranties referred to in Clause 17.31 (*Times when representations made*) are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

23. ROLE OF THE PURCHASERS’ REPRESENTATIVE

23.1 Appointment of the Purchasers’ Representative

- (a) Each of the Purchasers appoints the Purchasers’ Representative to act as its agent under and in connection with the Finance Documents.
- (b) Each of the Purchasers authorises the Purchasers’ Representative to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Purchasers’ Representative under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

23.2 Instructions

- (a) The Purchasers’ Representative shall:
 - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Purchasers’ Representative in accordance with any instructions given to it by:
 - (A) all Purchasers if the relevant Finance Document stipulates the matter is an all Purchaser decision; and

- (B) in all other cases, the Majority Purchasers; and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with Clause 23.2(a)(i).
- (b) The Purchasers' Representative shall be entitled to request instructions, or clarification of any instruction, from the Majority Purchasers (or, if the relevant Finance Document stipulates the matter is a decision for any other Purchaser or group of Purchasers, from that Purchaser or group of Purchasers) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Purchasers' Representative may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) Save in the case of decisions stipulated to be a matter for any other Purchaser or group of Purchasers under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Purchasers' Representative by the Majority Purchasers shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties save for the Security Agent.
- (d) The Purchasers' Representative may refrain from acting in accordance with any instructions of any Purchaser or group of Purchasers until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
- (e) In the absence of instructions, the Purchasers' Representative may act (or refrain from acting) as it considers to be in the best interest of the Purchasers or, in the case of Clause 21.7 (*The Register*) only, the Obligors.
- (f) The Purchasers' Representative is not authorised to act on behalf of a Purchaser (without first obtaining that Purchaser's consent) in any legal or arbitration proceedings relating to any Finance Document. This paragraph (f) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Transaction Security Documents or enforcement of the Transaction Security or Transaction Security Documents.

23.3 Duties of the Purchasers' Representative

- (a) The Purchasers' Representative's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to Clause 23.3(c), the Purchasers' Representative shall promptly forward to a Party the original or a copy of any document which is delivered to the Purchasers' Representative for that Party by any other Party.

- (c) Without prejudice to Clause 21.8 (*Copy of Transfer Document*), Clause 23.3(b) shall not apply to any Transfer Document.
- (d) Except where a Finance Document specifically provides otherwise, the Purchasers' Representative is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Purchasers' Representative receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (f) If the Purchasers' Representative is aware of the non-payment of any principal, Redemption Premium, commitment fee or other fee payable to a Finance Party (other than the Purchasers' Representative or the Security Agent) under this Agreement, it shall promptly notify the other Finance Parties.
- (g) The Purchasers' Representative shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

23.4 **No fiduciary duties**

- (a) Nothing in any Finance Document constitutes the Purchasers' Representative as a trustee or fiduciary of any other person.
- (b) The Purchasers' Representative shall not be bound to account to any Purchaser for any sum or the profit element of any sum received by it for its own account.

23.5 **Business with the Group**

The Purchasers' Representative may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

23.6 **Rights and discretions**

- (a) The Purchasers' Representative may:
 - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
 - (ii) assume that:
 - (A) any instructions received by it from the Majority Purchasers, any Purchasers or any group of Purchasers are duly given in accordance with the terms of the Finance Documents; and
 - (B) unless it has received notice of revocation, that those instructions have not been revoked; and

- (C) rely on a certificate from any person:
 - (I) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (II) to the effect that such person approves of any particular dealing, transaction, step, action or thing,
 - (III) as sufficient evidence that that is the case and, in the case of Clause 23.6(a)(ii)(C)(I), may assume the truth and accuracy of that certificate.
- (b) The Purchasers' Representative may assume (unless it has received notice to the contrary in its capacity as agent for the Purchasers) that:
 - (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 20.1 (*Non-payment*));
 - (ii) any right, power, authority or discretion vested in any Party or any group of Purchasers has not been exercised; and
 - (iii) any notice or request made by the Issuer is made on behalf of and with the consent and knowledge of all the Obligors.
- (c) The Purchasers' Representative may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of Clause 23.6(c) or (e), the Purchasers' Representative may at any time engage and pay for the services of any lawyers to act as independent counsel to the Purchasers' Representative (and so separate from any lawyers instructed by the Purchasers) if the Purchasers' Representative in its reasonable opinion deems this to be desirable.
- (e) The Purchasers' Representative may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Purchasers' Representative or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Purchasers' Representative may act in relation to the Finance Documents through its officers, employees and agents and the Purchasers' Representative shall not:
 - (i) be liable for any error of judgment made by any such person; or

- (ii) be bound to supervise, or be in any way responsible for, any loss incurred by reason of misconduct, omission or default on the part, of any such person,
 - (iii) unless such error or such loss was directly caused by the Purchasers' Representative's gross negligence or wilful misconduct.
- (g) Unless a Finance Document expressly provides otherwise the Purchasers' Representative may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
 - (h) Notwithstanding any other provision of any Finance Document to the contrary, the Purchasers' Representative is not obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
 - (i) Notwithstanding any provision of any Finance Document to the contrary, the Purchasers' Representative is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

23.7 Responsibility for documentation

The Purchasers' Representative is not responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Purchasers' Representative, an Obligor or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security; or
- (c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

23.8 No duty to monitor

The Purchasers' Representative shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.

23.9 Exclusion of liability

- (a) Without limiting Clause 23.9(b) (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Purchasers' Representative), the Purchasers' Representative will not be liable (including, without limitation, for negligence or any other category of liability whatsoever) for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Transaction Security, unless directly caused by its gross negligence or wilful misconduct;
 - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Transaction Security; or
 - (iii) without prejudice to the generality of Clause 23.9(a)(i) and (ii), any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) No Party (other than the Purchasers' Representative) may take any proceedings against any officer, employee or agent of the Purchasers' Representative, in respect of any claim it might have against the Purchasers' Representative or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Purchasers' Representative may rely on this clause subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.
- (c) The Purchasers' Representative will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Purchasers' Representative if the Purchasers' Representative 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 the Purchasers' Representative for that purpose.
- (d) Nothing in this Agreement shall oblige the Purchasers' Representative to carry out:
 - (i) any "know your customer" or other checks in relation to any person; or
 - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Purchaser,

on behalf of any Purchaser and each Purchaser confirms to the Purchasers' Representative that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Purchasers' Representative.

- (e) Without prejudice to any provision of any Finance Document excluding or limiting the Purchasers' Representative's liability, any liability of the Purchasers' Representative arising under or in connection with any Finance Document or the Transaction Security shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Purchasers' Representative or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Purchasers' Representative at any time which increase the amount of that loss. In no event shall the Purchasers' Representative be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Purchasers' Representative has been advised of the possibility of such loss or damages.

23.10 Purchasers' indemnity to the Purchasers' Representative

- (a) Each Purchaser shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Purchasers'

Representative, within three (3) Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Purchasers' Representative (otherwise than by reason of the Purchasers' Representative's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 28.10 (*Disruption to payment systems etc.*), notwithstanding the Purchasers' Representative's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Purchasers' Representative) in acting as Purchasers' Representative under the Finance Documents (unless the Purchasers' Representative has been reimbursed by an Obligor pursuant to a Finance Document).

- (b) Subject to Clause 23.10(c), the Issuer shall promptly on demand reimburse any Purchaser for any payment that Purchaser makes to the Purchasers' Representative pursuant to Clause 23.10(a).
- (c) Clause 23.10(b) shall not apply to the extent that the indemnity payment in respect of which the Purchaser claims reimbursement relates to a liability of the Purchasers' Representative to an Obligor.

23.11 Resignation of the Purchasers' Representative

- (a) The Purchasers' Representative may resign and appoint one of its Affiliates acting through an office in the United Kingdom as successor by giving notice to the Purchasers and the Issuer.
- (b) Alternatively the Purchasers' Representative may resign by giving thirty (30) days' notice to the Purchasers and the Issuer, in which case the Majority Purchasers (after consultation with the Issuer) may appoint a successor Purchasers' Representative.
- (c) If the Majority Purchasers have not appointed a successor Purchasers' Representative in accordance with Clause 23.11(b) within twenty (20) days after notice of resignation was given, the retiring Purchasers' Representative (after consultation with the Issuer) may appoint a successor Purchasers' Representative (acting through an office in the United Kingdom).
- (d) If the Purchasers' Representative wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Purchasers' Representative is entitled to appoint a successor Purchasers' Representative under Clause 23.11(c), the Purchasers' Representative may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Purchasers' Representative to become a party to this Agreement as Purchasers' Representative) agree with the proposed successor Purchasers' Representative amendments to this Clause 23 and any other term of this Agreement dealing with the rights or obligations of the Purchasers' Representative consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments

to the agency fee payable under this Agreement which are consistent with the successor Purchasers' Representative's normal fee rates and those amendments will bind the Parties.

- (e) The retiring Purchasers' Representative shall make available to the successor Purchasers' Representative such documents and records and provide such assistance as the successor Purchasers' Representative may reasonably request for the purposes of performing its functions as Purchasers' Representative under the Finance Documents. The Issuer shall, within three (3) Business Days of demand, reimburse the retiring Purchasers' Representative for the amount of all reasonable costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.
- (f) The Purchasers' Representative's resignation notice shall only take effect upon the appointment of a successor.
- (g) Upon the appointment of a successor, the retiring Purchasers' Representative shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under Clause 23.11(e)) but shall remain entitled to the benefit of Clause 13.3 (*Indemnity to the Purchasers' Representative*) and this Clause 23 (and any agency fees for the account of the retiring Purchasers' Representative shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (h) The Purchasers' Representative shall resign in accordance with Clause 23.11(b) (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Purchasers' Representative pursuant to Clause 23.11(c)) if on or after the date which is three (3) months before the earliest FATCA Application Date relating to any payment to the Purchasers' Representative under the Finance Documents, either:
 - (i) the Purchasers' Representative fails to respond to a request under Clause 10.7 (*FATCA information*) and the Issuer or a Purchaser reasonably believes that the Purchasers' Representative will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
 - (ii) the information supplied by the Purchasers' Representative pursuant to Clause 10.7 (*FATCA information*) indicates that the Purchasers' Representative will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
 - (iii) the Purchasers' Representative notifies the Issuer and the Purchasers that the Purchasers' Representative will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date,

and (in each case) the Issuer or a Purchaser reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Purchasers' Representative were a FATCA Exempt Party, and the Issuer or that Purchaser, by notice to the Purchasers' Representative, requires it to resign.

23.12 Replacement of the Purchasers' Representative

- (a) After consultation with the Issuer, the Majority Purchasers may, by giving thirty (30) days' notice to the Purchasers' Representative replace the Purchasers' Representative by appointing a successor Purchasers' Representative (acting through an office in the United Kingdom).
- (b) The retiring Purchasers' Representative shall (at the expense of the Purchasers) make available to the successor Purchasers' Representative such documents and records and provide such assistance as the successor Purchasers' Representative may reasonably request for the purposes of performing its functions as Purchasers' Representative under the Finance Documents.
- (c) The appointment of the successor Purchasers' Representative shall take effect on the date specified in the notice from the Majority Purchasers to the retiring Purchasers' Representative. As from this date, the retiring Purchasers' Representative shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under Clause 23.12(b)) but shall remain entitled to the benefit of Clause 13.3 (*Indemnity to the Purchasers' Representative*) and this Clause 23 (and any agency fees for the account of the retiring Purchasers' Representative shall cease to accrue from (and shall be payable on) that date).
- (d) Any successor Purchasers' Representative and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

23.13 Confidentiality

- (a) In acting as agent for the Finance Parties, the Purchasers' Representative shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Purchasers' Representative, it may be treated as confidential to that division or department and the Purchasers' Representative shall not be deemed to have notice of it.

23.14 Relationship with the Purchasers

- (a) The Purchasers' Representative may treat the person shown in its records as Purchaser at the opening of business (in the place of the Purchasers' Representative's principal office as notified to the Finance Parties from time to time) as the Purchaser acting through its Purchase Office:

- (i) entitled to or liable for any payment due under any Finance Document on that day; and
 - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,
 - (iii) unless it has received not less than five (5) Business Days' prior notice from that Purchaser to the contrary in accordance with the terms of this Agreement.
- (b) Any Purchaser may by notice to the Purchasers' Representative appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Purchaser under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 30.5 (*Electronic communication*)) electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address (or such other information), department and officer by that Purchaser for the purposes of Clause 30.2 (*Addresses*) and Clause 30.5 (*Electronic communication*) and the Purchasers' Representative shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Purchaser.

23.15 Credit appraisal by the Purchasers

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Purchaser confirms to the Purchasers' Representative that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
- (c) whether that Purchaser has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;

- (d) the adequacy, accuracy or completeness of any information provided by the Purchasers' Representative, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

23.16 Purchasers' Representative's management time

Any amount payable to the Purchasers' Representative under Clause 13.3 (*Indemnity to the Purchasers' Representative*), Clause 15 (*Costs and expenses*) and Clause 23.10 (*Purchasers' indemnity to the Purchasers' Representative*) shall include the cost of utilising the Purchasers' Representative's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Purchasers' Representative may notify to the Purchasers, and is in addition to any fee paid or payable to the Purchasers' Representative under Clause 12 (*Agency Fees*).

23.17 Deduction from amounts payable by the Purchasers' Representative

If any Party owes an amount to the Purchasers' Representative under the Finance Documents the Purchasers' Representative may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Purchasers' Representative would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

24. THE SECURITY AGENT

24.1 Security Agent as trustee

- (a) Each of the Secured Parties appoints the Security Agent to act as its security agent under and in connection with the Finance Documents.
- (b) Unless expressly provided to the contrary in any Finance Document, the Security Agent holds the Charged Property and the proceeds of that Charged Property on trust for the Secured Parties on the terms contained in this Agreement.
- (c) Each of the Secured Parties authorises the Security Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

24.2 Instructions

- (a) The Security Agent shall:
 - (i) subject to Clauses 24.2(c) and 24.2(d) below, exercise or refrain from exercising any right, power, authority or discretion vested in it as Security Agent in accordance with any instructions given to it by the Majority Purchasers (acting in their sole and absolute discretion) unless a Finance Document expressly specifies that the Security Agent shall act “reasonably” or in a “reasonable” manner or come to an opinion or determination that is “reasonable” (or any similar or analogous wording is used) in which case the Majority Purchasers shall act in such manner when giving any relevant instructions and the Parties hereby agree that the Security Agent shall not be required to determine the reasonableness of any instructions so received and any requirement to act “reasonably” or in a “reasonable” manner or to come to an opinion or determination that is “reasonable” (or any similar or analogous requirement) shall instead apply to the Majority Purchasers); and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with Clause 24.2(a)(i) above.
- (b) The Security Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Purchasers as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Security Agent may refrain from acting unless and until it receives those instructions or that clarification.
- (c) Clause 24.2(a) above shall not apply:
 - (i) where a contrary indication appears in this Agreement;
 - (ii) where this Agreement requires the Security Agent to act in a specified manner or to take a specified action;
 - (iii) in respect of any provision which protects the Security Agent’s own position in its personal capacity as opposed to its role of Security Agent for the relevant Secured Parties including, without limitation, Clause 24.5 (*No duty to account*) to Clause 24.10 (*Exclusion of liability*), Clause 24.13 (*Confidentiality*) to Clause 24.19 (*Custodians and nominees*) and Clause 24.22 (*Acceptance of title*) to Clause 24.26 (*Disapplication of Trustee Acts*); and
 - (iv) in respect of the exercise of the Security Agent’s discretion to exercise a right, power or authority under Clause 25 (*Application of Proceeds*).
- (d) In exercising any discretion to exercise a right, power or authority under the Finance Documents where either:

- (i) it has not received any instructions as to the exercise of that discretion;
or
 - (ii) the exercise of that discretion is subject to Clause 24.2(c)(iv) above,
the Security Agent shall do so having regard to the interests of the Purchasers.
- (e) The Security Agent may refrain from acting in accordance with any instructions of the Majority Purchasers until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.
 - (f) Without prejudice to the provisions of the remainder of this Clause 24.2, in the absence of instructions, the Security Agent may act (or refrain from acting) as it considers in its discretion to be appropriate.
 - (g) At any time after receipt by the Security Agent of notice from the Majority Purchasers directing the Security Agent to exercise all or any of its rights, remedies, powers or discretions under any of the Finance Documents, the Security Agent may, and shall if so directed by the Majority Purchasers, take any action as in its sole discretion it thinks fit to enforce the Charged Property.
 - (h) The Secured Parties shall not have any independent power to enforce or have recourse to, any of the Charged Property or to exercise any right, power, authority or discretion arising in respect of the Charged Property except through the Security Agent.

24.3 Duties of the Security Agent

- (a) The Security Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) The Security Agent shall promptly forward to the Purchasers' Representative (who shall forward it to the Purchasers) a copy of any document received by the Security Agent from any Obligor under any Finance Document.
- (c) Except where a Finance Document specifically provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (d) If the Security Agent receives notice from a Party referring to any Finance Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the Purchasers' Representative (who shall notify the Purchasers).

- (e) The Security Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).
- (f) Notwithstanding anything to the contrary in the Finance Documents, the Security Agent shall not be required to do anything that is illegal or contrary to any applicable law or regulation.

24.4 **No fiduciary duties to the Obligors**

Nothing in this Agreement constitutes the Security Agent as a trustee or fiduciary of the Issuer or any Obligor.

24.5 **No duty to account**

The Security Agent shall not be bound to account to any other Secured Party for any sum or the profit element of any sum received by it for its own account.

24.6 **Business with the Group**

The Security Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Group.

24.7 **Rights and discretions**

- (a) The Security Agent may:
 - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
 - (ii) assume that:
 - (A) any instructions received by it from the Majority Purchasers are duly given in accordance with the terms of the Finance Documents;
 - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
 - (C) if it receives any instructions to act in relation to the Charged Property, that all applicable conditions under the Finance Documents for so acting have been satisfied; and
 - (iii) rely on a certificate from any person:
 - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or

(B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of Clause 24.7(a)(ii)(A) above, may assume the truth and accuracy of that certificate.

- (b) The Security Agent shall be entitled to carry out all dealings with the Purchasers through the Purchasers' Representative and may give to the Purchasers' Representative any notice or other communication required to be given by the Security Agent to the Purchasers.
- (c) The Security Agent may assume (unless it has received notice to the contrary in its capacity as Security Agent for the Secured Parties) that:
 - (i) no Default has occurred; and
 - (ii) any right, power, authority or discretion vested in any Party, any Purchasers or any group of Purchasers has not been exercised.
- (d) The Security Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (e) Without prejudice to the generality of Clause 24.7(d) above or Clause 24.7(f) below, the Security Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Security Agent (and so separate from any lawyers instructed by any Finance Party) if the Security Agent in its reasonable opinion deems this to be desirable.
- (f) The Security Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Security Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (g) The Security Agent, any Receiver and any Delegate may act in relation to the Finance Documents and the Charged Property through its officers, employees and agents and shall not:
 - (i) be liable for any error of judgment made by any such person; or
 - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,

unless such error or such loss was directly caused by the Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct.

- (h) Unless this Agreement expressly specifies otherwise, the Security Agent may disclose to any other Party any information it reasonably believes it has received as security agent or security trustee under this Agreement.
- (i) Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of any fiduciary duty or duty of confidentiality.
- (j) Notwithstanding any provision of any Finance Document to the contrary, the Security Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

24.8 Responsibility for documentation

None of the Security Agent, any Receiver nor any Delegate is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Purchasers' Representative, any Obligor or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Charged Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Charged Property; or
- (c) any determination as to whether any information provided or to be provided to any Secured Party is inside information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

24.9 No duty to monitor

The Security Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.

24.10 Exclusion of liability

- (a) Without limiting Clause 24.10(b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Security Agent, any Receiver or Delegate), none of the Security Agent, any Receiver nor any Delegate will be liable for:
- (i) any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Charged Property unless directly caused by its gross negligence or wilful misconduct;
 - (ii) exercising or not exercising any right, power, authority or discretion given to it by or in connection with any Finance Document, the Charged Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Charged Property;
 - (iii) any shortfall which arises on the enforcement, realisation or presentation of the Charged Property; or
 - (iv) without prejudice to the generality of Clauses 24.10(a)(i) to 24.10(a)(ii) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.
- (b) No Party (other than the Security Agent, that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Charged Property and any officer, employee or agent

of the Security Agent, a Receiver or a Delegate may rely on this clause subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.

- (c) Nothing in this Agreement shall oblige the Security Agent to carry out:
 - (i) any “know your customer” or other checks in relation to any person; or
 - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Secured Party (other than the Security Agent),

on behalf of any Secured Party (other than the Security Agent) and each Secured Party (other than the Security Agent) confirms to the Security Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Agent.

- (d) Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Security Agent, any Receiver or Delegate, any liability of the Security Agent, any Receiver or Delegate arising under or in connection with any Finance Document or the Charged Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Agent, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Agent, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Security Agent, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Agent, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

24.11 Purchasers’ indemnity to the Security Agent

- (a) Each Purchaser shall in proportion to its share of the Total Commitments (or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero), indemnify the Security Agent and every Receiver and every Delegate, within three (3) Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Security Agent’s, Receiver’s or Delegate’s gross negligence or wilful misconduct) in acting as Security Agent, Receiver or Delegate under, or exercising any authority conferred under, the Finance Documents (unless the relevant Security Agent, Receiver or Delegate has been reimbursed by the Obligors pursuant to a Finance Document).
- (b) Subject to Clause 24.11(c) below, each Obligor shall immediately on demand reimburse any Purchaser for any payment that Purchaser makes to the Security Agent pursuant to Clause 24.11(a) above.

- (c) Clause 24.11(b) above shall not apply to the extent that the indemnity payment in respect of which the Purchaser claims reimbursement relates to a liability of the Security Agent to any Obligor.

24.12 Resignation of the Security Agent

- (a) The Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the Purchasers.
- (b) Alternatively the Security Agent may resign by giving thirty (30) days' notice to the Purchasers, in which case the Majority Purchasers may appoint a successor Security Agent.
- (c) If the Majority Purchasers have not appointed a successor Security Agent in accordance with Clause 24.12(b) above within twenty (20) days after notice of resignation was given, the retiring Security Agent (after consultation with the Majority Purchasers) may appoint a successor Security Agent.
- (d) The retiring Security Agent shall (at the expense of the Issuer), make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Finance Documents.
- (e) The Security Agent's resignation notice shall only take effect upon:
 - (i) the appointment of a successor; and
 - (ii) the transfer of all the Charged Property to that successor.
- (f) Upon the appointment of a successor, the retiring Security Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under Clause 24.23(b) (*Winding up of trust*) and Clause 24.12(d) above) but shall remain entitled to the benefit of this Clause 24.12 and Clause 13.4 (*Indemnity to the Purchasers' Representative and the Security Agent*) (and any Security Agent fees for the account of the retiring Security Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (g) The Majority Purchasers may, by notice to the Security Agent, require it to resign in accordance with Clause 24.12(b) above. In this event, the Security Agent shall resign in accordance with Clause 24.12(b) above.
- (h) The Security Agent shall resign in accordance with Clause 24.12(b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Security Agent pursuant to Clause 24.12(c) above) if on or after the date which

is three (3) months before the earliest FATCA Application Date relating to any payment to the Security Agent under the Finance Documents, either:

- (i) the Security Agent fails to respond to a request under Clause 10.7 (*FATCA information*) and the Issuer or a Purchaser reasonably believes that the Security Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
- (ii) the information supplied by the Security Agent pursuant to Clause 10.7 (*FATCA information*) indicates that the Security Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
- (iii) the Security Agent notifies the Issuer and the Purchasers that the Security Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date,

and (in each case) the Issuer or a Purchaser reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Security Agent were a FATCA Exempt Party, and the Issuer or that Purchaser, by notice to the Security Agent, requires it to resign.

24.13 Confidentiality

- (a) In acting as trustee for the Secured Parties, the Security Agent shall be regarded as acting through its trustee division which shall be treated as a separate entity from any of its other divisions or departments.
- (b) If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of any fiduciary duty.

24.14 Information from the Purchasers

Each Purchaser shall supply the Security Agent with any information that the Security Agent may reasonably specify as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent.

24.15 Credit appraisal by the Secured Parties

Without affecting the responsibility of the Obligors for information supplied by it or on its behalf in connection with any Finance Document, each Secured Party confirms to

the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Charged Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Charged Property;
- (c) whether that Secured Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Charged Property, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Charged Property;
- (d) the adequacy, accuracy or completeness of any information provided by the Security Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Transaction Security affecting the Charged Property.

24.16 Security Agent's management time and additional remuneration

- (a) Following the occurrence of an Event of Default and for so long as an Event of Default is continuing, any amount payable to the Security Agent under Clause 24.11 (*Purchasers' indemnity to the Security Agent*), Clause 12 (*Agency Fees*) or Clause 13.4 (*Indemnity to the Security Agent*) shall include the cost of utilising the Security Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Security Agent may notify to the Issuer and the Purchasers, and is in addition to any other fee paid or payable to the Security Agent.
- (b) Without prejudice to Clause 24.16(a) above, in the event of:
 - (i) a Default; or
 - (ii) the Security Agent being requested by any Obligor or any Purchaser to undertake duties which the Security Agent and the Issuer agree to be of an exceptional nature or outside the scope of the normal duties of the Security Agent under the Finance Documents; or

- (iii) the Security Agent and the Issuer agreeing that it is otherwise appropriate in the circumstances,

the Issuer shall pay to the Security Agent any additional remuneration (together with any applicable VAT) that may be agreed between them or determined pursuant to Clause 24.16(c) below.

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

24.17 No responsibility to perfect Transaction Security

The Security Agent shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Obligor to any of the Charged Property;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Finance Document or the Transaction Security;
- (c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any law or regulation or to give notice to any person of the execution of any Finance Document or of the Transaction Security;
- (d) take, or to require any Obligor to take, any step to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Transaction Security under any law or regulation; or
- (e) require any further assurance in relation to any Transaction Security Document.

24.18 Insurance by Security Agent

- (a) The Security Agent shall not be obliged:
 - (i) to insure any of the Charged Property;
 - (ii) to require any other person to maintain any insurance; or

- (iii) to verify any obligation to arrange or maintain insurance contained in any Finance Document,

and the Security Agent shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.

- (b) Where the Security Agent is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Purchasers' Representative requests it to do so in writing and the Security Agent fails to do so within fourteen days after receipt of that request.

24.19 Custodians and nominees

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any asset of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

24.20 Delegation by the Security Agent

- (a) Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion vested in it in its capacity as such.
- (b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties.
- (c) No Security Agent, Receiver or Delegate shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

24.21 Additional Security Agents

- (a) The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it:
 - (i) if it considers that appointment to be in the interests of the Secured Parties;

(ii) for the purposes of conforming to any legal requirement, restriction or condition which the Security Agent deems to be relevant; or

(iii) for obtaining or enforcing any judgment in any jurisdiction,

and the Security Agent shall give prior notice to the Issuer and the Secured Parties of that appointment.

(b) Any person so appointed shall have the rights, powers, authorities and discretions (not exceeding those given to the Security Agent under or in connection with the Finance Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.

(c) The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

24.22 Acceptance of title

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any Obligor may have to any of the Charged Property and shall not be liable for, or bound to require any Obligor to remedy, any defect in its right or title.

24.23 Winding up of trust

If the Security Agent, with the approval of the Majority Purchasers, determines that:

(a) all of the Secured Liabilities and all other obligations secured by the Transaction Security Documents have been fully and finally discharged; and

(b) no Secured Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to the Group pursuant to the Finance Documents,

then:

(i) the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security granted in favour of the Security Agent as trustee and/or as security agent for the Secured Parties and the rights of the Security Agent under each of the relevant Transaction Security Documents; and

(ii) any Security Agent which has resigned pursuant to Clause 24.12 (*Resignation of the Security Agent*) shall release, without recourse or warranty, all of its rights under each relevant Transaction Security Document.

24.24 **Releases**

Upon a disposal of any of the Charged Property which is subject to Transaction Security granted in favour of the Security Agent as trustee and/or as security agent for the Secured Parties:

- (a) pursuant to the enforcement of that Transaction Security by a Receiver or the Security Agent; or
- (b) if the Majority Purchasers have consented to such disposal,

the Security Agent shall (at the cost of the Issuer) release that property from that Transaction Security and is authorised to execute, without the need for any further authority from the relevant Secured Parties, any release of that Transaction Security or other claim over that asset and to issue any certificates of non-crystallisation of floating charges that may be required or desirable.

24.25 **Powers supplemental to Trustee Acts**

The rights, powers, authorities and discretions given to the Security Agent under or in connection with the Finance Documents shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by law or regulation or otherwise.

24.26 **Disapplication of Trustee Acts**

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent permitted by law and regulation, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act.

25. **APPLICATION OF PROCEEDS**

25.1 **Order of Application**

All amounts from time to time received or recovered by the Security Agent in connection with the realisation, enforcement or presentation of all or any part of the Transaction Security granted in favour of the Security Agent as trustee and/or as security agent for the Secured Parties shall be held by the Security Agent on trust to apply them at such times as the Security Agent sees fit, to the extent permitted by applicable law, in the following order of priority:

- (a) in discharging any sums owing to the Security Agent (in its capacity as trustee), any Receiver or any Delegate;

- (b) in payment to the Purchasers' Representative, on behalf of the Secured Parties, for application towards the discharge of all sums due and payable by the Obligors under any of the Finance Documents in accordance with Clause 28.5 (*Partial payments*);
- (c) if no Obligor is under any further actual or contingent liability under any Finance Document, in payment to any person to whom the Security Agent is obliged to pay in priority to the Obligors; and
- (d) the balance, if any, in payment to the Obligors, as applicable.

25.2 Investment of Proceeds

Prior to the application of the proceeds of any applicable Transaction Security in accordance with Clause 25.1 (*Order of Application*) the Security Agent may, at its discretion, hold all or part of those proceeds in an interest bearing or non-interest bearing suspense or impersonal account(s) in the name of the Security Agent or Purchasers' Representative with any financial institution (including itself) and for so long as the Security Agent thinks fit (the interest being credited to the relevant account) pending the application from time to time of those monies at the Security Agent's discretion in accordance with the provisions of this Clause 25.

25.3 Currency Conversion

- (a) For the purpose of or pending the discharge of any of the Secured Liabilities the Security Agent may convert any moneys received or recovered by the Security Agent from one currency to another, at the spot rate at which the Security Agent is able to purchase the currency in which the Secured Liabilities are due with the amount received.
- (b) The obligations of the Issuer to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

25.4 Permitted Deductions

The Security Agent shall be entitled (a) to set aside by way of reserve amounts required to meet and (b) to make and pay, any deductions and withholdings (on account of Tax or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement, and to pay all Tax which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Agent under any of the Finance Documents or otherwise (except in connection with its remuneration for performing its duties under this Agreement).

25.5 Discharge of Secured Obligations

- (a) Any payment to be made in respect of the Secured Liabilities by the Security Agent may be made to the Purchasers' Representative on behalf of the Purchasers and that payment shall be a good discharge to the extent of that payment, to the Security Agent.
- (b) The Security Agent is under no obligation to make payment to the Purchasers' Representative in the same currency as that in which any Unpaid Sum is denominated.

25.6 Sums received by the Obligor

If any Obligor receives any sum which, pursuant to any of the Finance Documents, should have been paid to the Security Agent, that sum shall promptly be paid to the Security Agent for application in accordance with this Clause 25.

26. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

27. SHARING AMONG THE FINANCE PARTIES

27.1 Payments to Finance Parties

- (a) If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from an Obligor other than in accordance with Clause 28 (*Payment mechanics*) (a "**Recovered Amount**") and applies that amount to a payment due under the Finance Documents then:
 - (b) the Recovering Finance Party shall, within three (3) Business Days, notify details of the receipt or recovery, to the Purchasers' Representative;
 - (c) the Purchasers' Representative shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Purchasers' Representative and distributed in accordance with Clause 28 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Purchasers' Representative in relation to the receipt, recovery or distribution; and

- (d) the Recovering Finance Party shall, within three (3) Business Days of demand by the Purchasers' Representative, pay to the Purchasers' Representative an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Purchasers' Representative determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 28.5 (*Partial payments*).

27.2 **Redistribution of payments**

The Purchasers' Representative shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with Clause 28.5 (*Partial payments*) towards the obligations of that Obligor to the Sharing Finance Parties.

27.3 **Recovering Finance Party's rights**

On a distribution by the Purchasers' Representative under Clause 27.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from an Obligor, as between the relevant Obligor and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Obligor.

27.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Purchasers' Representative, pay to the Purchasers' Representative for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the "**Redistributed Amount**"); and
- (b) as between the relevant Obligor and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor.

27.5 **Exceptions**

- (a) This Clause 27 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this clause, have a valid and enforceable claim against the relevant Obligor.

- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified the other Finance Party of the legal or arbitration proceedings; and
 - (ii) the other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

28. PAYMENT MECHANICS

28.1 Payments to the Purchasers' Representative

- (a) On each date on which an Obligor or a Purchaser is required to make a payment under a Finance Document, that Obligor or Purchaser shall make the same available to the Purchasers' Representative (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Purchasers' Representative as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to Euro, in a principal financial centre in such Participating Member State or London, as specified by the Purchasers' Representative) and with such bank as the Purchasers' Representative, in each case, specifies.

28.2 Distributions by the Purchasers' Representative

Each payment received by the Purchasers' Representative under the Finance Documents for another Party shall, subject to Clause 28.3 (*Distributions to an Obligor*) and Clause 28.4 (*Clawback and pre-funding*) be made available by the Purchasers' Representative as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Purchaser, for the account of its Purchase Office), to such account as that Party may notify to the Purchasers' Representative by not less than five (5) Business Days' notice with a bank specified by that Party in the principal financial centre of the country of that currency (or, in relation to Euro, in the principal financial centre of a Participating Member State or London, as specified by that Party).

28.3 Distributions to an Obligor

The Purchasers' Representative may (with the consent of the Issuer or any Obligor or in accordance with Clause 29 (*Set-Off*)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any

amount due from the Issuer or that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

28.4 Clawback and pre-funding

- (a) Where a sum is to be paid to the Purchasers' Representative under the Finance Documents for another Party, the Purchasers' Representative is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) Unless Clause 28.4(c) applies, if the Purchasers' Representative pays an amount to another Party and it proves to be the case that the Purchasers' Representative had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Purchasers' Representative shall on demand refund the same to the Purchasers' Representative together with interest on that amount from the date of payment to the date of receipt by the Purchasers' Representative, calculated by the Purchasers' Representative to reflect its cost of funds.
- (c) If the Purchasers' Representative is willing to make available amounts for the account of the Issuer before receiving funds from the Purchasers then if and to the extent that the Purchasers' Representative does so but it proves to be the case that it does not then receive funds from a Purchaser in respect of a sum which it paid to the Issuer:
 - (i) the Purchasers' Representative shall notify the Issuer of that Purchaser's identity and the Issuer shall on demand refund it to the Purchasers' Representative; and
 - (ii) the Purchaser by whom those funds should have been made available or, if that Purchaser fails to do so, the Issuer, shall on demand pay to the Purchasers' Representative the amount (as certified by the Purchasers' Representative) which will indemnify the Purchasers' Representative against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Purchaser.

28.5 Partial payments

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

- (i) first, in or towards payment pro rata of any unpaid amount owing to the Purchasers' Representative or the Security Agent under the Finance Documents;
 - (ii) secondly, in or towards payment pro rata of any Redemption Premium, fee or commission due but unpaid or uncapitalised under those Finance Documents;
 - (iii) thirdly, in or towards payment pro rata of any principal due but unpaid under those Finance Documents; and
 - (iv) fourthly, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Purchasers' Representative shall, if so directed by the Majority Purchasers, vary the order set out in Clause 28.5(a)(ii) to (a)(iv).
- (c) Clause 28.5(a) and (b) will override any appropriation made by an Obligor.

28.6 Set-off by Obligors

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

28.7 Business Days

Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

28.8 Currency of account

- (a) Subject to clause (b) and (c), Sterling is the currency of account and payment for any sum due from an Obligor under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than Sterling shall be paid in that other currency.

28.9 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

- (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Purchasers' Representative (after consultation with the Issuer); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Purchasers' Representative (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Purchasers' Representative (acting reasonably and after consultation with the Issuer) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise to reflect the change in currency.

28.10 **Disruption to payment systems etc.**

If either the Purchasers' Representative determines (in its discretion) that a Disruption Event has occurred or the Purchasers' Representative is notified by the Issuer that a Disruption Event has occurred:

- (a) the Purchasers' Representative may, and shall if requested to do so by the Issuer, consult with the Issuer with a view to agreeing with the Issuer such changes to the operation or administration of the Notes as the Purchasers' Representative may deem necessary in the circumstances;
- (b) the Purchasers' Representative shall not be obliged to consult with the Issuer in relation to any changes mentioned in Clause 28.10(a) above if, in its opinion (acting reasonably), it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Purchasers' Representative may consult with the Finance Parties in relation to any changes mentioned in Clause 28.10(a) above but shall not be obliged to do so if, in its opinion (acting reasonably), it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Purchasers' Representative and the Issuer shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 34 (*Amendments and waivers*);
- (e) the Purchasers' Representative shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud

of the Purchasers' Representative) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 28.10; and

- (f) the Purchasers' Representative shall notify the Finance Parties of all changes agreed pursuant to Clause 28.10(d).

29. SET-OFF

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

30. NOTICES

30.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

30.2 Addresses

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

- (a) in the case of the Issuer or any Original Guarantor, that identified with its name below;
- (b) in the case of the Original Purchasers, those identified with their names below;
- (c) in the case of any other Purchaser or Obligor, that notified in writing to the Purchasers' Representative on or prior to the date on which it becomes a Party; and
- (d) in the case of the Purchasers' Representative or Security Agent, that identified with its name below,

or any substitute address, fax number or department or officer as the Party may notify to the Purchasers' Representative (or as the Purchasers' Representative may notify to the other Parties) by not less than five (5) Business Days' notice.

30.3 Delivery

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

- (i) if by way of fax, when received in legible form; or
- (ii) if by way of letter, when it has been left at the relevant address or five (5) Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

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

- (b) Any communication or document to be made or delivered to the Purchasers' Representative or the Security Agent will be effective only when actually received by the Purchasers' Representative or the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Purchasers' Representative's or Security Agent's signature below (or any substitute department or officer as the Purchasers' Representative or Security Agent shall specify for this purpose).
- (c) All notices from or to the Issuer or an Obligor shall be sent through the Purchasers' Representative.
- (d) Any communication or document made or delivered to the Issuer in accordance with this Clause 30.3 will be deemed to have been made or delivered to each of the Obligors.
- (e) Any communication or document which becomes effective, in accordance with Clause 30.3(a) to (c), after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

30.4 Notification of address and fax number

Promptly upon changing its address or fax number, the Purchasers' Representative shall notify the other Parties.

30.5 Electronic communication

- (a) Any communication to be made between any two (2) Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two (2) Parties:
 - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
 - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five (5) Business Days' notice.

- (b) Any such electronic communication as specified in Clause 30.5(a) to be made between an Obligor and a Finance Party may only be made in that way to the extent that those two (2) Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- (c) Any such electronic communication as specified in Clause 30.5(a) made between any two (2) Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Purchasers' Representative or the Security Agent only if it is addressed in such a manner as the Purchasers' Representative or Security Agent shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with Clause 30.5(c), after 5.00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 30.5.

30.6 **English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Purchasers' Representative, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

31. **CALCULATIONS AND CERTIFICATES**

31.1 **Accounts**

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

31.2 **Certificates and determinations**

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

32. **PARTIAL INVALIDITY**

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

33. **REMEDIES AND WAIVERS**

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

34. **AMENDMENTS AND WAIVERS**

34.1 **Required consents**

- (a) Subject to Clause 34.2 (*All Purchaser matters*), any term of the Finance Documents may be amended or waived only with the consent of the Majority Purchasers and the Issuer and any such amendment or waiver will be binding on all Parties.
- (b) The Purchasers' Representative may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 34.
- (c) Each Obligor agrees to any such amendment or waiver permitted by this Clause 34 which is agreed to by the Issuer. This includes any amendment or waiver which would, but for this paragraph (c), require the consent of all of the Guarantors.

34.2 **All Purchaser Matters**

An amendment, waiver or (in the case of a Transaction Security Document) a consent of, or in relation to, any term of any Finance Document that has the effect of changing or which relates to:

- (a) the definition of "Majority Purchasers" in Clause 1.1 (*Definitions*);
- (b) an extension to the date of payment of any amount under the Finance Documents;
- (c) a change in currency of payment of any amount under the Finance Documents;
- (d) an increase in any Commitment or the Total Commitments, an extension of any Availability Period or any requirement that a cancellation of Commitments reduces the Commitments of the Purchasers rateably;
- (e) a change to the Issuer or Guarantors other than in accordance with Clause 22 (*Changes to the Guarantors*);
- (f) any provision which expressly requires the consent of all the Purchasers;
- (g) Clause 2.3 (*Finance Parties' rights and obligations*), Clause 5.1 (*Delivery of a Purchase Request*), Clause 8.1 (*Exit*), Clause 8.2 (*Illegality*), Clause 8.3 (*Partial prepayment*), the definition of "Change of Control" in Clause 1.1 (*Definitions*), Clause 21 (*Changes to the Purchasers*), Clause 22 (*Changes to the Guarantors*), Clause 25 (*Application of proceeds*), this Clause 34, Clause 40 (*Governing law*) or Clause 41.1 (*Jurisdiction of English courts*);
- (h) (other than as expressly permitted by the provisions of any Finance Document) the nature or scope of:
 - (i) the guarantee and indemnity granted under Clause 16 (*Guarantee and Indemnity*);
 - (ii) the Charged Property; or
 - (iii) the manner in which the proceeds of enforcement of the Transaction Security are distributed

(except in the case of paragraph (iii) above, insofar as it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document); or
- (i) the release of any guarantee and indemnity granted under Clause 16 (*Guarantee and Indemnity*) or of any Transaction Security unless permitted under this Agreement or any other Finance Document or relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is permitted under this Agreement or any other Finance Document;

shall not be made, or given, without the prior consent of all the Purchasers.

34.3 **Disenfranchisement**

(a) For so long as Peel Hunt LLP or Rt. Hon. Lord Drayson or any of their Purchaser Affiliates (the “**Disenfranchised Purchasers**”):

- (i) beneficially owns a Note; or
- (ii) has entered into a sub-participation agreement relating to a Note or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated,

in ascertaining:

- (A) the Majority Purchasers; or
- (B) whether:
 - (1) any given percentage (including, for the avoidance of doubt, unanimity) of the principal amount of the Notes; or
 - (2) the agreement of any specified group of Purchasers,

has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents such principal amount of the Notes shall be deemed to be zero and such Disenfranchised Purchaser or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Purchaser for the purposes of paragraphs (A) and (B) above (unless in the case of a person not being a Purchaser Affiliate it is a Purchaser by virtue otherwise than by beneficially owning the relevant Note).

35. **CONFIDENTIAL INFORMATION**

35.1 **Confidentiality**

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

35.2 **Disclosure of Confidential Information**

Any Finance Party may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and

Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this Clause 35.2(a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

- (b) to any person:
 - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as the Purchasers' Representative or Security Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligor and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (iii) appointed by any Finance Party or by a person to whom Clause 35.2(b)(i) or (ii) applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;
 - (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly:
 - (A) any transaction referred to in Clause 35.2(b)(i) or (ii); or
 - (B) any Purchaser;
 - (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
 - (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
 - (vii) who is a Party; or

(viii) with the consent of the Issuer,

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to Clause 35.2(b)(i), (ii) and (iii), the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
 - (B) in relation to Clause 35.2(b)(iv), the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
 - (C) in relation to Clause 35.2(b)(v) and (vi), the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom Clause 35.2(b)(i) or (ii) applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking; and
- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

35.3 Entire agreement

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

35.4 Notification of disclosure

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Issuer:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to Clause 35.2(b)(v) (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 35.

35.5 Continuing obligations

The obligations in this Clause 35 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of twelve (12) months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with the Finance Documents have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

36. DISCLOSURE OF PURCHASER DETAILS BY PURCHASERS' REPRESENTATIVE

36.1 Supply of Purchaser details to Issuer

The Purchasers' Representative shall provide to the Issuer within three (3) Business Days of any request by the Issuer (provided that the Issuer shall not make so many requests during any calendar year so as to place an unreasonable administrative burden upon the Purchasers' Representative), a list (which may be in electronic form) setting out the names of the Purchasers as at the date of that request, their respective Commitments, the address and fax number (and the department or officer, if any, for whose attention any communication is to be made) of each Purchaser for any communication to be made or document to be delivered under or in connection with the Finance Documents, the electronic mail address and/or any other information required to enable the transmission of information by electronic mail or other electronic means to and by each Purchaser to whom any communication under or in connection with the Finance Documents may be made by that means and the account details of each Purchaser for any payment to be distributed by the Purchasers' Representative to that Purchaser under the Finance Documents.

36.2 Supply of Purchaser details at Issuer's direction

- (a) The Purchasers' Representative shall, at the request of the Issuer, disclose the identity of the Purchasers and the details of the Purchasers' Commitments to any:
 - (i) other Party or any other person if that disclosure is made to facilitate, in each case, a refinancing of the Financial Indebtedness arising under the Finance Documents or a material waiver or amendment of any term of any Finance Document; and
 - (ii) member of the Group.
- (b) Subject to paragraph (c) of Clause 35.2 (*Disclosure of Confidential Information*), the Issuer shall procure that the recipient of information disclosed pursuant to paragraph (a) of Clause 35.2 (*Disclosure of Confidential Information*) shall keep such information confidential and shall not disclose it to anyone and shall ensure that all such information is protected with security measures and a degree of care that would apply to the recipient's own confidential information.
- (c) The recipient may disclose such information to any of its officers, directors, employees, professional advisers, auditors and partners as it shall consider appropriate if any such person is informed in writing of its confidential nature, except that there shall be no such requirement to so inform if that person is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by duties of confidentiality in relation to the information.

37. REPRESENTATIONS AND UNDERTAKINGS OF THE PURCHASERS

37.1 Representations

Each Original Purchaser and Additional Note Purchaser (as applicable) severally and not jointly represents and warrants to, and agrees with, the Issuer as of the relevant Purchase Date that:

- (a) it is located outside the United States and is acquiring the Notes in an “**offshore transaction**” as defined in, and in reliance on, Regulation S;
- (b) it (i) understands that such Notes have not been registered under the U.S. Securities Act and the Notes are being issued in transactions exempt from the registration requirements of the U.S. Securities Act and (ii) agrees that all or any part of such Notes may not be offered or sold in or into the United States except pursuant to effective registration statements under the U.S. Securities Act or pursuant to applicable exemptions from the registration requirements under the U.S. Securities Act and in compliance with applicable state laws; and

- (c) it did not employ any broker or finder in connection with the transactions contemplated in this Agreement and no fees or commissions are payable to the Original Purchasers in connection with the Notes except as otherwise provided for in the Finance Documents.

37.2 Undertakings

- (a) Each Original Purchaser shall, on the date of this Agreement, provide to the Issuer an executed irrevocable undertaking (including a power of attorney) in the agreed form in respect of itself and any of its Purchaser Affiliates that hold voting securities in the Issuer confirming that they shall, inter alia, cast or procure that all the votes attaching to their voting securities are cast in favour of the Further Shareholder Approvals with the entirety of all voting rights available to such persons. Any person who becomes a Purchaser prior to the occurrence of the shareholder meeting of the Issuer contemplated by Clause 19.33(d) (*Condition Subsequent*) shall also provide the Issuer with an equivalent irrevocable undertaking in the agreed form on the date that it becomes a Purchaser and accedes to this Agreement.
- (b) Nothing in paragraph (a) above shall prevent a Purchaser or any Purchaser Affiliate from accepting an offer (within the meaning of the Takeover Code) for the Issuer's shares or agreeing to accept such an offer either before or after its announcement.
- (c) Each Purchaser (other than Peel Hunt) undertakes to the Issuer that it and its Purchaser Affiliates will vote in favour of the Further Shareholder Approvals (excluding, in the case of the Additional A Note Purchasers, any resolutions of the Independent Shareholders) at any general meeting held by the Issuer in accordance with Clause 19.33(d) (*Condition Subsequent*).
- (d) Each Purchaser (other than Peel Hunt) agrees to take reasonable steps to exercise its rights under this Agreement in a manner that:
 - (i) continues the Issuer's ethical use of patient data;
 - (ii) is consistent with the Issuer's goal of enabling the Issuer to realise its mission to become the leader in the ethical application of clinical AI to health data, improve patient care and accelerate medical research; and
 - (iii) allows for a sustainable commercial model to be put in place with the NHS Trusts that reflects the value of patient data supplied to the Issuer by the NHS Trusts.
- (e) The above provisions will not apply to Peel Hunt LLP or any of its Purchaser Affiliates in relation to activities carried out by it in its capacity as market maker or exempt principal trader (as such term is defined in the Takeover Code).

38. **CONTRACTUAL RECOGNITION OF BAIL-IN**

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any applicable Redemption Premium) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

39. **COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument. Each Finance Document may be delivered by facsimile, electronic mail (including pdf) or any electronic means. Any counterpart so delivered and executed (including by “e-signature” or other electronic means) shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law. For the avoidance of doubt, the foregoing also applies to any amendment, extension or renewal of any Finance Document.

40. **GOVERNING LAW**

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

41. **ENFORCEMENT**

41.1 **Jurisdiction of English courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a “**Dispute**”).

- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) Notwithstanding paragraph (a) above no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

41.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in England and Wales):
 - (i) irrevocably appoints the Issuer (the “**Process Agent**”) as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document (and the Process Agent by its execution of this Agreement, accepts that appointment); and
 - (ii) agrees that failure by an agent for service of process to notify the relevant Obligor of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Issuer (on behalf of all the Obligors) must immediately (and in any event within five (5) Business Days of such event taking place) appoint another agent on terms acceptable to the Purchasers’ Representative. Failing this, the Purchasers’ Representative may appoint another agent for this purpose.

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

SCHEDULE 1

PURCHASERS

PART 1

ORIGINAL PURCHASERS

Name of Original Purchaser	Commitment (GBP)	Treaty Passport scheme reference number and jurisdiction of tax residence (if applicable)
Peel Hunt LLP	400,000	N/A
Sand Grove Opportunities Master Fund Ltd.	2,800,000	N/A
Sand Grove Tactical Fund LP	350,000	N/A
Lansdowne Developed Markets Master Fund Limited	1,735,200	N/A
Lansdowne Developed Markets Strategic Investment Master Fund Limited	64,800	N/A
Gatemoor Special Opportunities Master Fund	1,000,000	N/A
Total	<hr/> 6,350,000	

PART 2

ADDITIONAL A NOTE PURCHASERS

Name of Additional A Note Purchaser	Commitment (GBP)	Treaty Passport scheme reference number and jurisdiction of tax residence (if applicable)
Lansdowne Developed Markets Master Fund Limited	1,928,000	N/A
Lansdowne Developed Markets Strategic Investment Master Fund Limited	72,000	N/A
Gatmore Investment Partners I LP	1,000,000	N/A
MNL (Hambro Perks) Nominees Limited	3,000,000	
Total	6,000,000	

SCHEDULE 2

CONDITIONS PRECEDENT

PART 1

CONDITIONS PRECEDENT

1. ORIGINAL OBLIGORS

- (a) A copy of the Constitutional Documents and of the constitutional documents or organisational documents, as applicable, of each other Original Obligor.
- (b) A copy of a resolution of the board of directors of each Original Obligor:
 - (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party;
 - (ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;
 - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, the Purchase Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
 - (iv) in the case of an Obligor other than the Issuer, authorising the Issuer to act as its agent in connection with the Finance Documents.
- (c) If applicable, a copy of a resolution of the board of directors of the relevant company, establishing the committee referred to in paragraph (b).
- (d) A copy of a resolution signed by all the holders of the issued shares in each Original Guarantor (other than the Issuer), approving the terms of, and the transactions contemplated by, the Finance Documents to which the Original Guarantor (as applicable) is a party.
- (e) A certificate from each Original Obligor incorporated in England or Wales (signed by a director):
 - (i) confirming that the borrowing, securing or guaranteeing (as appropriate) of the Total Commitments would not cause any borrowing, securing or guaranteeing or similar limit binding on it to be exceeded;
 - (ii) certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and in full force and effect and has not

been amended, rescinded or superseded prior to the date of this Agreement; and

- (iii) attaching a specimen of the signature of each person authorised by the resolutions referred to in clause (b) above or otherwise in relation to the Finance Documents and related documents.
- (f) With respect to Sensyne US, a certificate dated as of the initial Purchase Date and executed by a secretary, assistant secretary or other senior officer (as the case may be) of Sensyne US, which shall:
 - (A) certify that (1) attached thereto is a true and complete copy of the resolutions of its board of directors authorizing the execution, delivery and performance of the Finance Documents to which it is a party, and (2) such resolutions have not been modified, rescinded or amended and are in full force and effect,
 - (B) identify by name and title and bear the signatures of the officers, directors or authorized signatories of Sensyne US authorized to sign the Finance Documents to which it is a party,
 - (C) certify that (1) attached thereto is a true and complete copy of the certificate of incorporation of Sensyne US certified by the relevant authority of the jurisdiction of organization of Sensyne US and a true and correct copy of its by-laws and (2) such documents or agreements have not been amended (except as otherwise attached to such certificate and certified therein as being the only amendments thereto as of such date),
 - (D) certify that attached thereto is a true, correct and complete copy of the certificate of good standing of Sensyne US certified, as of a recent date, by the Secretary of State of the State of Delaware, and
 - (E) confirming that by guaranteeing and securing the Total Commitments (as defined in the Note Purchase Agreement) no borrowing, guarantee, security or similar limit binding on the Corporation will be exceeded.
- (g) A certificate signed by a financial officer of the Issuer, certifying on behalf of the Obligors as to the solvency of the Obligors in or substantially in the form set out at Schedule 9 (*Form of Solvency Certificate*) hereto.
- (h) A good standing certificate as of a recent date for Sensyne US from its jurisdiction of organization.
- (i) The Security Agent shall have received the results of a search of the Uniform Commercial Code filings (or equivalent filings) made with respect to Sensyne

US in the state (or other jurisdiction) of incorporation of Sensyne US, together with copies of the financing statements (or similar documents) disclosed by such search, and accompanied by evidence satisfactory to the Security Agent that the liens indicated in any such financing statement (or similar document) would be a Permitted Security or have been or will be contemporaneously released or terminated.

2. **FINANCE DOCUMENTS**

A copy of each of the following documents in the agreed form, each duly executed and delivered by each of the Obligors, in each case to the extent party thereto:

- (a) this Agreement; and
- (b) the Fee Letter.

3. **TRANSACTION SECURITY DOCUMENTS**

- (a) A copy (with originals to follow as soon as reasonably practicable) of the following Transaction Security Documents executed by the Original Obligors (as applicable) specified below opposite the relevant Transaction Security Document:

Name	Transaction Security Document
Each of the Original Obligors incorporated in England	English law governed debenture over substantively all of the assets and undertakings of the Original Obligors (the “ First Ranking English Debenture ”)
Sensyne US, Sensyne Holdings UK and Sensyne Group UK	New York law governed pledge and security agreement with respect to the U.S. Collateral (“ First Ranking New York Pledge and Security Agreement ”).

- (b) All share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant Obligor in blank in relation to the assets subject to or expressed to be subject to the Transaction Security and other documents of title to be provided under the Transaction Security Documents.

4. **OTHER DOCUMENTS AND EVIDENCE**

- (a) A Group Structure Chart which shows the Group.
- (b) A copy of the Budget.

- (c) A copy of the Original Financial Statements.
- (d) A copy of the Warrant Instrument in respect of the Closing Warrants, duly executed and delivered by the Issuer.
- (e) Evidence that the fees, costs and expenses then due from the Issuer pursuant to Clause 10.5 (*Stamp taxes*), Clause 12 (*Agency Fees*) and Clause 15 (*Costs and expenses*) have been paid or will be paid on the first Purchase Date.
- (f) The Purchase Request relating to the Notes to be sold and purchased on the Purchase Date.
- (g) Completion of all money laundering, KYC and USA PATRIOT Act requirements of the Purchasers' Representative and the Purchasers satisfactory completion of such background checks as the Purchasers' Representative or the Purchasers may require.
- (h) Evidence that the AIM Notification has been issued by the Issuer.
- (i) A copy of the fully executed letter Drayson Letter of Undertaking.
- (j) A copy of the irrevocable undertakings from holders of more than fifty per cent. (50%) of the Issuer's voting rights undertaking to vote in favour of all shareholder resolutions required to issue the Notes and the Warrants.
- (k) Evidence of confirmation from the Takeover Panel that they have unconditionally agreed to disapply Rule 21.1(a) of the Takeover Code in relation to (a) the issue of the Notes and the Unconditional Warrants and (b) subject to obtaining any shareholder approvals required by the Companies Act 2006, the issue of the Excess Warrants.
- (l) In respect of each Obligor incorporated in England or Wales, whose shares are subject to Transaction Security (a "**Charged Company**"), a certificate (signed by an authorised signatory of each Obligor) certifying either:
 - (A) that each Charged Company has complied within the relevant timeframe with any notice it has received pursuant to Part 21A of the Companies Act 2006 and (B) no "**warning notice**" or "**restrictions notice**" (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of the shares in the Charged Company, and attaching a copy of the PSC Register of each Charged Company; or
 - (B) that the relevant Charged Company is not required to comply with Part 21A of the Companies Act 2006.

PART 2

CONDITIONS PRECEDENT REQUIRED TO BE DELIVERED BY AN ADDITIONAL OBLIGOR

1. An Accession Deed executed by the Additional Obligor and the Issuer.
2. A copy of the constitutional or organisational documents of the Additional Obligor.
3. A copy of a resolution of the board or, if applicable, a committee of the board of directors of the Additional Obligor:
 - (a) approving the terms of, and the transactions contemplated by, the Accession Deed and the Finance Documents and resolving that it execute, deliver and perform the Accession Deed and any other Finance Document to which it is party;
 - (b) authorising a specified person or persons to execute the Accession Deed and other Finance Documents on its behalf;
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
 - (d) authorising the Issuer to act as its agent in connection with the Finance Documents
4. If applicable, a copy of a resolution of the board of directors of the Additional Obligor, establishing the committee referred to in paragraph 3.
5. A certificate from each Additional Obligor (other than those incorporated in the US) (signed by a director):
 - (a) confirming that the borrowing, securing or guaranteeing (as appropriate) of the Total Commitments would not cause any borrowing, securing or guaranteeing or similar limit binding on it to be exceeded;
 - (b) certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and in full force and effect and has not been amended, rescinded or superseded prior to the date of this Agreement; and
 - (c) attaching a specimen of the signature of each person authorised by the resolutions referred to in clause (b) above or otherwise in relation to the Finance Documents and related documents.
 - (d) With respect to Additional Obligors incorporated in the US, a certificate dated as of the initial Purchase Date and executed by a secretary, assistant secretary or other senior officer (as the case may be) of Sensyne US, which shall:

- (A) certify that (1) attached thereto is a true and complete copy of the resolutions of its board of directors authorizing the execution, delivery and performance of the Finance Documents to which it is a party, and (2) such resolutions have not been modified, rescinded or amended and are in full force and effect,
 - (B) identify by name and title and bear the signatures of the officers, directors or authorized signatories of Sensyne US authorized to sign the Finance Documents to which it is a party,
 - (C) certify that (1) attached thereto is a true and complete copy of the certificate of incorporation of Sensyne US certified by the relevant authority of the jurisdiction of organization of Sensyne US and a true and correct copy of its by-laws and (2) such documents or agreements have not been amended (except as otherwise attached to such certificate and certified therein as being the only amendments thereto as of such date),
 - (D) certify that attached thereto is a true, correct and complete copy of the certificate of good standing of Sensyne US certified, as of a recent date, by the Secretary of State of the State of Delaware, and
 - (E) confirming that by guaranteeing and securing the Total Commitments (as defined in the Note Purchase Agreement) no borrowing, guarantee, security or similar limit binding on the Corporation will be exceeded.
6. Other than for any Additional Guarantor that is a publicly listed company, a copy of a resolution signed by all the holders of the issued shares of the Additional Guarantor, if applicable, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Guarantor is a party.
 7. If the Additional Obligor is incorporated in the US, a specimen of the signature of each person authorised by the resolutions referred to in clause 3 above or otherwise in relation to the Finance Documents and related documents.
 8. If the Additional Obligor is incorporated in the US, a good standing (or equivalent) certificate as of a recent date from the Additional Obligor's jurisdiction of organization.
 9. If available, the latest audited financial statements of the Additional Obligor.
 10. Any Transaction Security Documents which are required by the Purchasers' Representative to be executed by the proposed Additional Obligor.
 11. Completion of all money laundering, KYC and USA PATRIOT Act requirements of the Purchasers' Representative and the Purchasers satisfactory completion of such background checks as the Purchasers' Representative or the Purchasers may require.

12. In respect of each Obligor incorporated in England or Wales, whose shares are subject to Transaction Security (a “Charged Company”), a certificate (signed by an authorised signatory of each Obligor) certifying either:
- (a) that each Charged Company has complied within the relevant timeframe with any notice it has received pursuant to Part 21A of the Companies Act 2006 and (B) no “warning notice” or “restrictions notice” (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of the shares in the Charged Company, and attaching a copy of the PSC Register of each Charged Company; or
 - (b) that the relevant Charged Company is not required to comply with Part 21A of the Companies Act 2006.

PART 3

CONDITIONS PRECEDENT TO ADDITIONAL A NOTES

1. THE OBLIGORS

- (a) A copy of the constitutional documents or organisational documents, as applicable, of each Obligor.
- (b) A copy of a resolution of the board of directors of each Obligor:
 - (i) approving the terms of, and the transactions contemplated by, the Second Ranking Transaction Security Documents to which it is a party and resolving that it execute, deliver and perform the Transaction Security Documents to which it is a party;
 - (ii) (in respect of the Issuer only) approving the issuance of the Additional Notes and (as applicable) the governance changes set out in this Part 3 of Schedule 2 (*Conditions Precedent*).
 - (iii) authorising a specified person or persons to execute the Second Ranking Transaction Security Documents to which it is a party on its behalf;
 - (iv) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, the Additional Notes Notice) to be signed and/or despatched by it under or in connection with the Second Ranking Transaction Security Documents to which it is a party; and
- (c) If applicable, a copy of a resolution of the board of directors of the relevant company, establishing the committee referred to in paragraph (b).
- (d) A copy of a resolution signed by all the holders of the issued shares in each Obligor (other than the Issuer), approving the terms of, and the transactions contemplated by, the Second Ranking Transaction Security Documents to which the Obligor is a party.
- (e) A certificate from each Obligor incorporated in England or Wales (signed by a director):
 - (i) confirming that the borrowing, securing or guaranteeing (as appropriate) of the Total Commitments would not cause any borrowing, securing or guaranteeing or similar limit binding on it to be exceeded;
 - (ii) certifying that each copy document relating to it specified in this Part 3 of Schedule 2 is correct, complete and in full force and effect and has not been amended, rescinded or superseded; and

- (iii) attaching a specimen of the signature of each person authorised by the resolutions referred to in clause (b) above or otherwise in relation to the Second Ranking Transaction Security Documents and related documents.
- (f) With respect to Sensyne US, a certificate executed by a secretary, assistant secretary or other senior officer (as the case may be) of Sensyne US, which shall:
- (i) certify that (1) attached thereto is a true and complete copy of the resolutions of its board of directors authorizing the execution, delivery and performance of the Second Ranking Transaction Security Documents to which it is a party, and (2) such resolutions have not been modified, rescinded or amended and are in full force and effect,
 - (ii) identify by name and title and bear the signatures of the officers, directors or authorized signatories of Sensyne US authorized to sign the Second Ranking Transaction Security Documents to which it is a party,
 - (iii) certify that (1) attached thereto is a true and complete copy of the certificate of incorporation of Sensyne US certified by the relevant authority of the jurisdiction of organization of Sensyne US and a true and correct copy of its by-laws and (2) such documents or agreements have not been amended (except as otherwise attached to such certificate and certified therein as being the only amendments thereto as of such date),
 - (iv) certify that attached thereto is a true, correct and complete copy of the certificate of good standing of Sensyne US certified, as of a recent date, by the Secretary of State of the State of Delaware, and
 - (v) confirming that by guaranteeing and securing the Total Commitments no borrowing, guarantee, security or similar limit binding on the Corporation will be exceeded.
- (g) A certificate signed by a financial officer of the Issuer, certifying on behalf of the Obligors as to the solvency of the Obligors in or substantially in the form set out at Schedule 9 (*Form of Solvency Certificate*) hereto.
- (h) A good standing certificate as of a recent date for Sensyne US from its jurisdiction of organization.
- (i) The Security Agent shall have received the results of a search of the Uniform Commercial Code filings (or equivalent filings) made with respect to Sensyne US in the state (or other jurisdiction) of incorporation of Sensyne US, together with copies of the financing statements (or similar documents) disclosed by such search, and accompanied by evidence satisfactory to the Security Agent that the liens indicated in any such financing statement (or similar document) would be

a Permitted Security or have been or will be contemporaneously released or terminated.

2. SECOND RANKING TRANSACTION SECURITY DOCUMENTS

A copy (with originals to follow as soon as reasonably practicable) of the following Second Ranking Transaction Security Documents executed by the Obligors (as applicable) specified below opposite the relevant Second Ranking Transaction Security Document:

Name	Second Ranking Transaction Security Document
Each of the Obligors incorporated in England	English law governed debenture over substantively all of the assets and undertakings of the Obligors (the “ Second Ranking English Debenture ”)
Sensyne US, Sensyne Holdings UK and Sensyne Group UK	New York law governed pledge and security agreement with respect to the U.S. Collateral (“ Second Ranking New York Pledge and Security Agreement ”).

3. OTHER DOCUMENTS AND EVIDENCE

- (a) Evidence that all of the Issuer’s non-executive directors have waived of all of their existing economic interests (being any accrued pay, bonus, options or other benefit entitlements) in the Issuer.
- (b) In respect of each Obligor incorporated in England or Wales, whose shares are subject to Second Ranking Transaction Security (a “**Charged Company**”), a certificate (signed by an authorised signatory of each Obligor) certifying either:
 - (A) that each Charged Company has complied within the relevant timeframe with any notice it has received pursuant to Part 21A of the Companies Act 2006 and (B) no “**warning notice**” or “**restrictions notice**” (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of the shares in the Charged Company, and attaching a copy of the PSC Register of each Charged Company; or
 - (B) that the relevant Charged Company is not required to comply with Part 21A of the Companies Act 2006.

SCHEDULE 3

PURCHASE REQUEST

From: Sensyne Health plc as the Issuer

To: Kroll Agency Services Limited as the Purchasers' Representative

Dated: [•]

Dear [•]

Sensyne – £[26,350,000] Note Purchase Agreement dated 26 January 2022, as amended and restated on [•] (the “Note Purchase Agreement”)

1. We refer to the Note Purchase Agreement. This is a Purchase Request and Additional Notes Notice. Terms defined in the Note Purchase Agreement have the same meaning in this Purchase Request and Additional Notes Notice unless given a different meaning in this Purchase Request and Additional Notes Notice.
2. We wish to sell [Additional A][Additional B][Additional C] Notes on the following terms:

(a) Proposed Establishment Date:	[Establishment Date]
(b) Currency of Notes	Sterling
(c) Amount:	[]

3. We confirm that each condition specified in clause 4.2 (*Further conditions precedent*) [and clause 4.4 (*Conditions precedent to Additional A Notes*)]¹ of the Note Purchase Agreement is satisfied on the date of this Purchase Request and Additional Notes Notice.
4. The proceeds of the issue and purchase of the Notes should be credited to [account].
5. This Purchase Request and Additional Notes Notice is irrevocable.

¹ To be included in respect of a Purchase Request and Additional Notes Notice for the Additional A Notes only.

Yours faithfully

.....
authorised signatory for
Sensyne Health plc

[On duplicate]

We acknowledge the above Purchase Request and Additional Notes Notice, and confirm, pursuant to clause 2.2(e) (*Notification of Establishment*) of the Note Purchase Agreement, that the Establishment Date of the relevant Additional Notes is [•] 2022.

.....
authorised signatory for
Kroll Agency Services Limited
as the Purchasers' Representative

SCHEDULE 4

FORM OF NOTE

Serial Number: [●]

THIS NOTE EVIDENCED BY THIS CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR THE SECURITIES LAWS OF ANY STATE.

BY ITS ACQUISITION HEREOF, THE HOLDER OF THIS NOTE (1) REPRESENTS THAT IT IS ACQUIRING THIS NOTE IN A TRANSACTION EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT AND (2) AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR FOR WHICH IT HAS PURCHASED NOTES TO OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS NOTE OR A BENEFICIAL INTEREST IN THIS NOTE ONLY (A) TO THE ISSUER OR ANY SUBSIDIARY THEREOF, (B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, OR (C) PURSUANT TO ANY TRANSACTION THAT IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT IN EACH OF THE FOREGOING CASES TO COMPLIANCE WITH ANY APPLICABLE STATE SECURITIES LAWS AND ANY APPLICABLE LOCAL LAWS AND REGULATIONS, AND FURTHER SUBJECT TO THE ISSUER’S AND THE TRANSFER AGENT’S RIGHTS PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (C) TO REQUIRE THE DELIVERY OF A CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO IT, INCLUDING A TRANSFER CERTIFICATE IN SUBSTANTIALLY THE FORM SET OUT IN THE NOTES PURCHASE AGREEMENT (AS DEFINED HEREIN); AND (3) AGREES THAT IT WILL TRANSFER TO EACH PERSON TO WHOM THIS NOTE IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND. IN ADDITION TO THE RESTRICTIONS SET FORTH ABOVE, THERE MAY BE ADDITIONAL CONTRACTUAL RESTRICTIONS ON TRANSFER SET FORTH IN THE NOTES PURCHASE AGREEMENT. IN CONNECTION WITH ANY TRANSFER, THE HOLDER AND TRANSFEREE WILL DELIVER TO THE TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS THE TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

SENSYNE HEALTH PLC

(incorporated under the laws of England & Wales)

PROMISSORY NOTE

£[] LONDON [•] 2022

due on the Termination Date

issued subject to the terms and conditions set out below

Notes Issuance Date: [●]

Termination Date: [●]

FOR VALUE RECEIVED, SENSYNE HEALTH PLC a company incorporated in England and Wales with registered number 11425451 (the “**Company**”), from and after the Purchase Date hereby promises to pay to [●] [PURCHASER], (the “**Holder**”), or its transferees on the Termination Date (as defined in the Note Purchase Agreement referred to below) in Sterling and in immediately available funds, the principal amount of [AMOUNT] (£[]), pursuant to the terms of the Note Purchase Agreement (as hereinafter defined); provided, however, that in no event shall the amount payable by the Issuer on this Note exceed the highest lawful payment permissible under any law applicable hereto.

This Note is one of the “Notes” being issued pursuant to that certain Note Purchase Agreement dated as of [●] 2022 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Note Purchase Agreement**”), between, amongst others, the Issuer, the Guarantors party thereto from time to time and the Purchasers party thereto from time to time.

Terms used herein which are defined in the Note Purchase Agreement shall have such defined meanings unless otherwise defined herein or unless the context otherwise requires.

The Issuer further promises to pay a redemption premium on the outstanding unpaid principal amount hereof, as provided in the Note Purchase Agreement .

The Holder is entitled to the benefits of and subject to the obligations pursuant to the Note Purchase Agreement and the other Finance Documents, and may enforce the agreements contained therein and exercise the remedies provided for thereby or otherwise available in respect thereof, all in accordance with the terms thereof.

Payment of principal and premium under this Note shall be made to the Holder at the Holder’s address shown in the Register as provided in the Note Purchase Agreement.

This Note is subject to prepayment only as specified in the Note Purchase Agreement.

If an Event of Default shall occur and be continuing, the unpaid balance of the principal of this Note may be declared and become due and payable in the manner and with the effect provided in the Note Purchase Agreement.

The Issuer’s obligations under this Note and under the Note Purchase Agreement are guaranteed by the Guarantors pursuant to the terms of the Note Purchase Agreement.

All parties now and hereafter liable with respect to this Note, whether maker, principal, surety, guarantor, endorser or otherwise, hereby waive presentment, demand, protest and all other notices of any kind.

Notwithstanding anything in this Note to the contrary, this Note is subject to the provisions of the Note Purchase Agreement. In the event of any inconsistency or conflict between the terms of this Note and the Note Purchase Agreement, the terms of the Note Purchase Agreement shall prevail.

THIS NOTE IS IN REGISTERED FORM WITHIN THE MEANING OF SECTIONS 163(F), 871(H)(2) AND 881(C)(2) OF THE CODE. THE ISSUER AND THE OTHER OBLIGORS SHALL TREAT THE PERSON WHOSE NAME IS RECORDED IN THE REGISTER AS THE OWNER HEREOF FOR THE PURPOSE OF RECEIVING PAYMENT AND FOR ALL OTHER PURPOSES, NOTWITHSTANDING NOTICE TO THE CONTRARY (OTHER THAN A NOTICE DIRECTING THE PURCHASERS' REPRESENTATIVE TO REGISTER A TRANSFER IN THE REGISTER PURSUANT THE NOTE PURCHASE AGREEMENT). THIS NOTE MAY NOT BE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE TERMS OF THE NOTE PURCHASE AGREEMENT. TRANSFERS OF THIS NOTE MUST BE RECORDED IN THE REGISTER MAINTAINED BY THE PURCHASERS' REPRESENTATIVE PURSUANT TO THE TERMS OF THE NOTE PURCHASE AGREEMENT.

UPON SURRENDER OF THIS NOTE FOR REGISTRATION OF TRANSFER, DULY ENDORSED OR ACCOMPANIED BY A WRITTEN INSTRUMENT OF TRANSFER DULY EXECUTED BY THE REGISTERED HOLDER HEREOF OR BY THE HOLDER'S ATTORNEY DULY AUTHORIZED IN WRITING, THE PURCHASERS' REPRESENTATIVE SHALL REGISTER SUCH TRANSFER IN THE REGISTER AND THE ISSUER EXECUTE AND DELIVER, IN THE NAME OF THE DESIGNATED TRANSFEREE OR TRANSFEREES, ONE OR MORE NEW NOTES OF THE SAME TYPE AND IN A LIKE AGGREGATE PRINCIPAL AMOUNT REFLECTING THE UNPAID PRINCIPAL AMOUNT IN ACCORDANCE WITH THE REGISTER AND TERMS OF THE NOTE PURCHASE AGREEMENT. PRIOR TO DUE PRESENTMENT FOR REGISTRATION OF TRANSFER, THE ISSUER MAY TREAT THE PERSON IN WHOSE NAME THIS NOTE IS REGISTERED AS THE OWNER HEREOF FOR THE PURPOSE OF RECEIVING PAYMENT AND FOR ALL OTHER PURPOSES, AND THE ISSUER WILL NOT BE AFFECTED BY ANY NOTICE TO THE CONTRARY.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF ENGLAND AND WALES.

[Signature Page Follows]

IN WITNESS WHEREOF, the Issuer has caused this Note to be duly executed and delivered as of the date first written above.

EXECUTED as a **DEED** by

SENSYNE HEALTH PLC

By:

Name:

Title:

[By:

Name:

Title:]

[In the presence of:

Witness Signature:

Witness Name:

Witness Occupation:

Witness address:]

SCHEDULE 5

FORM OF TRANSFER CERTIFICATE

To: Kroll Agency Services Limited as Purchasers' Representative

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

Dated: [•]

Sensyne – £[26,350,000] Note Purchase Agreement dated [•] (the "Note Purchase Agreement")

1. We refer to the Note Purchase Agreement. This agreement (the "**Agreement**") shall take effect as a Transfer Certificate for the purposes of the Note Purchase Agreement. Terms defined in the Note Purchase Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
2. We refer to Clause 21.5 (*Procedure for transfer*) of the Note Purchase Agreement:
 - (a) The Existing Purchaser and the New Purchaser agree to the Existing Purchaser transferring to the New Purchaser by novation and in accordance with Clause 21.5 (*Procedure for transfer*) of the Note Purchase Agreement all of the Existing Purchaser's rights and obligations under the Note Purchase Agreement, the other Finance Documents and in respect of the Transaction Security which relate to that portion of the Existing Purchaser's Notes and participations in the Notes under the Note Purchase Agreement as specified in the Schedule.
 - (b) The proposed Transfer Date is [•].
 - (c) The Purchase Office and address, fax number and attention details for notices of the New Purchaser for the purposes of Clause 30.2 (*Addresses*) of the Note Purchase Agreement are set out in the Schedule.
3. The New Purchaser expressly acknowledges the limitations on the Existing Purchaser's obligations set out in Clause 21.4 (*Limitation of responsibility of Existing Purchasers*) of the Note Purchase Agreement.
4. The New Purchaser confirms that (a) it is located outside the United States and is acquiring the Notes in an "**offshore transaction**" as defined in, and in reliance on, Regulation S or (b) it is purchasing the Notes pursuant to one or more exemptions from, or in a transaction not subject to, the registration requirements of the U.S. Securities Act.
5. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

6. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
7. This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Purchaser's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Purchaser to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Purchaser's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

The Schedule

Commitment/rights and obligations to be transferred

[*•*] *insert relevant details*]

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

[Existing Purchaser]

[New Purchaser]

By:

By:

This Agreement is accepted as a Transfer Certificate for the purposes of the Note Purchase Agreement by the Purchasers' Representative and the Transfer Date is confirmed as [*•*].

[Purchasers' Representative]

By:

SCHEDULE 6

FORM OF ASSIGNMENT AGREEMENT

To: [•] as Purchasers' Representative

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

Dated: [•]

[•] - £[26,350,000] Note Purchase Agreement dated [•] (the "**Note Purchase Agreement**")

1. We refer to the Note Purchase Agreement. This is an Assignment Agreement. This agreement (the "**Agreement**") shall take effect as an Assignment Agreement for the purposes of the Note Purchase Agreement. Terms defined in the Note Purchase Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
2. We refer to Clause 21.6 (*Procedure for assignment*) of the Note Purchase Agreement:
 - (a) The Existing Purchaser assigns absolutely to the New Purchaser all the rights of the Existing Purchaser under the Note Purchase Agreement, the other Finance Documents and in respect of the Transaction Security which correspond to that portion of the Existing Purchaser's Notes and participations in the Notes under the Note Purchase Agreement as specified in the Schedule.
 - (b) The Existing Purchaser is released from all the obligations of the Existing Purchaser which correspond to that portion of the Existing Purchaser's Notes and participations in the Notes under the Note Purchase Agreement specified in the Schedule.
 - (c) The New Purchaser becomes a Party as a "Purchaser" and is bound by obligations equivalent to those from which the Existing Purchaser is released under paragraph (b).
3. The proposed Transfer Date is [•].
4. On the Transfer Date the New Purchaser becomes Party to the relevant Finance Documents as "Purchaser".
5. The Purchase Office and address, fax number and attention details for notices of the New Purchaser for the purposes of Clause 30.2 (*Addresses*) of the Note Purchase Agreement are set out in the Schedule.
6. The New Purchaser expressly acknowledges the limitations on the Existing Purchaser's obligations set out in Clause 21.4 (*Limitation of responsibility of Existing Purchasers*) of the Note Purchase Agreement.

7. This Agreement acts as notice to the Purchasers' Representative (on behalf of each Finance Party) and, upon delivery in accordance with Clause 21.7 (*Copy of Transfer Document*), the Issuer (on behalf of each Obligor) of the assignment referred to in this Agreement.
8. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
9. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
10. This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Assignment Agreement may not transfer a proportionate share of the Existing Purchaser's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Purchaser to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Purchaser's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

The Schedule

Commitment/rights and obligations to be transferred by assignment, release and accession

[•] insert relevant details]

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

[Existing Purchaser]

[New Purchaser]

By:

By:

This Agreement is accepted as an Assignment Agreement for the purposes of the Note Purchase Agreement by the Purchasers' Representative and the Transfer Date is confirmed as [•].

Signature of this Agreement by the Purchasers' Representative constitutes confirmation by the Purchasers' Representative of receipt of notice of the assignment referred to in this Agreement, which notice the Purchasers' Representative receives on behalf of each Finance Party.

[Purchasers' Representative]

By:

SCHEDULE 7

FORM OF ACCESSION DEED

To: [•] as Purchasers' Representative

From: [•][*Subsidiary*] and [Issuer]

Dated: [•]

Dear [•]

[•] – £[•] Note Purchase Agreement dated [•] (the “Note Purchase Agreement”)

1. We refer to the Note Purchase Agreement. This deed (the “**Accession Deed**”) shall take effect as an Accession Deed for the purposes of the Note Purchase Agreement. Terms defined in the Note Purchase Agreement have the same meaning in paragraphs [1] - [4] of this Accession Deed unless given a different meaning in this Accession Deed.
2. [*Subsidiary*] agrees to become an Additional Guarantor and to be bound by the terms of the Note Purchase Agreement and the other Finance Documents as an Additional Guarantor pursuant to Clause 22.2 (*Additional Guarantors*) of the Note Purchase Agreement. [*Subsidiary*] is a company duly incorporated under the laws of [name of relevant jurisdiction] and is a limited liability company with registered number [•].
3. [*Subsidiary's*] administrative details for the purposes of the Note Purchase Agreement are as follows:

Address:

Fax No.:

Attention:
4. This Accession Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

THIS ACCESSION DEED has been signed on behalf of the Issuer and executed as a deed by [*Subsidiary*] and is delivered on the date stated above.

[SUBSIDIARY]

[EXECUTED as a DEED)
By: **[SUBSIDIARY]**)
Director

.....
Director/Secretary

OR

[EXECUTED as a DEED)
By: [SUBSIDIARY])

.....
Signature of Director

.....
Name of Director

in the presence of:

Signature of witness _____

Name of witness _____

Address of witness _____

Occupation of witness _____]

THE ISSUER

By:

PURCHASERS' REPRESENTATIVE

By:

Date:

SCHEDULE 8

FORM OF RESIGNATION LETTER

To: [●] as Purchasers' Representative

From: [●][*resigning Guarantor*] and [Issuer]

Dated: [●]

Dear [●]

[●] - £[●] Note Purchase Agreement dated [●] (the "Note Purchase Agreement")

1. We refer to the Note Purchase Agreement. This is a Resignation Letter. Terms defined in the Note Purchase Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.
2. Pursuant to Clause 22.3 (*Resignation of a Guarantor*) of the Note Purchase Agreement, we request that [*resigning Guarantor*] be released from its obligations as a [Guarantor] under the Note Purchase Agreement and the Finance Documents.
3. We confirm that:
 - (a) no Default is continuing or would result from the acceptance of this request; and
 - (b) *[[this request is given in relation to a Third Party Disposal of [*resigning Guarantor*];
 - (c) [●].**
4. This Resignation Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

Issuer [*resigning Guarantor*]

By: By:

NOTES:

* **Insert where resignation only permitted in case of a Third Party Disposal.**

** **Insert any other conditions required by the Note Purchase Agreement.**

SCHEDULE 9
FORM OF SOLVENCY CERTIFICATE

[●], 2022

This Solvency Certificate is being executed and delivered pursuant to Part 1 of Schedule 2 (*Conditions Precedent*) of that certain Note Purchase Agreement, dated as of January [●], 2022 (the “**Note Purchase Agreement**”; the terms defined therein being used herein as therein defined), by and among, inter alios, Sensyne Health Plc, Sensyne Health, Inc., the Original Purchasers party thereto, the Purchasers' Representative, and the Security Agent.

I, [●], the [Chief Financial Officer/equivalent officer] of the Issuer, in such capacity and not in an individual capacity, hereby certify as follows:

1. I am generally familiar with the businesses and assets of the Issuer and its Subsidiaries on a consolidated basis and am duly authorized to execute this Solvency Certificate on behalf of the Issuer pursuant to the Note Purchase Agreement; and

2. As of the date hereof and after the incurrence of the indebtedness and obligations being incurred in connection with the Note Purchase Agreement on the Purchase Date, that: (i) the sum of the debt (including contingent liabilities) of the Issuer and its Subsidiaries on a consolidated basis does not exceed the fair value of the assets of the Issuer and its Subsidiaries on a consolidated basis; (ii) the present fair saleable value of the assets of the Issuer and its Subsidiaries on a consolidated basis is not less than the amount that will be required to pay the probable liabilities of the Issuer and its Subsidiaries on a consolidated basis on their debts as they become absolute and matured; (iii) the capital of the Issuer and its Subsidiaries on a consolidated basis is not unreasonably small in relation to the business of the Issuer or its Subsidiaries on a consolidated basis contemplated as of the date hereof; and (iv) the Issuer and its Subsidiaries on a consolidated basis do not intend to incur, or believe that they will incur, debts (including current obligations and contingent liabilities) beyond their ability to pay such debts as they mature in the ordinary course of business.

[Signature Page Follows]

SENSYNE HEALTH PLC

By:

Name: []

Title: [Chief Financial Officer/equivalent officer]

[Signature Page Follows]

SENSYNE HEALTH PLC

By:

Name: []

Title: [Chief Financial Officer/equivalent officer]

SIGNATURES

Issuer and Obligors' Agent

SIGNED on behalf of
SENSYNE HEALTH PLC

By: _____

Address:

Fax:

Attention:

Original Guarantor

SIGNED on behalf of by
SENSYNE HEALTH HOLDINGS LIMITED

By: _____

Address:

Fax:

Attention:

Original Guarantor

SIGNED on behalf of
SENSYNE HEALTH GROUP LIMITED

By: _____

Address:

Fax:

Attention:

Original Guarantor

SIGNED on behalf of
SENSYNE HEALTH, INC.

By: _____

Address:

Fax:

Attention:

The Original Purchaser

PEEL HUNT LLP

Name:

Title: Authorised Signatory

Address:

[REDACTED]

Attention:

[REDACTED]

Email:

[REDACTED]

The Original Purchaser

LANSDOWNE DEVELOPED MARKETS MASTER FUND LIMITED

acting by its authorised agent Lansdowne Partners (UK) LLP

acting by two authorised signatories

Name:
Title:

Name:
Title:

Address:

[Redacted Address]

Attention:

[Redacted Attention]

Email:

[Redacted Email]

The Original Purchaser

LANSDOWNE DEVELOPED MARKETS STRATEGIC INVESTMENT MASTER FUND LIMITED

acting by its authorised agent Lansdowne Partners (UK) LLP
acting by two authorised signatories

Name:
Title:

Name:
Title:

Address:

[REDACTED]

Attention:

[REDACTED]

Email:

[REDACTED]

The Original Purchaser

Authorised Signatory for Sand Grove Capital Management LLP, acting in its capacity as investment manager to **SAND GROVE OPPORTUNITIES MASTER FUND LTD**

Name:

Title: Authorised Signatory

Address:

[REDACTED]

Attention:

[REDACTED]

Email:

[REDACTED]

The Original Purchaser

Authorised Signatory for Sand Grove Capital Management LLP, acting in its capacity as investment manager to **SAND GROVE TACTICAL FUND LP**

Name:

Title: Authorised Signatory

Address:

[Redacted]

Attention:

[Redacted]

Email:

[Redacted]

The Original Purchaser

GATEMORE SPECIAL OPPORTUNITIES MASTER FUND

By: Gatemore Capital Management LLP as investment manager

By: _____

Name:

Title

Address:

[REDACTED]

Attention:

[REDACTED]

Email:

[REDACTED]

The Purchasers' Representative

SIGNED on behalf of
KROLL AGENCY SERVICES LIMITED

By: _____

Title: Authorised Signatory

Address: [REDACTED]

Fax: [REDACTED]

Attention: [REDACTED]

The Security Agent

SIGNED on behalf of
KROLL TRUSTEE SERVICES LIMITED

By: _____

Title: Authorised Signatory

Address: [Redacted]

Fax: [Redacted]

Attention: [Redacted]

**SIGNATURE PAGES TO THE
AMENDMENT AND RESTATEMENT AGREEMENT**

Issuer and Obligor's Agent

SIGNED on behalf of
SENSYNE HEALTH PLC

By:   _____

Address: 

Fax: n/a

Attention: 

**SIGNATURE PAGES TO THE
AMENDMENT AND RESTATEMENT AGREEMENT**

Original Guarantor

SIGNED on behalf of by
SENSYNE HEALTH HOLDINGS LIMITED

By: [Redacted] _____ [Redacted] _____

Address: [Redacted]

Fax: n/a

Attention: [Redacted]

**SIGNATURE PAGES TO THE
AMENDMENT AND RESTATEMENT AGREEMENT**

Original Guarantor

SIGNED on behalf of
SENSYNE HEALTH GROUP LIMITED

By: _____

Address: _____

Fax: n/a

Attention: _____

**SIGNATURE PAGES TO THE
AMENDMENT AND RESTATEMENT AGREEMENT**

Original Guarantor

SIGNED on behalf of
SENSYNE HEALTH, INC.

By: [Redacted] _____ [Redacted]

Address: [Redacted]

Fax: n/a

Attention: [Redacted]

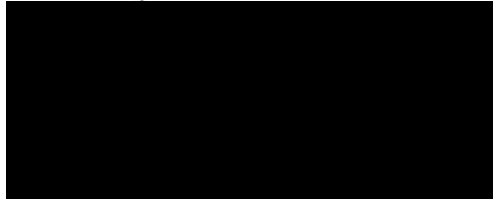
**SIGNATURE PAGES TO THE
AMENDMENT AND RESTATEMENT AGREEMENT**

The Purchasers' Representative

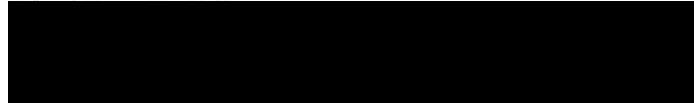
SIGNED on behalf of
KROLL AGENCY SERVICES LIMITED

By:

Title:

A large black rectangular redaction box covering the signature and title information.

Address:

A black rectangular redaction box covering the address information.

Fax:

A black rectangular redaction box covering the fax information.

Attention:

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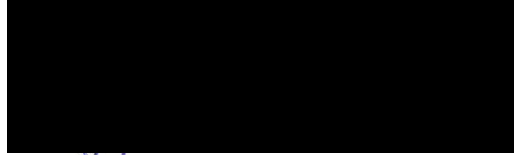
**SIGNATURE PAGES TO THE
AMENDMENT AND RESTATEMENT AGREEMENT**

The Security Agent

**SIGNED on behalf of
KROLL TRUSTEE SERVICES LIMITED**

By:

Title:

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Address:

A black rectangular redaction box covering the address of the signatory.

Fax:

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Attention:

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